An Roinn Airgeadais
Department of Finance

Business Tax Stakeholder Forum

Department of Finance
October 2024

Agenda

- **Introduction**
- **Domestic Developments**
  - *Budget 2025 and Finance Bill 2024 Highlights*
  - *Introduction of a Participation Exemption Regime*
  - *Review of Ireland's Interest Deductibility Rules*
  - *Q&A*
- **EU and International Tax Developments**
  - *OECD*
  - *United Nations*
  - *Tax Treaties*
  - *EU Legislative Files*
  - *Q&A*
- **AOB**
  - *Simplification and Decluttering*

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Introduction

Sinead Ryan, Department of Finance
October 2024

Introduction to the 4th meeting of the BTSF

- Intention of the Forum is to provide an additional channel of communication and feedback for business tax stakeholders.
- Internally, the Department of Finance has restructured the Tax Division into two separate divisions:
  - *Business and International Tax Policy Division; and*
  - *Domestic and Indirect Tax Policy Division*
- There is a significant amount of activity underway and planned in order to support the business environment in Ireland and respond to domestic and global challenges.
- BTSF has a role to play in an open, engaged and evidence-based approach to policy-making.
- This is a key forum for helping to support and prioritise the work of the Department as we prepare for 2025.

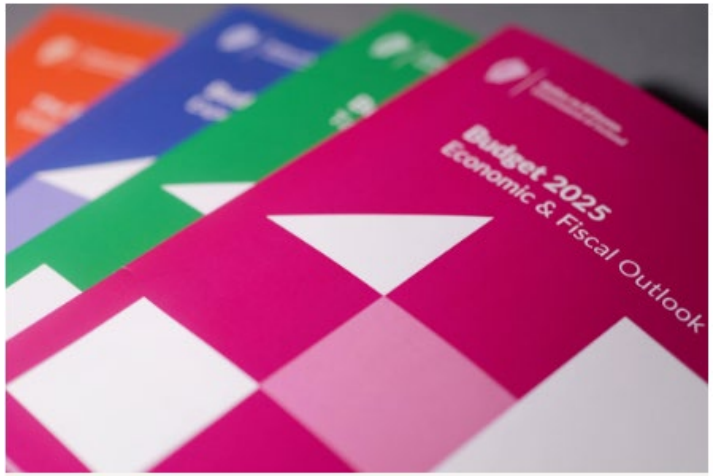
General Overview of Budget 2025 and Finance Bill 2024

Business Supports

- **Participation Exemption:** dividends received from 1 January 2025
- **R&D Tax Credit:** First year payment threshold increased to €75,000
- **Relief for Listing Expenses:** Relief for expenses of up to €1 million incurred on an initial stock market listing
- **S.486C Start-up Relief:** inclusion of Class S PRSI in relief calculations
- **Small Benefit Exemption:** Limit to increase from €1,000 to €1,500 and no. of benefits to increase from 2 to 5 per year

Investor Supports

- **EII, SURE, SCI:** extended to end 2026
  - ***EII*** *limit increased from €500,000 to €1 million*
  - ***SURE*** *relief available increased to max of €140,000 p.a. over 7 years*
- **CGT Angel Investor Relief:** Increase in lifetime limit from €3m to €10m
- **CGT Retirement Relief:** disposals over €10m to a child



Audio-visual Sector

- **Tax Credit for Unscripted Productions:** 20% of certain production expenditure up to a maximum limit of €15 million per project
- **Scéal Uplift:** 8% uplift for certain feature film productions (total credit 40%) with qualifying expenditure of no more than €20 million.

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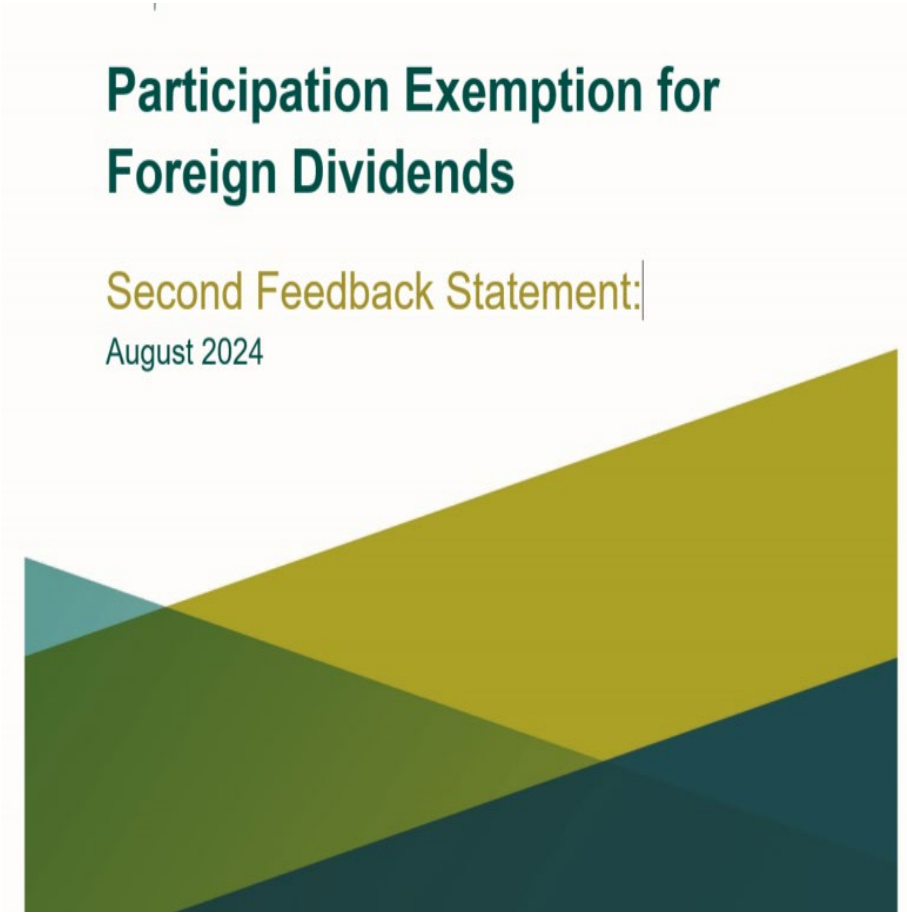
Domestic Developments

Deirdre Donaghy, Zainab Javaid & Sonia O'Loughlin, Department of Finance

October 2024

Introduction of a Participation Exemption Regime

Domestic Developments – Participation Exemption For Foreign Dividends and Distributions



September 2023 - Roadmap for Introduction of participation Exemption

- Seeking feedback and setting out a timeline to introduce Participation Exemption for Foreign Dividends in to the Irish tax code.

April 2024 - First Feedback Statement-Strawman proposal

- A hypothetical example for how Participation Exemption might work

August 2024 - Second Feedback Statement

- Draft approaches to legislation preparing for the introduction of a Participation Exemption for Foreign Dividends in Finance Bill 2024

2024 - BTSF-Subgroup Meetings

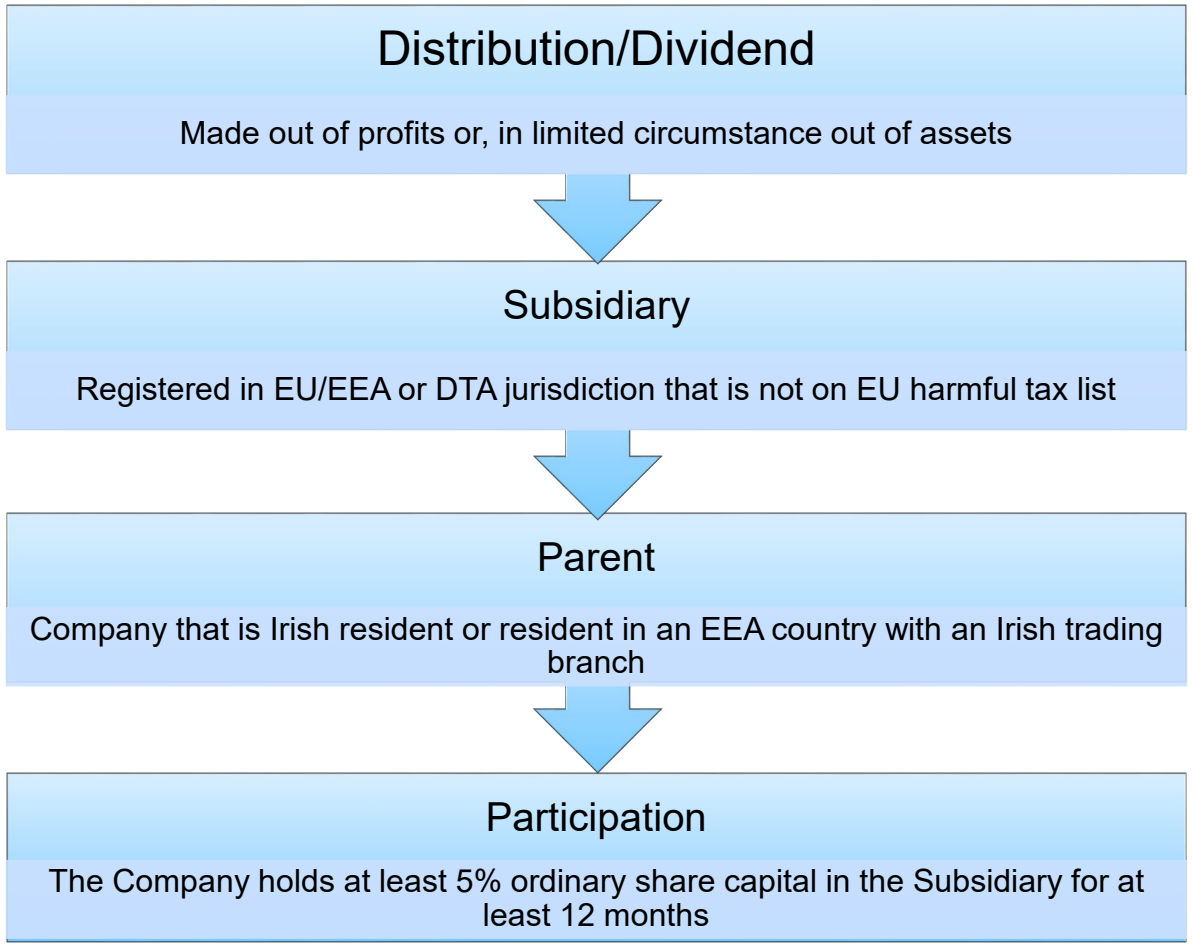
- 4 subgroup meetings held to have detailed discussion with stakeholders

Participation Exemption For Foreign Dividends and Distributions

Responses to 2nd Feedback Statement -

- Out of Profit/Out of Assets
- Geographical Scope
- Redeemable Shares
- Consequential Amendments

Participation Exemption For Foreign Dividends and Distributions – Key Criteria



The participation exemption for foreign dividends provides for a new corporation tax exemption which will apply to a **relevant distribution** made by a **relevant subsidiary** to a **parent company**.

The parent company must hold a **relevant participation** in the relevant subsidiary which must be resident in a **relevant territory**.

Participation Exemption For Foreign Dividends - Next Steps

- Delivery of Finance Bill 2024
- Application of new rules from January 2025
- Consideration of wider Geographic scope
- Consideration to Branch Participation Exemption
- Stakeholder feedback important!

Public Consultation on the Tax Treatment of Interest in Ireland

Broad Scope of Review

- Taxation of interest income
- Interest deductibility
- Interest limitation rule
- Anti-avoidance
- Financial Services transactions
- Withholding tax
- Reporting obligations

Ireland's Interest Deductibility Regime

Entitlement to deduction (eg. section 81 TCA, s247 TCA)

Certain rules apply which may limit the relief (e.g. Interest Limitation Rule)

Anti-avoidance rules

Specific Questions

Stakeholders are asked to identify:

- Aspects of the rules which pose difficulties
- Aspects that could be simplified
- Any *bona fide* commercial scenarios where tax relief for interest expense is not currently available
- The benefits and any adverse consequences that flow from any proposed changes

Broader policy considerations

Should Ireland introduce a commercial business purpose test, or any other basis, for the deduction of interest expense?

Next steps

Consultation deadline

30 January 2025

The Department will carefully consider the responses

Stakeholder group may be formed

Relevant Officials

Department of Finance

- Sinéad Ryan
- Sonia O'Loughlin

Tax Technical Support from Revenue Legislative Services

- Keith Noonan
- George Prizeman

Questions and answers

An Roinn Airgeadais
Department of Finance

Update on EU and International Tax Developments

Gary Hynds, Deirdre Donaghy, Ciarán Parkin & Hazel Ryan, Department of Finance

October 2024

OECD Global Tax Agreement

OECD Two Pillar international tax agreement- Background/SOP Oct 2024

- Intensive discussions ongoing for several years at OECD level to finalise the OECD two-pillar international tax agreement of October 2021.

- **Pillar Two** largely implemented via the EU Minimum Tax Directive, which took effect in Ireland and across the EU from 31 December 2023 (same for UK, Canada & Japan from this date).

- Work ongoing at OECD level on admin guidance to ensure smooth and consistent implementation of the new Pillar Two regime globally; however, concerns remain regarding the full adoption of the rules in the US, etc. and there are ongoing legal challenges to the UTPR rule.

- Technical work on Amount A and Amount B of the **Pillar one** package is well-advanced; but key deadlines for final agreement have come and gone without success (most recently end June 2024).

OECD Pillar One- State of play

- Deadline of 30th June for agreement on Pillar one package has now passed.
- Package remains close to agreement: the Draft text of the Amount A MLC is broadly agreed, with outstanding issues focused on finalisation of, and interaction with Amount B.
- Political discussion on Amount B issues critical due to the *interlinkages* between Amounts A and B (the Amount A MLC can only be opened for signature upon agreement of a robust and mandatory Amount B).
- MLC can only come into force when it has been signed and ratified by a *critical mass* of jurisdictions (30 jurisdictions containing 60% of in-scope company headquarters).
- Standstill of digital services taxes no longer clear with DST implementation now progressing in some states (*standstill expired* at end 2023)
- July 2024 G20 statement reiterated commitment to the Oct 21 agreement.

OECD Pillar One- Amount B outstanding issues

Purpose of Amount B: Simplify & streamline transfer pricing, ending disputes

- Number of countries opposed to the *mandatory co-dependence of Amounts A & B* (key issue)
- Number of outstanding technical Amount B issues driving this:
    - Use of local datasets
    - Specific country uplifts
    - Mandatory binding arbitration

On a positive note, Optional Amount B being legislated for in Finance Act 2024– political commitment to least developed treaty partners.

Where does this leave us?

- Agreement by end 2024 unlikely- uncertainty for all.
- Potential for proliferation of DST's.
- Emergence of a parallel and potentially competing process the UN with Terms of Reference for the negotiation of a Framework Convention to be agreed shortly.

IE position remains:

- Benefits of certainty from the OECD agreement outweigh fiscal costs;
- OECD agreement will help avoid fragmentation and bring much needed stability to the international tax landscape;
- A global approach is preferable to unilateral measures.

Pillar Two – Implementation of published Administrative Guidance

- To date, four sets of Administrative Guidance (AG) have been published by the OECD – three in 2023 and the latest in June 2024. The aim of AG is to further clarify the interpretation and operation of the Model Rules. Each AG amends and updates the Commentary to the Model Rules, of which an updated version issued in April 2024.
- The **June 2024 AG** is quite technical and covers six topics, including *Treatment of Securitisation Vehicles*. As with previous agreed AG, it will be implemented via a combination of primary legislation and being available as an interpretative aid (via the mechanism in section 111B TCA 1997).
- **Finance Bill 2024** (and a proposed Ministerial Order re. June 2024 AG – due shortly) will complete the domestic implementation of all OECD Pillar Two AG published to date.

Pillar Two –Future Administrative Guidance, Other Pillar Two work streams

OECD have a list of priority items for future AG. Timeline for discussing these is down to the OECD Secretariat

Examples of possible future AG topics include:

- Treatment of amounts paid under non-qualified taxes and “benefits” re Pillar Two
- Certain transitional rules related to Pillar Two
- Substance-based Income Exclusion (SBIE) – Mobile Assets
- Various QDMTT/QDMTT SH issues (including mismatching Fiscal Years)

Other Ongoing OECD Pillar Two workstreams

- Peer Review: Transitional/Full/Ongoing Monitoring (possible future monitoring re. “benefits” provided)
- GloBE Information Return (GIR) – content, framework including EOI
- Dispute resolution

UN Tax Cooperation

United Nations

UN Tax Developments

- ToR adopted by Ad-Hoc Committee in majority vote in August 2024.
- ToR will guide negotiation of the Framework Convention on International Tax Cooperation (FC)
- Beginning Jan 2025, 3 year timeframe to negotiate FC and two Early Protocols. These are separate to the FC and the ToR mandates that one of the Early Protocols must address the allocation of taxing rights in the digital economy.
- Three sessions per year lasting up to 10 days equating to 30 meeting days per year. Most in New York.
- Overall deadline – in the first quarter of the UN General Assembly's 82nd Session i.e. by December 2027.
- Organisational Session expected in Q1 2025. Election of Chair, Vice-Chairs, Bureau, etc.

Double Tax Agreements

Double Tax Agreements (Update)

- Ireland's Treaty Policy Statement continues to inform our on-going treaty priorities.
- Twin approach of economic priorities and specific policy for developing countries. Economic Priorities include;
    - G20
    - EU and OECD Members and Accession Countries
    - Renegotiation of Older treaties
- Much work on-going across the diplomatic system to pursue opportunities

Double Tax Agreements (Update for Finance Bill 2024)

- Finance Bill 2024 provides for an update to the list of Double Tax Agreements (DTAs) in respect of a new Tax treaty that was signed with Oman earlier this year, and an update to our existing DTA with Jersey.

- Protocol to the DTA with Jersey will ensure that the Agreement bilaterally incorporates anti-Base Erosion and Profit Shifting (BEPS) measures.

- New Double Taxation Agreement with Oman is comprehensive in scope and will enhance economic relations and cooperation in tax matters between Ireland and Oman.

- Finally, earlier this week the Government authorised the signature of a Double Taxation Agreement with the Principality of Liechtenstein (likely to take place before the end of this year).

EU Tax Developments

EU Tax - Legislative files

There are a range of EU tax files under discussion. Ireland will analyse any legislative proposal from the European Commission and fully engage to ensure that the Irish position is well represented.

Current Files

- FASTER (agreed)
- Unshell
- BEFIT Package:
  - Transfer Pricing Directive
  - BEFIT Directive
  - HOT Directive
- Expecting a DAC9 that will provide for the exchange of top-up tax information between tax administrations in the EU

Other

- Code of Conduct Group: October 2024 update to EU list.
- Initial phase of DAC 8 transposition likely to be via statutory instrument in 2025.

EU Tax - Faster Proposal

- Adopted – May 2024.
- Aim is two-fold - improve withholding tax (WHT) refund and/or relief at source procedures in the EU; and thus support the development of the CMU; and to provide Member States with the information required to prevent tax fraud and abuse in WHT procedures.
- Agreement reached at ECOFIN in May 2024. Given changes made to the Directive during Council negotiations, the European Parliament will be consulted again on the final text.
- Member States will be required to transpose the Directive by 31 December 2028, the provisions of which will apply from 01 January 2030.

EU Tax - Unshell

- Published - December 2021.
- Stated objective - to prevent tax avoidance and evasion through actions by undertakings without minimal substance, and enhance the proper functioning of the internal market.
- Negotiations have spanned six Presidencies and divergent views remain.
- The file was not progressed by the Belgian Presidency but a meeting is expected before the end of 2024 under the Hungarian Presidency.
- Focus will be on a way forward using the Commission's "Hallmarks" approach.

EU Tax - Transfer Pricing

- Published – September 2023.
- Stated objective - to harmonise transfer pricing rules within the EU, largely by incorporating the OECD Transfer Pricing Guidelines (TPG), including the arm's length principle, into EU law.
- Seven Council Working Party meetings including on 9th October last.
- MS have veered negotiations away from a Directive towards establishing a JTPF-like platform. Negotiations ongoing.
- Ireland has consistently advocated for a non-legislative solution and the need to avoid divergence between TP rules in the EU the OECD TPG.

EU Tax - Head Office Tax (HOT) and BEFIT

Head Office Tax (HOT) Directive

- Published September 2023.
- Aim - to establish a Head Office Tax system for SMEs operating cross-border in the EU that would simplify the need to interact with multiple tax systems.
- Several Council Working Party meetings but many concerns and MS have not found a way forward.

BEFIT Directive

- Published September 2023.
- Aim - to agree a common framework for calculating the corporate income tax base for large groups of companies in the EU.
- Two Council Working Party meetings in May and September – article by article reading.
- The Oireachtas Joint Committee on Finance, Public Expenditure and Reform and an Taoiseach has released a reasoned opinion on this proposal.

Questions and answers

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AOB

Simplification & Decluttering

Sinéad Ryan, Department of Finance

October 2024

Simplification and future work

Activity already underway

- Participation Exemption
- Tax Treatment of Interest
- R&D Tax Credit Review (forthcoming 2025)
- VAT modernisation
- EU led – ATAD review (interest limitation, CFC rules), DAC

What we are hearing

- Need for rapid progress on existing reviews
- Need for further SME simplification
- Schedule 24 Review
- Other areas of TCA where issues are arising
- Review and consolidation of the Taxes Consolidation Act 1997

Department of Finance Asks

- Limited Resources – need to identify and agree on priority workstreams
- Clarity on what's being sought, administrative simplification vs expansion
- TCA Consolidation – significant undertaking – pure decluttering / policy neutral?

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Thank You for your participation today!