Corporate Tax 2025

21st Edition

Contributing Editor:

Devon M. Bodoh

Weil, Gotshal & Manges LLP

glg Global Legal Group

Q&A Chapters

1 **Austria**
Dr Paul Doralt, Dr Stanislav Nekrasov & Mag. Katja Ausweger, DORDA Rechtsanwälte GmbH

9 **Finland**
Niklas Thibblin & Onni Viljanen, Waselius

16 **France**
Maryse Naudin & Ouri Belmin, Tirard Naudin A.A.R.P.I.

25 **Greece**
Panagiotis Pothos, Ioanna Barmpa & Areti Maxine Avlichou, Kyriakides Georgopoulos Law Firm

33 **Ireland**
Deirdre Barnicle, Eleanor MacDonagh, Alan Heuston & James Quirke, McCann FitzGerald LLP

41 **Italy**
Davide Attilio Rossetti & Roberta De Pirro, Morri Rossetti

51 **Japan**
Shigeki Minami, Nagashima Ohno & Tsunematsu

61 **Luxembourg**
Mathilde Ostertag, Adrien Kleinschmidt & Nikolay Terziev, GSK Stockmann

73 **Mexico**
Gabriela Pellón Martínez, Gabryela Valencia Ayala, Sebastián Ayza Concha & Winston A. Grey Juarez, Galicia Abogados, S.C.

81 **Mozambique**
Malaika Ribeiro & Karen Matsinhe, MXR Advogados & Associados

87 **Netherlands**
Paulus Merks, Stan Stevens & Dion Wessels, HVK Stevens

94 **Norway**
Sigbjørn Sørensen, Thea Slethaug & Linn Jordahl Moastuen, Magnus Legal

100 **Portugal**
João G. Gil Figueira, Beatriz Valério Pimenta & Carolina Mateus Monteiro, GFDL Advogados

107 **Spain**
Gustavo Yanes Hernández & Víctor Manzanares Saínz, Monereo Meyer Abogados

116 **Switzerland**
Maurus Winzap, Fabienne Limacher & Janine Corti, Walder Wyss Ltd.

125 **United Kingdom**
Blaise Marin-Curtoud, Jones Day

133 **USA**
Devon M. Bodoh, Joseph M. Pari, Greg W. Featherman & Blake D. Bitter, Weil, Gotshal & Manges LLP

141 **Zambia**
Joseph Alexander Jalasi, Jr., Mailesi Undi & Wana Chinyemba, Dentons Eric Silwamba, Jalasi & Linyama Legal Practitioners

Ireland

Deirdre Barnicle

Eleanor MacDonagh

Alan Heuston

James Quirke

McCann FitzGerald LLP

1 Tax Treaties and Residence

1.1 How many income tax treaties are currently in force in your jurisdiction?

As of 1 November 2024, 76 double taxation agreements have been signed, 74 of which are in force.

1.2 Do they generally follow the OECD Model Convention or another model?

Generally, Ireland's double taxation agreements follow the OECD Model.

1.3 Has your jurisdiction signed the tax treaty MLI and deposited its instrument of ratification with the OECD?

Yes, Ireland has signed the MLI and deposited its instrument of ratification with the OECD on 29 January 2019. The MLI entered into force for Ireland on 1 May 2019. The date on which the MLI modifies a particular double taxation agreement depends on when Ireland's treaty partner deposits its own instrument of ratification with the OECD.

1.4 Do they generally incorporate anti-abuse rules?

Irish double taxation agreements generally incorporate anti-abuse rules. Ireland has adopted the Principal Purpose Test ("**PPT**") which is aimed at prevention of treaty abuse in the context of its implementation of the MLI. This will introduce this general anti-avoidance clause into any of Ireland's double taxation agreements where the treaty partner also chooses the PPT option.

1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

No, Ireland's treaties are not overridden by any rules of domestic law.

1.6 What is the test in domestic law for determining the residence of a company? Has the application of the test been modified in response to COVID-19?

A company is resident in Ireland if it is incorporated in Ireland or, if not Irish-incorporated, is centrally managed and controlled in Ireland. This test is based on case law and focuses on where decisions of the company are made in practice (typically by the board of directors).

During the COVID-19 pandemic, the Revenue Commissioners of Ireland ("**Revenue**") published concessionary measures that modified the application of the corporate residence test. These concessionary measures ceased with effect from 31 January 2022.

1.7 Is your jurisdiction's tax authority expected to revisit the status of dual resident companies in cases where the MLI changes the treaty "tiebreaker"?

Ireland has adopted the best practice rule in Article 4 of the MLI on determining tax residence for dual-resident entities, which allows the competent authorities of the Contracting Jurisdictions to determine by mutual agreement the state of residence for the purposes of a double taxation agreement, by considering various factors including the entity's place of effective management, the place where it is incorporated or otherwise constituted and other factors.

We are not aware of any intention on the part of Revenue to revisit the status of potentially affected dual-resident companies where the MLI amends the treaty tiebreaker clause.

2 Transaction Taxes

2.1 Are there any documentary taxes in your jurisdiction?

Generally, a document is chargeable to stamp duty, unless exempt, where the document is both:

- listed in Schedule 1 to the Irish Stamp Duties Consolidation Act 1999 ("**SDCA**"); and
- executed in Ireland or, if executed outside Ireland, relates to property situated in Ireland or to any matter or thing done or to be done in Ireland.

The transferee is liable to pay stamp duty and a return must be filed, and stamp duty paid, within 30 days of the execution of the instrument (extended in line with the published practice of Revenue to 44 days).

Stamp duty on the transfer of assets is charged on the higher of the consideration paid for, or the market value of, the relevant asset at the following rates:

- Shares or marketable securities: 1%.
- Non-residential property: 7.5%. The 7.5% rate also applies to shares in certain companies and partnership interests

deriving their value from Irish non-residential property where certain conditions are satisfied.

- Residential property: 1% on consideration up to €1 million, 2% on consideration over €1 million and up to €1.5 million and 6% on the excess. The 6% rate does not apply to purchases of three or more apartments. There is also an increased stamp duty rate of 15%, where 10 or more residential houses are purchased in any one year. (This 15% rate does not generally apply to purchases of apartments.)

There are numerous other reliefs and exemptions, including:

- Associated companies relief, which applies to transfers between companies where the transferor and transferee are 90% associated at the time of execution and remain associated for two years afterwards, where certain conditions are met.
- Relief under section 80 of the SDCA applies to *bona fide* amalgamation or reconstruction of companies on a share-for-share exchange or share-for-undertaking transaction, where certain conditions are met.
- Other exemptions include the transfer of intellectual property, loan capital issued by companies, aircraft and ships.

2.2 Do you have Value-Added Tax (VAT), or a similar tax? If so, at what rate or rates? Please note any rate reduction in response to COVID-19.

Yes, Ireland imposes a comprehensive system of VAT on the supply of goods and services and acquisition of goods from outside the EU, which aligns with the broader EU VAT framework.

The standard rate of VAT is 23%. Lower rates apply to certain supplies of goods and services, such as, e.g., 13.5% on supplies of land and property and 0% on certain food and drink, books and financial services. A reduced 9% rate was introduced in response to COVID-19 for certain goods and services, mainly in the tourism and hospitality sectors. This reduced rate ceased on 31 August 2023, with the 13.5% rate reinstated with effect from 1 September 2023.

2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

In Ireland, VAT is a general tax on consumption that applies to most goods and services, subject to a number of exemptions.

Certain goods and services are subject to a 0% VAT rate. This means that while they are taxable, the VAT rate applied is 0%.

Some goods and services are exempt from VAT, meaning no VAT is charged on their supply. Examples include financial services (e.g. banking, insurance), medical services, and educational services.

Generally, the application of Irish VAT to the supply of goods or services depends on the place of supply of the goods or services. Particular place of supply rules apply depending on the goods/services in question and the status and place of the establishment of the recipient.

2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

VAT incurred by a taxable person will generally be recoverable provided that it is incurred for the purpose of making taxable supplies of goods and services.

VAT incurred for the purpose of making VAT exempt supplies is not recoverable, unless they are supplies of exempt services to persons outside the EU.

Where the VAT incurred by a taxable person relates to both taxable and exempt supplies, VAT recovery will be allowed in respect of the taxable supplies only. Where the VAT incurred is attributable to the general overheads of the business, Revenue will permit partial VAT recovery based on an apportionment between the taxable and exempt supplies.

2.5 Does your jurisdiction permit VAT grouping? If so, how does this apply where a company in one jurisdiction has an establishment in another?

Yes, Ireland permits VAT grouping. VAT grouping allows two or more companies or entities that have financial, economic and organisational links and satisfy Revenue that VAT grouping would be necessary or appropriate for the efficient and effective administration of tax to be treated as a single taxable person for VAT purposes. Transactions between group members (excluding transactions in land) are generally disregarded for VAT purposes. Each member of a VAT group is jointly and severally liable for the VAT liabilities of the group.

In order to form a VAT group, at least one of the members of the group must be an "accountable" person (i.e. a person who is, or should be, registered for Irish VAT). Where a branch is included within an Irish VAT group registration, the entire legal entity is included.

2.6 Are there any other noteworthy transaction taxes or indirect taxes that are payable by companies?

Companies may be liable to pay certain additional taxes, including interest withholding tax, dividend withholding tax, professional services withholding tax, and relevant contracts tax, depending on the nature of the transaction and the type of business carried on by the parties to the transaction.

2.7 Are there any other indirect taxes of which we should be aware?

Customs duties are payable on goods imported from outside the EU. Excise duty applies at varying rates to mineral oils, alcohol and alcoholic beverages, tobacco products and electricity, and also applies to certain premises and activities (e.g. betting and licences for retailing of liquor).

Section 125 of the SDCA imposes a levy of 3% on the gross amount received by an insurer in respect of certain non-life insurance premiums where the risk under the policy is located in Ireland. There are exceptions for reinsurance, voluntary health insurance, marine insurance, aviation and transit insurance, export credit insurance and certain dental insurance contracts. There is a levy of 1% on life assurance premiums.

Section 126AA of the SDCA provides for a bank levy on certain financial institutions.

There are a number of land-related indirect taxes, including a vacant site levy, a residential zoned land tax and a vacant homes tax.

3 Cross-border Payments

3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

Dividend withholding tax at 25% applies to dividends paid to non-resident persons. However, a number of exemptions apply in that case, including where payments are made to:

- persons resident in an EU Member State (other than Ireland) or a country with which Ireland has concluded a double taxation agreement (“**Relevant Territory**”);
- companies ultimately controlled by persons who are resident in a Relevant Territory; and
- companies whose shares are substantially and regularly traded on a recognised stock exchange in an EU/treaty state, or where the recipient company is a 75% subsidiary of such a company or is wholly owned by two or more of such companies.

Where a dividend is paid to an “associated entity” in a “specified territory”, the withholding tax exemptions set out above may be disapplied under the new outbound payments rules.

3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

Royalties, other than patent royalties, are not generally subject to withholding tax. Patent royalty payments and certain other annual payments are subject to withholding tax at 20%.

The EU Interest and Royalties Directive may provide an exemption from withholding tax for payments between “associated companies” where both companies are resident in an EU Member State. Separately, relief may be available under a double taxation agreement between Ireland and another jurisdiction.

Where a royalty is paid to an “associated entity” in a “specified territory”, the withholding tax exemption set out above may be disapplied under the new outbound payments rules.

3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

Payments of “yearly” interest by an Irish company to a non-resident would typically be subject to withholding tax at 20%. There are a large number of exemptions from this requirement, including payments of interest:

- by a company in the ordinary course of its trade or business to a company resident in a Relevant Territory (provided the payments do not relate to an Irish branch or agency of the lender), where that Relevant Territory imposes a tax that generally applies to interest receivable in that state by companies from sources outside that jurisdiction;
- on quoted Eurobonds, provided that (i) the Eurobonds are cleared through a recognised clearing system, (ii) the interest is paid by a non-Irish paying agent, or (iii) the beneficial owner has provided a declaration of non-residence; or
- by an Irish “section 110 company” to a person resident in a Relevant Territory, other than (where the recipient of the interest is a company) where the payment relates to an Irish branch or agency.

Where an interest payment is made to an “associated entity” in a “specified territory”, the withholding tax exemption set out above may be disapplied under the new outbound payments rules.

3.4 Would relief for interest so paid be restricted by reference to “thin capitalisation” rules?

Generally speaking, Ireland does not have thin capitalisation rules. However, the deductibility of interest may be restricted pursuant to the Interest Limitation Rules (“**ILR**”). In addition, in certain limited circumstances, the interest may be reclassified as a distribution, preventing such interest from being tax-deductible.

3.5 If so, is there a “safe harbour” by reference to which tax relief is assured?

Even where such interest is reclassified as a distribution, we note that payments to a company in an EU Member State or in a double taxation agreement jurisdiction are typically deductible. Additionally, there are particular rules that would prevent interest being reclassified as a distribution where that interest is payable by a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997 (“**TCA**”) and certain other conditions are met.

3.6 Would any such rules extend to debt advanced by a third party but guaranteed by a parent company?

No, they would generally not be so extended.

3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

Interest is generally deductible if provided for as an expense in the financial accounts of the company, and it is incurred wholly and exclusively for the purposes of its trade.

Where certain conditions are met, interest incurred in lending money to a trading or property rental company or in acquiring shares in a trading or property rental company, or a holding company of such a company, may also be deductible on a paid basis.

The EU Anti-Tax Avoidance Directive (“**EU ATAD**”) provides for the ILR, which apply in Ireland for accounting periods beginning on or after 1 January 2022. ILR may restrict the available deduction for interest expenses where interest expenses exceed interest equivalent income. The ability to claim a tax deduction for the excess interest is restricted to 30% of earnings before tax and before deductions for net interest expense, depreciation and amortisation (“**EBITDA**”). There is a *de minimis* of €3 million *per annum*.

No restriction will arise under the ILR where the income of a company is composed only of interest or interest equivalent.

The Irish Department of Finance is currently undertaking a consultation on the tax treatment of interest with a view to potentially redesigning the current interest deductibility regime.

3.8 Is there any withholding tax on property rental payments made to non-residents?

Rental payments to non-resident landlords are subject to withholding tax at a rate of 20%.

Payments of rent in respect of Irish-situate property to non-resident landlords are processed through the Non-Resident Landlord Withholding Tax (“**NLWT**”) system. Under the NLWT system, collection agents or tenants are required to make rental notifications when rent is paid to non-resident landlords and are obliged to withhold and remit 20% of the rent payment to Revenue.

3.9 Does your jurisdiction have transfer pricing rules?

Yes, Ireland’s transfer pricing rules apply to arrangements entered into between associated companies. If an arrangement is not made at arm’s length, an adjustment will be made to the trading profits to reflect an arm’s-length amount. The Irish tax

legislation refers to the OECD Transfer Pricing Guidelines for the interpretation of the arm's-length principle. There is an exemptionforsmallandmedium-sizedenterprises.Additionally, the Irish transfer pricing rules exempt non-trading domestic-related party transactions from transfer pricing provisions subject to meeting certain conditions. Companies within scope must prepare transfer pricing documentation in accordance with the OECD Transfer Pricing Guidelines.

3.10 Can companies in your jurisdiction obtain unilateral, bilateral or multilateral advance pricing agreements?

Yes, Revenue have implemented a formal bilateral advanced pricing agreement ("**APA**") programme.

The bilateral APA programme only applies to transfer pricing issues (including the attribution of profits to a permanent establishment. It is conducted within the legal framework of the double taxation agreement that Ireland has entered into with the other relevant jurisdiction.

Companies in Ireland have the option to obtain bilateral and multilateral APAs, each providing different levels of certainty and protection against transfer pricing disputes. The process generally involves a pre-filing meeting, a formal application, review and negotiation, and the final agreement. Ireland will not usually conclude unilateral APAs, where no other jurisdiction is involved.

4 Tax on Business Operations: General

4.1 What is the headline rate of tax on corporate profits?

Ireland currently has two rates of corporation tax: a 12.5% rate; and a 25% rate.

The 12.5% rate applies to the trading profits of a company that carries on a trade in Ireland. Irish tax legislation does not define a trade for this purpose; however, as a general rule, it would require people on the ground in Ireland carrying out real economic activity on a regular or habitual basis with a view to realising a profit.

The 25% rate applies in respect of passive income, profits arising from a possession outside of Ireland (i.e. foreign trade carried on wholly outside of Ireland) and profits of certain trades, such as dealing in or developing land and mineral exploration activities.

The Irish Finance Act (No.2) 2023 implemented the OECD GloBE Rules on Pillar 2, which introduces a global minimum tax of 15% into Irish law in respect of fiscal years commencing on, or after, 31 December 2023. Under the new Irish Pillar 2 rules, multinational entities with an Irish presence, which have global revenues in excess of €750 million *per annum* and certain in-scope large domestic entities will be subject to a top-up tax to bring the effective rate of the group up to the globally agreed minimum rate of 15%.

4.2 Is the tax base accounting profit subject to adjustments, or something else?

The tax base for Irish companies is the "taxable profit", which is derived from the accounting profit prepared in accordance with generally accepted accounting principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"), subject to certain statutory adjustments.

4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

Expenses that are capital in nature and revenue expenses that are not incurred wholly and exclusively for the purposes of the trade are not deductible from the company's taxable profits.

While accounting-based depreciation of assets is not generally deductible, tax-based depreciation ("**capital allowances**") are available for plant and machinery, industrial buildings and certain intangible assets, where certain conditions are met.

4.4 Are there any tax grouping rules? Do these allow for relief in your jurisdiction for losses of overseas subsidiaries?

Yes. Various Irish tax reliefs are available to corporate groups, although companies are not taxed on a consolidated group basis.

For corporation tax loss relief and capital gains tax ("**CGT**") purposes, a group consists of a principal company and all its effective 75% subsidiaries. Losses may be surrendered between group companies subject to certain conditions.

An Irish company may be permitted to claim relief for losses in an overseas subsidiary, provided that the loss is not available for use by the overseas subsidiary.

Capital losses cannot be surrendered between members of a CGT group, but assets subject to CGT assets may be transferred between group members on a no gain/no loss basis.

Generally, payments between members of a 51% group can be made free from any Irish withholding tax.

Transfers between associated companies are exempt from stamp duty where certain conditions are met.

4.5 Do tax losses survive a change of ownership?

Tax losses may survive a change in ownership; however, the use of carried forward losses will be denied where, in association with a change in ownership of the company, there is a major change in the activities of its trade.

4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

A surcharge of 20% applies in respect of undistributed "estate and investment" income retained by "close" companies (i.e. companies controlled by five or fewer participators). A surcharge of 15% will also be applicable in respect of retained professional income in cases of close "professional" service companies.

4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

Local property tax ("**LPT**") is levied on the owners of residential property.

5 Capital Gains

5.1 Is there a special set of rules for taxing capital gains and losses?

Yes, CGT is charged on a chargeable gain arising on the disposal of assets. The gain is calculated as the difference

between the sale proceeds and the acquisition cost of the asset, adjusted for any allowable expenses and reliefs.

Costs that can be deducted include:

- Acquisition costs (purchase price, legal fees, stamp duty).
- Enhancement costs (improvements made to the asset).
- Disposal costs (advertising, legal fees).

Capital losses may be carried forward and offset against the amount of any future gain, subject to certain conditions.

The rate of tax imposed upon capital gains is currently 33%.

Non-residents are generally only liable to CGT on the disposal of certain Irish assets, such as land and buildings in Ireland, and shares deriving their value from such assets.

5.2 Is there a participation exemption for capital gains?

Yes, section 626B of the TCA exempts from CGT any gain arising on a disposal by an Irish company of shares in a company resident in Ireland or a Relevant Territory, in which it has held at least 5% of the ordinary shares for more than 12 months. The subsidiary must carry on a trade, or the activities of the disposing company and all of its 5% subsidiaries taken together must amount to trading activities.

5.3 Is there any special relief for reinvestment?

No, there is no special relief for reinvestment.

5.4 Does your jurisdiction impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

Where a person disposes of Irish real estate, or shares deriving more than 50% of their value from Irish real estate, for a consideration exceeding €500,000 (or in the case of residential property for a consideration exceeding €1 million), the purchaser is obliged to withhold 15% of the sales proceeds unless the vendor obtains a Form CG50A from Revenue. A Form CG50A will be issued where the vendor is resident in Ireland, the CGT has been paid or no CGT is payable on the disposal.

Loans secured on land in Ireland are considered to be interests in land for the purposes of section 980 of the TCA. Therefore, where a person disposes of such loan, the withholding tax process outlined above will apply.

6 Local Branch or Subsidiary?

6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

No Irish tax is imposed upon the formation of a subsidiary.

6.2 Is there a difference between the taxation of a local subsidiary and a local branch of a non-resident company (for example, a branch profits tax)?

Yes. An Irish-resident subsidiary pays corporation tax on its worldwide income and gains, whereas a branch is only liable to corporation tax on (i) the trading income arising directly or indirectly through or from the branch, (ii) income from property or rights used by, held by or for the branch, and (iii) such gains as, but for the corporation tax rules, would be chargeable to CGT in the case of a company not resident in Ireland.

6.3 How would the taxable profits of a local branch be determined in its jurisdiction?

A non-Irish company carrying on a trade through an Irish branch is generally subject to Irish tax on (i) trading income arising directly or indirectly through or from the branch, (ii) income from property or rights used by, held by or for the branch, and (iii) such gains as, but for the corporation tax rules, would be chargeable to CGT in the case of a company not resident in Ireland.

6.4 Would a branch benefit from double tax relief in its jurisdiction?

As an Irish branch of a non-resident company, it is not entitled to relief under Ireland's tax treaties. Tax imposed by Ireland on branch profits may be available as a credit in the company's jurisdiction of residence.

While Ireland does not currently have a participation exemption for branch profits, the Irish Minister for Finance has confirmed that a participation exemption for foreign branch profits will be considered in the course of 2025.

6.5 Would any withholding tax or other similar tax be imposed as the result of a remittance of profits by the branch?

No withholding tax would be imposed.

7 Overseas Profits

7.1 Does your jurisdiction tax profits earned in overseas branches?

Profits in overseas branches are, as a general rule, taxed in Ireland because an Irish-resident company is subject to corporation tax on its worldwide profits. The Irish-resident company may be able to claim relief in respect of any foreign taxes imposed on the profits of the overseas branch.

7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

Dividends received from a non-resident company are generally taxed at 25%, but the lower rate of 12.5% applies in many cases, including where dividends are paid out of the "trading profits" of a company resident in a Relevant Territory. Tax credits can be claimed, up to the Irish corporation tax due, for (i) withholding tax suffered on the dividend, and (ii) underlying tax suffered on the trading profits out of which the dividend was paid. It is possible to pool and carry forward excess foreign tax credits and offset these against Irish corporation tax on other foreign dividends.

Pursuant to the Finance Bill 2024, a participation exemption for non-Irish dividends and distributions will be introduced with effect from 1 January 2025. The new exemption will apply to distributions made from a relevant subsidiary resident in a Relevant Territory (excluding a territory that is on the EU list of non-cooperative tax jurisdictions) where certain conditions are met. The current rules will remain applicable to companies not within the scope of the new regime, or for those who choose not to elect to avail of the new regime.

7.3 Does your jurisdiction have "controlled foreign company" rules and, if so, when do these apply?

Ireland has implemented "controlled foreign company" ("**CFC**") rules as required by EU ATAD.

A CFC is a non-resident company in which an Irish-resident company, either alone or together with associated enterprises, holds a direct or indirect participation of more than 50% in terms of voting rights, capital ownership, or rights to profit. The CFC rules impose a charge on the Irish parent company for the non-distributed income of the CFC that arises from non-genuine arrangements put in place for the essential purpose of obtaining a tax advantage. This charge is included in the taxable income of the Irish parent company.

An arrangement is considered non-genuine if the CFC would not own the assets or undertake the risks that generate its income were it not for the significant people functions carried out by the controlling Irish company that are instrumental in generating that income. There are several exemptions to the CFC rules, including where the CFC pays an effective tax rate that is at least 50% of the tax that would have been paid in Ireland.

8 Taxation of Commercial Real Estate

8.1 Are non-residents taxed on the disposal of commercial real estate in your jurisdiction?

Disposal of commercial Irish real estate by non-residents is subject to Irish CGT.

8.2 Does your jurisdiction impose tax on the transfer of an indirect interest in commercial real estate in your jurisdiction?

When an individual or entity disposes of an indirect interest in Irish commercial real estate, CGT may be applicable. This includes the sale of unquoted shares in a company that derives its value from Irish real estate.

Stamp duty may also apply to the transfer of shares and securities in a company that holds Irish real estate.

8.3 Does your jurisdiction have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

Ireland introduced a REIT regime in 2013. A REIT is exempt from tax on income and chargeable gains of its property rental business, provided it meets certain conditions, including:

- the shares in the REIT are listed on the main market of a recognised stock exchange in an EU Member State;
- the REIT derives 75% of its assets and profits from its property rental business and distributes 85% of its property income by dividends to shareholders in each accounting period;
- it has at least three properties, the market value of no one of which is more than 40% of the total market value of all its properties constituting the property rental business; and
- it maintains a property to financing costs ratio of 1.25:1.

9 Anti-avoidance and Compliance

9.1 Does your jurisdiction have a general anti-avoidance or anti-abuse rule?

Ireland has general anti-avoidance provisions, which apply where Revenue form an opinion that a transaction gives rise to a tax advantage for the taxpayer, was not undertaken for any other purpose but obtaining that advantage, and would be a misuse or abuse of any relief sought by the taxpayer.

9.2 Is there a requirement to make special disclosure of avoidance schemes or transactions that meet hallmarks associated with cross-border tax planning?

Yes. The Irish mandatory disclosure regime requires the disclosure of certain tax avoidance transactions to Revenue. This regime aims to provide Revenue with early information about potentially aggressive tax planning schemes, enabling them to take timely action to counteract such schemes.

The primary responsibility for disclosure lies with the promoters of the tax scheme, typically tax advisors or financial institutions. If there is no promoter, or the promoter is outside Ireland, the obligation falls on the user of the scheme.

Ireland has also introduced the EU Directive on mandatory disclosure ("**DAC6**") (see below).

9.3 Does your jurisdiction have rules that target not only taxpayers engaging in tax avoidance but also anyone who promotes, enables or facilitates the tax avoidance?

In addition to the Irish mandatory disclosure regime set out above, Ireland has also implemented DAC6. DAC6 requires intermediaries or taxpayers to report information on certain cross-border arrangements to relevant tax authorities in the EU.

Disclosure of information under DAC6 must be made by persons who act as intermediaries in relation to a reportable transaction, which may include tax advisors, financial advisors, accountants, banks, corporate service providers and lawyers. If an intermediary is located outside the EU or is bound by legal professional privilege, the obligation to report may pass to the taxpayer.

9.4 Does your jurisdiction encourage "co-operative compliance" and, if so, does this provide procedural benefits only or result in a reduction of tax?

Yes, Ireland has a co-operative compliance framework ("**CCF**") for Large Cases Division taxpayers. The CCF is designed to foster a collaborative relationship between Revenue and taxpayers, particularly large businesses and high-net-worth individuals, and to deliver greater certainty and predictability. The CCF is voluntary and does not result in a reduction of tax.

9.5 Are there rules requiring special disclosure where a company is taking a position on a tax issue that is uncertain (open to dispute from a technical perspective)?

Where a company has a genuine doubt as to the application of the law in relation to any tax matter, they may submit an "Expression of Doubt" to Revenue. The purpose of an

Expression of Doubt is to indicate to Revenue a genuine doubt about the application of law or the treatment for tax purposes, of any matter contained in the return.

10 BEPS, Tax Competition and the Digital Economy

10.1 Has your jurisdiction implemented the OECD's recommendations that came out of the BEPS project?

Ireland has been proactive in implementing the OECD's BEPS recommendations.

EU Anti-Tax Avoidance Directive

Ireland has implemented EU ATAD, as follows:

- the anti-hybrid rules apply to all payments made after 1 January 2020;
- the reverse hybrid mismatch rules apply to tax periods commencing on or after 1 January 2022;
- the ILR applies to accounting periods commencing on or after 1 January 2022; and
- Pillar 2 rules apply to accounting periods commencing on or after 31 December 2023.

Pillar 2

The Pillar 2 rules aim to ensure that multinational groups and large-scale domestic groups with more than €750 million of annual consolidated revenue pay an effective rate of tax of at least 15% in each jurisdiction where they operate.

Ireland has chosen to introduce a "qualified domestic top-up tax" ("**QDTT**"), which raises the effective Irish rate of tax for Irish constituent entities in a group to at least 15%. It means that amounts collected under the Irish QDTT should be the final amounts collected in respect of Ireland under the GloBE Rules and top-up taxes should not need to be paid by foreign group members in respect of Ireland.

Outbound payments

Outbound payments defensive measures were implemented in Ireland with effect from 1 April 2024.

The outbound payments rules apply to payments of interest, royalties and dividends/distributions between associated entities where the recipient is resident in, or created under, the laws of either a jurisdiction on the EU list of non-cooperative jurisdictions for tax purposes or a "zero-tax" jurisdiction.

Where an Irish company makes a payment within the scope of the outbound payments rules, certain Irish withholding tax exemptions will be disapplied.

10.2 Has your jurisdiction adopted any legislation to tackle BEPS that goes beyond the OECD's recommendations?

Preceding the OECD recommendations, Ireland already operated a robust General Anti-Abuse Rule, currently contained in section 811C of the TCA.

In 2011, Ireland introduced additional anti-avoidance rules in securitisation and structured finance transactions restricting the tax deductibility of certain payments.

10.3 Does your jurisdiction support information obtained under Country-by-Country Reporting (CBCR) being made available to the public?

CBCR Regulations have been implemented since 1 January 2016. CBCR requires groups with an Irish presence and turnover exceeding €750 million ("**relevant groups**") to file a country-by-country report ("**CBC Report**"), which provides a breakdown of the amount of revenue, profits, taxes and other indicators of economic activities for each tax jurisdiction in which the relevant group does business.

Directive (EU) 2021/2101 was transposed into Irish law on 21 June 2023 and requires certain multinational groups, and standalone undertakings to provide the public with a report on income tax information where they exceed a certain size. These public CBCR reporting requirements take effect from the commencement date of the first financial year starting on or after 22 June 2024. The report must be published on the company website, or alternatively it can be made available on the Companies Registration Office, with a reference to its location on the company's own website.

10.4 Does your jurisdiction maintain any preferential tax regimes such as a patent box?

Ireland operates a Knowledge Development Box ("**KDB**"), which provides for corporation tax relief on income from qualifying assets. From 1 October 2023, a company that qualifies for the KDB regime may be entitled to a deduction equal to 20% of its qualifying profits (i.e. its qualifying profits may be taxed at an effective rate of 10%). To qualify, a company must earn income from a usable qualifying asset and must have created the asset from qualifying Research and Development ("**R&D**") activities. A qualifying asset is one that is created from qualifying R&D activities, such as a computer program or an invention protected by a qualifying patent.

Ireland operates a general scheme for R&D tax credits under sections 766, 766A and 766B of the TCA. Credit is given at 30% of allowable expenditure. The R&D credit is paid in three annual instalments. Finance Bill 2024 provides for an increase in the first year R&D instalment minimum payment from up to €50,000 to up to €75,000. The amendment shall apply in respect of accounting periods commencing on or after 1 January 2025.

A tax credit is also available for the digital gaming sector. This credit operates as a refundable corporation tax credit for qualifying expenditure incurred in the design and development of digital games. The tax credit is available at a rate of 32% of qualifying expenditure with a maximum limit of €25 million per project. A per project minimum spend requirement of €100,000 will also apply. The relief will be available only for projects in the digital gaming sector that have been issued with a cultural certificate from the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

10.5 Has your jurisdiction taken any unilateral action to tax digital activities or to expand the tax base to capture digital presence?

No, Ireland has not taken any such action.

Deirdre Barnicle specialises in Irish financial services taxation law and practice and advises clients on complex tax matters and key transactions from an Irish tax perspective in the financial services tax area, particularly in the debt capital markets/securitisation, investment funds and corporate banking sectors. She advises clients on all pertinent Irish tax issues in the financial services tax sphere, including corporation tax, income tax, VAT, stamp duty, and withholding taxes, and has particular expertise in the AEOI (Automatic Exchange of Information) area, which encompasses FATCA, CRS, DAC2 and DAC6, among others.

McCann FitzGerald LLP
Riverside One, Sir John Rogerson's Quay
Dublin 2 D02 X576
Ireland

Tel: +353 1 607 1323
Email: deirdre.barnicle@mccannfitzgerald.com
LinkedIn: www.linkedin.com/in/deirdre-barnicle-4939a741

Eleanor MacDonagh leads the firm's Financial Services Tax practice, having stewarded its growth since 2001. She has particular expertise in international tax structuring through Ireland, the taxation of debt capital markets and private equity products, derivatives, structured finance, securitisation, Central Bank of Ireland regulated investment funds and unregulated investment vehicles. She typically advises arrangers, promoters, investors and lenders, occasionally rating agencies and, in relation to large ticket asset portfolios, sellers or purchasers, where packaging or repackaging those assets enhances the transaction value or return, as the case may be.

McCann FitzGerald LLP
Riverside One, Sir John Rogerson's Quay
Dublin 2 D02 X576
Ireland

Tel: +353 1 611 9174
Email: eleanor.macdonagh@mccannfitzgerald.com
LinkedIn: www.linkedin.com/in/eleanor-macdonagh-83870018

Alan Heuston has an extensive practice, working on the tax aspects of mergers and acquisitions, reorganisations, restructurings and migrations. He advises domestic and international clients on the tax implications of setting up operations in Ireland to exploit and develop intellectual property. He has a keen interest in structuring executive remuneration and manages a rapidly growing tax disputes practice. Alan also heads up our Betting and Gaming Group. Head of Tax in a FTSE 50 multinational organisation, Alan has first-hand experience of managing tax in a global environment and the regulatory and taxation aspects of the betting and gaming sector.

McCann FitzGerald LLP
Riverside One, Sir John Rogerson's Quay
Dublin 2 D02 X576
Ireland

Tel: +353 1 607 1472
Email: alan.heuston@mccannfitzgerald.com
LinkedIn: www.linkedin.com/in/alan-heuston-a7b3a319

James Quirke advises on all aspects of corporate taxation, including the structuring of domestic and international reorganisations, mergers and acquisitions and the tax consequences of doing business in and from Ireland. He also advises on cross-border financial planning, property transactions and employment-related taxes. James has lectured in tax law at Trinity College Dublin and at the Law Society of Ireland and has written on Irish tax issues for the *Irish Tax Review*. James is a qualified solicitor, chartered accountant and chartered tax advisor and is a member of the Law Society of Ireland, the Irish Taxation Institute and the Institute of Chartered Accountants in Ireland.

McCann FitzGerald LLP
Riverside One, Sir John Rogerson's Quay
Dublin 2 D02 X576
Ireland

Tel: +353 1 511 1588
Email: james.quirke@mccannfitzgerald.com
LinkedIn: www.linkedin.com/in/jamesquirke

With almost 600 people, including 450 lawyers and professional staff and 80 partners, McCann FitzGerald is one of Ireland's premier law firms. We are consistently recognised as being the market leader in Ireland's business and finance sectors.

We offer expert, forward-thinking legal counsel to clients in Ireland and around the world. Our deep knowledge spans a range of industry sectors, so we can see around corners and tailor solutions to fit your specific needs. Our clients are principally in the corporate, financial and business sectors and we also advise government entities and many state bodies, pension funds and trusts.

We measure our success by the results we achieve for our clients. To this end, we recruit and retain exceptional legal talent and invest significantly in continuing professional development. We value our people's differences and encourage the collaborative work practices that produce innovative thinking and creative solutions.

McCann FitzGerald has offices in Dublin, London, New York and Brussels.

www.mccannfitzgerald.com

McCANN FITZGERALD

iclg International Comparative Legal Guides

The **International Comparative Legal Guides** (ICLG) series brings key cross-border insights to legal practitioners worldwide, covering 58 practice areas.

Corporate Tax 2025 features 18 Q&A jurisdiction chapters covering key issues, including:

- Tax Treaties and Residence
- Transaction Taxes
- Cross-border Payments
- Tax on Business Operations: General
- Capital Gains
- Local Branch or Subsidiary?
- Overseas Profits
- Taxation of Commercial Real Estate
- Anti-avoidance and Compliance
- BEPS, Tax Competition and the Digital Economy

The International Comparative Legal Guides are published by: glg Global Legal Group