Tax Policy Series:

What does Finance Act 2024 mean for you and your business?

Read our insights

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Overview

What Finance Act 2024 means for you and your business

Finance Act 2024 (“the Act”) sets out the legislative changes required to implement many of the Budget Day announcements of 1 October last including the introduction of a participation exemption for foreign distributions, enhancements to the R&D tax credit regime and to tax reliefs applying to Ireland’s audiovisual sector, improvements to certain measures supporting the private business sector and a number of stamp duty and other changes relevant to the property sector.

Other measures introduced include certain changes to the pensions regime, updates to the Pillar Two rules and amendments to the the taxation of leases.

Finance Bill 2024, which was first published on Thursday 10 October 2024 has been amended in a number of respects prior to its enactment on 12 November 2024.

Relevant amendments to the Bill as initiated, as well as other broader developments, are highlighted in red throughout this document.

Participation Exemption for Foreign Distributions

Finance Act 2024 implements the much welcomed Participation Exemption for Foreign Distributions and follows a long period of engagement between stakeholders and the Department of Finance.

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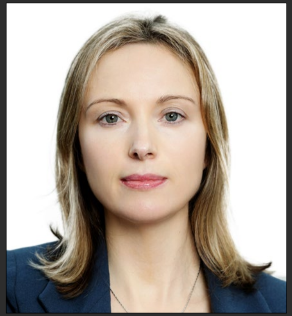

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It will operate to exempt dividends and other distributions received from ‘relevant territory’ resident companies from 1 January 2025 onwards. A ‘relevant territory’ includes EEA and Tax Treaty territories.

It is expected that further engagement will continue with the Department of Finance into 2025, after the introduction of the first iteration of the regime, where consideration may be given to extending the exemption, to include dividends or other distributions from non-EEA/Treaty resident companies.

See further detail on the mechanics of the new provisions in our Participation Exemption insight.

Pillar Two

A year on from its initial introduction into Irish legislation, the Act introduces a number of additional key measures in relation to Pillar Two. These include updates to reflect elements of the Pillar Two GloBE Administrative Guidance documents released in December 2023 and June 2024.

Measures have also been introduced in relation to the order of utilisation of deferred tax assets attributable to qualifying assets. Furthermore, there have been a number of updates to the calculation of Domestic Top-up Tax.

By addressing these areas, Finance Act 2024 provides some helpful clarifications which resolve certain areas of uncertainty within the existing legislation. Further updates are, however, expected through future releases of OECD Administrative Guidance.

Research and Development Tax Credit

The Act provides for an increase of the first year R&D payment threshold from €50,000 to €75,000. This change represents a further extension of this threshold which increased from €25,000 to €50,000 in Finance (No.2) Act 2023.

Audio-Visual Incentives

The Act introduces a new corporation tax credit for Unscripted Production. The tax credit is available at 20% of qualifying production expenditure up to €15 million per certified project.

The Act makes a change to Film Relief by increasing the maximum credit available by 8% for feature film productions with a maximum qualifying expenditure of €20 million.

Both of the changes in this area will require State Aid approval from the European Commission, however approval is expected given the cultural test conditions attached to the reliefs.

The Minister also pledged in his speech to monitor the audio visual effects sector closely with a view to introducing sector-specific support as part of next year’s Budget.

Leasing Amendments

As anticipated, from a leasing perspective, the Act provides for amendments to the legislation introduced last year. These changes include amending certain aspects of the restriction in relation to cross border leases such that they apply to associated enterprises only, which is positive.

However, additional general anti-avoidance tests were also introduced which apply in all scenarios and will need to be considered carefully by taxpayers.

Other Corporate Tax Measures

The Act legislates for the introduction of a tax deduction for expenditure incurred by a company in relation to its first listing on an Irish/EEA stock exchange, subject to a maximum deduction of €1,000,000. This is a very welcome initiative to support businesses in the scale-up phase of their growth and development.

A number of technical amendments are also made to the outbound payment rules introduced in Finance (No.2) Act 2023.

Stamp Duty

Finance Act 2024 contains a number of changes to the Stamp Duty regime in Ireland, including the introduction of a new 6% rate of duty on individual residential property acquisitions on values over and above €1.5m and an increase from 10% to 15% in the rate applicable to the bulk acquisition of residential properties other than apartments.

The bank levy has also been retained for another year and will be calculated at a rate of 0.112% to relevant deposits held by the relevant banks in the year 2022.

The proposed exemption from stamp duty for shares in SMEs traded on certain financial platforms which was announced on Budget Day, however, has not been included in the Act and may more likely be included in next year's Act.

Private Business Measures

From a private business perspective, the Act has brought about a number of positive changes.

With effect from 1 January 2025, transfers of a qualifying business in excess of €10m to a child will be subject to a Capital Gains Tax (CGT) clawback period of 12 years. No CGT will be due on such disposals where this clawback is not triggered.

The lifetime limit of €3m on gains for CGT angel investor relief purposes has been increased to €10m.

There have also been amendments to the Employment Investment Incentive (EII) Scheme including an extension of the self-certification deadline for the regime and amendments which allow the rate of 35% for certain follow-on investments. The amount upon which an investor can claim tax relief under the scheme has also increased from €500,000 to €1,000,000.

The Start-Up Refund for Entrepreneurs (SURE) scheme limit has been increased to €140,000 per annum over 7 years, with a new maximum total of €980,000. The same change for the rate of relief from 20% to 35% for follow-on EII investments also applies to SURE claims.

The Start-Up Company Relief has also been updated to provide relief for a company for the amount of Class S PRSI paid by a director of that company.

The Act also includes a number of updates to Capital Acquisitions Tax (CAT) Agricultural Relief and CAT reporting obligations in relation to certain interest-free loans.

Employment and Individual Taxes

From an employment and personal tax standpoint, the majority of the legislative actions contained in the Act align to announcements made on Budget Day.

There have been increases made to a number of tax credits including the personal tax credit, employee PAYE, earned income and home carer credits, with the Standard Rate Cut-Off Point being increased by €2,000 and small increases in the USC thresholds.

There have also been a number of amendments to the BIK regime in respect of company cars, a welcome increase in the Small Benefit Exemption threshold to €1,500, as well as an increase to the CAT thresholds across all Groups.

There has also been a welcome change to split year relief for those arriving into or departing from Ireland on or after 1 January 2025, wherein the measures will apply in cases where the relief is not specifically sought by the individual during the year in question. The relief is instead capable of being claimed via the individual's personal tax return for the period

Double Taxation Agreements

Finance Act 2024 has brought into effect two new Double Taxation Agreements ("DTAs") with Oman and Jersey. This strategic move is set to enhance economic cooperation and foster stronger financial ties between Ireland and these jurisdictions. Ireland previously had an exchange of information agreement with Jersey.

Property Measures

A number of measures in the Act impact the broad real estate sector. The Help to Buy scheme has been extended in its current form by four years to 31 December 2029.

The rate of the Vacant Homes Tax has been increased from five times the basic Local Property Tax rate to seven times that rate.

A number of exemptions to Residential Zoned Land Tax were introduced including an exemption for landowners who carry out genuine economic activity on their land.

In the rental sector, credit relief for renters will be increased from €750 to €1,000. Relief available for landlords on pre-letting expenditure incurred on vacant residential premises has been extended for a further three years, with the mortgage interest relief also being extended for another year.

Climate/Environmental

The Act contains a number of provisions focused on incentivising investment in the green transition. These include an extension of the accelerated capital allowances scheme for gas and hydrogen powered vehicles and refuelling equipment and an extension to the temporary universal relief of €10,000 applicable to the BIK regime for electric company cars.

An exemption from BIK was also introduced where an employer provides electric charging facilities at the residence of an employee or director.

The carbon dioxide emissions thresholds which determine qualifying expenditure for capital allowances claims on business vehicles have also been amended. The Act introduced an emissions based approach to Vehicle Registration Tax (VRT).

Pensions

Following a review of the pension lifetime limits, the Act introduced a number of changes to the Standard Fund Threshold regime, increases the lifetime limit from €2m to €2.8m on a phased basis from 2026 to 2029.

The Act also confirmed the tax treatment for the Auto Enrolled pension regime. It will operate in a similar manner to other approved schemes apart from tax relief on employee contributions. Instead of tax relief, a top up contribution from the Government will be provided.

VAT

The VAT measures introduced in the Act include an increase in the thresholds for VAT registration and introduces a new 9% rate for the supply and installation of low emissions heating systems. It also extends the current 9% rate for the supply of electricity and gas to 30 April 2025.

Trade & Customs

The Act introduced a new E-Liquid Products (ELPs) tax which taxes ELPs at a rate of €500 per litre. Much detail is left to be determined by Revenue who are empowered to create regulations thereon. The implementation of the ELPs tax will be commenced upon the issuing of a Ministerial Order.

The Act also confirms the increase to Tobacco Products Tax and the extension of application of the 50% excise relief on cider and perry.

A remote betting duty has also been introduced by the Act for bets placed by someone in the State with a licensed bookmaker where it is placed by remote means. The scope of the betting duty liability has also widened.

Tax Administration & Revenue Powers

The Act has not introduced any significant amendments to Revenue powers. The Act has provided clarity on the powers that can be exercised by Revenue officers participating in a joint audit in another Member State, which follows on from the introduction of legislation governing joint audits last year.

Policy / International Outlook

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The impact and effect of tax policy changes on Finance Act 2024

Irish tax policymaking continues to be significantly influenced by ongoing international tax reforms. As the global tax landscape evolves, it becomes increasingly crucial for Ireland to maintain its competitive edge on the world stage.

With the long-anticipated global minimum tax in effect from 2024, simplification should now be at the forefront for the Department of Finance and Revenue. In light of this, the commitment to introducing a participation exemption for foreign dividends in this year's Finance Act is a step in the right direction. We welcome the commitment on Budget day from the Minister for Finance Jack Chambers T.D. to continue work on the participation exemption in the coming year, including further consideration of geographic scope and a participation exemption for foreign branches.

While the specific changes in Finance Act 2024 are detailed in separate sections, the following provides an update on several international tax reforms that are expected to influence domestic tax changes in future Finance Acts.

Streamlining Ireland's Tax Code

The Department of Finance and Revenue have confirmed that they will review Ireland's interest regime, and have released a public consultation seeking stakeholder views on the tax treatment of interest in Ireland. The public consultation acknowledges that the taxation and deductibility of interest is a complex area and in need of reform, given the piecemeal international developments in this area in recent years. The consultation period will run until 30 January 2025 and PwC will make a submission in response to the public consultation. While this initiative is another positive step (following on from the introduction of the participation exemption for foreign dividends), additional efforts are necessary to continue to overhaul the tax system and reduce the compliance burden on taxpayers to keep Ireland competitive on the global market.

In addition to the steps already taken, a comprehensive review of direct tax legislation, specifically the Taxes Consolidation Act 1997, is urgently needed to simplify current Irish tax laws. There are several more areas within the legislation that are overly complex, particularly regarding multiple tax rates and conditions associated with some reliefs such as the Employment Investment Incentive Scheme (EIIS). Whilst the announced review of the R&D tax credit is another welcome development, it remains to be seen what exactly it will entail.

Simplification is not unique to Ireland, it aligns with broader EU and OECD trends, where policymakers are focused on decluttering and simplifying international tax frameworks.

New Audio-Visual Incentives to Boost Ireland's Unscripted Productions and Feature Films

The new corporation tax credit for unscripted production aims to support the growth of the sector in Ireland and will include a cultural test to ensure funds are allocated to culturally significant projects. There was also an 8% uplift to the film tax credit announced. The incentives will require State Aid approval from the European Commission before they can commence.

Ireland has previously received State Aid approval required for reliefs such as the Digital Games Tax Credit (DGTC) and the film tax credit. As the new audio-visual incentives contain a cultural test in a similar way to the DGTC and film tax credit, the expectation is that State Aid approval for these incentives will be approved in due course.

Modernising the VAT System

In late 2023, a public consultation was launched by Revenue to explore how digital advances could modernise Ireland's VAT Invoicing and Reporting System. On 27 June 2024, Revenue published a report on the initial consultation process. Over a thousand responses were received from various stakeholders, including businesses, tax advisory and accountancy firms, software providers, business and professional bodies. Revenue plans to continue engaging with the VAT community through further consultations and public engagements to refine and implement future reform proposals effectively.

EU Tax Reforms

On 18 July 2024, Ursula von der Leyen, re-elected as European Commission President, presented her 2024-2029 Political Guidelines to the European Parliament. The core priorities for the Commission are set to be sustainable prosperity and competitiveness while also focusing on the simplification of administrative processes in order to make business easier and faster in Europe.

Additionally, there remain several tax proposals in the EU legislative system. Both the existing and new proposals reflect a broader effort by the European Commission to streamline taxation, address corporate tax avoidance, and align EU rules with international tax principles. Some of the key reforms and initiatives include:

1. **FASTER:** The initiative is designed to introduce more harmonised procedures for cross-border payments subject to withholding tax ("WHT"), modernising and simplifying the system and thereby making the Single Market more attractive to investors. The FASTER Directive was agreed upon during the ECOFIN meeting on 14 May 2024. However, the measure has not yet been adopted and will require final sign off from the EU Parliament before it can be finalised and published in the EU Official Journal. FASTER is due to come into effect on 1 January 2030.
2. **Unshell Proposal:** The proposal seeks to prevent the misuse of shell companies in the EU. The initiative in its previous form focused on establishing minimum substance requirements but is unlikely to be adopted by Member States for this purpose. In July 2024, the European Commission published a follow-up to the European Parliament's legislative resolution to prevent the misuse of shell entities. It puts forth an evolved proposal ensuring that all entities which fail the substance requirements test have reporting obligations, similar to other exchange of information regimes. The future of this proposal continues to be under discussion by Member States.
3. **Directive on Administrative Cooperation (DAC):** The DAC establishes a system for secure administrative cooperation between the national tax authorities of EU countries and lays down rules and procedures for exchange of information. Earlier this year, the European Commission announced a public consultation of the Directive, which closed on 30 July 2024, with the purpose of assessing the effectiveness, efficiency and continued relevance of the DAC2-DAC6 reporting requirements. This reflects the EU's ambition to "declutter" tax rules and reduce the reporting and compliance burdens on businesses by 25% to enhance the competitiveness of European businesses. It is expected that information exchange requirements deriving from the DAC regulations will continue to evolve, with a DAC9 to coordinate Pillar Two information exchanges between EU Member States touted for the near future. A potential DAC10 could also be on the cards to facilitate information exchanges for Unshell, depending on the final design of the Unshell initiative.
4. **Transfer Pricing:** A harmonised approach to transfer pricing has been proposed to align with OECD guidelines, which aims to increase tax certainty and reduce compliance burdens for businesses. On 10 April 2024, the European Parliament

approved an opinion recommending EU adoption of a transfer pricing Directive to harmonise member states' rules with the OECD's guidelines on the arm's length principle. If unanimously agreed upon, it will be transposed into national laws and could potentially apply from 1 January 2026. Additionally, the **BEFIT** proposal aims at reducing tax compliance costs for large cross-border businesses in the EU. It will apply to all the companies that fall in scope of the Pillar Two Directive and is optional for smaller companies. Earlier this year, Ireland was one of a number of Member States which submitted a reasoned opinion on the BEFIT proposal, with objections arising due to the proposal being in breach of the subsidiarity principle. As tax initiatives in the EU require unanimity, this could compromise the proposal's adoption. However, if adopted, Member States would need to implement the BEFIT rules by 1 January 2028 and apply them to BEFIT groups as of 1 July 2028.

5. **Head Office Tax ("HOT") System for SMEs:** an optional head office tax system for micro, small and medium-sized enterprises operating through permanent establishments in other Member States, allowing them to compute their taxable profits according to the rules of the head office State and benefit from a one-stop-shop for filing, assessment and collection of tax. If adopted by the Member States, the proposals would apply as of 1 January 2026.
6. **ViDA:** The VAT in the Digital Age (ViDA) package, which aims at modernising and improving the EU's VAT system, was approved by EU Finance Ministers at ECOFIN on 5 November 2024. This is positive news given that one Member State had earlier raised concerns in relation to the platform rules, a matter which was the subject of compromise discussions throughout 2024. The latest ViDA package contains several compromises and new start dates, compared to the original 8 December 2022 proposals.

The main pillars of ViDA relate to:

i. Digital Reporting Requirements (DRR) and mandatory e-invoicing on intra-EU business-to-business transactions - the application date and transitional date for DRR are 1 July 2030 and 1 January 2035 respectively;

ii. The platform economy (i.e. a deemed supplier regime for platforms who facilitate short-term accommodation and ride sharing services) - the application date is 1 July 2028 (at the earliest) with a mandatory application date of 1 January 2030; and

iii. Simplifying VAT compliance by taking away the need for multiple VAT registrations - the application date is 1 July 2028.

Pillar One

Pillar One aims to ensure that very large and profitable MNEs pay a greater share of taxes in market jurisdictions, even when they do not have a physical presence.

Amount A

Whilst it was originally touted that the OECD would, over the summer, publish and open for signature the finalised Multilateral Convention (MLC) to implement Amount A of Pillar One, this has still not yet occurred due to political gridlock over finalisation of Amount A and the interrelationship with a mandatory phase two for Amount B. However, even if Amount A is agreed, the ability for the MLC to be ratified and globally implemented remains unlikely. Due to the lack of agreement on Amount A, some countries have moved ahead with unilateral measures such as Digital Services Taxes (DSTs), and we expect there may be a continued trend towards DSTs in future.

Amount B

In February 2024, the OECD published a report on Amount B of Pillar One, which sets out a simplified and streamlined transfer pricing approach when determining the arm's length measure of certain marketing and distribution activities. Phase One of the Amount B rules will be reflected via a new Section 835DA. The outcome of this section is that where a covered jurisdiction, with which Ireland has a bilateral tax treaty in effect, applies the Amount B approach then the Amount B rules are "switched on" in respect of a "qualifying arrangement". The definition of "transfer pricing guidelines" is amended to include the OECD Pillar One Amount B report from February 2024 and its supplemental guidance released in June 2024. This applies for chargeable periods commencing on or after 1 January 2025.

US Tax Policy

The recent US election potentially paves the way for a dramatic shift in US tax policy. The Republican sweep of Congress provides President-elect Donald Trump momentum to push through key aspects of his policy agendas.

Trump campaigned on promises of tax cuts and tariffs, and a sweep makes it possible to apply budget reconciliation to avoid the 60-vote threshold needed in the Senate to push through tax legislation. The narrow Republican majority may temper the extent to which he could enact other bold reforms, however, and likely means having to find internal consensus and compromise.

The extension of measures in the Tax Cuts and Jobs Act ('TCJA") is front and centre of US political debates, with the cost of extending all of the measures being estimated at $5 trillion-$5.5 trillion over the next 10 years - a huge cost in light of US budgetary deficits.

The attitude of the Trump administration towards the OECD two-pillar workstream also looks set to deviate dramatically from the previous administration. Given the threat of retaliatory action, jurisdictions may be more hesitant to enforce the undertaxed profits rule (UTPR) component of the Pillar Two which could result in the jurisdiction levying top-up taxes on US companies overseas. The potential for a continuing rise in unilateral Digital Service Taxes (DSTs) - in light of stalled progress on Pillar One - also looks uncertain. Countries taking this path could also risk retaliatory measures from the new US administration given that the previous Trump administration instigated investigations into 11 nations that had either imposed digital services taxes or were planning to do so.

Irish businesses should be mindful of US tax policy changes when considering their operations in that market, but also be aware that the approaches taken by the US to incentives, especially in the green sector, are being closely watched by the EU who may seek to replicate some of the successes of the Inflation Reduction Act. There is potentially both a direct and indirect influence from US tax policy on the Irish and international tax landscape to come.

United Nations Framework Convention on International Tax Cooperation

The United Nations' initiative to establish a Framework Tax Convention is progressing, with the final Terms of Reference (ToR) published on 16 of August. The final version of the ToR, outlines the creation of an intergovernmental negotiating committee. This committee will meet at least three times annually from 2025 to 2027 to draft the convention text and two priority protocols, aiming for presentation to the U.N. General Assembly by September 2027. One protocol will focus on taxing income from cross-border digital services. Whilst the UN process continues to move forward, it also faces challenges in finding a compromise between the differing priorities of developed and developing nations.

Ireland Signs DTAs with Oman and Jersey

Finance Act 2024 has brought into effect two new Double Taxation Agreements ("DTAs") with Oman and Jersey. This strategic move is set to enhance economic cooperation and foster stronger financial ties between Ireland and these jurisdictions. Ireland previously had an exchange of information agreement with Jersey.

Non-cooperative Jurisdictions for Tax Purposes

Finance Act 2024 amends Section 835YA TCA 1997 to account for the changes to the EU list of noncooperative countries for tax purposes.

On 18 October 2024 an updated list of non-cooperative jurisdictions was published in the Official Journal of the EU.

Conclusion

As the international tax landscape continues to evolve at a rapid pace, Ireland's small open economy enables it to be nimble and reactive to global economic changes including on international taxation. Finance Act 2024 reflects Ireland's proactive stance in adapting to global tax trends and standards. However, Ireland must continue to simplify its tax system and reduce compliance burdens to maintain its competitive edge and attract inward investment. The Department of Finance and Revenue's review of the interest deductibility regime and to modernise Ireland's VAT administration are steps in the right direction but there is further work to be done on the overall simplification of the Taxes Consolidation Act 1997 as a whole.

On the international front, the EU tax reforms in development will influence future domestic tax changes in the short to medium term. Businesses should also have an eye to the medium term plans of the OECD and the UN processes. Policymaking with respect to Pillar Two will continue through the issuance of further OECD Administrative Guidance in late 2024, which will need to be incorporated into domestic tax laws in future.

Looking ahead, if Pillar One is not widely adopted, in its vacuum we may see DSTs again begin to proliferate, or some countries may adopt other measures to fill the void such as introducing significant economic presence rules or other indirect tax approaches to taxing digital services. Businesses should also monitor the upcoming changes to the US tax policy landscape. Tax policy trends such as simplification, global mobility and environmental taxation are areas where we expect to see further changes in the medium to longer term.

Pillar Two

Finance Act 2024 - Pillar Two measures

Finance (No.2) Act 2023 marked a significant milestone from a corporate tax perspective with the introduction of Pillar Two legislation in Ireland. Now, almost a year into the implementation of the rules, Finance Act 2024 legislates for updates to the Irish Pillar Two rules.

The updates mainly relate to the Pillar Two GloBE Administrative Guidance which was released on 18 December 2023 (“December 2023 AG”) and the Pillar Two GloBE Administrative Guidance which was released on 17 June 2024 (“June 2024 AG”). The updates also include clarification on the operation of certain aspects of the Domestic Top-up Tax calculation.

By addressing these areas, Finance Act 2024 provides some helpful clarifications which resolve certain areas of uncertainty within the existing legislation. Further updates are, however, expected through future releases of OECD Administrative Guidance.

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The key Pillar Two measures introduced in Finance Act 2024 include:

- Updates to reflect elements of the December 2023 AG.
- Updates to reflect elements of the June 2024 AG.
- Updates to clarify the operation of certain aspects of the Domestic Top-up Tax calculation.
- Clarification with respect to the order of utilisation of loss deferred tax assets.
- An additional carve-out from Qualified Domestic Top-up Tax ("QDTT") for standalone entities that are "investment undertakings" *(Please see more details in our Financial Services insight).*

Finance Act 2024 - Pillar Two

OECD Administrative Guidance December 2023

Finance Act 2024 legislates for a number of aspects of the December 2023 AG. Section 111AJ TCA 1997, which provides for the Transitional Country-by-Country Reporting ("CbCR") Safe Harbour, is amended to include the detailed provisions outlined in the OECD guidance in respect of "hybrid arbitrage arrangements". The provisions provide that for the purposes of determining whether the Transitional CbCR Safe Harbour applies to an MNE group, any expense or loss or income tax expense arising as a result of a hybrid arbitrage arrangement entered into after 15 December 2022 shall be excluded from the MNE's profit and loss in respect of the jurisdiction.

The section is also updated to include the guidance issued in respect of the appropriate treatment of purchase price accounting adjustments from a transitional CbCR safe harbour perspective. It is also updated to include confirmation that where a MNE group does not file a CbC report they can rely on data from qualified financial statements that would have been reported in a CBC report if the MNE group was required to file one.

The inclusion of a new section, section 111AKA TCA 1997, is proposed by Finance Act 2024 and it provides for the "Simplified Calculations Safe Harbour" to be applied to non-material constituent entities by eligible groups.

OECD Administrative Guidance June 2024

Finance Act 2024 legislates for a number of areas provided for in the June 2024 AG including:

- Section 111A TCA 1997 expands the definition of "hybrid entity" and also clarifies the definition of "owner" when it comes to the assessment of whether a flow-through entity is a tax transparent or reverse hybrid entity.
- Section 111X TCA 1997 has been updated to reflect the methodologies for identifying and tracking categories of DTLs that are subject to recapture.
- Section 111X(16) TCA 1997 addresses scenarios where divergences between GloBE and accounting carrying values arise. It provides that deferred tax assets and liabilities for Pillar Two purposes, are determined by reference to the GloBE carrying value, with the total deferred tax adjustment determined accordingly.
- The June AG provides guidance as to how jurisdictions could treat "securitisation entities" that are consolidated into groups where an ownership interest in the entity did not exist. It

acknowledges that these securitisation vehicles are typically set up to ensure tax neutrality. In an effort to preserve this neutrality the OECD provided optionality to jurisdictions regarding the application of a QDTT to a securitisation entity. Ireland has introduced an option which removes the QDTT charge from the securitisation entity if there are other non-securitisation entities in the Irish group. However if there are no such entities, any QDTT due is to be borne directly by the securitisation entity. This ensures the "switch-off" rule does not apply when applying the QDMTT Safe-Harbour.

Domestic Top-up Tax

Transfer of assets and carrying value of acquiring entity

Section 111AN TCA 1997 outlines the rules with respect to the transfer of assets and liabilities in a Pillar Two period.

Finance Act 2024 confirms that if the acquiring constituent entity meets the conditions to prepare its QDTT calculation using local accounts under Section 111AAD(2)(e)(3A) TCA 1997, the acquiring entity's carrying value of the acquired assets and liabilities shall be determined using the local accounts.

Substance based income exclusion where local accounts are used for QDTT

The substance based income exclusion ("SBIE") recognises the substantive economic activities of multinational groups in low-tax jurisdictions by providing a meaningful reduction to excess profits that are subject to top-up tax.

When calculating QDTT based on local accounts, Irish legislation was previously unclear regarding which accounts should be used for the purposes of calculating SBIE.

Finance Act 2024 confirms that where the QDTT calculation is prepared based on local accounts under Section 111AAD(2)(e)(3A) TCA 1997, the calculation of SBIE should also be based on local accounts.

Election for gains and losses that arise on fair valued or impaired assets and liabilities

Section 111P(6)(a) TCA 1997 provides for an election for gains and losses in respect of assets and liabilities that are subject to fair value or impairment accounting - such that these gains and losses are determined in accordance with the realisation principle in the calculation of qualifying income or loss. Previously, the assets and liabilities had to be subject to fair value or impairment accounting in the consolidated financial statements.

Finance Act 2024 confirms that if the constituent entity meets the conditions to prepare its QDTT calculation using local accounts under Section 111AAD(2)(e)(3A) TCA 1997, the election can be made for assets and liabilities that are subject to fair value or impairment accounting in the local accounts.

Order of utilisation of loss deferred tax asset

Section 111X(8) TCA 1997 provides that where a deferred tax asset is attributable to a qualifying loss which has been recorded at a rate lower than 15% and is subsequently recalculated at 15%, the total deferred tax adjustment shall be reduced accordingly.

Finance Act 2024 confirms that for the purposes of determining the total deferred tax adjustment amount, the reversal of a loss deferred tax asset shall first be attributable to a loss deferred tax asset which arose in the most recent fiscal year until the balance of the loss deferred tax asset is reduced to zero. If necessary, the loss deferred asset which arose in the next most recent fiscal year is then reversed, and so on for preceding fiscal years until the balance is exhausted.

Year-end considerations for Pillar Two

Groups within the scope of the Pillar Two rules, which have been in force in Ireland and many other jurisdictions since the beginning of 2024, must focus on year-end requirements for Pillar Two. Focusing on the following key areas will ensure that you are ready for upcoming audits and position you well for future Pillar Two compliance requirements.

Country-by-Country Reporting (CbCR) Safe Harbour

Many Groups will have assessed their eligibility for the Transitional CbCR Safe Harbour. For those Groups that anticipate the CbCR Safe Harbour to apply in respect of certain jurisdictions in which they operate, it is important to verify whether your CbC Report is compliant with Pillar Two requirements. For example, is your CbC Report prepared based on Qualifying Financial Statements and in line with Irish and OECD CbCR Guidance?

Pillar Two Tax Liability Assessment

Accurately calculating your Pillar Two Effective Tax Rate (ETR) and any potential top-up tax for the year 2024 is a critical step. If you have not yet modelled out the calculations, it is essential to consider the process for extracting the required data from your accounting systems. Once the relevant data is available, the focus shifts to calculating the jurisdictional ETR which involves a series of complex calculations that require a detailed understanding of the Pillar Two rules.

Pillar Two Balance Sheet

Discrepancies may arise between the book value of assets/liabilities and their corresponding deferred tax positions when viewed through the lens of Pillar Two versus traditional accounting practices. Such differences may include deferred tax assets that are not disclosed in the financial statements due to materiality or accounting recognition criteria not being met.

Irish Revenue have confirmed that Groups must maintain a Pillar Two-specific balance sheet/ deferred tax schedule with supporting documentation that tracks adjustments from underlying financial data to the total deferred tax adjustment. This must also include the tracking of Deferred Tax Liabilities (DTLs) as per Pillar Two guidelines.

Therefore, in addition to considering the process for extracting data for Pillar Two calculations, consideration should be given to having a robust process in place for preparing and maintaining a Pillar Two balance sheet.

Transaction level review

It is important that each transaction undertaken in 2024 has been assessed from a Pillar Two perspective. Have financing or refinancing transactions been considered in terms of the location and effective tax rates of lenders and borrowers, if intra-group? Has the impact of Pillar Two rules on the carrying value of assets been considered? Have pricing arrangements been determined in accordance with the arm's length principle? These questions are fundamental components of the tax due diligence with respect to Pillar Two.

Audit Readiness

Lastly, ensuring audit readiness is another vital aspect of year-end preparations. This includes:

- Understanding the financial reporting standard upon which your Pillar Two calculation will be based.
- Being aware of the disclosure requirements that apply to your Group.
- Preparing the necessary documentation to support your Pillar Two position and calculations.

We are here to help you

Finance Act 2024 introduces certain clarifications in respect of certain aspects of the Pillar Two rules. Despite these clarifications, Pillar Two remains a complex set of rules that require careful and thorough consideration. As we approach year-end, Groups within the scope of the Pillar Two rules must focus on both year-end and ongoing requirements for Pillar Two.

PwC, as Ireland's leading Pillar Two advisor, with experts in 152 countries, is here to help. We offer a comprehensive Pillar Two support system focused on five key areas: technical, accounting, compliance/ modelling, data/technology and structuring solutions. We partner with businesses across all industries and geographic regions, using our cutting edge Technology Solutions, to determine Pillar Two's impact on their businesses.

Our Pillar Two experts are ready to talk to you today to ensure that you are prepared for Pillar Two year-end and ongoing requirements.

Participation Exemption for Foreign Distributions

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Finance Act 2024 - Participation exemption for certain foreign distributions

There have been incremental changes made to the tax treatment of dividends received by Irish resident companies from non-Irish resident companies over the past 20 years - all aimed at either simplifying or improving Ireland’s holding company regime. The introduction of a Participation Exemption in Finance Act 2024, exempting certain income receipts from share capital, is one further such progressive measure of relevance to dividends, or other distributions received from ‘relevant territory’ resident companies from 1 January 2025 onwards. A ‘relevant territory’ includes EEA and Tax Treaty territories as well as territories where a Tax Treaty with Ireland has been made but is not yet in force. The introduction of the regime follows a long period of engagement between stakeholders and the Department of Finance. It is expected that further engagement will continue into 2025, after the introduction of the first iteration of the regime, where consideration may be given to extending the Participation Exemption regime, via a future Finance Act, to include dividends or other distributions from non-EEA/Treaty resident companies. For now though, it will only remain available in respect of EEA/Treaty resident companies.

The key features of the Participation Exemption introduced in Finance Act 2024 include:

- Applicable in respect of dividends or other distributions received as income from EEA/ Treaty resident companies
- Optionality - elect in on an accounting period by accounting period basis. Exists in tandem with current 'tax and credit' regime
- Ownership requirement - 5% of ordinary share capital, profits and assets entitlements for continuous 12 month period
- It is expected that where a dividend/distribution is paid out of profits - no 626B requirement exists (Note: the current wording creates slight uncertainty around this point and clarification may be needed)
- Where dividend/distribution paid out of assets - 626B test to be satisfied
- Exclusions for S110 companies, capital receipts and, amounts in respect of which a tax deduction was or may be taken

Background

Prior to Finance Act 2024, Ireland has generally only operated a 'tax and credit' approach to dividends received by Irish companies from non-Irish resident companies. The general starting point has been that dividends received by Irish resident companies from non-Irish resident companies are taxable as Case III income at 25%. However, there are currently various relieving measures of potential application to reduce or eliminate the tax payable (e.g. Section 21B) on such dividends and/or to provide credit for foreign tax against Irish tax (e.g. Sch 24).

The purpose of mentioning the existing measures at the outset is to highlight that all of the existing 'tax and credit' measures will continue to remain in place post the introduction of the Participation Exemption. The Participation Exemption does not replace those existing measures and exists in tandem with the 'tax and credit' regime.

How does the Participation Exemption work?

The treatment available under the newly introduced regime is optional and is available upon election (on an accounting period by accounting period basis) into the regime. The election is made in the corporation tax return for the period of receipt of the recipient company.

If the election is not made and the status quo remains, then no dividends will be exempted and the existing Case III treatment applicable to such receipts will continue as before with the above 'tax and credit' approach applying to those receipts.

If the election is made, then all income receipts which meet the conditions to qualify for the Participation Exemption will be exempted and all income receipts that do not will continue to be taxed under the existing 'tax and credit' regime.

To qualify for Participation Exemption treatment in respect of a 'relevant distribution', a 'parent company' must have a 'relevant participation' in a 'relevant subsidiary' and that 'parent company' must elect into the regime for the accounting period in which it received any relevant distributions. This essentially means that to qualify:

- a **'parent company'** must have a direct or indirect ownership of 5% or more of ordinary share capital of the paying company (the 'relevant subsidiary') and have 5% or more profits and assets entitlements. However, holdings held directly or indirectly via a non-EEA/Treaty resident entity are excluded from the calculation of this 5% test as are any shareholdings in respect of which the disposal proceeds would be treated as a trading receipt.
- the 'parent company' must receive the dividend within an uninterrupted period of 12 months or more during which it has owned the required percentage shareholding in the 'relevant subsidiary'.
- the **'relevant subsidiary'** (i.e. the company making the 'relevant distribution') must be, by virtue of the law of a relevant territory, resident for the purposes of a foreign tax that generally applies to income, profits and gains which corresponds to Irish corporation tax and is imposed at a nominal rate greater than zero per cent. The subsidiary cannot be generally exempt from foreign tax in that territory. It must be so resident both at the time of paying the 'relevant distribution' and from either the time of its incorporation up to date of payment of the relevant distribution or for a 5 year period up to that date, whichever is the shorter (known as the 'relevant period'). In addition, it must not have, within that 'relevant period', acquired any part of another business or the whole or greater part of the assets of another business, where the business concerned was previously carried on by another company that was not resident in a 'relevant territory' during that same period. Neither can the 'relevant subsidiary' have been formed through a merger at any time during that period, where a party to the merger was another company that was not resident of a relevant territory during the 'relevant period'.
- a **'relevant distribution'** must be paid or made. In this regard, a 'relevant distribution' is a dividend paid, or other distribution made in respect of the share capital of a 'relevant subsidiary' either "out of profits" or "out of assets", as the case may be, of the 'relevant subsidiary' that constitutes income in the hands of the recipient which would otherwise be taxable as Case III income (or Case IV income in respect of S138 type dividends). The terms "out of profits" and "out of assets" are important and are considered below as follows:
- **"out of profits"**

  The definition of "profits" follows that adopted in 21B as *"the amount of profits, after taxation, as shown"* in the profit and loss account or income statement of the company. Therefore, in effect, all 'relevant distributions' paid out of a reserve traceable to profits that have been shown in the income statement or profit and loss account of a 'relevant subsidiary' have the potential to qualify. Companies that are already availing of 9I or 21B(3) treatment will be familiar with the need to identify "profits" out of which the dividend is said to have been paid and will be familiar with having to undertake such identification and tracing exercises. However, where it is not possible to trace a dividend as being paid out of "profits" then consideration would need to be given to whether or not that 'relevant distribution' can

instead be said to have been paid "out of assets" (discussed below). It is expected that it will not be necessary to be eligible for S626B relief in respect of shares in a 'relevant subsidiary' if claiming Participation Exemption in respect of a 'relevant distribution' paid out of "profits" - this was the understood intention but the current wording makes that position slightly uncertain. It will be seen below that such a condition does exist if a 'relevant distribution' is made out of "assets". To ensure that relief is being claimed on the basis of a 'relevant distribution' being paid "out of profits" (and avoid the need to undertake a S626B analysis) it may be important to properly document in the paying company that the dividend is being paid out of specific profits of a period or periods.

- **"out of assets"**

  Where a relevant distribution is not paid out of "profits" of the "relevant subsidiary" (e.g it may have sufficient reserves to make a distribution resulting from a capital reduction, the particular 'relevant subsidiary' may not be required to have reserves to make a distribution under foreign corporate law or the foreign law may permit a distribution from a share premium account) then it may still be possible to get Participation Exemption treatment on the receipt. Such treatment may be available where the 'relevant distribution' is made *"out of the assets of the relevant subsidiary where the cost of the distribution, or that part of the distribution, as the case may be, falls on the relevant subsidiary"*. Accessing Participation Exemption in respect of 'relevant distributions' made in that manner is only possible if the ‘parent company’ would be eligible for S626B on a disposal of shares in the ‘relevant subsidiary’ at the time of the receipt of the ‘relevant distribution’.

The participation exemption does not apply to receipts in the nature of capital. Establishing the receipt as being received as income should be straightforward where the mechanic employed by the ‘relevant subsidiary’ in paying the sum to the ‘parent company’ in respect of the share capital is a normal dividend mechanic.

It is welcome that the participation exemption can be applied to parts of a dividend. Complexities may arise in practice in establishing what part of the dividend can qualify for the exemption which will likely need to be addressed in Revenue guidance.

Exclusions

Certain items are also explicitly excluded from the meaning of ‘relevant distribution’. These are:

- a distribution that has been, or may be, deducted for the purposes of tax in any territory outside the State,
- a distribution in a winding up,
- any interest or other income from debt claims providing rights to participate in a company’s profits,
- any amount considered to be interest equivalent within the meaning of section 835AY, or
- any dividend paid or other distribution made by an offshore fund within the meaning of section 743.

In addition, Section 110 companies are not eligible for Participation Exemption treatment.

9I relief vs Participation Exemption

For EU resident companies, the Participation Exemption is an improvement on the pre-existing 9I treatment mentioned above as it removes the need to consider the rate per cent of tax that the profits from which the dividend was paid were subjected to in the foreign territory. It also has potential benefits compared to dividends paid out of certain profits exempted from tax in the foreign territory where those profits would have qualified for a ‘s626B type’ capital gains exemption. The reason why the Participation Exemption can be seen as an improvement to 9I in this regard is that there have been some doubts as to whether or not 9I treatment was available on such dividends given that profits which benefited from the foreign equivalent of a ‘s626B type’ regime may have been relieved by way of exemption and therefore were arguably not ‘subject to tax’ (a requirement for 9I relief to apply).

Strong EU law arguments existed to counter such a view but, with the introduction of the Participation Exemption, more certainty now surrounds the tax treatment of dividends paid out of such profits where an election is made to take Participation Exemption treatment for that accounting period instead of 9I treatment.

Consequential amendments in the TCA 1997

A number of consequential amendments are made as a result of the introduction of the Participation Exemption. Some of which are considered below.

Section 129A - Dividends paid out of foreign profits

Section 129A has been amended such that the effect of S129A is disapplied in respect of distributions received from a company that becomes Irish resident where the distribution is paid out of profits arising before the paying company became resident in the State and the Participation Exemption would have applied to the distribution if it was paid the day before the company became resident.

Section 835E - Ireland to Ireland TP exclusion

An amendment applies to ensure the status of a holding company for the purposes of assessing its eligibility for S835E treatment is not altered where Participation Exemption is availed of by that holding company.

Practical issues from 1 January 2025

From 1 January 2025, Corporate taxpayers in receipt of dividends from EEA/Treaty resident companies will need to consider the following:

- Should the recipient company elect for Participation Exemption treatment or rely on 9I or other relevant relieving measures in Schedule 24 (potentially in combination with 21B relief)?
- If electing in, should the dividend be documented as being specified as being paid out of certain profits of a period to ensure the dividend received is considered as having been paid out of "profits"?
- If electing in, should the dividend be documented as being specified as being made out of "assets" if it is difficult to identify it as being paid out of profits - if so, is the recipient eligible for S626B in respect of the shares of the paying company at time of receipt?
- If the company elects in, will that have any other consequences for dividends received from that company that need to be factored into the decision to make the election?

Next year - expansion of territorial scope?

In his Budget Speech on 1 October, Minister Chambers stated "[w]ork will continue in the coming year on participation exemptions, including further consideration of geographic scope and of a foreign branch exemption." Engagement will therefore likely continue between stakeholders and the Department of Finance in relation to the Participation Exemption as introduced and the appropriateness of amending or expanding the regime to include dividends from companies resident outside of the EU/EEA. PwC will be an active participant in any such process in an effort to improve and streamline the relief. We will invite and welcome your feedback on the regime as part of that process.

We are here to help you

The introduction of a Participation Exemption has been a long time coming and follows an extended period of consultation. Although limited in geographic scope at present and requiring administrative exercises almost as burdensome as the existing 'tax and credit' regime, it is still a welcome addition to the overall holding company tax regime and it is hoped that it will be expanded upon and streamlined in future Finance Acts. If you wish to discuss any aspect please reach out to the authors or your preferred PwC contact.

Climate Change / Environmental Taxes

What Finance Act 2024 means for Climate Change and Environmental Taxes

Investment in Ireland's energy transition and building fit-for-purpose, secure and stable green infrastructure is critical to make meaningful progress towards our climate targets, to maintain our competitiveness and to attract foreign direct investment. Budget day represented a step in the right direction with the announcement of significant additional government funding commitments targeted at developing Ireland's climate infrastructure and wider decarbonisation measures.

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Finance Act 2024 contains a number of provisions focused on incentivising investment in the green transition, but it is disappointing that more targeted policy measures were not introduced to promote innovation and encourage further investment in the energy transition, for example:

- Tax reliefs for investment into renewable energy projects (and supporting supply chain), critical for Ireland to become a major energy exporter, and
- Targeted tax reliefs to encourage more investment in climate tech and green innovation, positioning Ireland as a leader in this space.

See below for key insights on the energy transition tax measures introduced in Finance Act 2024.

The key climate measures introduced in Finance Act 2024 include:

- Extension of the accelerated capital allowances scheme for a further year to 31 December 2025 for gas and hydrogen powered vehicles and refuelling equipment used for the purposes of carrying on a trade.
- The carbon dioxide emissions thresholds which determine qualifying expenditure for capital allowances claims on business cars have been adjusted downwards with effect from 1 January 2027.
- An exemption from benefit-in-kind (BIK) will apply from 1 January 2025, subject to certain conditions, where an employer provides a facility for the charging of an electric vehicle at the qualifying residence of a director or an employee.
- BIK exemptions on electric vehicles of up to €45,000 will continue to apply until 31 December 2025, with reduced tapering relief then applying for periods up to and including 2027.
- The current temporary reduction (from 13.5% to 9%) of the VAT rate for gas and electricity which was due to expire on 31 October 2024 is being extended for 6 months to 30 April 2025;
- The VAT rate for the supply and installation of low emissions heat pump heating systems is also being reduced from 23% to 9% with effect from 1 January 2025.
- The introduction of an emissions based approach to Vehicle Registration Tax (VRT) for category B vehicles. This will apply from 1 July 2025.
- From 1 January 2025, the weight ratio for commercial electric vehicles will change from 130% to 125% in order to qualify for the €200 VRT rate.

Accelerated Capital Allowances - Gas & Hydrogen Vehicles and Refuelling Equipment

Accelerated capital allowances allow for a 100% first-year capital allowance deduction in respect of expenditure incurred on certain approved energy-efficient gas and hydrogen-powered vehicles and refuelling equipment used for the purposes of a trade. Finance Act 2024 amends Section 285C TCA 1997 by extending the availability of this relief by a further year to 31 December 2025, which will allow the Department of Transport time to review the climate policy objectives underpinning the scheme.

Capital Allowances for Business Cars - Carbon Dioxide Emissions Threshold Changes

The thresholds for claiming capital allowances on business cars are being adjusted downward in light of improved vehicle emissions standards. The changes will apply to expenditure incurred on or after 1 January 2027. The thresholds will be as follows:

- €24,000 will apply to cars with emissions of 0-120g/km.
- A reduced amount of €12,000 or 50% of the original market value of the car (where this is less than or equal to €24,000) will be allowable for vehicles with emissions of 121-140g/km, and
- Nil for vehicles with emissions >140g/km.

These provisions will not apply to contracts for the hire of business cars where the contract for the hire of the vehicle and the first payment under that contract is made prior to 1 January 2027.

Electric Vehicle Charger BIK Exemption

An exemption from BIK will apply from 1 January 2025, subject to certain conditions, where an employer incurs expenditure on the provisions of a facility for the charging of an electric vehicle at the qualifying residence of a director or an employee. This measure has been introduced in an attempt to further incentivise investment in electric vehicles.

Benefit in Kind (BIK) for Battery Electric Vehicles (Cars and Vans)

Certain BIK exemptions and discounts are available where the car made available to your employee is a battery electric vehicle. In order to encourage the further uptake of electric vehicles, the Finance Act extends the temporary reduction of €10,000 for a further year to 31 December 2025. Tapering relief applies thereafter to 31 December 2027. This means that the current reduction of €45,000 in the Open Market Value ("OMV") (€35,000 by way of tapering relief and €10,000 in respect of the temporary reduction in OMV for cars in categories A-D) will continue to apply to battery electric vehicles until 31 December 2025. This will taper to €20,000 in 2026 and €10,000 in 2027. Please see more details in our Employment and Individual Tax insight.

VAT Rate on Gas and Electricity

The current temporary reduction (from 13.5% to 9%) of the VAT rate applicable to gas and electricity was due to expire on 31 October 2024. This temporary reduction has been extended for a further 6 months to 30 April 2025. Please see further details in our VAT insight.

VAT Rate on Heat Pumps

The VAT rate applied to the supply and installation of low emission heat pump heating systems has been reduced from 23% to 9% with effect from 1 January 2025 to encourage investment in this space. Please see further details in our VAT insight.

Rates of VRT for Category B Vehicles

From 1 July 2025, category B vehicles (small commercial vehicles) will be charged VRT based on the carbon dioxide emissions of the vehicle. VRT will be calculated in reference to the following table:

CO2 emissions (CO2 g/k)	Percentage payable of the value of the vehicle
0g/km to 120g/km	The greater of 8% or €160
Greater than 120g/km	The greater of 13.3% or €266

VRT on Commercial Electric Vehicles

From 1 January 2025, the weight ratio for commercial electric vehicles will change from 130% to 125% in order to qualify for the €200 VRT rate.

We are here to help you

Whether you are concerned about the impact of the Finance Act changes on your business or you would like to seek tax advice around your decarbonisation journey, our Energy, Utilities and Resources tax group is here to support you. Contact us today.

Domestic and International Large Corporates

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What will Finance Act 2024 mean for large corporates?

The main legislative changes in Finance Act 2024 that are likely to impact domestic and international corporations include the introduction of the long-awaited participation exemption for foreign dividends, changes to the R&D tax credit, technical amendments to the outbound payments regime and interest limitation legislation, and a new corporation tax relief for expenses incurred in connection with a first listing on an Irish or European stock exchange. Finance Act 2024 also provides for amendments to the reliefs applying to national sporting bodies and Ireland's audiovisual sector. Several other technical amendments are contained in the Act, which may be relevant for certain domestic and international corporations.

The key large corporates measures introduced in Finance Act 2024 include:

- The introduction of a participation exemption for foreign dividends;
- Amendments to Pillar Two legislation;
- Technical amendments to the outbound payments regime and interest limitation legislation;
- The increase of the first year research and development (R&D) payment threshold from €50,000 to €75,000;
- Amendments to tax exemptions applying to national sporting bodies to facilitate long-term investments for the purposes of future capital projects;
- The introduction of tax relief for expenses incurred in connection with a first listing on an Irish or European stock exchange, subject to a cap of €1 million;
- Amendments to tax reliefs applying to Ireland's audiovisual sector (film relief and unscripted productions); and
- Miscellaneous legislative updates.

Participation exemption for certain foreign distributions

Effective from 1 January 2025, Finance Act 2024 introduces the participation exemption for foreign dividends into Irish tax legislation. This has been a highly anticipated development for large corporates, which aims to provide a simplification of double tax relief through a corporation tax exemption for qualifying foreign dividends and other distributions.

As outlined in the Act, the participation exemption should be applicable in respect of foreign dividends or other distributions received as income from EEA/Treaty-resident companies where certain conditions are met. The treatment available under the new regime is optional and is available upon election (on an accounting period by accounting period basis) into the regime. Exclusions to the tax relief may apply in certain instances.

Please refer to our participation exemption insight for more detailed analysis.

Pillar Two

The introduction of Pillar Two rules in last year's Finance Act has undoubtedly had a significant impact for Irish-based large corporates. Finance Act 2024 outlines a number of key Irish legislative provisions to take into account guidance published by the OECD.

The updates to the Pillar Two rules mainly relate to legislating for elements of the Pillar Two GloBE Administrative Guidance released on 18 December 2023 and the Pillar Two GloBE Administrative Guidance released on 17 June 2024, along with clarifying the operation of certain aspects of of the Domestic Top-up Tax calculation.

Outbound payments

The Act outlines a number of technical amendments to the outbound payments legislation that was initially introduced in Finance (No. 2) Act 2023. This legislation provided for the removal of certain exclusions from the obligation to deduct withholding tax on payments of interest, royalties and distributions to associated entities situated in jurisdictions on the EU list of non-cooperative jurisdictions, and no-tax and zero-tax jurisdictions in certain instances.

The Finance Act amendments remove unnecessary duplication in certain definitions and ensure the measures operate as intended, particularly in respect of payments to entities that are treated as transparent for tax purposes.

Interest limitation rules

The Finance Act contains a number of technical amendments to finance lease definitions to account for changes in the classifications of leases as introduced in Finance (No. 2) Act 2023. The Act also provides clarification on the treatment of amounts carried forward in a foreign currency. These amendments are applicable to accounting periods commencing on or after 1 January 2025.

Research and development tax credit

Finance Act 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. This change is targeted at small- and medium-sized companies to assist them in increasing the amount to be paid in their first instalment claims where they have an R&D tax credit claim not exceeding €150,000.

Deduction for stock exchange listing expenditure

The Finance Act legislates for a tax deduction for expenditure incurred by a company wholly and exclusively in relation to a first listing on a stock exchange in the EEA. The deduction is subject to an overall cap of €1 million and is available in respect of listings occurring from 1 January 2025 to 31 December 2029.

Donations as part of the Charitable Donation Scheme

Finance Act 2024 contains a number of minor changes to current tax exemptions applicable to charities. Section 16 of the Act removes the current two-year waiting period for eligibility for approved bodies to receive tax relief on donations under the

Charitable Donation Scheme. The Finance Act also increases the period a charity can retain its tax exemption so long as it applies its income for charitable purposes within five years of receiving the income.

Exemption for certain sporting national governing bodies

Finance Act 2024 makes a number of positive legislative changes relating to the taxation of sporting national governing bodies.

The Act provides that certain national governing bodies (NGBs) can have an exemption for income (capped at €100 million), which it invests for up to ten years. This exemption applies so long as the income is ultimately applied for certain qualifying purposes, including capital projects, to purchase certain sporting equipment, to support elite athletes in competitive sport, and to support the participation by women and people with disabilities in sport.

The Act also amends Section 847A TCA 1997, which provides a scheme of tax relief for donations to “approved sports bodies” for the funding of certain capital projects. The changes mean that individuals (both chargeable persons who pay income tax under self-assessment, and non-chargeable persons who pay income tax via the PAYE system) can opt either to take a deduction for a relevant donation (which must be at least €250 in a year of assessment) against their total income, or to surrender the relief associated with the donation to the approved sports body. It is also proposed that a similar scheme of tax relief be extended to certain NGBs where the donations are used for qualifying projects.

Audio-visual initiatives

Ireland has emerged as a centre of creative vibrancy in recent years and the Government has demonstrated its support to the audio-visual sector through a number of legislative changes in the Act.

The Finance Act introduced Section 487A TCA 1997, a new corporation tax credit related to unscripted production. The tax credit is available at 20% of the lowest of (i) eligible expenditure, (ii) 80% of the total cost of production or (iii) €15 million per project. As with the Section 481 Film Tax Credit relief, Section 487A relief is available to projects that pass a cultural test and certification by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media is required in advance of Irish production. The relief is proposed to run until 31 December 2028.

The Act additionally provides for an 8% uplift to the film tax credit in Section 481 TCA 1997. Where certain conditions are met, qualifying projects will be eligible for tax relief at 40%. Qualifying films include feature films and animated films of feature length productions with a maximum qualifying expenditure of less than €20 million. These films are also required to meet certain qualifying criteria related to employment in key creative roles that form part of the cultural certification provided by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

The incentives will require State Aid approval from the European Commission before they can commence.

Green action

The Act has extended accelerated capital allowances relating to gas and hydrogen powered vehicles for a further year (i.e. 31 December 2025). The Act further makes an amendment to the classification of low-emitting company cars and applies to expenditure incurred from 1 January 2027 except in certain instances.

DAC7 - Mandatory Exchange of Information for Digital Platform Operators and return of certain information by Reporting Platform Operators

Section 103 of the Act amends Section 891J TCA 1997 to ensure appropriate transposition of the OECD Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing & Gig Economy. The Model rules were initially transposed in Finance Act 2022. It provides for circumstances where a reporting platform operator fails to meet its obligations under the rules and also outlines the requirements for platform operators to impose restrictions in cases where reportable sellers fail to provide the relevant information to the platform operator.

Clarification of Revenue's powers in joint audits

Section 104 of the Finance Act amends Section 891L TCA 1997 to clarify the rights and obligations applicable to Irish officials participating in a joint audit with another Member State. The amendments outlined are intended to align Irish legislation to the EU DAC7 Directive.

Repayment of tax in the case of a ceased company: double taxation relief

The Act inserts a new section, 826B, into the TCA 1997. This new section provides that where a correlative adjustment or mutual agreement reached gives rise to a repayment of tax, this section — subject to the satisfaction of all the relevant conditions — allows for that repayment of tax to be made to another group company in instances where the company that would have been entitled to the repayment has ceased to exist. This ensures that Ireland can give effect to outcomes arising from certain specified procedures that are provided for in Ireland's double tax treaties and other relevant instruments. This amendment applies to repayments of tax arising from a correlative adjustment determination made by Revenue or mutual agreement reached on or after the date of passing of Finance Act 2024.

Miscellaneous

The Act introduces a number of technical amendments, including:

- Amendments related to the taxation of leases, particularly regarding the timing of balancing events;
- Amendments to Schedule 13 TCA 1997 in respect of entities that are accountable persons for professional services withholding tax; and
- Updates to existing legislation to account for changes to the EU list of non-cooperative countries for tax purposes.

We are here to help you

Finance Act 2024 comes at a time when businesses are daunted with changes particularly in the international tax landscape. The Act contains many important changes that will have implications for domestic and international corporations, particularly the introduction of a participation exemption for foreign dividends into the Irish legislation.

Our tax team is available to help you understand how these changes will impact your business. Get in touch today.

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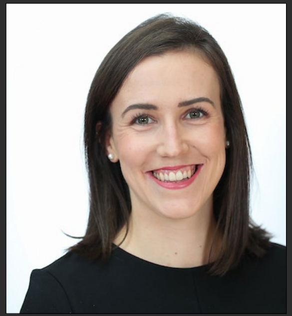

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What will Finance Act 2024 mean for the financial services industry?

Compared with last year, there are perhaps fewer significant changes for the financial services sector in Finance Act 2024. There are, however, a number of important updates in areas such as Pillar Two, leasing and outbound payments. Of particular interest to many in the industry is the introduction of the long-awaited participation exemption for foreign dividends.

There are a number of other areas of legislation not addressed where reform is awaited by the industry, such as deductibility of foreign taxes and a participation exemption for foreign branch profits. In addition, the Minister for Finance, Jack Chambers T.D. published the Report of the Funds Sector 2030 (Review) on 22 October 2024 following a period of public consultation which ran from June to

September 2023. The report makes a number of key recommendations to ensure that Ireland's funds industry remains competitive.

The key financial services measures introduced in Finance Act 2024 include:

Participation exemption for foreign dividends

The introduction of a participation exemption for foreign dividends in Ireland is a positive development, bringing Ireland in line with our international financial services peers as Ireland grows as a centre of excellence for private asset and green transition funds.

The participation exemption will benefit many fact patterns and contains a number of welcome amendments to the proposals contained within the second feedback statement.

Pillar Two

From an asset management perspective, the provision to exclude standalone regulated investment funds from the scope of Ireland's Qualifying Domestic Top-up Tax (QDTT) is very positive and provides certainty to those taxpayers.

Ireland has introduced an option which removes the QDTT charge from the securitisation entity if there are other non-securitisation entities in the Irish group. However, if there are no such entities, any QDTT due is to be borne directly by the securitisation entity. This ensures the "switch-off" rule does not apply when applying the Qualified Domestic Minimum Top-Up Tax (QDMTT) Safe Harbour.

Leasing amendments

As anticipated, from a leasing perspective, the Act provides for amendments to the legislation introduced last year. These changes include amending certain aspects of the restriction in relation to cross border leases such that they apply to associated enterprises only, which is positive. However, additional general anti-avoidance tests were also introduced which apply in all scenarios and will need to be considered carefully by taxpayers.

Technical amendments to the outbound payment rules

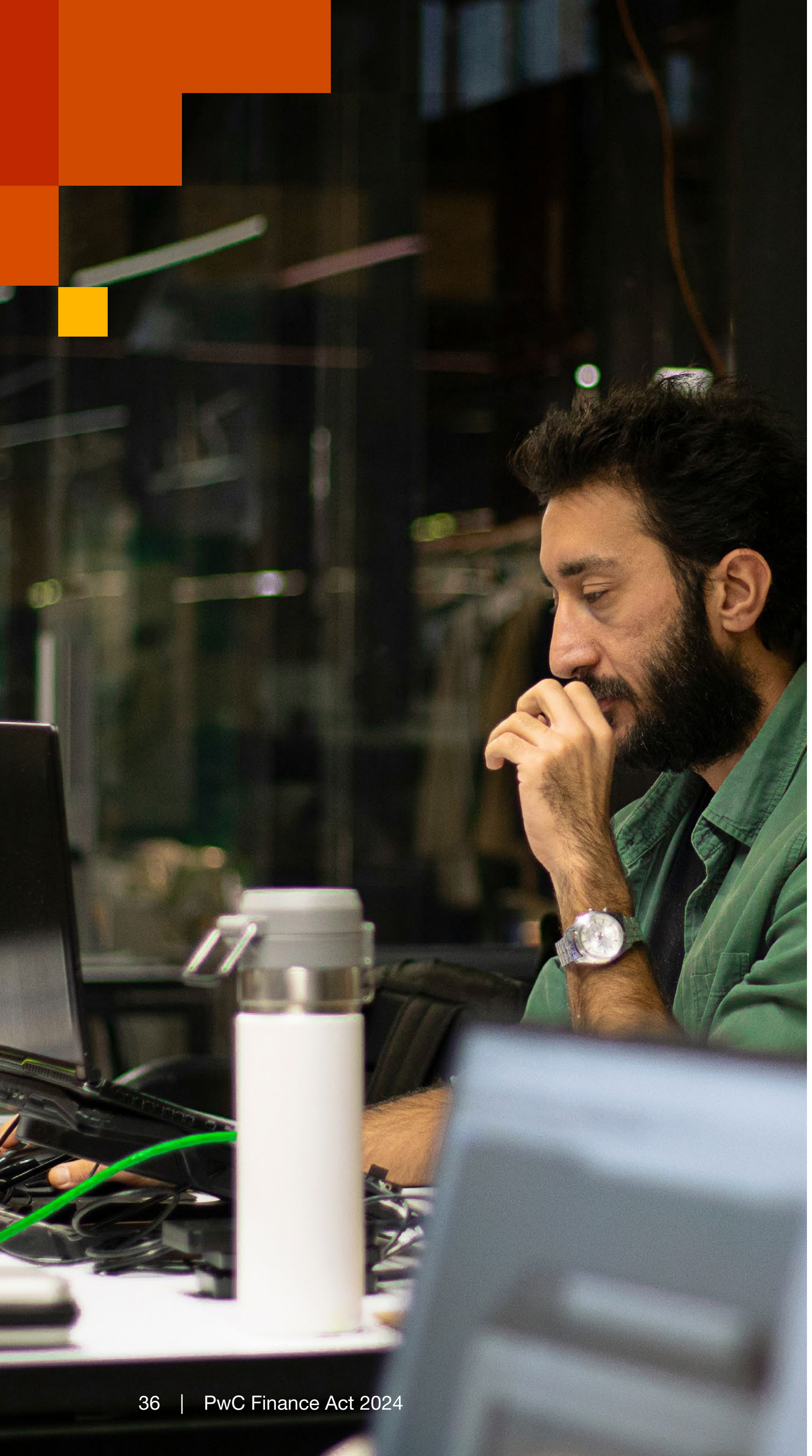
The Act provides for a couple of technical amendments to the outbound payment rules introduced in Finance (No.2) Act 2023. Specifically, the changes include removing the reference to "a different territory" from the look-through provisions and amending the definition of a "supplemental tax".

Participation exemption for foreign dividends

The introduction of a participation exemption for foreign dividends in Ireland is a positive development from a financial services perspective and will bring Ireland in line with our international financial services peers as Ireland grows as a centre of excellence for private asset and green transition funds.

While the application of the participation exemption is more limiting than we would have initially hoped for, it will benefit many fact patterns and contains a number of welcome amendments to the proposals contained within the second feedback statement. Taxpayers will be required to work through the rules to determine the application on their own specific facts and circumstances.

In particular, the requirement that dividends or distributions be made "out of profits" in order to qualify for the participation exemption is the biggest issue we foresee for financial services taxpayers. However, the Act does provide for an alternative qualifying condition where the shares would have qualified for the substantial shareholding exemption from



capital gains tax (S626B) had they been disposed of. This alternative is a welcome addition for the private assets sector, in particular where taxpayers would typically structure their investments to ensure availability of S626B relief on exit in any case.

We welcome the Minister's commitment in the Budget that work will continue on the operation of the participation exemption in the coming year, including further consideration of the geographical scope of the regime, hopefully with a view to making Ireland a best-in-class hub for sustainable finance and private asset investment. The commitment to further consider the introduction of a participation exemption for foreign branch profits is also welcomed by the financial services sector as a whole.

Please see further detail on the mechanics and operation of the regime in our Participation Exemption insight.

Pillar Two

The Act has introduced extensive new Pillar Two legislation (covered in more detail in our Pillar Two insight), but from a financial services perspective there are two specific points of interest.

The legislation has introduced an additional carve-out from Ireland's domestic top-up tax (QDTT) where the entity is a standalone entity (i.e. a non-consolidated entity) that breaches the €750 million threshold. This new exemption will remove "investment undertakings" as defined in Section 246 TCA 1997 from the scope of the QDTT. This "investment undertaking" definition is broad and would include unit trusts, common contractual funds (CCFs), investment limited partnerships and Irish collective asset-management vehicles (ICAVs). The introduction of this additional exemption will provide certainty to such investment funds and mitigate the need to monitor their revenues and analyse whether they meet the Pillar Two "investment entity" definition that would otherwise need to be met to be exempt.

Given Ireland's introduction of the "standalone" provision in Finance (No.2) Act 2023 originally went beyond the scope of the OECD rules and EU Directive, this broader exemption for regulated investment funds is a welcome addition.

In June 2024 the OECD issued guidance as to how jurisdictions could treat "securitisation entities" that are consolidated into groups where an ownership interest in the entity did not exist. The OECD guidance acknowledged that these securitisation vehicles are typically set up to ensure tax neutrality. In an effort to preserve this neutrality, the OECD provided optionality to jurisdictions regarding the application of a QDTT to a securitisation entity.

Ireland has introduced an option that removes the Qualified Domestic Minimum Top-Up Tax (QDMTT) charge from the securitisation entity if there are other non-securitisation entities in the Irish group. However, if there are no such entities, any QDMTT due is to be borne directly by the securitisation entity. This ensures the “switch-off” rule does not apply when applying the QDMTT Safe Harbour.

The Irish legislation’s definitions of “securitisation entity” and “securitisation arrangement” align to those included in the OECD guidance.

Leasing technical amendments

Last year, Finance (No.2) Act 2023, introduced a number of changes to the taxation framework of the leasing sector. The Act proposes a number of changes that are designed around updating these areas to ensure they are fit for purpose. These changes (both last year and this year) follow significant involvement and dialogue by various stakeholders in the broader leasing industry with Revenue and the Department of Finance over the last number of years.

The Act provides for changes to Section 299, which deals with finance leases and their treatment for Irish tax purposes. The existing legislation includes a requirement that, for the provisions to apply to the lessor, any non-Irish tax resident lessee must not avail of heightened tax deductions in respect of the lease payments and the equivalent of capital allowances in their country of residence. The Act has limited the scope of this restricting provision to associated enterprises of the lessor only. This update is welcomed by the industry, as the previous updates had placed an unfair burden on third-party commercial leasing transactions.

The Section is now also extended to apply in situations where the lessor acquires the asset from a group member in a non-arm’s length transaction. Finally, the Act also introduces a specific definition of “tax advantage” in a leasing context and uses that definition within the general anti-avoidance requirements of the section. These general anti-avoidance provisions have effectively been expanded this year and apply in both third party and connected scenarios so will need to be carefully considered by taxpayers.

Other amendments to the taxation of leases include clarifications on the timing of balancing events, the introduction of reporting requirements for balloon leases and updates to leasing definitions for interest limitation rules purposes in line with changes introduced in Finance (No.2) Act 2023.

Technical amendments to the outbound payment rules

The Act provides for some technical amendments to the outbound payment rules introduced in Finance Act 2023.

The outbound payment rules facilitate a look-through approach in certain cases where the payments are made to an entity, but the relevant payment is treated as arising or accruing to another entity. This provision is helpful for transparent or flow-through structures. However, the existing legislation provides that the look-through approach may only apply where the recipient entity and its owners are resident or situated in different territories. The amendment in the Act will remove the reference to “a different territory” from the provision, thereby bringing the legislation in line with Revenue guidance.

The definition of a “supplemental tax” will be amended to exclude a charge under the laws of a territory, other than Ireland, which is similar to the controlled foreign company charge under Part 35B TCA 1997 to remove unnecessary duplication in the definition.

These amendments will apply to relevant payments or relevant distributions made on or after 1 January 2025.

VAT measures

The Act provides welcome clarification by amending the VAT legislation to clarify that the fund management exemption applies to EU alternative investment funds (AIFs) managed by an alternative investment fund manager (AIFM), which is "authorised by or registered with the competent authority of a Member State". This removes uncertainty arising from a Finance Act 2022 amendment that did not expressly include AIFMs authorised in Ireland.

Irish AIFMs managing AIFs should consider whether the proposed amendments impact on the VAT treatment of the services they provide. The application of the VAT exemption may represent a VAT saving for the fund in question. However, there will also be VAT recovery implications for the AIFM.

Real estate measures

The Act introduces a 6% rate of stamp duty applying to certain acquisitions of residential property, and a number of positive amendments to the Residential Zoned Land Tax regime. Please see further detail in our separate Property insight.

Additional measures relevant to financial services

Extension of the banking levy

As flagged by the Minister on Budget Day, the revised bank levy (introduced as part of Finance (No.2) Act 2023) is to be extended in its current form and has not been extended to banks other than those already identified. In particular, the levy has not been extended to encompass other banks or financial institutions providing retail banking services in Ireland, either physically or digitally. The rate and base year for application of the levy in 2025 remain the same as for 2024.

Stamp duty

The Act proposes changes to the method by which stamp duty is collected on cash, debit and combined cards, as well as on charge card accounts. In particular, the Act confirms the application of stamp duty to cards in electronic form.

Consultation on the tax treatment of interest in Ireland

The release of a public consultation on the tax treatment of interest last month is a welcome announcement to the financial services industry, where the implementation of EU anti-tax avoidance directives in recent years, on top of increasingly complex domestic anti-avoidance provisions, have added to the administrative and compliance burden of taxpayers. Ireland's commitment to reducing this burden is a welcome boost and we look forward to engaging with the Department of Finance throughout the consultation period and beyond.

Interest limitation rules — interaction with foreign currency

The Act provides for a new subsection to clarify the treatment of deemed borrowing costs and total spare capacity carried forward in a foreign currency in line with the amendments to Revenue's Tax & Duty Manual, released in December 2023.

Pensions auto-enrolment

The definition of pension schemes in the Stamp Duties Consolidation Act 1999 has been updated to include auto-enrolment scheme providers. Auto-enrolment funds managed by a life insurance company will be considered pensions business.

Private Business and Individuals

What does Finance Act 2024 mean for Private Business?

From a private business perspective, the majority of the legislative actions contained in Finance Act 2024 are aligned with announcements made on Budget Day. However, there are some newly announced measures in the Finance Act that are likely to be of interest to employers and private businesses.

The key Private Business and individual tax measures introduced in the Act include:

- With effect from 1 January 2025, transfers of a qualifying business in excess of €10m to a child will be subject to a clawback period of 12 years. If the business is not disposed of by the child in this period, the capital gains tax (CGT) will be abated.
- The lifetime limit of €3m on gains for CGT angel investor relief purposes has been increased to €10m.
- The CAT thresholds have all been increased. The Group A threshold has increased to €400,000; the Group B threshold has increased to €40,000, and the Group C threshold has increased to €20,000.

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- Amendment to the Employment Investment Incentive to increase the investor limit to €1m, extend the self-certification deadline for the regime and to amend the rate to 35% for certain follow-on investments to comply with EU State Aid rules.
- The Start-Up Refund for Entrepreneurs scheme limit has been increased to €140,000 per annum over seven years with a new maximum total of €980,000. The rate for follow-on risk investments has also been increased to 35%.

Employment Investment Incentive ("EII") Scheme

There were significant changes introduced to the EII scheme in Finance (No. 2) Act 2023, which were required to ensure the legislation was compatible with the amended EU State Aid Rules in the area of risk finance. Finance Act 2024 included some enhancements to the scheme and further amendments to comply with EU State Aid Rules.

The most fundamental change concerns the rate of tax relief. Finance (No. 2) Act 2023 restricted the maximum effective rate of EII relief for follow-on investments to 20%. This change was implemented based on an initial interpretation of EU State Aid Rules. However, upon further development it appears that there is flexibility in the EU State Aid Rules for the 35% rate to apply to follow-on risk finance investments where the company is in existence for less than 10 years or within 7 years post its first commercial sale. Finance Act 2024 has recognised this rate of relief on a retrospective basis for shares issued on or after 1 January 2024. This is a welcomed change for the Irish scale-up sector.

Other relevant changes to the regime were:

- An extension to the deadline for processing the relief from four months post year-end to 31 December in the year following the year in which the shares were issued.
- The extension of the operation of the relief to 31 December 2026.
- The amount upon which an investor can claim tax relief under the scheme has increased from €500,000 to €1,000,000.
- The relief provided cannot exceed the maximum relief thresholds as provided for under the General Block Exemption Regulation.

Start-Up Refunds for Entrepreneurs ("SURE")

The amount of relief that an investor can claim annually under SURE has been increased from €100,000 to €140,000, with a lifetime limit over 7 years of €980,000.

For SURE relief obtained on the conversion of a loan to eligible shares, a business plan must have been prepared in advance of the issue of the loan.

The same change for the rate of relief from 20% to 35% for follow-on EII investments also applies to SURE claims.

S486C Start-Up Company Relief

For accounting periods beginning on or after 1 January 2025, in addition to providing the current relief relevant to the amount of employer's PRSI borne by the company, relief will also be available by reference to the amount of Class S PRSI paid by a director of the company. This is subject to a

maximum of €5,000 employer's PRSI per employee, €1,000 Class S PRSI per company director and €40,000 overall.

Research & Development Tax Credit

The amount of refundable R&D tax credits that can be paid to a company in a year has been increased from €50,000 to €75,000.

CGT Retirement Relief

Finance (No. 2) Act 2023 increased the age limits for CGT retirement relief purposes from 65 years to 69 years. However, it also introduced a new maximum limit of €10m on disposals of qualifying assets to children up to and including the age of 69 years. These changes were due to take effect from 1 January 2025.

However, whilst the increased upper age limit will remain in place, amendments introduced in the Finance Act propose to introduce a clawback period of 12 years in relation to disposals of qualifying assets in excess of €10m made by an individual between the ages of 55 years to 69 years (inclusive) from 1 January 2025. Therefore, if a qualifying asset on which retirement relief is claimed is subsequently disposed of by the child within 12 years of the transfer, the child will be liable to the deferred CGT in addition to any CGT arising in respect of the gain accruing to the child. However, if the qualifying asset is not disposed of within 12 years, the CGT will be abated. This change is to be welcomed and will ensure that transfers of successful businesses to the next generation are not penalised.

The Finance Bill (as initiated) provided that the child would need to make a claim for this abatement in the tax return for the year of assessment in which the twelve years expires. In a welcome move, the provision was amended at Committee Stage such that the deferred CGT is now automatically no longer due and payable once the twelve year period expires, without a requirement for the child to make a specific claim.

The Finance Act also introduces a new clause which states that the relief will now only be available to the disposal of qualifying assets where it would be reasonable to conclude that the disposal was made for bona fide commercial reasons and does not form part of any arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax.

Angel Investor CGT Relief

Angel investor CGT relief was introduced in Finance (No. 2) Act 2023. The relief provides a reduced CGT rate for qualifying investments made by a qualifying investor in a qualifying company. The reduced CGT rate is 16% for direct investments or 18% for investments made by a partnership. The relief was restricted to a lifetime limit of €3m on gains.

The Finance Act now increases the lifetime limit on gains from €3 million to €10 million. The Act also provides for a number of technical amendments to the relief, including introducing reporting requirements for the qualifying companies in relation to the qualifying investments.

Furthermore, the Act provides the Revenue Commissioners with the power to publish information in relation to the qualifying companies, including its CRO number and the amount of finance raised.

This measure is subject to commencement by Ministerial Order. The Department of Finance advises that this measure is expected to be commenced soon.

Capital Acquisitions Tax Thresholds

There were no changes to the rate of capital acquisitions tax (CAT), which remains at 33%. However, the tax-free thresholds for gift and inheritance tax have increased as follows:

- Group A (including gifts/inheritances to a child or minor child of a deceased child): increased from €335,000 to €400,000;
- Group B (including gifts/inheritances to a sibling, niece, nephew or grandchild): increased from €32,500 to €40,000;
- Group C (gifts/inheritances to a stranger-in-blood and relationships not falling within Group A or Group B): increased from €16,250 to €20,000.

These changes came into effect on 2 October 2024.

CAT Agricultural Relief

CAT agricultural relief on the gift or inheritance of agricultural property is only available provided that the beneficiary meets a number of conditions. These include the "active farmer" test which requires the beneficiary to farm the agricultural property or lease it to an individual who farms the agricultural property, for at least six years following the gift or inheritance.

This "active farmer" test has now been extended to the disponer of the gift or inheritance. Therefore, for a six year period prior to the date of the gift or inheritance, the disponer will have to have been a qualifying farmer themselves or have leased to a qualifying farmer in that period.

While these changes were originally set to commence on 1 January 2025, an amendment was made to the Bill at Committee Stage to postpone the commencement date to allow for further consultation. The changes to the measures are now therefore subject to commencement by Ministerial Order.

Tax Relief for Stock Exchange Listing Expenditure

For accounting periods beginning on or after 1 January 2025, a corporation tax deduction should be available for expenditure incurred wholly and exclusively for the purpose of listing shares on a stock exchange that is recognised in the European Economic Area ("EEA"). The deduction is capped at €1,000,000 and is only available for first time listings. The deduction would be available by way of a trading expense or, where the company is an investment company, as an expense of management.

CAT Reporting Obligations in relation to certain Interest-Free Loans

Finance (No.2) Act 2023 introduced reporting requirements with respect to certain interest-free loans. A CAT return filing obligation would arise if:

- an individual was deemed to have taken a gift for CAT purposes in respect of a "specified loan", i.e. an interest-free loan, or a loan where the interest rate was below the appropriate market rate of interest, made by a close relative of the recipient;
- the combined balance on the loan and any other specified loan exceeds €335,000 in the year; and
- no interest was paid on the loan within 6 months of the gift arising.

The Finance Act has removed the provision providing that the filing obligation will arise if no interest is paid on the loan within six months of the gift arising. This should primarily impact upon when the reporting obligation will arise.

Relief for Charities

The Charitable Donation Scheme allows tax relief on qualifying donations made to approved bodies. However, in order to become an approved body, a charity must hold a charitable tax exemption for a period of at least two years. The Finance Act amendments provide that charities will no longer have to have been established for at least two years to access the scheme. Furthermore, they will have a longer time frame from the date of a donation to use the funds raised under the scheme.

Employment and Individual Taxes

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What Finance Act 2024 means from an employment and personal tax perspective

From an employment and personal tax standpoint, the majority of the legislative actions contained in Finance Act 2024 were aligned to announcements made on Budget Day. There is welcome news regarding the increase in the Small Benefit Exemption threshold and the number of benefits that can qualify for the relief which will provide additional flexibility for employers seeking to reward their workforce. Other positive additions include measures to reduce BIK on company provided vehicles, particularly electric vehicles. The significant increase in tax credits and lower rate band entitlements will also be welcome news to employees.

- There has been a further extension to the temporary universal relief applied to cars within emissions categories A-D (and all vans) for company car BIK purposes.
- An exemption from BIK has been introduced where an employer provides a facility for the charging of a company-provided electric vehicle at the qualifying residence of a director or an employee. For the relief to apply, the employer must retain ownership of the charging facility.
- The Act provides for a welcome increase in the Small Benefit Exemption threshold to €1,500. The number of qualifying benefits has also been extended from 2 to 5, with the first five gifts/benefits qualifying for relief where more than 5 are provided.
- There has been an increase in the 2% USC threshold. The 4% USC rate has also been cut to 3%.
- The Standard Rate Cut-Off Point has been increased by €2,000.
- The personal tax credit, employee PAYE, and earned income tax credit have been increased by €125 each.
- The home carer credit has been increased by €150.
- The single person child carer credit has been increased by €150 and the incapacitated child tax credit has been increased by €300. The Dependent Relative tax credit has been increased by €60. The Blind person's tax credit has also been increased by €300.
- Renters will get a welcome increase to the existing Rent Tax credit. The credit will be increased to €1,000 for individual renters, or €2,000 per year for jointly assessed couples. The increased Rent Tax Credit will also be applied to 2024 as well as 2025.
- The Help to Buy scheme has been extended to the end of 2029.
- Certain mortgage holders will be eligible for limited mortgage interest relief for 2024 only.
- Split year relief measures for those arriving into or departing from Ireland will apply in cases where the relief is not specifically sought by the individual during the year in question, with the relief instead capable of being claimed via the individual's personal tax return for that period. This welcome change to recent Revenue practice will take effect for cases where an individual arrives in, or departs from, the State on or after 1 January 2025.
- On a related note, a brief reminder that employers and employees each face a 0.1% increase in social taxes (PRSI) from October 2024. An additional 0.1% increase in PRSI will also take effect from October 2025.

Small Benefit Exemption

Finance Act 2024 confirms the increase in the Small Benefit Exemption threshold to €1,500 per annum. There is also a very welcome increase in respect of the number of vouchers or benefits that qualify for the relief, with the first 5 gifts or vouchers now being eligible for relief providing the cumulative value does not exceed €1,500 per annum. This is a very welcome change and provides significant additional flexibility for employers to reward their workforce. Surprisingly, the Act also states that the exemption will cease from 1 January 2030 onwards.

Company Car BIK Measures

Finance Act 2019 previously introduced a new C02 based regime for company provided vehicles which took effect from 1 January 2023. During 2023, as a result of a significant number of employees experiencing increases in their income tax liabilities as a result of these changes, the Minister introduced a relief of €10,000 to be applied to the OMV of cars in Category A-D (and all vans) in order to reduce the amount of BIK payable.

In a welcome move for the electric vehicle sector, the current reduction of €45,000 in OMV will continue to apply for Electric Vehicles until 31 December 2025. Additionally, the lower mileage limit in the highest mileage band will remain at 48,001 until 31 December 2025.

An exemption from BIK will apply from 1 January 2025, subject to certain conditions, where an employer provides a facility for the charging of a company-provided electric vehicle at the qualifying residence of a director or an employee. Importantly, the employer must retain ownership of the charging facility for the relief to apply.

Personal tax thresholds, exemptions and credits

Finance Act 2024 provides for an increase of €2,000 to the Standard Rate Cut Off Point as announced in Budget 2025. This results in a tax saving of €400 for a single individual with income of €44,000 or more.

The Personal Tax Credit, Employee Tax Credit and Earned Income Tax Credit will each be increased by €125 to €2,000 for 2025. The Home Carer credit is also increased by €150 to €1,950 and the Single Person Child Carer Tax Credit has also been increased by €150 to €1,900 from 2025. In addition, the Incapacitated Child Tax Credit has been increased by €300 to €3,800 from 2025. Finally, the Blind Tax Credit has also been increased by €300 to €1,950.

There was a small increase in the 2% threshold for USC from €25,760 to €27,382 which will ensure those on the minimum wage do not have some of their income fall into the next USC band. There was also a 1% reduction in the second USC rate band, with the rate applied on income between €27,382 and €70,044 now being 3%.

PAYE Statute of Limitations

The Act includes an amendment to the time limits within which the Revenue Commissioners can raise PAYE assessments against employers for tax years 2025 et seq. The amendment allows Revenue to raise an assessment for a period of four years from the end of the year in which the income tax return was made. Prior to this amendment, the limit applied from the end of the year in which the relevant income tax month fell. It's important to note that the amendment applies only to tax years 2025 et seq and will therefore be relevant from 2030 onwards.

Property Related Reliefs

The Help to Buy scheme has been extended to the end of 2029. The scheme has also been expanded to include properties purchased through the Local Authority Affordable Purchase (LAAP) scheme.

An extension to the mortgage interest relief for 2024 has also been implemented. The relief applies to mortgage holders with an outstanding mortgage balance of between €80,000 and €500,000 as of 31 December 2022. The relief will be available as a credit at the standard rate of income tax on the increase in mortgage interest paid in 2024 in comparison to 2022. The maximum value of any tax credit will remain at €1,250 per property.

An increase in the rental credit by €250 to €1,000 for individual renters, or to €2,000 for jointly assessed couples has also been included for the tax years 2024 and 2025.

In addition to renters, small landlords will also benefit. Rental income of €4,000 (up from €3,000 in 2024) will be disregarded at the standard rate of income tax in the tax year 2025 (with increases to €5,000 for 2026 and €6,000 for 2027). Importantly, a clawback of the full relief will arise if, within four years, the landlord removes any of the rental properties from the rental market.

The deduction for pre-letting expenses incurred on a property that has been vacant for six months or more has been extended to the end of 2027. The expenditure must be incurred within the 12-month period before the property is let as a residential premises. A cap on allowable expenses of €10,000 per property applies. The relief is subject to a clawback if the property is withdrawn from the rental market within four years.

The Vacant Homes Tax (VHT) rate for chargeable periods from 1 November 2024 onwards has been increased to seven times the base Local Property Tax liability for each liable property.

We are here to help you

Finance Act 2024 comes at a time when individuals, families and businesses are continuing to struggle with inflation and cost of living increases. There were wins for most taxpayers given the significant increase in tax credits and lower rate bands, as well as the USC reductions. While employers have been given some additional flexibility to reward employees as a result of the Small Benefit Exemption related changes, they will also be adversely impacted from the Employer PRSI increases, the first of which has already taken effect from 1 October 2024. In addition, the impact of Enhanced Employer Reporting and the end of the “Service for Compliance” period from January 2025 will put a renewed compliance burden on employers.

Property

What does Finance Act 2024 mean for the real estate sector?

Finance Act 2024 includes a range of legislative measures that will impact the broader real estate sector— from a new 6% stamp duty rate applying to the purchase of certain residential units with a value in excess of €1.5m to the increase of the Vacant Homes Tax, and much more.

In this insight, we analyse the key real estate related aspects of the Finance Act.

The key real estate measures introduced in Finance Act 2024 include:

- A new 6% rate of stamp duty which will apply to certain acquisitions of residential property exceeding €1.5m.
- The rate of stamp duty on the bulk purchase (10 in a 12 month period) of residential property other than apartments has increased from 10% to 15%.
- The Help to Buy Scheme has been extended in its current form by four years to 31 December 2029.
- A number of amendments have been made to the Residential Zoned Land Tax, including the introduction of certain exemptions and deferrals.

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- The rate of the Vacant Homes Tax has been increased from five times the basic local property tax (LPT) rate to seven times that rate.
- The rental tax credit available for a principal private residence will be increased to €1,000 for single persons and €2,000 for joint assessed persons for the 2024 and 2025 tax years.
- The one year mortgage interest tax relief for homeowners has been extended for another year, such that interest tax relief is available in respect of the increase in mortgage interest paid in 2024 compared to 2022.
- The relief available for landlords on pre-letting expenditure incurred on vacant residential premises has been extended for a further three years.

New 6% stamp duty rate on residential properties

The Act introduces a new 6% rate of stamp duty for acquisitions of residential properties valued above €1.5m ex-VAT. The existing rate of 1% will still apply to the first €1m, and the 2% rate will apply to the next €500k, with the excess over €1.5m liable to 6% duty.

The new 6% rate is not intended to apply to purchases of 3 or more residential units in an "apartment block" (a multi-storey residential property comprising not less than 3 apartments with grouped or common access) in deals exceeding €1.5m in value, and it is intended that the 1% / 2% rates should still apply to such acquisitions. Revenue released an e-brief (261/24) on 21 October 2024 confirming this.

However, the 6% rate is intended to apply to an acquisition of 2 apartments in a transaction exceeding €1.5m in value. The new rate would also appear to apply to acquisitions of 2 or more residential units other than apartments in a transaction exceeding €1.5m in value, provided those units are not "relevant residential units" (10 or more residential units other than apartments in apartment blocks acquired in a 12 month period) - as they should be separately liable to the 15% duty for bulk acquisitions (see below).

The new rate applies to transfers executed on or after 2 October 2024, but transitional arrangements are in place for deals where binding agreements were entered into before 2 October 2024 and transfers (conveyances / leases) are executed before 1 January 2025, with appropriate certification included in the transfer instrument.

Increased rate of 15% on the bulk purchase of certain residential properties

The rate of stamp duty on relevant residential units (defined above) is set to increase from 10% to 15%.

This measure will also have effect for transfers executed on or after 2 October 2024, with transitional arrangements in place for deals where binding agreements were entered into before 2 October 2024 and transfers (conveyances / leases) are executed before 1 January 2025. Appropriate certification must be included in the transfer instrument.

As well as applying to direct acquisitions of residential property, this rate applies to acquisitions of shares/units/partnership interests deriving value from relevant residential units.

Help to Buy Scheme

The enhanced Help to Buy scheme, first introduced in July 2020, has been extended in its current form and will now expire on 31 December 2029.

The scheme provides relief to first-time buyers in the form of a rebate of income tax, including DIRT, paid over the previous four tax years. The maximum rebate available is the lower of:

- €30,000; or
- the amount of income tax and DIRT paid in the previous four years; or
- 10% of the purchase price or valuation of a self-build.

Relief is capped at €30,000, a maximum house price of €500,000 and a minimum loan-to-value of 70%.

The definition of "qualifying residence" under the scheme has been amended to ensure that a newly constructed property purchased by a Local Authority for onward sale to an affordable purchaser under the Local Authority Affordable Purchase Scheme is eligible for the relief.

Residential Zoned Land Tax

The Residential Zoned Land Tax (RZLT) was introduced in Finance Act 2021 and will apply to owners of serviced and undeveloped land that has been zoned for residential use. For land that is within the scope of the regime, an annual 3% tax will apply based on the market value of the land at the valuation date (1 February).

The Act contains a number of positive amendments to the existing regime, including:

- An ability to claim an exemption from the 2025 RZLT liability, in certain circumstances, where the owner of a site included on the revised map (to be published on 31 January 2025) has requested the rezoning of the site between 1 February 2025 and 1 April 2025;

- An ability to claim an exemption from RZLT (rather than a deferral) where development of a site may not be commenced because the planning permission is subject to a third-party judicial review application, or an appeal of a judicial review determination (a "relevant petition"); and
- A deferral of RZLT for 12 months from the grant of planning permission, or until the land is sold to a third party, if earlier.
- a provision for the 12-month deferral (from the date planning permission is granted) of the RZLT to continue where a site is transferred between group companies.

The Act also contains a number of technical amendments including provisions which allows for sections of a site which are subject to planning permission to be treated as separate sites for RZLT purposes.

Vacant Homes Tax

The rate of the Vacant Homes Tax (VHT) has been increased from five times the basic local property tax rate to seven times that rate. No account is taken of the local adjustment factor, as decided by local authorities, in calculating the liability to VHT.

The VHT applies to residential properties occupied as a dwelling for less than 30 days in a chargeable (12 month) period. Each chargeable period commences on 1 November and ends on 31 October of the following year. This increased rate of VHT will take effect from the next chargeable period for VHT commencing on 1 November 2024.

Relief for renters

The annual tax credit available on principal private residences will be increased from €750 to €1,000 for individuals, and €2,000 for married couples. The option to claim this increased tax credit will be available for the 2024 and 2025 tax years.

Mortgage Interest Relief

The one year mortgage interest tax relief for homeowners has been extended for another year, such that interest tax relief is available in respect of the increase in mortgage interest paid in 2024 compared to 2022.

This relief is available to LPT-compliant homeowners who have an outstanding mortgage of €80,000 - €500,000. Relief will be available at the standard rate of income tax, with the maximum relief capped at €1,250 per property.

Certain anti-avoidance provisions apply for acquisitions of residential property from connected parties.

Pre-Letting Expenditure

The relief available for landlords on pre-letting expenditure incurred on vacant residential premises has been extended for a further three years to apply to expenditure incurred on or before 31 December 2027 on vacant premises.

We are here to help you

1. **Take action now**

   The Irish tax system is complex and ever-changing. The Finance Act brings new and improved incentives to maximise tax savings for your business. Please reach out to your PwC contact to find out how we can help.

2. **Consider the impact on your business**

   The proposed legislative changes will likely have an impact on your organisation. PwC's tax team is available to help you and your business understand how these changes will impact your business.

Stamp Duty

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What Finance Act 2024 means for Stamp Duty

The Finance Act contains a number of changes announced in Budget 2025, including the introduction of a new higher rate of duty on certain residential property acquisitions, and a 50% increase in the rate of duty on the bulk acquisition of residential property other than apartments. It also includes a few other amendments that were not announced on Budget day. The proposed exemption from stamp duty for shares in SMEs traded on certain financial platforms has not been included in the Act and is probably more likely to be included in next year's Act.

The key measures introduced in Finance Act 2024 include:

- A new 6% stamp duty rate for acquisitions of residential properties exceeding €1.5m in value.
- An increase in the rate of duty from 10% to 15% on the bulk acquisition of residential properties other than apartments.
- Retention of the bank levy for another year.
- Changes to Young Trained Farmer relief and the relief for leases of farms, to permit these reliefs to be claimed by farmers running their businesses through companies.
- Some modernisation and house-keeping measures.

New 6% rate on residential properties

The Act introduces a new 6% rate of stamp duty for acquisitions of residential properties valued above €1.5m ex-VAT. The existing rate of 1% will still apply to the first €1m, and the 2% rate will apply to the next €500k, with the excess over €1.5m liable to 6% duty.

The new 6% rate is not intended to apply to purchases of 3 or more residential units in an "apartment block" (a multi-storey residential property comprising not less than 3 apartments with grouped or common access) in deals exceeding €1.5m in value, and it is intended that the 1% / 2% rates should still apply to such acquisitions. Revenue released an e-brief (261/24) on 21 October 2024 confirming this.

However, the 6% rate is intended to apply to an acquisition of 2 apartments in a transaction exceeding €1.5m in value. The new rate would also appear to apply to acquisitions of 2 or more residential units other than apartments in a transaction exceeding €1.5m in value, provided those units are not "relevant residential units" (10 or more residential units other than apartments in apartment blocks acquired in a 12 month period) - as they should be separately liable to the 15% duty for bulk acquisitions (see below).

The new rate applies to transfers executed on or after 2 October 2024, but transitional arrangements are in place for deals where binding agreements were entered into before 2 October 2024 and transfers (conveyances / leases) are executed before 1 January 2025, with appropriate certification included in the transfer instrument.

Increased rate of 15% on the bulk purchase of certain residential properties

The rate of stamp duty on relevant residential units (defined above) is set to increase from 10% to 15%.

This measure will also have effect for transfers executed on or after 2 October 2024, with transitional arrangements in place for deals where binding agreements were entered into before 2 October 2024 and transfers (conveyances / leases) are executed before 1 January 2025, with appropriate certification included in the transfer instrument.

As well as applying to direct acquisitions of residential property, this rate applies to acquisitions of shares/units/partnership interests deriving value from relevant residential units.

Bank levy

The bank levy is to be continued for another year to the end of 2025, with a target yield of €200m. This levy will apply to Allied Irish Banks, Bank of Ireland, EBS and Permanent TSB and will be calculated at a rate of 0.112% of relevant deposits held by these banks in the year 2022.

Changes to certain farming reliefs

The Act includes amendments to the Young Trained Farmer stamp duty relief and the stamp duty relief which applies to farmers who lease land, to enable these reliefs to be claimed where individuals operate their farming businesses through companies.

Modernisation and tidy-ups

The Act clarifies that a reference to a "card" for the levies on cash, debit, combined, credit, and charge cards includes cards in electronic form. The Act also includes a provision to apply the annual levy (€30) on charge cards to charge card accounts as opposed to individual charge cards, as is currently the case. As many charge card accounts can have multiple cards issued on them, this should result in a reduction in levies for charge card holders.

The Act also provides for the repeal of a number of provisions that are no longer necessary, and introduces a 31 December 2029 sunset for the stamp duty exemption on certain licences and leases granted under the Petroleum and Other Minerals Development Act 1960.

We are here to help you

Many of the stamp duty changes introduced over the last few years, including the changes in this year's Finance Act, are complex and nuanced, and require detailed consideration.

Our stamp duty team would be happy to help guide you through this difficult area of tax, and we have significant experience in dealing with the Revenue Commissioners on complicated stamp duty matters.

Pensions

What Finance Act 2024 means for Pensions

Finance Act 2024 has introduced a number of changes to the Standard Fund Threshold regime that were originally communicated by the Minister for Finance on 18 September. The limit will be increased from its current rate of €2 million to €2.8 million on a phased basis over the years 2026 to 2029 and will be linked to an earnings index thereafter.

For individuals who have already fully utilised their previous limit, they will not benefit from these increases, which is somewhat surprising given the contents of the report by Dr. Donal de Buitléir, which in broad terms highlighted that the limit was becoming overly penal.

The Act has also confirmed the tax treatment for the Auto Enrolled pension regime. This will operate on a similar basis to other approved schemes apart from tax relief on employee contributions; instead of tax relief, a top up contribution from the Government will be provided.

There were two measures introduced that impact on the PRSA regime, firstly confirmation that a transfer between a Gross PRSA and a Vested PRSA is a taxing event for the purposes of the Standard Fund Threshold regime, and separately, the curtailment of the annual tax relieved contribution by employers to a PRSA to 100% of earnings.

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The auto-enrolment changes are to take effect by Ministerial order with the remaining changes take effect from 1 January 2025 - the deferred implementation of the two PRSA measures is interesting, in part due to the activity that it will now drive over the remainder of 2024.

The key measures introduced in Finance Act 2024 include:

- Changes to the Standard Fund Threshold (SFT) regime
- Auto-enrolment for pensions
- Personal Retirement Savings Accounts (PRSA) - employer funding limits
- Transfers to Vested PRSAs

Standard Fund Threshold (SFT) changes

Finance Act 2024 introduced a number of changes to the Standard Fund Threshold (SFT) regime which were recommended to Government following an independent review by Dr. Donal de Buitléir. The changes are:

- The SFT will be increased by €200,000 for each of the years 2026 to 2029 bringing the current threshold of €2 million to €2.8 million in 2029
- The threshold will be indexed by an earnings factor from 2030 onwards
- Similar increases will not apply to individuals who have a *Personal* Fund Threshold.
- The maximum tax efficient lump sum is currently 25% of the SFT; this link will be broken and the maximum lump sum will remain at €500,000

Individuals who have previously fully utilised their SFT will not be able to avail of the increases in the thresholds. For individuals who have partially utilised their SFT then a portion of the increases will be available.

Auto-enrolment - “My Future Fund”

The Department for Social Protection (DSP) has announced a revised implementation date for Ireland’s Auto Enrolment (AE) system, which is to be called My Future Fund. This is now set for 30 September 2025. This delay, confirmed in Budget 2025, provides employers with additional time to prepare for compliance and make necessary adjustments to their current pension arrangements.

Section 14 of Finance Act 2024 provides for a new Chapter to be inserted into TCA 1997 to provide for the taxation regime for the AE system.

Chapter 2E provides for the following:

- No BIK on employer contributions
- No tax relief for employee contributions
- State contribution will be exempt from Income tax and USC
- Various amendments such that the Gross roll up tax regime will apply to individual AE accounts
- Confirmation that the AE scheme will be a relevant pension arrangement for the SFT regime and lump sum limit regime

AE will function in a similar manner to other approved pension arrangements, albeit with the removal of tax relief on employee contributions and with a government contribution to the scheme instead.

Personal Retirement Savings Accounts (PRSAs)

Finance Act 2024 introduced changes to limit the Employer funding for PRSAs. The removal of the BIK charge in Finance Act 2022 resulted in unrestricted funding for employers, and this will now be curtailed.

Section 12 of the Finance Act amends Sections 118 & S787A(1) TCA 1997, and this now imposes an overall annual tax relief cap on employer PRSA contributions. The cap is 100% of the emoluments of the employee/Director for the relevant tax year. Contributions can be made above this cap but the excess will be treated as a BIK.

In the majority of cases, this limit is likely to be more restrictive than funding limits that apply to occupational pension schemes, where funding is determined based on the value of Revenue maximum pension entitlements on a salary and service basis.

The changes to PRSA funding rules do allow Employer pension contributions in respect of 20% Directors of Investment companies (up to the 100% of earnings limit).

Transfers to Vested PRSAs

Finance Act 2024 further extends the definition of a Benefit Crystallisation Event to include a transfer from a non-vested PRSA to a vested PRSA.

There has been a technical argument that a transfer of a non-vested PRSA to a vested PRSA would bring those transferred benefits outside of the Standard Fund Threshold regime, and with no liability to tax arising.

The Finance Act closes this off from 1 January 2025.

We are here to help you

The changes to the Standard Fund Threshold regime coupled with the additional recommendations which are under consideration, such as reducing capital factors, review of the rate of exit tax and possible removal of contribution limits make the pension journey more complex to navigate.

PwC's blend of actuarial, taxation, investment and pensions expertise can support you to navigate this complexity and to take best advantage of the taxation opportunity that considered pension funding strategies achieve.

VAT

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What Finance Act 2024 means for VAT

Finance Act 2024 increases the thresholds for VAT registration and introduces a new 9% rate for the supply and installation of low emissions heating systems. It also extends the current 9% rate for the supply of electricity and gas to 30 April 2025.

The key VAT measures introduced in Finance Act 2024

The measures take effect from the passing of the Act unless stated otherwise below

In summary, the key VAT measures introduced in Finance Act 2024 include:

- With effect from 1 January, 2025, an increase in turnover thresholds below which VAT registration is not required to €85,000 for goods and €42,500 for services

- Extension of the reduced rate of VAT on gas and electricity supplies to 30 April 2025
- Application of the 9% rate to the supply and installation of low emissions heating systems with effect from 1 January 2025
- An update in respect of the VAT exemption for the management of EU Alternative Investment Funds (AIFs)
- Zero-rate of VAT on certain services relating to vessels and aircraft
- Introduction of penalties for non-compliance with CESOP obligations
- Application of the standard rate of VAT to juice and drinks derived from plants, grains, seeds or pulses
- Clarification on input VAT deduction claims in liquidation and receivership cases
- Limitation on input VAT deductions on food, drink, accommodation or personal services
- Increase in the farmers flat-rate compensation from 4.8% to 5.1% with effect from 1 January 2025

VAT registration thresholds

As announced in the Budget, with effect from 1 January 2025, the thresholds below which a person is not obliged to register for VAT are being increased. The turnover thresholds (which relate to turnover in any continuous 12 month period) will be increased from €40,000 to €42,500 in respect of the supply of services, and from €80,000 to €85,000 where at least 90% of the turnover is in respect of the supply of goods.

What this means for your business

Following last year's modest increase in the thresholds, this small additional increase in the entry point at which businesses are required to operate VAT is a welcome measure for small business owners given the burden of VAT compliance costs on such businesses. However, it is worth noting that these thresholds do not apply in all circumstances. A nil VAT registration threshold applies, for example, to foreign traders operating in Ireland and businesses in receipt of taxable services from abroad.

9% VAT on supply and installation of heat pumps

Currently the supply and installation of low emissions heat pump heating systems is liable to 23% VAT. As announced in the Budget Speech, the 9% rate is being introduced to the supply and installation of heat pumps with effect from 1 January 2025.

What this means for your business

Suppliers of low emissions heat pump heating systems should ensure that their systems are updated with effect from 1 January 2025 to apply the 9% rate of VAT. For businesses with limited or no VAT recovery entitlement, the timing of the purchase of such a system may have an effect on the amount of irrecoverable VAT incurred.

VAT exemption for the management of EU Alternative Investment Funds (AIFs)

Paragraph 6(2), Schedule 1 of the VAT Consolidation Act 2010 provides that fund management services supplied to certain defined "special investment funds" ("SIFs") are exempt from Irish VAT.

Finance Act 2022 extended this exemption to certain EU Alternative Investment Funds ("AIF") with effect from 1 January 2023. However, the exemption was only extended to EU AIFs managed by AIFMs *"authorised by the competent authority of another Member State"*. Some uncertainty arose as to the scope of the amendment as it did not expressly include AIFMs authorised in Ireland. In particular, this uncertainty arose in the context of 1907 Limited Partnerships established as AIFs, with Irish AIFMs appointed.

Section 85 of Finance Act 2024 provides welcome clarification by amending the legislation to clarify that the fund management exemption applies to EU AIFs managed by an AIFM which is *"authorised by or registered with the competent authority of a Member State".*

What this means for your business

Irish AIFMs managing AIFs should consider whether the proposed amendments impact on the VAT treatment of the services they provide, together with any knock-on VAT recovery implications for costs they have incurred.

In addition, funds should consider whether the amendment results in any VAT savings in respect of services received.

Zero-rate of VAT on certain services relating to vessels and aircraft

Irish VAT legislation implements EU VAT legislation and there are some differences in the wording in EU and Irish legislation in respect of the zero-rate applicable to certain services relating to vessels and aircraft.

EU legislation provides that the zero-rate of VAT applies to the supply of services to "meet the direct needs" of qualifying vessels or aircraft.

Historically, Irish VAT legislation did not contain this language but instead had two provisions providing for the zero-rate in particular circumstances:

- The zero-rating of services relating to the provision of docking, landing, loading or unloading facilities (including customs clearance), directly in connection with the disembarkation or embarkation of passengers, or the importation or exportation of goods;
- the supply of navigation services by the Irish Aviation Authority to meet the needs of qualifying aircraft.

In Finance Act 2020 the legislation was amended to incorporate the wording of the EU Directive to provide a zero-rating for the supply of services to "meet the direct needs" of qualifying vessels and aircraft. However, the two specific zero-rates (above) in Irish legislation remained.

The Act now deletes these specific provisions as consequential amendments following the Finance Act 2020 changes.

What this means for your business

Businesses which are zero-rating services supplied to qualifying ships and aircraft should consider whether the proposed amendments have any impact on the application of the zero-rate.

Other VAT measures

Introduction of penalties for non-compliance with CESOP obligations

New record-keeping and reporting obligations for certain payment service providers (PSPs) providing payment services within the EU were introduced with effect from 1 January 2024. This amendment introduces penalties for PSPs that fail to comply with their obligations under the legislation.

Extension of the reduced rate of VAT on Electricity and Gas

In an effort to counter the rising cost of living, the rate of VAT applicable to supplies of electricity and gas was reduced from 13.5% to 9% effective 1 May 2022 and extended since that date. The rate was due to revert to 13.5% on 31 October 2024 however the Act extends this for six months until 30 April 2025. This change was anticipated having been set out by the Minister for Finance in his Budget Speech.

VAT rate applicable to juice and drinks derived from plants, grains, seeds or pulses

Current VAT legislation provides that 23% VAT applies to juice extracted from, and other drinkable products derived from, *"fruit or vegetables, and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages"*. The Act makes an amendment to clarify that the 23% VAT also applies to juice extracted from, or drinkable products derived from, *"plants, grains, seeds or pulses"*.

It was not clear whether this amendment would result in milk substitutes becoming subject to VAT at the standard rate. The committee stage amendments to Section 87 of the Bill clarify that this is not the case, as they amend Schedule 2 of the VAT Consolidation Act 2010 (zero-rated goods and services), to provide that milk substitutes (oat, almond, coconut, hemp, cashew, soy, pea, hazelnut, flax, potato or other similar milk substitute drinks) qualify for the zero-rate of VAT. This had been confirmed at TALC following publication of the Finance Bill and has now been put on a legislative footing.

Input VAT deduction claims in liquidation and receivership cases

The Act makes some amendments to clarify that, where a receiver or liquidator has been appointed over the assets of a VAT registered person, an input VAT deduction may only be claimed in the VAT return prepared by the liquidator / receiver.

Limitation on input deductions on food, drink, accommodation or personal services

Under VAT legislation, input VAT is not generally deductible on food or drink, accommodation (except for a qualifying conference), or other personal services. However, as an exception, the VAT may be deducted where the costs are linked to a taxable supply.

The Act makes an amendment to clarify that it is not sufficient to claim an input VAT deduction by linking the cost to <u>any</u> taxable supply but that instead an input VAT deduction may only be taken where there is a <u>direct link</u> between the cost incurred and the service provided, i.e. in order to deduct VAT on food or drink, accommodation or personal services the cost must be linked to the supply of food or drink, accommodation or other personal services.

Flat Rate Farmer's Compensation Scheme

Further to Budget 2024 which further reduced the farmer's flat-rate compensation to 4.8% in order to avoid over compensation which would be a contravention of the EU VAT Directive, the Act increases the rate to 5.1% with effect from 1 January 2025.

We are here to help you

We work with a broad spectrum of clients across a variety of industries to deliver practical and effective VAT solutions. We would be pleased to discuss any of the VAT issues raised in this publication with you further so that we can assess the impact to your business and help you find practical solutions to comply with the new requirements that combine industry insight with first-class technical expertise. We can help to distil the Finance Act measures down to what they mean for you and/or your business. Please do not hesitate to get in contact with us to find out more.

Trade and Customs

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What Finance Act 2024 means for Customs and Excise

Finance Act 2024 confirms the provisions which were announced as part of Budget 2025 including the introduction of a new E-Liquid Products Tax.

The key Global Trade & Customs measures introduced in Finance Act 2024 include:

- The introduction of a new E-Liquid Products Tax
- An increase in the Tobacco Products Tax
- An expansion of cider and perry excise relief for microbreweries
- Betting duty changes and the introduction of remote betting duty
- Amendments to the excise duty on betting licences

E-Liquid Products (ELPs) Tax

A significant development in Finance Act 2024 (the Act) is the introduction of and detailing of the E-Liquid Products (ELPs) Tax announced as part of Budget 2025. The ELP tax provisions follow a similar format to the Sugar Sweetened Drinks Tax.

ELPs will be taxed at a rate of €500 per litre. The supplier will be liable and accountable for the tax at the point of first supply within the State, not at the point of import. The tax is not due on any subsequent supplies of the same ELP.

The supplier will also be responsible for registering as a supplier of ELPs with the Revenue and will be required to submit returns at the end of each accounting period detailing the quantity of ELPs supplied and other details as prescribed by Revenue. Payment of the tax will be due by the time the return is due. The Act also

introduces related record keeping requirements.

There is some relief provided where ELPs are returned to the supplier, and repayments of tax paid may be made in such circumstances, subject to conditions determined by Revenue. It will be an offence to contravene these provisions of the Act, which extends to individual officers/members of corporate bodies.

Much detail is left to be determined by Revenue who are empowered to create regulations thereon. The implementation of the ELPs tax will be commenced upon the issuing of a Ministerial Order.

Tobacco Products Tax

As part of the Act, the Tobacco Products (TP) Tax has increased from 2nd October 2024 by €1 per pack of cigarettes in the most popular price category with pro-rata increases for other TP categories.

Expansion of cider and perry excise relief for microbreweries

The Act has extended the 50% excise relief on cider and perry produced in qualifying microbreweries to a) cider and perry with ABV above 8.5% and b) other fermented beverages.

Betting duty changes and introduction of remote betting duty

The Act removes the requirement for betting to occur at a registered premises in order for a betting duty liability to occur. Instead, all bets placed with a "licenced bookmaker" in the State, other than remotely, are subject to betting duty.

A new "remote betting duty" is introduced specifically for bets placed by someone in the State with a licensed bookmaker where it is placed by remote means.

Betting licences

The excise duty chargeable on betting licences is being reduced by 50%. However, this is to bring it into line with the new Gambling Regulation Bill which will reduce the time for which such licences apply - effectively meaning the same amounts will continue to be paid.

Tax Administration and Revenue Powers

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What Finance Act 2024 means for Tax Administration and Revenue Powers

The Finance Act has not introduced any significant amendments to Revenue powers. The Act has provided clarity on the powers of Irish officials involved in joint audits which follows on from the introduction of legislation governing joint audits last year. This can be taken as a further indicator of the expected increase in joint audits over the coming years.

While there has been very little legislative change in the Finance Act, in practice we are seeing both Revenue and the Tax Appeals Commission (TAC) taking broader interpretations of key provisions relating to Revenue powers. This includes areas such as true and full disclosure and its impact on the statute of limitations, which is leading to greater uncertainty for taxpayers operating in Ireland.

The key administrative measures introduced in Finance Act 2024 include:

- Section 26 extends the time limit applicable where Revenue makes a PAYE assessment in cases where no return has been made for an income tax month.
- Section 104 provides that the powers that can be exercised by Irish Revenue officers participating in a joint audit in another Member State are to be determined in accordance with the laws of that other Member State, even if Irish law grants them more extensive powers.
- Sections 105 to 110 eliminate interest on warehoused Covid-19 debts for qualifying taxpayers.
- Section 111 inserts a new section 826B in TCA 1997 which gives Revenue the ability to repay tax arising from a correlative adjustment or mutual agreement when a company has ceased to exist.

Exercise of Powers in Joint Audits

Last year, Article 12a of DAC7 was transposed into TCA 1997 by the insertion of a new section 891L. These provisions mean that Revenue is required to facilitate other EU Member States in conducting joint audits in respect of periods beginning on or after 1 January 2024.

A joint audit is an administrative enquiry conducted by Irish Revenue and the competent authority (i.e. tax authority) of another Member State, linked to one or more persons of common or complementary interest to the two tax authorities.

The procedural law governing all officials involved in a joint audit is the law of the country in which the audit takes place. Thus, section 891L(10) provides that a nominated officer (i.e. a foreign tax official carrying on a joint audit in Ireland) cannot perform any function that exceeds the scope of their functions under the laws of the Member State that requested the joint audit. Accordingly, the nominated officer must comply with whichever are the stricter of the rules and limits imposed by Irish law or by the laws of the requesting Member State.

Section 104 of Finance Act 2024 inserts a new subsection (23A) into section 891L. The new subsection provides that the rights and obligations of an Irish Revenue official participating in a joint audit in another Member State shall be determined in accordance with the laws of that other Member State. The subsection further provides that the Irish Revenue official cannot exercise any powers that would exceed the powers conferred upon them under Irish law.

The new subsection gives effect to the second part of Article 12a.2 and makes express provision for the legal system that is to apply to an Irish Revenue official participating in a joint audit in another jurisdiction. The new subsection rectifies the previous position, where Irish legislation specified the law governing the rights and obligations of foreign tax officials participating in a joint audit in Ireland, but was silent on which system of law is to apply when Irish Revenue officials are participating in a joint audit in another Member State.

The new subsection confirms that Irish Revenue officials can only exercise the powers of the Member State where they are participating in a joint audit, even if they have more extensive powers under Irish law.

Time Limits for Assessment of PAYE Due

Section 990 of TCA 1997 provides that a Revenue officer may make or amend an assessment where Revenue has a reason to believe that an employer has not made a PAYE tax return for an income tax month, or that a return was made but does not include the total amount of tax due for the relevant income tax month.

Section 990(5) formerly provided that Revenue could only make or amend an assessment within a period of four years commencing at the end of the year following the year of assessment in which the relevant income tax month fell.

Section 26 of the Act amends section 990(5) and provides that the 4-year time limit will only start to run once a return has been filed. The position previously was that the statute of limitations could run against Revenue even in cases where no return had been filed, and the amendment to section 990(5) will strengthen Revenue's position in this regard. This is in line with the statute of limitations for corporation tax and income tax.

The new time limit applies to income tax month returns from 1 January 2025 onwards.

Double Tax Relief

At present, if a company is liquidated or dissolved prior to an international tax dispute being resolved, there is no mechanism for Irish Revenue to repay the tax at issue once agreement has been reached.

Section 111 of the Act introduces a new section 826B into TCA 1997, which enables a refund to be paid where a valid claim has been made. There are a number of conditions to be satisfied, including a requirement that the company must be a 90% subsidiary of an ultimate parent entity. The section applies only where the refund arises from a correlative adjustment or by virtue of a mutual agreement under section 826.

The refund can be paid to an Irish resident ultimate parent entity or an Irish resident group company which is its 90% effective subsidiary. The section also provides mechanisms for repayment where the ultimate parent entity has also ceased to exist.

The section does not apply where it would be reasonable to consider the main purpose or one of the main purposes of the company ceasing to exist was to secure a refund under this section.

Covid-19: Special Warehousing and Interest Provisions

Sections 105 to 110 operate to reduce the interest rate applicable to warehoused Covid-19 tax liabilities from 3% to 0% in cases where the taxpayer engaged with the Collector-General before 1 May 2024 to make arrangements to pay their warehoused debt, and have entered into a payment plan agreement.

The amendments apply to PAYE, income tax, refunds of Temporary Wage Subsidy Scheme and Employment Wage Subsidy Scheme payments, VAT and PRSI.

We are here to help you

Our Tax Risk & Controversy team helps companies deal with all aspects of tax risk prevention, Revenue interventions, tax appeals and Mutual Agreement Procedures. Our focus is on helping you to manage your tax risk, both prior to intervention or audit, as well as when Revenue formally intervenes.

To talk to us about Revenue audits, tax appeals, Mutual Agreement Procedures and any concerns that you might have around risks in your business, please contact any member of our team.

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