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AMERICAN CHAMBER of COMMERCE IRELAND

Submission to the Department of Finance in advance of the Finance Bill 2023

Submission from the American Chamber of Commerce Ireland (AmCham) to the Department of Finance

June 2023

The American Chamber of Commerce Ireland
The Voice of US-Ireland Business

The American Chamber of Commerce Ireland (AmCham) is the collective voice of US companies in Ireland and the leading international business organisation supporting the Transatlantic business relationship. Our members are the Irish operations of all the major US companies in every sector present here, Irish companies with operations in the United States and organisations with close linkages to US-Ireland trade and investment.

Supplementary to AmCham's Budget 2024 submission, AmCham is pleased to outline its recommendations for the Finance Bill in relation to taxation.

US Multinational Corporations (MNCs) have played a vital role in Ireland, contributing to its economy, fostering talent development, and positioning the country as a central hub in global supply chains. Ireland has successfully attracted high-value investments, generated significant employment opportunities, and is serving billions of customers and patients worldwide. Ireland has demonstrated its ability to compete for advanced technology and manufacturing investments across various sectors. However, with the upcoming implementation of the new OECD Pillar Two Rules, it is crucial for Ireland's tax regime to remain competitive and attractive to US FDI.

AmCham recommends:

- The implementation of a territorial taxation system in Ireland with effect from 1 January 2024.
- An increase of the R&D tax credit from 25% to 30%.
- All personal tax rates and thresholds should be reassessed and the personal tax burden on employees reduced.

A Territorial Tax Regime in Ireland

AmCham strongly advocates for Ireland to transition to a territorial tax regime by 1 January 2024. Firstly, such a move would greatly reduce the complexity of the Irish tax code, making it more attractive for businesses to use Ireland as a holding company jurisdiction. The current rules pose a significant barrier for businesses considering Ireland due to the cumbersome method of calculating credit relief for foreign tax. By adopting a territorial system of taxation, Ireland would provide greater simplicity and clarity for businesses, fostering a more favourable environment for investment and economic growth.

Several European countries, such as the Netherlands and Switzerland, illustrate how well-balanced tax regulations can promote high-skilled employment in various related functions like treasury, group IT, and FX management. Currently, businesses often hesitate to establish holding companies in Ireland due to the existing tax rules. By adopting a territorial system of taxation, the tax process for businesses should become simpler, particularly in dealing with the burdensome calculation of credit relief for foreign tax. AmCham emphasises that this aspect should be a fundamental consideration in the decision to shift to a territorial system of taxation.

Further, a shift to a territorial tax regime is crucial for Ireland to remain competitive in the global market, particularly following the implementation of the OECD international tax agreement. The Pillar Two rules (under the EU Directive) presuppose a jurisdiction's enactment of a territorial regime. Moving to a territorial system of taxation will be beneficial in reducing the complexity of the Irish tax code, and in removing a disincentive for using Ireland as a holding company jurisdiction. It is essential for Ireland to enhance its domestic tax offerings and align itself with competitor countries. The current worldwide system of taxation for dividends and branches in Ireland puts the country at a disadvantage compared to other EU member states and most OECD countries. By adopting a territorial tax system, Ireland would eliminate this disadvantage, ensuring that it remains an attractive and competitive location for inward investment in the future.

Implementing a territorial regime would yield numerous advantages for taxpayers, offering them certainty in treatment and alleviating the compliance burden. Under the existing worldwide taxation system and credit system, both US MNCs operating in Ireland and Irish headquartered groups face significant challenges. The resulting onerous record-keeping and computational obligations place a heavy strain, while providing little additional tax revenue for the Exchequer. In fact, the transition to a territorial system of taxation should not result in any significant loss to the exchequer and may even result in incremental exchequer revenues through increased FDI.

AmCham recommends increasing resourcing in relevant government departments, especially the Department of Finance, to effectively support the implementation of international tax changes and facilitate a transition to a territorial system of taxation. The Department of Finance will require additional resources to actively engage in shaping complex international tax policies and ensuring Ireland's competitiveness to attract US FDI. Modernising the tax code in line with global standards will not only foster economic growth but also solidify Ireland's appeal as an attractive destination for US MNCs. This will ensure that Ireland is no longer an outlier in the EU and Ireland's tax code will meet the demands of the 21st century business and investment environment.

AmCham recommends:

- The implementation of a territorial taxation system in Ireland with effect from 1 January 2024.
- Resourcing is increased in vital Government Departments, particularly in the Department of Finance, to support the implementation of international tax changes and advance a transition to a territorial system of taxation.

R&D Tax Credit

Investments in research functions hold significant value and can have profound positive effects on Ireland's economy and the overall research ecosystem. The R&D tax credit promotes collaboration with higher education institutions, drives indigenous innovation, and positions Ireland as a centre of excellence in key research areas.

AmCham is of the view that the R&D tax credit has been pivotal in encouraging many companies to consider Ireland as an investment location for research, development, and innovation. The R&D tax credit has provided the opportunity for Ireland to showcase the additional factors which make it a great location for FDI, including the highly skilled talent pool and the ease of doing business. Without the R&D tax credit, it would be increasingly difficult to deliver this high-value investment for Ireland.

AmCham believes that it is essential that the tax credit remains competitive and ensures its adaptability to align with Ireland's aspiration of becoming a global research leader.

It is important that the benefit of the R&D tax credit is protected in the context of international tax changes. There are concerns that a qualified refundable tax credit will be treated as income subject to tax under GloBe rules. This would, in effect, mean that the R&D tax would be subject to the 15% global minimum rate, which would dilute the monetary value of the R&D tax credit. This would increase the cost of undertaking R&D in Ireland.

AmCham recommends:

- An increase of the R&D tax credit from 25% to 30% - given the scale of international tax changes, an enhancement of the R&D tax credit would support Ireland is remaining competitive as a destination for inward investment, whilst showing Ireland’s commitment as a location for research, development, and innovation in the long-term.
- The expansion of the scope of qualifying fields for the R&D tax credit, to include artificial intelligence, data analytics, digitalisation, emerging technologies in the field of advanced/digital manufacturing, and carbon neutrality to support the advancement of climate action.
- Any updates to the Irish R&D tax credit regime should ensure that it is considered a refundable credit for US tax purposes.

Personal Tax

Personal taxation plays a significant role in ensuring Ireland's competitiveness on the global stage. AmCham members believe that reducing the high personal taxation burden is key to attracting and retaining talent to ensure greater inward investment.

In a recent survey 100% of AmCham members said certainty with regard to the availability of highly skilled talent is important to maintaining FDI employment in Ireland. Tackling the high personal taxation burden is key to attracting and retaining talent, and subsequently, further encouraging greater inward investment to Ireland.

In light of the recent OECD international tax agreement, Ireland must distinguish itself from competitors to attract talent and remain competitive. AmCham recommends advancing the reduction of the personal taxation burden through the outlining of a roadmap for the indexation of taxation bands and thresholds.

A recent survey conducted among AmCham members revealed that 70% of respondents expect an increase in the number of employees in their Irish operations over the next 12 months.

Further, amongst AmCham members, 59% have indicated that Ireland’s personal tax regime was either minimally or not competitive. Additionally, 60% of respondents indicated that all rates should be reassessed to reduce the burden on employees. To attract projected FDI, it is necessary to protect and enhance competitive personal tax policies that attract key individuals and encourage talent migration to Ireland.

AmCham recommends:

- All tax rates and thresholds should be reassessed and the tax burden on employees reduced.
- A commitment to not increase the personal taxation burden in medium to long term tax planning. This will allow companies to provide security to prospective talent for the medium to long term.
- The personal tax regime for in-demand individuals should be made more attractive to encourage talent to move to Ireland, as AmCham member companies continue to expand. The protection and enhancement of competitive personal tax policies designed to attract key in-demand individuals is needed to encourage talent to move to Ireland.
- Reducing the marginal income tax rates and the thresholds at which they apply to encourage and retain a talented work force in Ireland.