Budget 2020

On 8th October 2019, Minister for Finance and Public Expenditure and Reform Mr. Paschal Donohoe T.D. announced the Budget for the upcoming year. The following commentary has been prepared by Bradley Tax Consulting.

BRADLEY TAX CONSULTING

Budget Summary 2020

Introduction

Today, the Minister for Finance and Public Expenditure and Reform, Paschal Donohoe TD, delivered the Budget speech to the Dáil. His speech set out the Government's taxes, spending and borrowing plans for 2020. The budget has been developed on the assumption of a "No Deal" Brexit. As a consequence of this assumption, projected GDP growth in 2020 is 0.7% compared to 5.5% in 2019 and 8.2% in 2018. Government expenditure is driven by the anticipated tax revenues and Ireland's projected tax based for 2019 is as follows:

Tax	Yield
Income tax (incl. USC)	€22.9bn
VAT	€15.1bn
Corporation Tax	€10.0bn
Excise	€5.9bn
Stamp Duties	€1.7bn
Capital Gains Tax	€1.0bn
Motor Tax	€0.9bn
Capital Acquisitions Tax	€0.5bn
Customs	€0.4bn
Total	**€58.4bn**

Now that the Budget measures have been announced, we await the publication of the Finance Bill. New anti-hybrid mismatch rules, amendments to transfer pricing provisions and exit tax rules as well as other measures to continue the process of global tax reform will be introduced.

Tax Rates & Credits

Tax Rates	2019	2020
Standard tax rate	20%	20%
Higher tax rate	40%	40%

Standard Rate Band		
Single/Widowed	€35,300	€35,300
Married couple one income	€44,300	€44,300
Married couple two incomes	€70,600	€70,600
One parent family	€39,300	€39,300

Home Carer		
Home carer credit	€1,500	€1,600
Home carer income threshold	€7,200	€7,200

Earned Income Credit		
Earned income credit	€1,350	€1,500

Universal Social Charge (USC)			
2019		**2020**	
First €12,012	0.50%	First €12,012	0.50%
Next €7,862	2.00%	Next €7,862	2.00%
Next €50,170	4.50%	Next €50,170	4.50%
Balance over €70,044	8.00%	Balance over €70,044	8.00%
Self-employed income > €100,000	3.00%	Self-employed income > €100,000	3.00%

Personal Tax

Home Carer Tax Credit

An increase in the Home Carer Tax Credit from €1,500 to €1,600 has been announced.

Earned Income Credit

An increase in the Earned Income Credit from €1,350 to €1,500 has been announced.

USC

The reduced rate USC for medical card holders is being extended for a further year.

Key Employee Engagement Programme (KEEP)

KEEP is an incentive to facilitate the use of share-based remuneration by unquoted SME companies to attract key employees, which applies CGT rather than income tax (incl PRSI and USC) to gains arising to employees on the exercise of KEEP share options.

This incentive is available for qualifying share options granted between 1 January 2018 and 31 December 2023. Budget 2020 introduces the following changes to KEEP:

- Companies who operate through a group structure may now qualify for KEEP
- KEEP may now apply in situations where employees engage in part-time/flexible working and movement between employers within group structures
- The legislation is to be amended to allow existing shares to qualify for KEEP.

Agri-taxation- Extension Capital Gains Tax Relief for Farm Restructuring

The current scheme provides for capital gains tax relief where an individual disposes of and purchases land and/or exchanges land with another farmer in order to consolidate an existing farm. The scheme which is due to expire on 31 December 2019 is being extended to 31 December 2022 subject to state aid approval.

Employment and Investment Incentive (EII)

EII provides individual investors with tax relief for risk capital investments in qualifying SMEs. A number of proposals to improve the operation of the incentive will be introduced in the Finance Bill. The main changes are expected to be as follows:

- Full income tax relief (40%) to be provided in the year in which the investment is made. This compares with current arrangements whereby 30% relief is provided in the year of the investment and a further 10% is given after Year 3 subject to certain conditions;

- The investment limit: the annual investment limit will be increased from €150k to €250K and to €500k in the case of those who invest for a minimum period of 10 years.

Special Assignee Relief Programme (SARP)

SARP is an income tax relief measure which aims to reduce the cost to employers of seconding key staff from foreign offices to Ireland to take up key positions in their Irish based operations. The scheme was due to expire on 31st December 2020 and will now be extended to 31 December 2022.

Foreign Earnings Deduction (FED)

FED is intended to support Irish companies who expand their exports into new countries. It provides relief from income tax on up to €35,000 of salary for employees who travel out of Ireland to certain qualifying countries for extended periods on behalf of their employer. The scheme was due to expire on 31st December 2020 and will now be extended to 31 December 2022

Corporate Tax

Corporation tax rate

The corporation tax rate of 12.5% remains unchanged.

Research & Development Tax Credit

The R&D credit is being increased for micro and small companies from 25% to 30% of qualifying expenditure. Micro and small companies conducting pre-trading R&D will now be able to claim the credit before trading commences. This credit can be offset against VAT and payroll tax liabilities only. These measures are both subject to State aid approval.

In respect of all claimants, the current limit on outsourcing to third level institutes of education will be increased from 5% to 15%.

BEPS Implementation

As part of Ireland's commitment to implementing the Anti-Tax Avoidance Directive, the Bill will provide for new ATAD compliant anti-hybrid rules to apply to all corporate taxpayers from 1 January 2020. The purpose of anti-hybrid rules is to prevent arrangements that exploit differences in the tax treatment of an instrument or entity under the tax laws of two or more jurisdictions to generate a tax advantage. Consequential provisions are also being introduced to ensure that the existing treatment of Stocklending and Repo transactions, and of Investment Limited Partnerships, is clear in legislation. Transfer pricing rules are being modernised in line with the Recommendations in the Coffey Review of the Irish Corporation Tax Code. These changes include the incorporation the OECD 2017 Transfer Pricing Guidelines into Irish legislation and the extension of rules to cover cross-border non-trading, and material capital transactions. The legislation will also extend the application of transfer pricing rules to SMEs, subject to a Ministerial Commencement Order

Stamp Duty

Increase in stamp duty on non residential property

The rate of stamp duty applicable to non-residential property transactions will be raised from 6% to 7.5% from tonight. This will be subject to transitional arrangements whereby the existing 6% rate will apply to instruments executed before 1 January 2020 where a binding contract existed prior to Budget day (8th October 2019). Consequential amendments will also be made to the legislation relating to the repayment of stamp duty where the land involved is subsequently used for residential development, so as to ensure that the rate of stamp duty chargeable after a full refund remains at 2%.

Stamp duty on Schemes of Arrangement involving a 'Cancellation Scheme' where used for the sale of a Company

A stamp duty charge of 1% is applicable where a scheme of arrangement, in accordance with Part 9 of the Companies Act 2014, is used for the acquisition of a company. It has been established that in certain circumstances where a company is restructured in accordance with a scheme of arrangement under Chapter 1 of Part 9 of the Companies Act, no stamp duty applies. Under such arrangements the company being acquired would cancel its existing shares and re-issue new shares to the acquiring company. In such a situation stamp duty would not apply as there is no transfer or conveyance on sale of shares. This measure aims to correct that anomaly. This will made subject to a Financial Resolution so as to have immediate effect from midnight.

Housing Measures

Help to Buy (HTB)

HTB is an income tax incentive measure designed to assist first-time buyers with the deposit required to purchase or self-build a new house or apartment to live in as their home; the legislation contains a sunset clause for 31 December 2019. It is proposed to extend HTB (in its present format) until 31 December 2021.

Living City Initiative (LCI)

LCI is a scheme of property tax incentives aimed at the regeneration of certain 'Special Regeneration Areas' in the historic centres of Cork, Dublin, Galway, Kilkenny, Limerick and Waterford; It is proposed to amend the Taxes Consolidation Act to extend the scheme, in its present format, until 31 December 2022.

Climate and Environmental Measures

New measures

The Minister announced the following climate related tax changes:

- Carbon Tax will increase to 26 euro per tonne.
- The rate of Electricity Tax will be equalized for businesses and non-businesses.
- VRT Environmental Health (NOx) Surcharge to replace Diesel Tax.
- There will be an extension of VRT relief for hybrids and plug-in hybrid electric vehicles.

Excise

There is an increase of 50c on pack of 20 cigarettes with pro-rata increase on other tobacco products effective from midnight.

VAT

No VAT changes have been announced so far.

Capital Gains Tax (CGT)

The CGT rate is unchanged and remains at 33%.

There have been no changes to Entrepreneur Relief or Retirement Relief.

Capital Acquisitions Tax

Group Thresholds

The Group A threshold has been increased by €15,000 to €335,000 in respect of gifts or inheritances received on or after 9th October 2019.

Dividend withholding tax

Increase rate of Dividend Withholding Tax from 20% to 25% from 1 January 2020

As the first step in a two-stage process, the rate of Dividend Withholding Tax (DWT) will be increased from 20% to 25% from 1 January 2020.

In the event that the 25% rate results in an overpayment of tax, the excess will be refunded, as it is not intended to change the liability to tax for Irish tax residents.

The second step is to introduce a modified Dividend Withholding tax regime from 1 January 2021. Utilising real-time data collected under the newly modernised PAYE system, it is intended that Revenue will apply a personalised rate of DWT to each individual taxpayer based on the rate of tax that they pay on their PAYE income. Revenue will shortly be launching a consultation in order to engage with stakeholders on how the proposed new system will operate.

Other Changes

Microbrewery relief

The production ceiling for qualification for this relief has been raised from 40,000hl to 50,000hl.

Diesel Rebate Scheme

Relief will be provided for users of the scheme from the increase in carbon tax.

Betting Tax

Introduction of a relief from betting duty and betting intermediary duty up to a limit of €50,000 per calendar year. This relief only applies to single undertakings.

Other Anti-avoidance Changes

Allowance for Capital Expenditure on Scientific Research

Section 765 of the Taxes Consolidation Act 1997 provides allowances for capital expenditure on scientific research. An anomaly has been identified whereby the interaction of this section with other provisions can create the potential for unintended additional claims to relief. This is being corrected in Finance Bill 2019.

Irish Real Estate Funds (IREFs) and Section 110 Companies

A number of anti-avoidance measures are being introduced to address these tax avoidance issues in the IREF sector, including the introduction of limitations on interest expenses based on debt to property cost and on an income to interest ratio. These measures will be brought in via Financial Resolution this evening.

Anti-avoidance provisions in section 110 TCA 1997, which relates to the use of Special Purpose Vehicles (SPVs), are also being strengthened to ensure that they operate as intended. These changes will be brought in as part of Finance Bill 2019.

Real Estate Investment Trust companies (REITs)

A number of amendments are being made to the REIT framework to ensure that the appropriate level of tax is being collected from the regime, particularly in the area of capital gains. The distribution of proceeds from the disposal of a rental property will be subject to dividend withholding tax upon distribution. An existing provision whereby a deemed disposal and re-basing of property values occurs should a company cease to be a REIT is being limited to apply only where the REIT has been in operation for a minimum of 15 years, in line with the original policy intention of encouraging stable long-term investment in the rental property market. These changes will be brought in via Financial Resolution this evening.

Corporation Tax - BEPS Implementation

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