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Irish Tax Monitor

The Roundtable July 2024

BEPS Pillar Two guidance

The Revenue Commissioners have published their first detailed guidance on the BEPS Pillar Two rules, following the introduction of the EU Minimum Taxation Directive (Pillar Two) in Finance (No. 2) Act 2023. Please comment on the guidance.

Yvonne Diamond, Senior Tax Manager, Financial Services Tax, BDO: On 15 May 2014, Revenue published its long-awaited detailed guidance on the implementation of "Pillar Two" in Part 04a-01-02 of the Tax and Duty Manual.

Section 94 of Finance (No.2) Act 2023, transposes into Irish law, the EU Minimum Tax Directive (Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union). Part 4A of the Taxes Consolidation Act (TCA) 1997,

Yvonne Diamond

implements the Pillar Two minimum effective tax rate for large groups and companies in Ireland.

The guidance is set out in four easy to follow sections:

1. An overview of the rules
2. A description of the correlation table
3. A short note on further guidance
4. The detailed correlation table contained in an appendix.

The overview contains a concise summary of the rules which, as well as setting out the background and content of the rules also describes the main charging provisions, exceptions and operative dates of the rules.

The correlation table included in Appendix 1 of the guidance (which accounts for 110 of the 116 pages of the manual) contains detailed cross references of the legislation from Part 4A TCA 1997 with: the relevant article of the EU Minimum Tax Directive; the relevant article of the OECD Model Rules; OECD Commentary, where relevant and; OECD Administrative Guidance, where relevant.

Revenue also advise within the document of the ongoing consultation with the Tax Administration Liaison Committee (TALC) BEPS sub-committee, and that the manual is expected to be expanded as that process continues. The further development of the guidance is eagerly awaited as large businesses are keen to understand their new obligations under Pillar Two.

Simplification/ Modernisation of Business Reliefs

In late 2023 a new Tax Administration Liaison Committee (TALC) sub-committee, the Sub-Committee on Simplification and Modernisation of Business Reliefs was set up to address concerns noted by the Minister of Finance regarding "awareness by small businesses of the range of supports available through the tax system and to examine administrative hurdles faced by such businesses in availing of these supports". The sub-committee is mandated to present a report on recommended changes by mid-year. While TALC'S remit is limited to administrative matters what changes might you recommend to improve the administrative ease of use and access of such reliefs from both a policy and administrative procedural respect?


Angela Fleming

Angela Fleming, Partner & Head of Financial Services Tax, BDO: The function of the TALC Sub-Committee on Simplification and Modernisation of Business Reliefs for SMEs is to provide a forum where Revenue and tax practitioners can identify opportunities to simplify and modernise the administration of business supports.

Since the establishment of the TALC Sub-Committee, the committee has met 6 times, with the aim of submitting a formal report to main TALC by end June 2024. The group structured their review of supports for business by reference to the phases in a business life cycle, i.e. start-up, group and expansion, and possible divestiture or succession. While the group discussed a wide range of business reliefs, some common themes emerged across multiple business supports from an administrative perspective, including:

- Lack of awareness of business supports available, particularly for businesses in a start-up phase which may not have access to tax advice;
- Uncertainty regarding meeting the qualification criteria for each of the various reliefs or supports, and concerns regarding the risk of subsequent clawback and/or penalty for making invalid claims, which in some cases, led to businesses opting not to claim reliefs on a cost-benefit basis; and
- Improvements that may be made to the content contained on the Revenue website to provide additional clarity, and to aid the understanding of the business supports available by non-tax professionals.

As mentioned, the remit of the group was to identify potential opportunities to simplify the administrative processes associated with various business supports and schemes, with a particular focus on smaller businesses. Making recommendations on matters of policy was outside of the remit of TALC. However, in the meetings certain matters of policy were raised, and rightly so. It is impossible to ignore the fact that much of the administrative burden for businesses is a result of the legislation underpinning the reliefs. In order to truly achieve simplification and modernisation, both the legislative policy, and the administration of that legislation, need to be looked at.

An area of simplification that I have written about before in these columns is the whole area of tax relief for interest. Even before the introduction of interest limitation rules in 2022, our tax rules for interest relief were highly complex, as has been acknowledged by the Minister for Finance. While the introduction of the new rules for "qualifying financing companies" in Finance Act 2023 was a very welcome development as a first step in the simplification and modernisation process, what is needed now is a review of the entire interest deductibility regime, and a simplification of same. We cannot continue to layer new interest rules on top of our existing regime. Doing so is not simplification, it is adding further complexity, which brings with it administrative burden for taxpayers of all sizes.