# How a US-imposed tariff on Irish pharma exports might work – a theoretical risk analysis, and action plan

*There are potential risks to Irish corporate tax revenues from US statements about tariffs and a 15% US corporation tax rate - examined in the November issue of Finance Dublin but, as we comment, positive and enlightened engagement on the part of the new Irish Government, and "Ireland Inc", can turn perceived difficulty in effect into opportunity.*
*A quotation attributed to one time US Trade Secretary Wilbur Ross about tariffs, a first term President Trump Cabinet-appointee (see the November issue) provides an insight as to the possible strategy 'Ireland Inc', and the incoming Government should follow in engaging with the new US Administration on trade matters coming up. CAROL LYNCH, Partner, Customs and International Trade, BDO comments, and provides a risk analysis for potentially affected Irish companies.*

As the new trade statistics issued for October 2024 trade show, Ireland's trade with the US is continually growing. Exports in the first 10 months were 30% higher than the same period in 2023 and reach almost €60bn. In October 30% of all Ireland's exports were to the US.

Within this Ireland's key exports are in the chemical and pharmaceuticals area by a long shot at around 80%.

Within the EU, Ireland is the most dependent country on the US market.

**In this context what is the potential impact of President Elect Donald Trump's stated intent to impose up to a 20% tariff on EU exports and how can companies prepare?**

The first step President-Elect Trump has proposed will be 25% import taxes on goods from Canada and Mexico, along with potentially an additional 10% on China which are conditional measures to pressure US trading partners into co-operation with policies on immigration and drug-trafficking and tariffs of 100% on the Bric Nations if they take measures which undermine the US dollar.

Along with that, the risk for Irish exporters is that this will be followed by additional tariffs on EU goods entering the US. This is a real concern and occurred during the first Trump presidency.

Carol Lynch

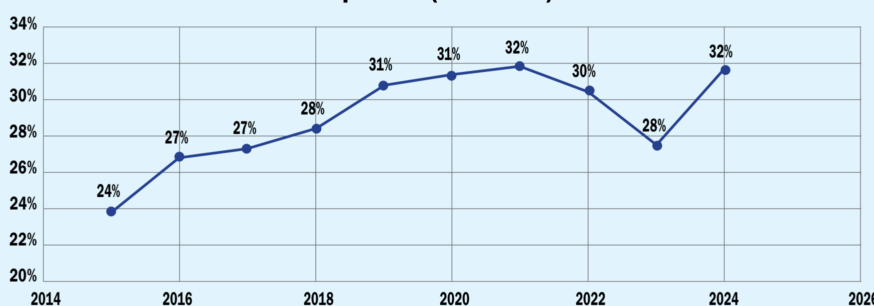
In addition, the concern would be supported by the selection of Howard Lutnick to be Secretary of Commerce. President-Elect Trump stated that Mr. Lutnick "will lead our tariff and trade agenda, with additional direct responsibility for the Office of the U.S. Trade Representative ['USTR]'." The latter comment has sparked concern in Congress as USTR reports directly to the President, not to another Cabinet Secretary. The Department of Commerce oversees areas such as export controls, anti-dumping and anti-subsidy, authority over these areas was previously used by Trump to implement section 232 tariffs on steel and aluminium.

There are several legislative options for President-Elect Trump to enact the proposed trade policies and we strongly recommend that businesses start preparing a risk analysis as a priority and be ready to take action as and when required.

Options to mitigate the impact might include:

1) Reviewing and confirming your tariff classifications to ensure the correct duty will be charged, within this looking at tariff engineering, which would involve modifying a product to achieve a lower tariff classification.
2) Determine if the products you sell into the US cannot be sourced locally as there may be opportunities for exemptions
3) Look at your supply chain – are there opportunities for sourcing from countries which would be less affected by the new policies?
4) Analyse your US purchases – if new US tariffs are imposed there will likely be immediate retaliation from the EU.
5) For Pharmaceuticals are your products covered by the WTO Pharma agreement?
6) What is the origin of your goods? Is there any risk if there are Chinese parts used in manufacturing? Have they been sufficiently processed to achieve EU origin status?
7) Can you be constructive in your value for sales for customs purposes e.g. through using the First Sale principle.

The key message right now is that there is a strong likelihood of changes to global trade in 2025 and companies should be conducting a potential analysis for possible and worst cases.




*Source: Central Statistics Office Ireland*

***Carol Lynch is partner, Customs and International Trade, at BDO.***

# Fund Sector 2030 – improving Ireland's tax regime for domestic retail fund investors

*BDO's LEE KAVANAGH comments on the key taxation aspects aimed at encouraging retail investment in investment funds contained in the Irish Government's 'Funds Sector 2030' report, as a complement to the encouragement of international financial services in the funds industry.*

The Final Report on the Funds Sector 2030 review was published on 22 October 2024. The purpose of the review was to examine Ireland's funds sector framework to ensure it is up-to-date, taking account of the significant developments in recent years to support the long-term growth in the sector. The report makes 42 recommendations across nine areas, including legal structures and products, the regulatory and supervisory regime for funds, harnessing technology, enabling retail investment, structured finance and sustainable finance, i.e. the role of the sector in supporting the green transition.

**"One of the fundamental recommendations from this discussion calls for the reform of the taxation of Irish domiciled funds to align the treatment with the treatment of equivalent products offered in EU, EEA and OECD territories."**

One key aspect of the review was the discussion on the taxation aspects of encouraging more retail investment in Ireland as an adjunct to encouraging savings and investment for Irish citizens and residents. One of the fundamental recommendations from this discussion calls for the reform of the taxation of Irish domiciled funds to align the treatment with the treatment of equivalent products offered in EU, EEA and OECD territories. In order to help this alignment, the final report proposes to remove the 8-year deemed disposal requirements, align the tax rates for Investment Undertaking Tax and Life Assurance Exit Tax with the current CGT rate of 33% and to allow for a limited form of loss relief.

**Lee Kavanagh**

The proposed removal of the 8-year deemed disposal is welcome as by removing this rule, the government aims to simplify the holding of investments for the long haul without the burden of a tax hit every 8 years, even if the investment has not been disposed of and for retail investors, this should make investing in Irish funds more attractive.

There are similar proposals for changes to the taxation of Irish domiciled life products along with the proposed removal of the 1% life assurance levy. This would be a welcome change as the levy added extra costs to life assurance products which are often used by retail investors for long-term savings. Some other key suggestions to enable more retail investment from the final report are to prioritise work to simplify and consolidate the tax regime for offshore funds and to establish an annual savings and investments forum which is to be led by the Department of Finance and supported by the Central Bank of Ireland and Consumer Protection Commission.

**"The proposed removal of the 8-year deemed disposal is welcome as by removing this rule, the government aims to simplify the holding of investments for the long haul without the burden of a tax hit every 8 years, even if the investment has not been disposed of and for retail investors, this should make investing in Irish funds more attractive."**

Overall, we welcome the report's recommendations set out above aimed at encouraging more retail investment in Ireland and look forward to seeing these proposals hopefully introduced in the near future to make retail investment a more attractive option in Ireland.

***Lee Kavanagh, Manager, Financial Services Tax, BDO***