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Irish Tax Monitor

The Roundtable November 2024

Finance Bill 2024

What are the notable takeaways from Finance Bill 2024 for Ireland's international financial services sector?

Yvonne Diamond, Senior Manager, Financial Services Tax, BDO:

Participation Exemption

The very welcome Participation Exemption for Foreign Dividends was introduced in Finance Bill 2024. The purpose of the exemption is to simplify existing double taxation relief provisions by providing an alternative method of double tax relief for qualifying foreign dividends.

The Participation Exemption will be available for relevant distributions received on or after 1 January 2025 from subsidiaries in EU/EEA and tax treaty partner source jurisdictions. The parent company must hold at least 5% of the ordinary share capital of the foreign subsidiary for a continuous period of at least 12 months.

The entity in receipt of the distributions will have the option to claim the Participation Exemption or to continue to use existing relief under Schedule 24, by way of an election in the company's annual corporation tax return.

Yvonne Diamond

Pillar Two

Finance Bill 2024 also aims to remove standalone investment undertakings (e.g. unit trusts, ICAVs, investment limited partnerships, or common contractual funds) from the scope of Ireland's domestic top-up tax. Where an investment undertaking is not a member of any consolidated group it may fall outside the scope of Ireland's domestic top-up tax, even where its revenues are above €750 million.

Also removed from the scope of domestic top-up tax are securitisation entities if there are other non-securitisation entities in the Irish group. However, if there are no other entities in the group, any top up tax due is to be borne directly by the securitisation entity.

Leasing amendments

Following the changes introduced in Finance Bill 2023, a number of amendments are introduced in Finance Bill 2024 with regards to leasing. These include clarification of the timing and value of balancing events, treatment of cross border leases for associated enterprises, as well as the introduction of general anti-avoidance tests.

Technical amendments to the outbound payment rules

Some technical amendments to the definitions contained in legislation have been made and are focussed on payments being made to entities that are treated as transparent for tax purposes.

Interest Limitation Rule (ILR)

There have been updates to certain definitions regarding lease payments which aim to address a potential mismatch following changes introduced in Finance Act 2023 for companies taxing the finance margin or deducting the finance element of lease. The updates to the definitions mean that the full taxable or tax-deductible amount of payments will be treated as an interest equivalent for the ILR.

There is also an update to the Interest Limitation Rule in relation to how foreign exchange is dealt with where there is a change of functional currency during accounting period or where amounts are carried forward in a foreign currency.

Stamp Duty – Extension of Revised Bank Levy

The Bill provides for the revised form of the bank levy introduced for 2024 to be extended to 2025.

Securitisation & QDTT

Finance Bill 2024 introduces a partial exemption from Qualifying Domestic Top-Up Tax (QDTT) for 'securitisation entities'. Can you explain how the partial exemption will work?

Tatheer Fatma, Manager, Financial Services Tax, BDO: BEPS Pillar II establishes a global minimum tax rate of 15%, which applies to multinational enterprise ("MNE") groups with global revenues of €750 million or more. As part of its implementation of Pillar II, Ireland introduced a Qualifying Domestic Top-up Tax (QDTT), which acts as a safe harbour provision under the Pillar II framework.

On June 17, 2024, the Organisation for Economic Co-operation and Development ("OECD") released additional Administrative Guidance on the Global Anti-Base Erosion ("GloBE") Rules under Pillar II. This guidance addressed several key areas, including the treatment of securitisation entities. The OECD's guidance was subsequently incorporated into Irish law through Finance Bill 2024.

The OECD guidance presented three approaches for the treatment of securitisation entities under Pillar II:


Tatheer Fatma

- No Action: securitisation entities remain subject to QDTT if they are part of an MNE group covered by Pillar II.
- Inclusion with Tax Collection: securitisation entities are included under the QDTT rules, but any applicable top-up tax is collected from another group member located in the same jurisdiction.
- Exemption: securitisation entities are excluded from the QDTT rules and are not considered constituent entities under the provision.

To provide context, a securitisation entity in Ireland is a tax-neutral entity that holds qualifying assets for investors outside the group. These assets are legally segregated into identified pools, generating both interest income and expense. Under Irish tax law, a securitisation Entity can deduct interest expenses and pay taxes only on the remaining profits from interest earned on these qualifying assets, subject to specific conditions.

Under Finance Bill 2024, any securitisation entity that is part of a large multinational group subject to Pillar II will no longer be liable for QDTT although being under the scope of QDTT. This reflects the "Inclusion with Tax Collection" approach put forward by the OECD.

In this scenario, the QDTT liability will be borne by other constituent entities of the MNE group. The tax burden is to be pro-rated based on the income of the entities within the jurisdiction, excluding the securitisation entity. If there are no other constituent entities in the group, the QDTT will apply to the securitisation entity in the same way as it applies to other entities.