OHT Guide Budget 2020

OHT Guide to Budget 2020

In announcing Budget 2020, Minister for Finance Paschal Donohoe identified Brexit as a *"great challenge"* and said that *"Budget 2020 aims to make progress on much, at a time of risk, but also at a time of opportunity".*

The tax measures announced were primarily focused on maintaining and improving incentives linked to SMEs and smaller industry, with further incentives to benefit the climate and the environment.

A carbon tax increase and an increase in the stamp duty rate on commercial property (6% to 7.5%) are expected to go some way towards meeting additional 2020 expenditure.

Personal Tax Changes

The changes to personal taxation in Budget 2020 are minimal. There will be a €100 increase in the Home Carer Credit to bring the value of the credit to €1,600. There will also be an increase of €150 in the Earned Income Credit bring the value of the credit to €1,500 for the self-employed.

The extension of the reduced rate of USC for medical card holders for a further year to the end of December 2020 was also announced.

The Minister indicated that Revenue have identified a potential gap between the Dividend Withholding Tax (DWT) remitted by companies and the income tax and USC liabilities of individual Irish resident taxpayers.

As a result the DWT rate is set to increase from 20% to 25% from 01 January 2020. From 01 January 2021 Revenue will be introducing a personalised rate of DWT to be applied, based on the actual rates of tax that apply to each individual taxpayer. The newly modernised PAYE system will facilitate this.

Corporation Tax

The Budget Speech included the traditional statement of commitment to Ireland's competitive 12.5% corporation tax rate.

S.32 Finance Act 2018 replaced an existing exit tax provision with a broader-based exit tax charge which taxes unrealised capital gains where companies migrate or transfer assets offshore without disposing of them. The Minister introduced a Financial Resolution so that the deemed exit tax disposal arises immediately before a company ceases

Capital Acquisitions Tax

The Group (a) threshold is set to move to €335,000 from 09 October 2019.

There were no other changes to CAT signalled in Budget 2020.

Stamp Duty Rates

Non-residential Property

The rate of stamp duty on non-residential property was increased from 6% to 7.5% for instruments executed on or after 09 October 2019.

A transitional provision has been included for purchases which are in the pipeline. The new rate will not apply to any instrument executed before 01 January 2020, provided that the instrument contains a statement, in a form to be specified by the Revenue Commissioners certifying that the instrument was executed solely in pursuance of a binding contract entered into before 09 October 2019.

Cancellation Arrangement

Under the Companies Act 2014 a company can cancel its existing shares and issue new ones to an acquiring company through a Court appeal process, to effect a transfer of ownership without a share transfer form.

The Government is introducing a new 1% stamp duty charge applying to arrangements involving a cancellation scheme.

Corporation Tax Dependence

The Minister welcomed the increase in corporation tax receipts noting that at the end of September, receipts totalled €5,839 million, a year on year increase of 13.2%.

However he also referred to the risks associated with drawing a very substantial part of the tax revenues from a small taxpayer base.

"..taxation receipts – which are the main source of revenue for Government – amounted to €55.6 billion last year, the highest level ever. ….At the end of last year, around €1 in every €5 collected in tax was paid by the corporate sector. Even more striking is the fact that nearly half of all corporate tax receipts are paid by just ten firms".

Budget 2020 Addressing Fiscal Vulnerabilities Paper

R&D Tax Credit

The R&D tax credit is set to increase from 25% to 30% for micro and small companies. In some cases an R&D Credit can result in a cash payment to a company and an improved method of calculating the limit on payable credit is to be introduced.

A further new provision will allow micro and small companies to claim the R&D tax credit on qualifying pre-trading R&D expenditure before commencing to trade. This credit will only be available to offset against VAT and payroll taxes. These measures will be subject to State Aid approval.

The current limit on outsourcing to third level institutes is set to increase from 5% to 15%.

to be resident in Ireland, rather than occurring when the company changes residence (at which time the disposal may no longer be subject to Irish CGT).

Ireland's Corporation Tax Roadmap looked at the risk of tax loss due to hybrid instruments or entities, where the tax treatment varies from one jurisdiction to another so there can be gaps in the taxation treatment as a result of which profits escape tax. The recommendation on avoiding such mismatches is to have linking rules that align the tax treatment in the two jurisdictions; for example one country might only allow a tax deduction for a payment if the payment was taxable in the other country.

The Minister announced that the Finance Bill 2019 will contain new anti-hybrid mismatch rules, in line with Ireland's commitments under the Anti-Tax Avoidance Directive ("ATAD").

Currently Ireland's transfer pricing legislation applies an arm's length principle so that transactions between related parties must be taxed based on the price that would be charged if they were carried out between unrelated parties, and it does not apply to Small and Medium Enterprises ("SMEs"). SMEs are businesses which (on a group basis) have less than 250 employees and either a turnover of €50m or less, or assets of €43m or less.

The Minister also announced that he would be reforming the Irish transfer pricing provisions to align them with OECD standards from 01 January 2020. Options reviewed in the course of public consultation earlier in 2019 include extending Ireland's transfer pricing regime to non-trading and capital transactions, and removing the SME exemption.

Irish Real Estate Funds and Real Estate Investment Trust

Revenue have reviewed the Irish Real Estate Funds ("IREF") regime and concluded that some aggressive tax avoidance is occurring, involving the use of excessive interest charges and the artificial avoidance of tax on gains.

Anti-avoidance measures are being introduced to limit deductions for interest (to prevent over-leveraging) and to combat the artificial avoidance of tax on gains on the redemption of IREF units.

The Minister advised that he will continue the intense scrutiny of activities in the IREF regime in the coming year, with a view to taking further action if necessary.

The Minister also introduced amendments to the Real Estate Investment Trust ("REIT") regime to combat the artificial avoidance of tax on gains.

Key Employee Engagement Programme (KEEP)

The Key Employee Engagement Programme (KEEP) is to be modified to apply to company group structures as well as allowing for greater flexibility for employees to move within such structures. The rules of the scheme are also to be adjusted to allow for part-time and family-friendly working arrangements for KEEP employees. The changes will be subject to State Aid approval.

Employment and Investment Incentive Scheme (EIIS)

The EIIS is to be modified to allow for full income tax relief (40%) in the year of investment rather than splitting it over year one (30%) and year four (10%) as has been the case up to now.

The annual investment limit for an individual investor is to increase to €250,000 and a new €500,000 annual investment limit is set to be introduced for investors prepared to invest in EIIS for ten years or more. Further details are expected in Finance Bill 2019.

Special Assignee Relief Programme (SARP) and the Foreign Earnings Deduction (FED)

The Minister announced that the SARP and FED will be extended until the end of 2022.

Tobacco

The excise duty on a pack of 20 cigarettes is to be increased by 50c, with a pro-rata increase on other tobacco products. This will bring the price of cigarettes in the most popular price category to €13.50.

Help to Buy Scheme

The Help to Buy Scheme has been extended to 31 December 2021.

Climate and Environmental Measures

The Minister announced a carbon tax increase from €20 to €26 per tonne, effective from 09 October 2019. It is intended that the rate of carbon tax will increase steadily to meet 2030 environmental targets.

The 1% diesel Vehicle Registration Tax (VRT) surcharge introduced last year is to be replaced by a nitrogen oxide (NOx) emissions based charge. This surcharge will apply to all passenger cars registering for the first time in the State from 01 January 2020. The charge will apply on a € per milligram/kilometre basis, with the rate increasing in line with the level of nitrogen oxide emitted.

Pascal O'Donohoe indicated that Finance Bill 2019 would:

- introduce an environmental rationale for Benefit In Kind for commercial vehicles from 2023,
- extend the Benefit In Kind zero rate on electric vehicles to 2022,
- extend VRT reliefs for conventional and plug in hybrids to 2020, subject to CO2 thresholds,
- reduce qualifying CO2 thresholds for reliefs in respect of Capital Allowances and VAT reclaimed on commercial vehicles; and,
- provide additional relief through the Diesel Rebate Scheme to hauliers compensating the sector for the increased cost of fuel.

The Minister also advised that he would be equalising electricity tax rates for business and non-business consumers.

Conclusion

Further details of these measures will emerge when Finance Bill 2019 is published on 17 October 2019.

Other measures could be introduced at the various stages before the Finance Act is signed into law. In presenting a *"Budget without precedent"* Paschal Donohoe stated that the aim was to seek *"to manage risk for our nation while aiming to make progress on so much"*.

Only time can tell to what extent it will be successful in doing so.

Bank Levy

As previously announced the rate at which the banking levy is charged will increase from 59% to 170%.

The aim is to preserve the contribution level at €150m .

Brexit

The Minister delivered a Budget designed to deal with the uncertainties in relation to Brexit.

He made provision for support to be provided to Irish businesses and consumers who are adversely affected if there is a hard Brexit, stating that:-

"*Brexit is the most pressing and immediate risk to our economy and with just 23 days to go before the UK is due to withdraw from the EU, the decisions I am announcing today have been influenced by the increasing likelihood of a No Deal.*

As I stated in the Summer Economic Statement, the economy is poised at a point between the twin risks of overheating and Brexit.

In addition, risks to the global economy are multiplying.

A No Deal Brexit will mean a slower pace of growth in Ireland".

The Minister went on to provide that the borrowing backing this commitment will not be drawn down unless required.

Caveat: *These notes are intended as a general guide to Budget 2020. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.*