



## Ireland's Corporation Tax Roadmap

September 2018

On 5 September 2018, the Department of Finance issued Ireland's Corporation Tax Roadmap (the "**Roadmap**") setting out the next steps in implementing changes required at EU level under the Anti-Tax Avoidance Directives ("**ATAD**") and the OECD's Base Erosion and Profit Shifting project ("**BEPS**"). The Roadmap confirms the expected timelines for the implementation of these key changes which have been set-out below.

### 1. Implementation of ATAD – Key Dates

	Implementation Date	Next Steps
<b>Interest limitation rules (BEPS Art.4, ATAD Art 4)</b>	No later than 1 January 2024	<p>Ireland will introduce an ATAD-compliant interest limitation rule, the timing of which will be determined following further engagement with the European Commission.</p> <p>Ireland remains of the view that our national targeted rules for preventing BEPS risks are equally effective to the interest limitation rule set out in Article 4 of the Directive and will continue to engage with the European Commission in this regard. However work has also commenced to examine options to bring forward the process of transposition from the original planned deadline of end 2023. In view of the complexity of our existing interest limitation rules, it is anticipated that transposition could potentially advance, at the earliest, to Finance Bill 2019.</p>

		A public consultation is planned for third quarter of 2018 to seek views on the inter-linked issues of the ATAD anti-hybrid and interest limitation rules.
<b>Exit tax rules (ATAD Art.5)</b>	1 January 2020	Legislation will be introduced to replace the current provisions with an ATAD-compliant exit tax, to take effect no later than 1 January 2020 (legislation expected to be introduced in Finance Act 2019)
<b>General anti-abuse rules (GAAR) (ATAD Art 6)</b>	N/A	No changes required under Irish Law - Ireland's existing GAAR regime is considered to be sufficiently robust so no further action is required.
<b>Controlled foreign company rule (BEPS Art 3, ATAD Art 7 &amp; 8)</b>	1 January 2019	<p>General CFC rules do not currently exist in Irish law, therefore work is under way to introduce the required legislation in Finance Bill 2018. Following consideration of the ATAD consultation submissions received, it has been decided that Ireland will elect for the <b>Option B approach</b> when introducing CFC rules which essentially attributes income arising from <u>non-genuine arrangements</u> put in place for the essential purpose of obtaining a tax advantage to the parent company.</p> <p>In order to facilitate the passage of legislation later in 2018, a feedback statement was published on 7<sup>th</sup> September 2018 to respond to views expressed in responses to the ATAD consultation on CFC rules and to set out possible approaches for the implementation of an Option B methodology.</p>
<b>Anti-hybrid rules (ATAD Arts 9 and 9a)</b>	1 January 2020 (1 January 2022 for reverse hybrid rules)	<p>These rules are intended to counteract tax mismatches where the same expenditure item is deductible in more than one jurisdiction, or where expenditure is deductible but the corresponding income is not fully taxable.</p> <p>Implementation of these rules will be extremely complex and further consultation will be taken on this issue. Legislation will be introduced in Finance Bill 2019 to bring the first tranche of anti-hybrid rules into effect from 1 January 2020. Further legislation relating to anti-reverse hybrid provisions will be introduced in a subsequent Finance Bill, in line with the ATAD schedule.</p>

It is planned to launch a consultation paper considering both general and detailed technical issues relating to the interlinked issues of hybrid entities/instruments and interest in late Q3 2018. Given the complexity of these issues, it is intended that the consultation will be open for a period of c. 12 weeks, with a view to consideration of submissions beginning post-Finance Bill 2018. It is likely that further consultation will also be held in advance of the 1 January 2022 deadline for implementation of the anti-reverse hybrid rules.

## 2. Other Changes – Key Dates

	Implementation Date	Next Steps
<b>Multilateral Instrument (“MLI”)</b> (BEPS Art. 2, 5, 6, 14 & 15)	Expected to update Ireland’s DTTs from 2020.	The MLI will generally start to have effect to update Irish tax treaties from the beginning of 2020 and will only apply to a particular treaty to the extent that the Contracting State has also implemented. Final steps required to allow Ireland complete the ratification of the MLI expected in Finance Bill 2018.  Ireland is adopting a principal purpose test (“PPT”).
<b>Transfer Pricing (BEPS Actions 8-10 &amp; Action 13)</b>	N/A	It is intended to launch a public consultation in early 2019 (with legislation expected to be introduced in Finance Bill 2019 (October 2019)) and this may include consideration of whether any additional changes to Ireland’s tax code are needed to ensure TP rules are fully effective in ensuring tax is paid where value is created and do not facilitate the transfer of profits to jurisdictions other than where value-creating activity takes place.
<b>Territorial Regime</b>	N/A	At present, under our worldwide tax system, a company resident in Ireland is subject to Irish tax on its worldwide income and gains. In order to prevent double taxation of foreign income that is also subject to tax at source in the foreign jurisdiction, foreign tax paid on that income can be used to offset any Irish tax payable on the same income. Nevertheless, the legislation governing double tax relief has evolved over many years in response to changes in policy and to accommodate principles established in European case law, and is extremely complex. By contrast, a territorial tax system focuses on the taxation of profits earned within the relevant jurisdiction, with appropriate anti-

		<p>abuse measures (such as CFC rules) to prevent the artificial diversion of profits offshore.</p> <p>In general, responses to the ATAD consultation indicated broad support for moving to a territorial based tax system among stakeholders, particularly in view of the forthcoming introduction of CFC rules into the Irish tax system from 1 January 2019.</p> <p>It is intended that a public consultation will be launched in early 2019 seeking further input on the alternative options of moving to a territorial regime or conducting a substantial review and simplification of the rules for the computation of double tax relief.</p>
<b><i>Mandatory Disclosure Regime (DAC 6)</i></b>	1 January 2020 (though effective from 25 June 2018)	Ireland is one of only 3 EU Member States to have a mandatory reporting regime in place. The current regime requires tax advisers to notify Revenue when they promote or implement certain tax planning arrangement that meet hallmarks of aggressive planning. DAC6, which is effective from 25 June 2018, requires Member States to introduce a common mandatory disclosure regime by 1 January 2020 and to share all reports received with each other. Ireland will make any necessary changes to our mandatory disclosure regime to ensure we fully implement DAC6 by the end of 2019. Legislation expected in Finance Act 2019.



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