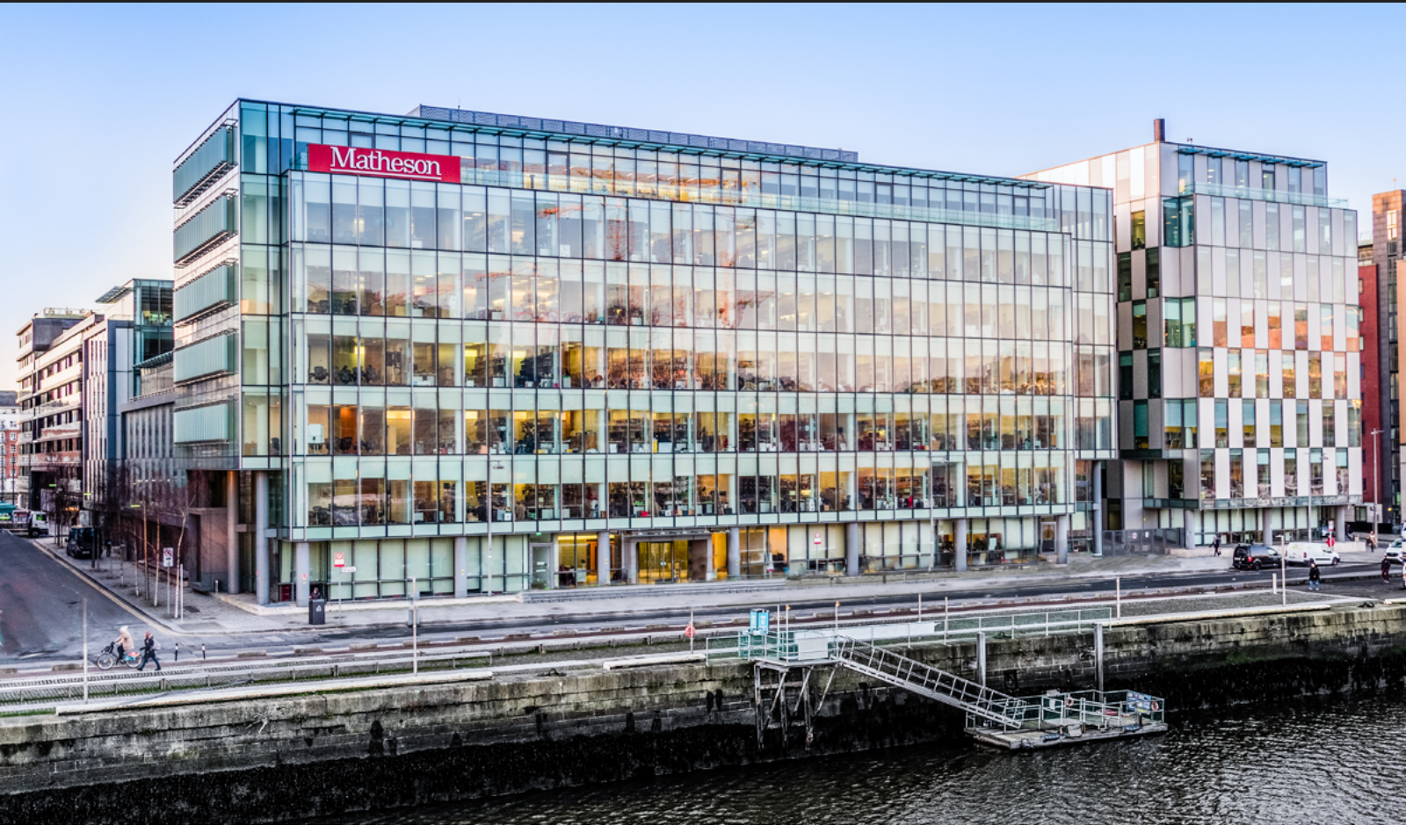


Tax Update

April 2023

Our Tax team is actively monitoring Irish and EU tax developments which may be of interest to your business. If you have any questions or would like to discuss any of the developments in further detail, please speak to your usual Matheson contact or to any of our [Tax Partners](#).



Pillar 2 Update - Irish Public Consultation

The Irish Department of Finance has opened a consultation process in relation to the implementation of the Pillar 2 rules (see press release [here](#)).

The feedback statement document published by the Department ([here](#)) sets out specific questions for consultation and also includes initial draft legislation on the key elements of the GloBE rules. The following are some of the key points included in the feedback statement:

- **Confirmation of timing** – As previously flagged, Ireland plans to implement Pillar 2 GloBE rules in its Autumn 2023 Finance Bill in line with the EU Directive on ensuring a global minimum level of taxation for multinational enterprise (“MNE”) groups and large-scale domestic groups. These rules will apply to MNE and domestic corporate groups with global annual turnover of at least €750m.
- **GloBE Rules** - These rules will comprise:
 - 1) **IIR** - an income inclusion rule that applies to in-scope Irish ultimate parent entities and, in the context of foreign-headquartered groups, Irish intermediate parent entities and Irish partially-owned parent entities. The IIR will apply to fiscal years commencing on or after 31 December 2023;
 - 2) **UTPR** - an under taxed profits rule that applies to Irish constituent entities for fiscal years commencing on or after 31 December 2024 (or 31 December 2023 where the Irish entity is a subsidiary of an ultimate parent entity that is located in a small EU Member State with 12 or fewer ‘in-scope’ groups that has elected to defer implementation of the GloBE rules).
- **Domestic Top-up Tax** - Ireland plans to introduce a Qualified Domestic Top-up Tax (“QDTP”) for in-scope corporate groups and has sought feedback as to the best approach to be adopted in implementing such a rule.
- **Legislative provisions** – The feedback statement includes initial draft implementation legislation that largely follows the terms of the EU Directive.
- **Registration, filing and payment** - In-scope groups will need to register for GloBE taxes within 12 months of the end of the first in-scope fiscal year. A GloBE Information Return (“GIR”) will need to be filed by the group within 15 months of the end of the reporting fiscal year. A separate GloBE tax return (separate to both the GIR and the standard annual tax return) will also need to be filed at the same time, together with payment of any top-up tax liabilities. The consultation requests feedback on preferred approaches to group filing and payment.
- **Administration** - Standard Irish tax administration and recovery rules will apply to the new taxes, including normal tax requirements to retain relevant documentation for six years.

The public consultation is open for comments until Monday 8 May 2023. A second consultation is expected in mid-2023 to include further developed draft legislation informed by stakeholder feedback.

Update to Revenue Guidance in Respect of Controlled Foreign Company Rules

The Irish Revenue Commissioners (“Revenue”) has updated its manual on the Controlled Foreign Company (“CFC”) rules (see eBrief 072/23 [here](#)). The amendment is aimed at strengthening the application of the Irish CFC rules to Irish resident companies with a CFC resident in a jurisdiction listed in Annex I of the EU Code of Conduct list of non-cooperative jurisdictions for tax purposes by imposing stricter conditions which may potentially give rise to a CFC charge which would not otherwise exist. It operates to disapply section 835T (the Effective Tax Rate exemption), section 835U (the Low Profit Margin exemption) and section 835V (the Low Accounting Profit exemption) so that an Irish resident company with a CFC resident in a listed territory may not avail of the aforementioned exemptions. The updated manual can be accessed [here](#).

Revenue Guidance Published in Relation to Internationally Mobile Employees and Tax Equalisation

This manual outlines Revenue’s treatment, for Irish income tax purposes, of tax equalisation arrangements that apply to employees who are assigned from abroad to carry out duties of employment in Ireland under non-Irish contracts of employment. The manual provides an overview of common practices adopted by overseas employers with respect to tax equalised assignees who work in Ireland on assignment. It also highlights areas of risk that may be reviewed as part of compliance interventions into the operation of the PAYE system by overseas employers with respect to such assignees. The manual can be accessed [here](#).

New Revenue Stamp Duty Manual in Respect of Section 80 SDCA Reconstructions or Amalgamations of Companies

Revenue has published a new tax and duty manual in respect of section 80 of the Stamp Duties Consolidation Act 1999 (“SDCA”). The manual provides comprehensive guidance on the operation of the stamp duty relief provided for in the section and incorporates previously issued guidance and can be accessed [here](#). Section 80 SDCA provides for a stamp duty relief on the transfer of certain property where a company undertakes a scheme of reconstruction or amalgamation or undertakes a merger under the Companies Act 2014.

Report of the Commission on Taxation and Welfare - ‘The practical implications’

The Minister for Finance, Michael McGrath T.D. gave the [keynote speech](#) at an Irish Tax Institute seminar regarding the recommendations of the Commission on Taxation and Welfare in their report published last September.

In his speech, the Minister noted the Commission had published a number of recommendations on the taxation of investment products and on Real Estate Investment Trusts, Irish Real Estate Funds and section 110 companies. He stated:

“we intend to commence a review of these areas. These are important issues and it is timely for Government to review the effectiveness of existing approaches to these regimes and the taxation of different types of investment products more generally.”

The Minister also noted the [consultation](#) of the Department of Finance on the personal tax system. This consultation closed for submissions on 5 April.

Publications

Horizon Tracker

The Matheson Horizon Tracker: Spring 2023 has been issued and includes an overview of the main domestic and EU legislative developments coming down the tracks. It can be accessed [here](#).

The Importance of Expert Evidence in Tax Disputes

Expert evidence is often required for the purposes of establishing issues of fact in tax cases before the Tax Appeals Commission or the courts. In this [article](#), Tax Partner, Dara Higgins, and Associate, Colm Brussels, discuss the importance of expert evidence in tax disputes and potential pitfalls.

Revenue Guidance for Employers on Reportable Benefits

Irish Revenue has recently issued an eBrief, and created a new tax and duty manual (“TDM”), on the mandatory reporting by employers of certain benefits that can be made without the deduction of tax. The provision was introduced in Finance Act 2022, and the new TDM, in summary, reiterates that the measure is subject to a ministerial commencement order (to allow sufficient time for the implementing of a stakeholder consultation process) and signals an intent for the reporting to commence from the start of 2024. Tax Partner, Vahan Tchakian, and Senior Associate, Audrey Kean, summarise the key points [here](#).