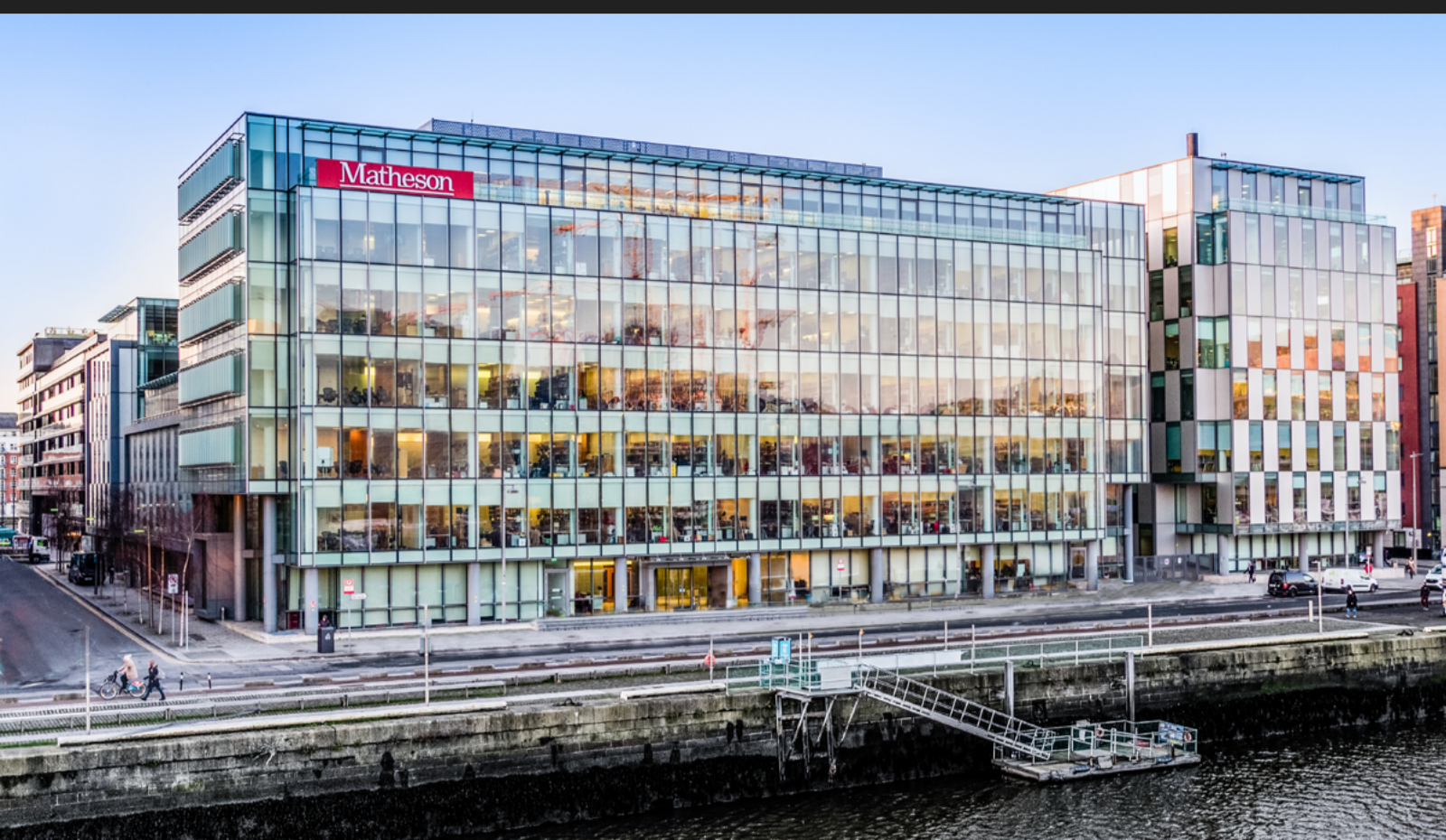


Tax Update

January 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](#).



Tax

Pillar Two Approval by the EU

On 15 December 2022, the Council of the EU unanimously **adopted an EU directive** to implement Pillar Two following agreement by the EU Member States on 12 December to implement the directive.

As detailed in previous updates, the directive seeks to ensure that profits of large multinational and domestic corporations with a combined annual turnover of at least €750 million in at least two of the four immediately preceding fiscal years are effectively taxed at a minimum rate of 15%.

The final directive also includes a provision (Article 57, previously Article 55a) requested by Poland, which states that the Commission will, by 30 June 2023, submit a report to the Council assessing the situation regarding the implementation of Pillar One internationally and, if appropriate, will submit a legislative proposal to address those tax challenges in the absence of the implementation of the Pillar One solution.

Next steps

The directive must be implemented into EU Member States' national law by 31 December 2023. This means that the income inclusion rule will enter into effect for accounting periods beginning on or after 31 December 2023 and the Undertaxed Profits Rule will enter into force a year later with effect for periods beginning on or after 31 December 2024. Ireland plans to implement the directive, together with a "Qualified Domestic Minimum Top Up Tax", in this year's Finance Bill.

Pillar One and Two – OECD Consultations on Implementation

On 8 December 2022, the OECD launched a **public consultation** on the main design elements of Amount B under Pillar One including the scope, pricing methodology and the current status of discussions concerning an appropriate implementation framework. Amount B is aimed at simplifying and streamlining the transfer pricing of in-country baseline marketing and distribution activities.

On 20 December 2022, the OECD also published a number of documents in respect of the implementation of Pillar One and Pillar Two.

- On Pillar One, a **public consultation** document on the Draft Multilateral Convention ("MLC") Provisions on Digital Services Taxes ("DSTs") and other Relevant Similar Measures was published with comments sought by 20 January 2023. The draft MLC provisions include commitments with respect to the removal of all existing DSTs and other relevant similar measures and the standstill of future measures.
- On Pillar Two, documentation in respect of the following elements was also released:
 - Guidance on Safe Harbours and Penalty Relief;**
 - A public consultation document on the GloBE Information Return;** and
 - A public consultation document on Tax Certainty for the GloBE Rules.**

DAC8

On 8 December 2022, the Commission proposed an **amendment** to the Directive for Administration Cooperation ("DAC") which will be known as DAC8. DAC8 will introduce new tax transparency rules for all service providers facilitating transactions in crypto-assets for customers resident in the EU. Under DAC8, all service providers, of whatever size and wherever located, will be required to report on such crypto-asset transactions. This proposal is consistent with the OECD initiative on the Crypto-Asset Reporting Framework and the amendments to the OECD Common Reporting Standard.

Why is it needed?

DAC8 is being introduced to:

- enhance tax compliance** in the digital economy and to assist tax authorities in identifying circumstances where tax may be due from persons deriving income and gains from crypto-assets and e-money;
- improve the ability of Member States** to detect and counter tax fraud, tax evasion and tax avoidance; and
- complement anti-money laundering rules** and the recently implemented Markets in Crypto-Assets Regulation which proposes to regulate the public offering, admission and licensing of crypto-assets and the implementation of market abuse rules for crypto-asset firms.

What changes will DAC8 bring?

Some of the key changes DAC8 will bring are:

- uniform disclosure requirements** for all service providers facilitating transactions in crypto-assets for customers resident in the EU;
- reporting obligations** on financial institutions in respect of e-money and central bank digital currencies; and
- a common minimum level of penalties** for the most serious non-compliance.

The draft text for DAC8 will be submitted to the European Parliament for consultation and the Council for adoption. It is expected that DAC8 will apply from 1 January 2026, with a few exceptions.

EU Commission Proposals – VAT in the Digital Age

On 8 December 2022, the Commission **published** its proposals to modernise the EU's VAT system. The Commission has identified a need to address the shortcomings of the current VAT system in the context of digitalisation and the digital economy. The Commission's initiative is designed to:

- improve VAT collection and control; and
- simplify, modernise and clarify certain VAT rules.

The Commission hopes that the proposals will ensure that Member States are able to capture and collect VAT that is currently being missed by Member States. The Commission's proposals seek to target the following specific action items:

- VAT reporting obligations and e-invoicing:** A new system will introduce real-time, transaction based digital reporting which is based on e-invoicing.
- VAT treatment of the platform economy:** This new measure is designed to prevent a loss of VAT revenue by requiring platform economy operators to collect VAT where service providers do not collect the VAT (eg, small businesses not required to register for VAT).
- Single EU VAT registration:** The Commission intends to build on the existing 'one stop shop' and seeks to ensure that businesses operating in a number of different Member States are not required to register on multiple occasions. Instead, businesses should be able to register in only one Member State for the purpose of EU trade.

The Commission is requesting **feedback** on its proposals by 28 February 2023.

Finance Act 2022

The President signed the Finance Act 2022 into law on 15 December 2022 implementing the changes, detailed in previous Matheson updates, announced on Budget Day.

Publications

In this [article](#), we discuss the new tax credit for digital game developers announced in Budget 2022. This new regime provides tax credit of up to €8million for companies that incur qualifying expenditure on the development of digital games.

In this [article](#), we review the recently published OECD MAP statistics published (as discussed in our previous update). The statistics provide information on Ireland's ability to resolve MAP cases and recognise the notable increase in Ireland's effective caseload management in recent years.

In this [article](#), we discuss the recent Tax Appeals Commission determination upholding an assessment by Revenue to deny a taxpayer corporation tax relief for failing to include details of the relief in the correct line of the relevant tax return.