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Chambers Ireland Submission to the Department of Finance on the Review of the Corporation Tax Code

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Chambers Ireland is the largest business network in the State. With members in every geographic region and economic sector in Ireland, we are well positioned to understand the concerns of businesses from all areas in the country and represent their views. We welcome the opportunity to contribute to the work of the Department of Finance in its review of the corporation tax code.

Through our taxation system we have the ability to encourage entrepreneurs and innovators in creating jobs and strengthening the economy. It is our view that Government must prioritise the protection of our attractiveness to inward investment and ensure that we maintain sovereignty in our taxation policy, while working with international partners to ensure fairness in international taxation. This is particularly important in light of potential changes to the US corporation tax code, the UK's forthcoming exit from the European Union and ongoing discussions at EU-level regarding a Common Consolidated Corporate Tax Base. Therefore we recommend that Government reaffirms its commitment to maintaining Ireland's transparent corporate tax rate based on the stated principles of rate, regime, and reputation.

What additional legislative measures, if any, should Ireland take to achieve the highest international standards in tax transparency, having regard to the benefits which may accrue to developing countries from enhancing global tax transparency?

Events in recent years have brought renewed focus on international corporate tax structures. Ireland's clear and transparent corporate tax system and corporate tax rate of 12.5% have been contributing factors for multinationals choosing to locate operations here.

Chambers Ireland has welcomed the recommendations in the OECD Base Erosion and Profit Shifting (BEPS) Report on reforming the international tax system to tackle avoidance. We need clear international solutions to tackle the gaps and mismatches in existing international tax rules and we must avoid uncertainty in the system for multinationals on the future of international tax structures.

However, although we support international efforts to increase transparency in the area of corporation tax, we also consider tax authorities of sovereign governments to be the most appropriate authorities to process complex and confidential data relating to a company's tax returns. We also believe that steps to reform international tax frameworks must be taken multilaterally rather than by individual countries or blocs. Therefore, we do not believe that it is advisable for Ireland to introduce additional legislative measures beyond what has been committed to within the recommendations of the BEPs report.

We have also raised this as a matter of importance in previous submissions to the European Commission. Chambers Ireland and our colleagues in Eurochambres – the Association of European Chambers of Commerce - also advocated this approach when considering proposals by ECOFIN for the introduction of a Public Country by Country Reporting mechanism. It is our view that in order to safeguard the competitiveness of European companies and the EU as an investment destination, the EU must ensure that international agreements are adopted multilaterally on a global level and implemented accordingly.

What additional legislative measures should Ireland take to further implement the actions of the OECD initiative to combat BEPS?

While we are supportive of Ireland following the approach set out by the OECD in its BEPS report, we are also acutely aware that Ireland is a small open economy. Therefore, Chambers Ireland suggests that rather than seeking to be the first adopters of recommendation in all cases, Government should take the time to assess the impact of changes proposed at international level in our own circumstances. The objective of being a leader when it comes to tax transparency must also be balanced by the necessity for Ireland to remain competitive as a location for FDI. The Knowledge Development Box regime, for example, is OECD compliant, but could be enhanced to support both FDI and SMEs.

We also recommend that Government introduce measures that assist Ireland remaining in step with the international community when it comes to supporting intellectual property. For example, we recommend that Government, in the medium term, investigate the possibility of introducing some kind of test around "DEMPE" (the development, enhancement, maintenance, protection, and exploitation of intangibles) for intellectual property. These tests attribute taxable profits to the locations where the development, enhancement, maintenance, protection and exploitation of intellectual property occur. This has the capacity to skew tax receipts away from Ireland in cases where the DEMPE cannot be shown to occur here in relation to particular pieces of intellectual property.

What legislative measures, if any, should Ireland take to maintain the competitiveness of the corporation tax code and deliver tax certainty for business in the context of the ongoing implementation of internationally agreed measures to combat BEPS?

In order to boost competitiveness, Government should consider what activities should be promoted and supported within in the economy that will support sustainable growth and add to increased investment, from both indigenous and international companies. Following this analysis, Government should consider introducing super-deductions and reliefs to support these sectors. For example;

- Entrepreneur relief requires enhancement - an increased lifetime limit, and flexibility within the rules to allow for the fact that founders of successful start ups often get their ownership share diluted to below 5%.
- R&D tax credit. Refocus / update the legislation to keep pace with developments in industry practice, including allowance for more flexible attribution of relief to key R&D personnel.
- Knowledge development box - based on the OECD modified nexus approach, however to the extent possible, further flexibility on the categories of IP targeted should be introduced.

- Energy efficiency/ "green" product offerings. Additional tax deduction provided certain thresholds are met, e.g. Reduction of waste generation by a certain percentage / production of items that are recyclable etc.

What is your view of sustainability of corporation tax receipts over the short to medium term?

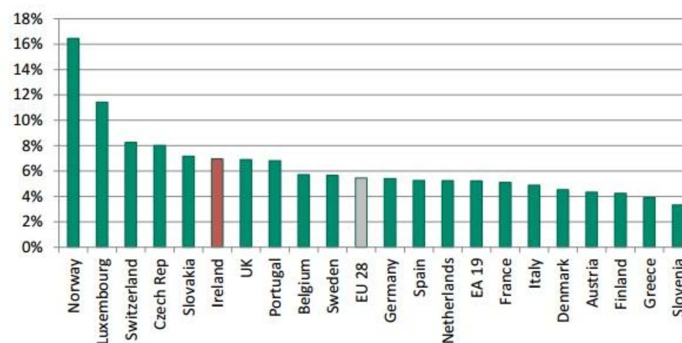
While we do not see any threat to the sustainability of Ireland's corporation tax receipts in the immediate term, it should be emphasised that Ireland is a small open economy and is very exposed to external shocks and also has concentration risk.

In a note published by the National Treasury Management Agency (NTMA) in 2016, their research concluded that although corporate tax revenue is a is a relatively small percentage of overall tax revenue, 10-16% since 2000, the top ten companies in Ireland accounted for 40.7% of corporate tax receipts in 2015. That is up from a 23.8% average in 2008-12.[1] The increasing concentration of Irish corporate tax receipts could pose risks for the Irish Exchequer, where conditions may create a situation where multinational companies who drive corporate tax receipts will re-locate their business elsewhere. While research does suggest that firms will continue to choose Ireland if policy on taxation, infrastructure and R&D remains competitive vis-à-vis other countries, factors outside of our control may result in possible loss of multi-nationals from Ireland (Brexit, changes to the US tax code etc).

A second threat is that Ireland is exposed to idiosyncratic company/sector risks which are hard to mitigate. Even if multinationals continue to choose Ireland as a base, our dependence on these companies may result in exposure to sectoral shocks. For example, a downturn in the pharmaceutical or IICT sector could see lower profits and lower corporate tax receipts for the state. While there is little Government can do to mitigate against these shocks, it is a risk to be mindful of and an additional reason to support the need for a broad sustainable tax base across the spectrum.

While corporate tax receipts are relatively small in comparison to Income tax or VAT, Ireland's ratio of corporate tax to general government revenue is above average. The EU average was 5.5% (2010-2014) whereas Ireland was just below 7%. In 2015, Ireland's corporate tax share increased to closer to 10%.

Figure 2: Corporate Tax Revenue as % of General Government Revenue



Source: Eurostat (average 2010-2014)

[1] "Understanding Ireland's Corporate Tax Revenue", available at http://www.ntma.ie/news/understanding-irelands-corporate-tax-revenue/

Government should consider highlighting our above average percentage of corporation tax receipts as a percentage of overall tax collected against other EU members.

In order for Ireland's tax receipts to remain sustainable, Government must ensure that its long-term fiscal policy includes measures that support the growth of indigenous companies and ensure that the tax base remains broad so that we are better placed to absorb any external shocks that may lead to a reduction in the corporate tax receipts.