

**Grant Thornton  
Financial and Taxation  
Consultants Limited**  
13-18 City Quay  
Dublin 2  
D02 ED70  
Ireland

T +353 (0)1 6805 805  
F +353 (0)1 6805 806  
E [info@ie.gt.com](mailto:info@ie.gt.com)  
[www.grantthornton.ie](http://www.grantthornton.ie)

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ATAD Implementation – Interest Limitation Feedback Statement  
Tax Division  
Department of Finance  
Government Buildings  
Upper Merrion Street  
Dublin 2

**By email to: [ctreview@finance.gov.ie](mailto:ctreview@finance.gov.ie)**

08 March 2021

Ref: PV/SK/PC/KD

Dear Sir/Madam

**Response to ATAD Interest Limitation Feedback Statement**

We are pleased to have the opportunity to provide general comments in response to the Feedback Statement on the ATAD Interest Limitation Rules (“ILR”). The views expressed in this letter are those of Grant Thornton.

Grant Thornton is a network of independent assurance, tax and advisory firms, made up of 56,000 people in over 143 countries. We are Ireland’s fastest growing professional services firm, with over 1,450 people across seven offices in Ireland. We have been in Ireland since 1899 and during this period have been a leading provider of services to dynamic and entrepreneurial businesses.

Grant Thornton has contributed comments separately through various technical bodies. For the most part, we have not sought to repeat these contributions in our response. We note that the Feedback Statement sets out a prescribed list of questions; the views we provide in this letter take into account collectively these questions while also highlighting other areas we consider are important.

Publication of the Feedback Statement and the opportunity for stakeholders to consult in a timely manner with government officials prior to implementation of the rules demonstrates the government’s efforts to provide certainty and clarity to taxpayers, both of which are critical to Irish and international taxpayers in a time of significant changes in the global tax environment.

**Existing domestic legislation**

Irish domestic legislation contains existing anti-avoidance measures and restrictions on interest deductibility. Most of these provisions are difficult and burdensome to apply; section 247 Taxes Consolidation Act 1997 (TCA 1997), and section 249 TCA 1997 are such examples. In our view the existing legislation should be reviewed and reformed at the same time as implementation of the ATAD ILR. To maintain the existing interest restriction and anti-avoidance measures will lead to an overly restrictive and complex regime for taxpayers.



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We understand that it is not the Department of Finance's intention to make more fundamental reform of the interest deductibility rules in this year's Finance Bill due to lack of time to fully consider the impact of more widespread changes. However, we would strongly encourage the Department to make this a priority thereafter. An unnecessarily complex set of tax rules when compared with other jurisdictions could be particularly damaging now given the changes in the global tax environment.

### **Exemptions**

The ATAD provides for a number of exemptions when calculating the ILR; in our view it is very important that Ireland adopts the exemptions to the fullest extent possible. For example, ILR should not apply to regulated financial undertakings or to groups containing financial undertakings. Unregulated undertakings carrying on the same activities as regulated undertakings should also be exempt.

In terms of the criteria relevant to the '*long-term public infrastructure project*' exemption, the definition should be broad, flexible and forward thinking; it should not be limited to Ireland but to the EU in general.

Ireland should make provisions for the highest de minimis threshold of €3 million under ATAD. The proposed approach per the Feedback Statement seems reasonable.

### **Proposed approach to the operation of the IL restriction**

The suggested approach to apply a Schedule D Case IV charge on taxpayers who have excessive interest deductions is a complex and confusing solution, and will undoubtedly lead to unintended consequences, necessitating ongoing changes to the rules. While we appreciate the desire to not undermine the Schedule D Case I tax base for the purposes of R&D tax credits and other reliefs, we feel this overly elaborate 'solution' is not optimum and should be reconsidered.

### **Conclusion**

We hope the foregoing is of assistance and we welcome the opportunity to discuss the points raised in this letter with your officials.

If further details are required in relation to any points made in this submission please contact Peter Vale, Tax Partner ([peter.vale@ie.gt.com](mailto:peter.vale@ie.gt.com), (0)1 680 5952), Sasha Kerins, Tax Partner ([sasha.kerins@ie.gt.com](mailto:sasha.kerins@ie.gt.com), 353 (0)45 448852) or Kim Doyle, Tax Director ([kim.doyle@ie.gt.com](mailto:kim.doyle@ie.gt.com), 353 (0)1 680 5805).



**Peter Vale**  
**Tax Partner**  
**Grant Thornton**