An Roinn Airgeadais
Department of Finance

Brexit Preparedness – Taxation and Customs Tax Strategy Group – 19/10

July 2019

Prepared by the Tax Division,
Department of Finance
www.gov.ie/finance

Contents

1. Introduction **3**

2. Context **4**

2.1 EU-UK Negotiations – State of Play 4

3. Budget 2019 **5**

3.1 Overview 5
3.2 Budget 2020 6

4. Overview of Government Preparations **8**

5. Overview of EU Preparedness **10**

6. Overview of Department of Finance Preparations **11**

6.1 Direct Taxation – Legislative Provisions 12
6.2 Indirect Tax – Legislative Provisions 13
6.3 Other Indirect Tax Measures 14
6.4 Chapter 5 – VAT Retail Export Scheme 15
6.5 Chapter 8 – Excise -Duty Free 16
6.6 Secondary Legislation 17

7. Revenue Commissioners Preparations **19**

7.1 Overview 19
7.2 ICT Developments 19
7.3 Staffing and Recruitment 20
7.4 Trader Communications and Outreach 20
7.4 Infrastructure 21
7.5 Traffic Flows 22
7.6 Land Bridge 22

8. Conclusion **23**

1. Introduction

The decision of the United Kingdom (UK) to leave the European Union (EU) presents uniquely significant and unprecedented political, economic, social and diplomatic challenges for Ireland, given the extent of the inter-connectedness of the economies and people. Ireland's priorities have remained consistent throughout the process. Ireland's unique issues and concerns have been fully understood by the EU27 and have been to the fore of the EU's negotiating approach.

Following 2 years of intensive Article 50 negotiations between the European Commission and UK, in November 2018, agreement was reached at negotiators' level on the Withdrawal Agreement and a Political Declaration on the future EU-UK relationship. The Withdrawal Agreement was subsequently endorsed by the European Council, and passed to the European Parliament for consideration. The British Government has also agreed the Withdrawal Agreement, subject to approval by the UK Parliament.

The Withdrawal Agreement establishes the terms of the UK's departure from the EU. It ensures that the withdrawal will happen in an orderly manner and offers legal certainty once the Treaties and EU law cease to apply to the UK. The Withdrawal Agreement covers all elements of the UK's withdrawal from the EU including citizens' rights, the financial settlement, a transition period, Protocols on Gibraltar and Ireland, as well as a range of other separation issues. Specifically it includes a Protocol on Ireland and Northern Ireland and a legally operational 'backstop' to ensure that there will be no hard border between Ireland and Northern Ireland.

To date the Withdrawal Agreement has not yet been approved by the UK Parliament and it is not clear if it will achieve ratification in advance of 31 October 2019.

Due to the close, highly integrated and concentrated nature of Ireland's trading relationship with the UK, it is recognised that amongst all EU Member States Ireland could be the most adversely affected by Brexit and more significantly in a 'no deal' scenario. The potential impact has been set out in a number of Government publications[1].

[1] These include previous National Risk Assessments, Budget 2019 documentation, the Copenhagen Economics report "Ireland and the Impacts of Brexit" published by the Minister for Business, Enterprise and Innovation (available: https://dbei.gov.ie/en/Publications/Publication-files/Ireland-and-the-Impacts-of-Brexit.pdf), and the 2019 ESRI/Department of Finance report "Ireland and Brexit: modelling the impact of deal and no-deal scenarios" (available: https://www.esri.ie/news/new-study-estimates-the-impact-of-various-brexit-scenarios-on-the-irish-economy

2. Context

This paper is the third edition to a suite of Brexit related papers prepared for the Tax Strategy Group since the UK's Referendum on its European Union membership in 2016. Two previous publications for the Tax Strategy Group include the '*Brexit Taxation Issues Paper'* in July 2017 and the *'Brexit – Taxation and Customs Impacts'* Paper in July 2018. This paper builds on the impacts identified in previous publications and focuses on the preparedness work undertaken to mitigate the known effects of Brexit.

Since the latest publication in 2018, the primary focus on Brexit preparation moved from an exploratory phase to a detailed planning and implementation stage which involved significant, legal and operational preparations on behalf of the Irish Government. This work included substantial engagement with EU partners and interdepartmentally at a domestic level. The overall approach has been coordinated within Government planning and action structures led by the Department of Foreign Affairs and Trade and the Department of An Taoiseach.

2.1 EU-UK Negotiations – State of Play

It is noted that on 11 April 2019 the European Council (Article 50) decided, in agreement with UK, to extend the Article 50 process, until 31 October 2019.

Notwithstanding the agreed extension, the risk of the UK leaving the EU without an agreement remains significant. At the date of publication the default withdrawal date of the UK from the European Union is 31 October 2019 (23.00pm Irish time).

In the meantime, should the UK ratify the Withdrawal Agreement at any stage before 31 October 2019, the withdrawal process will take place on the first day of the month following the completion of ratification procedures and the UK will leave the EU in accordance with the terms of the Withdrawal Agreement. The transition period, during which the EU will treat the UK for most purposes as if it is a Member State, would then come into effect until 31 December 2020. The transition period may be extended by 1 or 2 years, and any such extension shall be agreed by 1 July 2020.

The European Council conclusions make it clear that it is not an option to renegotiate the Withdrawal Agreement. They do note that the European Union is willing to reconsider the Political Declaration on the future relationship, should the UK reconsider its red lines.

The immediate risk of a 'no deal' exit was averted in April this year, however given the ongoing political uncertainty in the UK, the Irish Government continues to prioritise preparations for *all* Brexit scenarios.

3. Budget 2019

3.1 Overview

The Department of Finance began preparing for Brexit prior to the referendum in 2016, with work intensifying following the result and the invocation of Article 50 in 2017. The decision of the UK to leave the European Union gives rise to unprecedented challenges for Ireland across all economic sectors. The Government have taken steps to maximise the resilience of the economy so that it may effectively manage the negative economic developments. National budgets have been framed to prepare for the challenge of Brexit.

Budgets 2017 and 2018 included a number of measures to support those sectors most adversely affected. Building on Budget 2018, the measures announced in Budget 2019 demonstrated the Government's continued commitment to preparing the economy for the significant challenges posed by Brexit.

Budget 2019 maintained the overall approach of prudent financial management to strengthen the resilience of Ireland's economy against the backdrop of heightened uncertainty. The economic and fiscal policies implemented over recent years have placed Ireland in a stronger position to ensure that the economy will continue to remain competitive in the face of future economic headwinds. Ireland has laid the foundations for a solid and sustained economic recovery. Indicators such as consumer spending and labour market developments are consistent with an economy that is maintaining momentum.

In Budget 2019, the Government continued its comprehensive domestic response to the impact of Brexit and therefore contained a number of specific measures aimed at making Ireland Brexit ready.

Specific Brexit measures included:

- Increased resources of €25 million across a range of Departments and Offices;
- Introduction of a longer-term loan scheme, the Future Growth Loan Scheme for terms of 8-10 years, to provide a longer-term scheme facility of up to €300m to support strategic capital investment for a post Brexit environment by business at competitive rates;
- €71 million package for the Department of Agriculture, Food & the Marine and its agencies, Teagasc and Bord Bia, to further strengthen the agriculture sector's ability to become more resilient in addressing the challenges of Brexit;
- An increase of €14 million to the current allocation for the Department of Business, Enterprise & Innovation, including measures to enable the Department to continue to plan for the impact of Brexit on the business sector, including the expansion of Departmental and regulatory agency

capacity, the expansion of its agencies global footprint and additional Brexit information campaigns and supports;

- €5 million was allocated to the Department of Foreign Affairs and Trade to enable it to continue to address the challenges posed by Brexit across a range of headings, including building capacity across strategic European locations and developing outreach responsibilities through public and stakeholder engagement and EU alliance enhancement;
- The Human Capital Initiative, which will be funded via the National Training Fund over the period 2020-2024, will form a key part of the Government's strategic response to Brexit in the Education Sector;
- Budget 2019 renews the Government's commitment to the successful implementation of the current PEACE and INTERREG programmes. The Government is committed to a successor programme post-2020 and welcomes the proposal from the European Commission for a special new PEACE PLUS programme that will build on and continue the work of the PEACE and INTERREG programmes post-Brexit.

3.2 Budget 2020

The Government published the Summer Economic Statement (SES) on 25 June 2019.

The SES sets out the Government's medium-term economic strategy and updates the parameters ahead of Budget 2020.The overarching budgetary strategy must be to protect domestic living standards, irrespective of the Brexit outcome, therefore preparation for all eventualities is required.

In respect of Brexit, the Minister for Finance outlined a twin track approach outlining two budgetary scenarios. The first involves an 'orderly' Brexit and the second a 'disorderly' scenario where the UK leave without an agreement in place.

Both situations suggest a more conservative budgetary approach is required in preparing Budget 2020. This is also in line with policy advice from commentators such as the IMF, EU Commission, OECD and IFAC.

Given the economic cycle, and in the event of an **orderly** Brexit the SES outlined that the appropriate budgetary response is to stay within the parameters set out in the Stability Programme Update (SPU). The SPU projects a modest budgetary surplus of 0.4 per cent of GDP for 2020.

In a **disorderly** Brexit scenario, the same budgetary parameters will apply. However, if a disorderly exit presents as the most likely scenario in September 2019 then an adopted approach will be required to ensure that the impact of this exceptional challenge be managed, whilst preserving the longer-term sustainability of the public finances.

It is hoped that by September 2019 that there will be greater clarity on the political situation in the UK, and so a decision will be taken in September on which option or scenario will become the principal basis underpinning the economic and fiscal forecasts for Budget 2020.

4. Overview of Government Preparations

The Government's overall objectives have been consistent throughout the Brexit process.

Ireland seeks to:

- minimise the impact on trade and the economy;
- protect the peace process including avoiding a hard border on the island of Ireland;
- maintain the Common Travel Area, and
- strengthen Ireland's commitment to and participation in the EU.

These principals continue to guide the Government's approach to all Brexit scenarios.

To date, the Government's planning has consisted of two streams of work, focusing on separate outcomes to the Brexit negotiations. One scenario is an orderly exit, with a transition period until 31 December 2020 this is named the 'Central Case' scenario. The other stream of planning relates to a disorderly, 'no deal' exit, which involves the UK leaving the EU on October 31 without any form of agreement.

At its meeting on 11 December 2018, the Government decided to give greater immediate priority to the preparations for a 'no deal' exit. It was agreed that this scenario would require immediate focus on crisis management and possible temporary solutions, which would be implemented until longer term adjustments are in place.

For Ireland, it is widely acknowledged that Brexit presents severe macroeconomic trade, sectoral impacts and political, strategic and practical issues.

In a 'no deal' scenario:

- the UK would become a third country;
- the UK would, therefore, no longer be represented in Union institutions, agencies, bodies and offices, and the terms of the transition period, as provided for in the Withdrawal Agreement, would not come into effect;
- EU law would no longer apply in the UK and the UK would no longer be subject to the associated regulatory, budgetary, supervisory and judicial institutions and mechanisms.

Due to the intrinsic economic links between the UK and Ireland, Brexit poses significant challenges to certain sectors in Ireland. The economic impact is likely to be greater in particular areas, such as the border regions and on smaller

business dependent on UK trade. A 'no deal' Brexit would therefore have significant negative consequences.

On 19 December 2018 the Government published a Brexit Contingency Action Plan setting out the details of its preparatory work for a possible 'no deal' Brexit outcome. The Contingency Action Plan outlined Government's assessment of the challenges, the mitigation measures considered essential to curtail the effects of a 'no deal' exit and detailed the suggested measures to manage a 'no deal' scenario in the best possible way. The Government intends on publishing an updated Contingency Action plan in July 2019.

To date, intensive work has taken place across Government on all aspects of the Action Plan. This work is managed through a range of Interdepartmental work groups which are led by the Department of Foreign Affairs and Trade and the Department of An Taoiseach. The Government's approach combines full participation in the overall EU framework for managing a 'no deal' outcome with further specific challenges requiring unilateral responses at national level.

The heightened focus on 'no deal' preparedness entailed the acceleration of temporary solutions and measures on issues which had already been identified by each Government Department in earlier intensive scoping exercises.

The integrated 'whole of Government' structures managed the following critical work of the Action Plan:

- Ireland's participation in EU27 engagement on the policy and regulatory response to Brexit;
- Operational preparations at domestic ports and airports,
- Staffing requirements and recruitment;
- Legislation; namely the *Withdrawal of the UK from the European Union (Consequential Provisions) Act 2019*;
- Communications and Stakeholder engagement, including research publications, and
    - 19 Brexit Stakeholder Forums
    - 5 All Ireland Civic Dialogues
    - 6 "Getting Ireland Brexit Ready Roadshow events
    - Over 100 events in the communication campaign overall including those held by local enterprise offices and Revenue.

Full details of the Government's Contingency Action Plan is available at: https://www.dfa.ie/brexit/

5. Overview of EU Preparedness

The European Commission and 27 Member States have been formally preparing for the withdrawal of the UK since the receipt of the letter of notification in March 2017. This work initially focused on preparedness measures that would be required in all scenarios to provide for the orderly withdrawal of the UK.

In response to the European Council's request in June 2018 for "*Member States, Union Institutions and all stakeholders to step up their work on preparedness at all levels and for all outcomes"*, the European Commission published 5 Communications on preparing for the withdrawal of the UK. These communications are dated 19 July 2018, 13 November 2018, 19 December 2018 10 April 2019 and 12 June 2019.

More than 90 Brexit preparedness notices and a number of question and answer documents have been published by the European Commission and EU Regulatory and Supervisory Agencies, setting out the implications of UK withdrawal to stakeholders in a wide variety of areas. Nine of these notices relate to the customs and taxation impacts of the UK's departure.

Ireland has actively engaged with the European Commission on Brexit. Government Officials have participated in over 60 technical expert seminars on various aspects of Brexit preparedness and contingency planning involving officials from EU27 Member States. The technical seminars have covered areas including customs, direct and indirect taxation and have been attended by technical experts from the Department of Finance and Revenue Commissioners, on behalf of Ireland.

Government Officials have also held bilateral discussions with the EU institutions on particular issues that are of increased significance for Ireland, those that relate to the areas of taxation and customs included intensive discussions on the use of the UK as a land bridge and the necessary controls at airports and ports.

In addition, Officials from the Department of Finance and Revenue are participating in bilateral discussions on preparedness measures with those Member States that are similarly adversely impacted by the UK's departure, notably those in close geographic proximity to the UK.

The Government has ensured that Ireland's response to the challenges posed by Brexit reflect the measures taken at EU level, in particular the Brexit 'Omnibus' legislation broadly mirrors the wider EU approach.

6. Overview of Department of Finance Preparations

The Department has been preparing for Brexit since before the Referendum, and has published a number of reports on the economic impacts of Brexit.

The key objectives of the Minister for Finance in relation to Brexit planning are:

- To protect the economic and financial interests of the State as far as possible;
- To support the preparatory work of the Revenue Commissioners.

The four work streams within the Department associated with these two objectives are:

- Developing appropriate economic/budgetary strategy;
- Safeguarding financial stability through engagement with Central Bank and NTMA;
- Assuring continued funding of the State by the NTMA;
- Supporting the work of the Revenue Commissioners in the areas of customs and taxation.

In the context of tax and customs, significant work has been undertaken collectively by Revenue and Department officials in preparation for Brexit. As the preparations continue for all Brexit scenarios, Tax Division in the Department of Finance maintains regular interaction with Revenue at managerial and official level.

Following significant scoping work on the identifiable tax and customs impacts of the UK departure and in line with Government 'no deal' planning, preparatory work progressed from an exploratory focus to an intensive, contingency action based approach. This work formed two categories, (i) policy development and implementation in the form of legislation and (ii) operational preparations by Revenue in terms of IT structures, staffing and infrastructure. Both the Department and Revenue continue to participate fully in the Government work streams lead by the Department of An Taoiseach and the Department of Foreign Affairs and Trade.

In particular, the Department and Revenue worked collectively on the policy development and drafting required for the primary legislation namely the *Withdrawal of the UK from the European Union (Consequential Provisions) Act 2019* "the Act" which completed all Oireachtas stages on 13 March and was signed into law by the President on 17 March 2019.

The Act is a domestic response to a crisis incident caused by a ‘no deal’ Brexit. It is currently subject to commencement (other than Parts 1 and 14 which were commenced on 26 June 2019) and will remain so until it becomes clear that the UK are exiting without an agreement with the EU.

The Omnibus Act complements legal measures at EU level and focuses on measures protecting Irish citizens in supporting the economy, enterprise and jobs, particularly in key economic sectors. The Government worked very closely with all Opposition parties in the Oireachtas and all members of the Dáil and Seanad to facilitate the passage of the legislation.

The work is now finalised on the statutory instruments and commencement orders that are required to complete the suite of tax legislation required for a ‘no deal’ Brexit.

6.1 Direct Taxation – Legislative Provisions

Part 6 of the Act provides for the modification of Income Tax, Capital Tax, Corporation Tax and Stamp Duty legislation in order to ensure continuity for business and citizens in relation to their current access to certain taxation measures including, reliefs and allowances, post Brexit.

Specifically, it involves the amendment of various sections of the Taxes Consolidation Act 1997 to ensure that a range of income tax measures continue to apply even in the event the UK is no longer an EU Member State.

6.2.1 CHAPTER 2 – INCOME TAX

The Income Tax related amendments ensure that income tax relief which is currently available will continue to be available to existing beneficiaries when the UK exit the European Union. This is achieved by specifically including the UK alongside EU and EEA Member State in order to maintain the status quo in the immediate future.

6.2.2 CHAPTER 2 – CORPORATION TAX

The Corporation Tax amendments seek to maintain the status quo for the tax treatment of certain transactions or corporate group structures in the immediate aftermath of the UK exiting the European Union and the European Economic Area.

The purpose of the amendments is to minimise disruption to businesses operating cross-border in the immediate aftermath of a disorderly Brexit.

6.2.3 CHAPTER 4 – CAPITAL TAXES

The purpose of the amendments for Capital Taxes is to provide for continuity of the existing relief for persons who own property in the European Union or in the European Economic Area - in particular in Northern Ireland, to ensure that such persons are not disadvantaged by the UK leaving the European Union.

6.2.4 CHAPTER 6 – STAMP DUTY

The measures relating to Stamp Duty are designed to mitigate the impact of Brexit is so far as possible, and as such to sustain the existing levels of Exchequer income from the effected stamp duties by maintaining the status quo.

6.2.5 CHAPTER 7 – CAPITAL ACQUISITIONS TAXES

The measures for Capital Acquisitions Tax provide for continuity in existing treatment to enable the relief to continue to apply to agricultural property situated in the UK and so that such property is to be taken into account in calculating the value of agricultural property owned by a farmer for the purposes of establishing entitlement to this relief.

6.2 Indirect Tax – Legislative Provisions

Part 6 of the Act also contained a number of indirect taxation measures in the areas of VAT and Excise.

Most significantly, the Minister for Finance announced his intention to introduce a system of postponed accounting, post Brexit for VAT purposes.

6.3.1 CHAPTER 5 – VAT – POSTPONED ACCOUNTING

As identified in TSG 2018 Paper, *Brexit- Taxation and Customs Impacts,* once the UK leave the Single Market, they will no longer be part of the VAT or Excise regimes, and will be treated as a 'third country'.

Due to the UK's status as a 'third country', VAT, Excise and Customs Duties on goods will become chargeable at the point of importation. This will have a significant impact on cash flow for business.

Most traders who import goods from countries outside of the European Union pay VAT at the point at which customs duties arise, which is typically at the point of entry of the goods into the State. The majority of those traders importing goods use a deferred payment account system to pay VAT. This account allows payment of VAT to be deferred until the 15th day of the month following the importation of goods. Traders must be authorised by Revenue to utilise this facility.

The volume of third country trade will significantly increase post Brexit, and businesses who do not have deferred payment accounts or experience of importing goods from outside of the EU will require support.

The Government therefore approved the introduction of postponed accounting for VAT purposes in the event of a disorderly withdrawal of the UK from the EU, in order to mitigate against cash flow issues which would arise.

Under the system of postponed accounting, importers will not pay import VAT at the point of entry, instead, importers will account for import VAT through their bi-

monthly VAT return. In other words, the VAT will be reclaimed at the same time that it is declared in the VAT return.

Postponed accounting will initially be introduced for all traders for a limited period to alleviate the immediate cash flow issues arising from the withdrawal of the UK from the EU, where no agreement is in place. Following the initial period, at a time to be decided by the Minister for Finance, continued use of the postponed accounting system will depend on fulfilling criteria set out by Revenue.

6.3.2 CHAPTER 5 – SECTION 56 AUTHORISATIONS

The Act also amended section 56 of the VAT Consolidation Act 2010. Section 56 entitles taxable persons to receive qualifying goods and services at the zero rate of VAT where they have fulfilled certain criteria and have received authorisation from Revenue.

The amendment adds a number of additional criteria which a taxable person must fulfil before receiving authorisation. The amendment also gives Revenue the power to cancel an authorisation where there are reasonable grounds to do so.

6.3 Other Indirect Tax Measures

Measures have also been introduced which deal with Duty Free sales and the application of the VAT Retail Export Scheme, in a ‘no deal’ scenario. Both issues were identified as significant issues in TSG 2018 Paper, *Brexit- Taxation and Customs Impacts*. Details of these measures are set out at paragraphs 6.4 and 6.5 below.

The UK’s status as a ‘third country’, post Brexit, has the consequence of Duty Free sales and the VAT Retail Export Scheme applying on passenger traffic between the UK and EU.

It was hoped that such matters would form part of future relationship discussions, however considering the Government decision to intensify its preparations for a ‘no deal’ exit, immediate action was considered necessary on the possible emergence of Duty Free sales and VAT Retail Export Scheme, in the context of a disorderly UK exit.

The policy was driven by the potential for significant exchequer impacts as a result of the expansion of the schemes to UK passenger traffic, the protection of health and welfare policies and the risk of abuse of the VAT Retail Export Scheme.

As outlined by the Minister for Finance in his address to the Dáil during Committee Stage, the introduction of the measures will be dependent on the UK’s policies regarding its application of the VAT Retail Export and Duty Free schemes.

6.4 Chapter 5 – VAT Retail Export Scheme

The Retail Export Scheme (RES) enables travellers that are resident outside the EU to benefit from VAT relief on goods that are purchased in the EU and subsequently exported when the traveller leaves.

The UK's status as a 'third country' will render UK residents as eligible for VAT refunds on purchases of qualifying goods under the scheme, post Brexit.

Due to the number of passenger movements between the UK and Ireland, the volumes of refund applications is likely to significantly increase which simultaneously heightens the risk of abuse of the RES, post Brexit. VAT fraud is serious matter and it is the Minister for Finance's view that any scope for fraudulent abuse of the scheme should be minimised.

The UK has not stated its position on operating a VAT RES for passengers travelling from Ireland (EU) and purchasing goods there, post Brexit. Should the UK apply a full RES post Brexit, Ireland will not commence the precautionary sections, and a non-restricted VAT RES will therefore operate between Ireland and the UK.

In the event that the UK either restricts the VAT RES or does not apply same to Irish passenger traffic, Ireland will take the precautionary measures, (which are permissible, insofar as is possible under the EU Directives) in the form of commencing the sections in the Act, so to minimise the potential for abuse of the scheme and to reduce the possibility of diversion in retail consumption from Ireland to the UK, post Brexit.

The measures contained in the Brexit Act do not eliminate the use of the VAT Retail Export Scheme for UK residents, post Brexit, instead they provide a legal basis to control and minimise the scope for abuse of the scheme.

The Brexit Act amends the current legislation to provide that the value of qualifying goods must exceed €175 in order to be eligible for a refund under the scheme. This change is fully compatible with EU law and is in line with the EU VAT Directive. The monetary limit will apply in respect of all third country travellers who apply for a refund under the scheme, post commencement of this section of the Act.

The Act also introduces a new requirement of proof of importation of the goods into the UK and the associated proof of payment, where applicable, of relevant UK VAT and duties, for the goods purchased under the scheme in order to qualify for a refund under the scheme.

6.5 Chapter 8 – Excise -Duty Free

Post Brexit, the UK will be considered a ‘third country’ for the purposes of Excise duty.

In the absence of any action on behalf of the UK and Ireland, Duty Free sales would emerge between the UK and Ireland due to the UK’s status as a ‘third country’ post Brexit.

According to CSO data, 7.6 million passengers arrived in Ireland from the UK in 2017 and approximately the same number arrived in the UK from Ireland. For illustrative purposes, if 50% of the total passengers arriving in Ireland from the UK availed of tax-free allowances within the fixed limits for cigarettes and spirits alone, this would have involved the import of 760 million cigarettes and 3.8 million litres of spirits. The excise duty receipts foregone on this quantity of tobacco and cigarettes would total approximately €350 million per annum.

The above estimate does not include purchases of other tobacco and alcohol products such as ‘roll your own’ tobacco and wine, and also does not take into account the related economic impact on the Irish retail sector.

In addition, the wider availability of low priced tobacco and alcohol products in the State would have a negative impact on the Government’s public health policy and it is also likely that the availability of Duty Free allowances would promote further fiscally motivated travel.

It was considered that legislative action was required for the management of Duty Free sales in a ‘no deal’ context. The commencement of the section in the Brexit Omnibus Act will be dependent on the UK policy and action on Duty Free sales.

The UK has not stated its position on Duty Free sales, post Brexit. However, if the UK apply a Duty Free scheme post Brexit, Ireland will not commence the section in the Brexit Omnibus Act and Duty Free sales will therefore be possible for travellers moving between Ireland and the UK.

If the UK decide not to permit Duty Free sales to passenger traffic travelling from the UK to Ireland, then Ireland will trigger a reciprocal protection as outlined in this section.

The Act amends section 104 of the Finance Act 2001, which outlines reliefs from Excise Duty. Among these reliefs is a provision that grants a full relief from excise duty on excisable products that are delivered to a tax free shop for supply to passengers travelling to a destination outside of the EU. This relief applies to alcohol and tobacco products.

The effect of the section is to ensure that excise duty will apply to alcohol and tobacco products that are sold in tax free shops to passengers travelling to the UK, post Brexit.

It is not possible to impose VAT on these transactions in addition to Excise duty, under the provisions of the VAT Directive[2]. Articles 146 and 147 of the Directive provide that certain transactions, including supplies of this kind, are exempt from VAT.

6.6 Secondary Legislation

A suite of secondary legislation has been drafted and approved by the Office of Parliamentary Counsel to implement the policy on the above VAT and Excise impacts, all of which are subject to commencement by way of signature by the Minster for Finance or Revenue Commissioners and some of which will also be dependent on the UK policy actions.

Title	Description
Value-Added Tax Regulations 2010 (Regulation 37) (Amendment) Regulations 2019	Change to Regulation 37 of the VAT Regulations 2010 to provide that VAT refunds to third country businesses would only apply where there is a reciprocal arrangement in place for refunds with the third country.
Value-Added Tax Regulations 2010 (Regulation 34A) (Amendment) Regulations 2019	Following on from the amendment to Section 56 of the VAT Consolidation Act 2010, a new Regulation 34A is being inserted to specify the conditions to be included on application for the scheme, including confirmation of tax compliance, record keeping and non-conviction.
Value-Added Tax Regulations 2010 (Regulation 15) (Amendment) Regulations 2019	Regulation 15 of the VAT Regulations 2010 is being amended to mirror to control measures being introduced at Committee Stage to Section 58 of the VAT Act 2010 in relation to the Retail Export Scheme.
Value-Added Tax (postponed accounting) Regulations 20XX	*Following on from the introduction of postponed accounting, the Regulation provides for the requirements, conditions and restrictions necessary for qualification for the scheme, including furnishing to Revenue documentation and financial transactions entered into. [To be commenced at a later stage]*
European Communities (General Arrangements for Excise Duty) (Ports) Regulations 2019	The Regulations amend section 104(1)(e) of the Finance Act 2001 (No. 7 of 2001). The amendment extends the existing full relief from excise duty for excisable products delivered to a tax-free shop at an airport to include a tax free shop at a port.

[2] Council Directive 2006 112/EC

European Communities (General Arrangements for Excise Duty) (Certain Exemptions) Regulations 2019	The Regulations amend section 104(1) (d) of the Finance Act 2001 (No. 7 of 2001) and insert a new section 104(1) (da) in this Act. The amendments restrict the existing full relief from excise duty which applies in the case of excisable products purchased by a traveller on board an aircraft or ship during a flight or sea-crossing to a place outside of the European Union. The effect of the amendments is to exclude purchases by a traveller on board an aircraft or ship during a flight or sea-crossing to the United Kingdom from this relief.

The Act has been enacted but has not been commenced (other than Parts 1 and 14 commenced on 26 June 2019). The sections may be commenced in a piecemeal fashion whilst taking into consideration UK policy in these areas. The Department will continue to review the impacts of Brexit on tax policy in the context of its normal Finance Bill preparations.

7. Revenue Commissioners Preparations

7.1 Overview

Customs is an area of sole EU competence. The Union Customs Code (2016) sets out the legal basis for third country customs formalities. National legislation supplements EU law by underpinning the powers of customs in policing and administering the EU rules.

The departure of the UK, Ireland's closest geographic neighbour, poses hugely significant, multifaceted challenges for the administration of customs, post Brexit.

As a result of the Union Customs Code there is a legal structure for the management and control of customs interactions with third country trade. Considering these elements of EU competency and the directly effective legal framework in place, there was no requirement to amend Irish domestic customs legislation[3], to take account of Brexit, during the legislative process of the Omnibus Act.

The Government is not making any plans for infrastructure on the border. This was reiterated by Chairman of the Revenue Commissioners at his appearance before the FINPER Oireachtas Committee on 24 January 2019, where he stated that no instructions or funding has issued to Revenue for those purposes. The Government has been consistent in upholding its commitment to no hard border on the island of Ireland and continues to note the UK and EU's commitments in this regard also.

Revenue's preparations have reflected Government structures and similarly focused on 2 scenarios, 'Central Case' and 'no deal' exit. Both scenarios involve significant preparations for Revenue. Considering the UK's departure from the Single Market and Customs Union both situations will create change in terms of customs administration.

7.2 ICT Developments

Significant work has been undertaken to increase the capacity of Revenue ICT systems and to performance test the eCustoms transactional systems to ensure that they can manage the anticipated 10 fold[4] increase in customs declarations, post Brexit. Revenue have confirmed that testing is well advanced and based on the work completed, Revenue is confident that the various IT systems will support the expected additional work load arising from Brexit, thus ensuring customs processes can continue to operate effectively and efficiently post Brexit.

[3] Number 18 of 2015 - *Customs Act 2015*
[4] Revenue estimate an increase in customs declarations from 1.6 million to 20 million per annum.

7.3 Staffing and Recruitment

In the context of Brexit, Revenue determined that it required 600 additional staff. The Government approved Brexit related recruitment in September 2018, and an open recruitment campaign for trade facilitation roles was undertaken by the Public Appointments Service which attracted more than 3,000 applications. In line with the Government's plan to prioritise 'no deal' preparations from December 2018, Revenue has since accelerated its level of recruitment.

To date, Revenue has appointed approximately 500 staff from open recruitment and interdepartmental competitions since the start of 2019, the majority of which were assigned to Brexit functions and completed initial customs training by April 2019 in preparation for Brexit. New recruits are working in Customs based roles where they are being mentored by experienced Customs staff to enhance their competency. They are also receiving additional training on Revenue enforcement procedures and Revenue systems.

Revenue as an integrated tax and customs administration, advise that it is in a position to deploy resources based on the evolving business needs and to quickly confront any risks as they emerge.

7.4 Trader Communications and Outreach

Revenue conducted a significant two phase trader engagement programme which commenced in November 2018 for approximately 84,000 companies identified as potentially affected by Brexit.

The first phase of the trader engagement programme included:

- Corresponding directly with approximately 13,500 large economic operators and logistics companies and freight forwarders to encourage them to assess how Brexit may impact on their business, and;
- The organisation of a nationwide campaign of dedicated customs seminars, which have taken place in Cork, Dublin, Galway, Dundalk, Wexford, Limerick and Sligo. 1,800 business representatives attended these seminars.

The seminars focused on:

- Providing information and practical support to relevant businesses;
- The basic customs formalities for non EU trade, including import, export and transit procedures;
- The supply chain challenges associated with different types of goods, including whether the goods are being distributed on arrival or brought to a warehouse/temporary storage facility;
- Controls related to tariffs and prohibitions and restrictions;

- Operation of the UK land bridge and transit arrangements;
- Other Government agency controls applying to the movement of goods, including controls relating to the importation of animals, plants and products of animal and plant origin, medicines and environmental health.

The second phase of the trader engagement programme included:

- Corresponding with the remaining 70,000 SMEs identified as likely to be impacted by Brexit;
- The organisation of a dedicated seminar for Customs IT software providers in December 2018;
- The organisation of a dedicated seminar for Customs Agents in January 2019;
- Radio interviews and messaging specifically on customs registrations required to trade with the UK post Brexit (Economic Operators Registration Identification numbers).

Despite Revenue's sterling efforts to engage with traders, concerns remain regarding the low levels of participation and preparedness by many businesses that trade with the UK. VAT return (VIES) data for 2018 indicates that 92,000 businesses interacted with the UK in 2018 and almost 65,400 of those traders have not yet registered with Revenue as part of Brexit preparedness. Revenue will undertake an intensified and individual business focused engagement programme in July 2019 designed to support assist and educate those businesses on the impacts of Brexit and encourage action to mitigate the risks.

In addition, market capacity issues have been identified regarding the number of Customs Agents available to undertake the anticipated increased demand for their services in a post Brexit context. These services include an advisory, administrative and in some instances a financial security role, all of which will be required by businesses who currently trade with the UK freely within the Single Market and who will trade with the UK as a third country, post Brexit. This issue is being explored by an Interdepartmental work group which include Revenue and the Department of Business, Enterprise and Innovation, who engage closely with Industry.

In the coming weeks the Government will embark on a revised communication campaign to advise business that change is to be expected in *all* Brexit scenarios, and business should therefore give urgent priority to examining their supply chains and engaging with the supports available to them through various channels, to ensure that they are equipped and ready for every form of change in advance of 31 October 2019.

7.4 Infrastructure

During 2018, Revenue chaired the Interdepartmental work group on infrastructure requirements. Work on preparing the ports and airports to manage Brexit is

currently led by the Office of Public Works (OPW) and the Department of Public Expenditure and Reform. Revenue have specified its operational infrastructure requirements and OPW is now responsible for the delivery of the various sites in the ports at Dublin and Rosslare.

OPW provided temporary infrastructure in advance of the March 29 and April 12 deadlines. In Dublin Port this included a temporary live animal inspection site, parking for approximately 220 HGV's, 8 booths to facilitate documentary and seal checks, 13 inspection bays, staff accommodation and a public office. These are shared resources to facilitate import controls by Revenue, Department of Agriculture, Food and the Marine and the HSE's Environmental Health Service.

Work is ongoing to provide all of the facilities identified by Departments as part of the 'Central Case' planning which will be delivered on a phased approach. This will entail 12 additional inspection bays in place should they be required for a 'no deal' Brexit on 31 October.

Temporary facilities were also provided at a site in close proximity to Rosslare Europort in preparation for a 'no deal' scenario. This consisted of parking for approximately 35 HGV's, two booths to facilitate documentary and seal checks, 4 temporary inspection bays, staff accommodation and a public office. Work is currently underway to provide more permanent infrastructure on this site and is expected to be completed in advance of 31 October 2019.

7.5 Traffic Flows

Revenue participates in a Traffic Management Group that is chaired by the Department of Transport to consider and mitigate the potential knock on effects of delays at Dublin Port on wider city traffic management.

7.6 Land Bridge

Revenue has participated in a number of work streams domestically and at EU level on the practical implications for Irish traders using the UK land bridge. The UK will accede to the Common Transit Convention on 30 January 2019, which is a positive development that will ease (but not eliminate) the administrative burden on traders using the land bridge, post Brexit.

As part of its trader outreach programmes Revenue highlighted the requirement of a Comprehensive Financial Guarantee, which is mandatory for the use of the customs transit procedure across the UK land bridge. In particular, for transit, the guarantee must be an undertaking by a financial institution. Revenue advised trader attendees of the application process involved.

8 Conclusion

The Government has consistently stated that whilst it regrets the UK's decision to leave the EU it wishes for the closest possible relationship between the EU and the UK, including on trade, post Brexit. An effective relationship with the UK is vital to minimise the impact on Ireland's trade and economy, however it is equally vital to our economic interests that the EU's Single Market is fully protected, post Brexit.

The political instability in the UK, heightens the risk of a chaotic, disorderly exit that would have significant, disruptive and damaging impacts for Ireland's economy. The Government has taken actions to ensure that such effects are minimised to the best possible extent, however it is noted that the complex disentanglement of the UK from the EU will present serious challenges for Ireland which cannot be fully eliminated.

Whilst the current political situation creates additional uncertainty for Ireland the Government continues to prepare for all scenarios, with an increased focus on getting Irish businesses ready for the changes that will occur. The Department of Finance will continue to fully engage with this vital work.

An Roinn Airgeadais
Department of Finance

Tithe an Rialtas. Sráid Mhuirfean Uacht,
Baile Átha Cliath 2, D02 R583, Éire
Government Buildings, Upper Merrion Street,
Dublin 2, D02 R583, Ireland

T:+353 1 676 7571
@IRLDeptFinance
www.gov.ie/finance