The Consultative Committee
of Accountancy Bodies-Ireland

Chartered Accountants Ireland
The Association of Chartered Certified Accountants
The Chartered Institute of Management Accountants
The Institute of Certified Public Accountants in Ireland

Response to the Public Consultation on a Territorial System of Taxation

March 2022

About CCAB-I

The Consultative Committee of Accountancy Bodies–Ireland is the representative committee for the main accountancy bodies in Ireland. It comprises Chartered Accountants Ireland, the Association of Chartered Certified Accountants, the Institute of Certified Public Accountants in Ireland, and the Chartered Institute of Management Accountants.

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Introduction

Ireland currently operates a worldwide basis of taxation. The purpose of this consultation is to consider whether an alternative basis of taxation, being a territorial basis of taxation, would be a welcome move by the Irish legislator.

Most member states of the EU and the OECD presently operate a predominantly territorial basis of taxation. Ireland's worldwide basis of taxation, combined with its complex credit system for the elimination of double taxation, is therefore out of line with widely accepted best international practices. In addition, a worldwide-based double taxation regime is incongruent with the introduction of OECD Base Erosion and Profit Shifting ("BEPS") and EU Anti-Tax Avoidance Directive ("ATAD") measures introduced over the past decade. A territorial-based regime would also be congruent with Pillar Two of the OECD's Two-Pillar Solution.

Ireland's current inclusion and credit approach to taxing worldwide income has a significant impact on Ireland's competitiveness as a destination for investment. There is a plethora of administrative issues which make the current system complex and, in many cases, make its application uncertain.

The introduction of a territorial-based double taxation regime (with a participation exemption and exemption for branch profits) is greatly welcome by the CCAB-I. The key to success will be the design of such a system. It must be appropriate and treat all taxpayers equitably.

A key feature of any future territorial-based system of double taxation would be for such a regime to be elective. This ensures that the multiple and varied interests operating within the Irish economy are accommodated appropriately. For instance, where the participation exemption is available, there should be an option to elect out of the exemption (and claim foreign tax credits) on a dividend-by-dividend basis.

Keeping in mind that any future territorial-based system should contain the necessary election for treatment under the current worldwide-based double taxation regime, the rules set out in Schedule 24 Taxes Consolidation Act ("TCA") 1997 will continue to be relevant. While CCAB-I strongly supports the simplification of these measures, this should be treated as a separate issue from the introduction of the appropriate exemptions.

In this regard, the CCAB-I is seeking an introduction of a territorial-based system of taxation with effect from 1 January 2023. To the extent this is not feasible, we are asking for a commitment that the necessary measures will be introduced by 2024 to send a strong message to the international community and address concerns relating to competitiveness.

Policy Benefits of Participation Exemption and/or Branch Exemption Regimes

Question 1

What is your opinion of Ireland's corporate tax potentially moving from the current worldwide system with credit relief for foreign tax to a territorial system of double taxation relief, including participation exemption and/or branch exemption provisions?

CCAB-I believes that Ireland should move to a territorial system of double taxation relief, including participation exemption and/or branch exemption provisions and considers that there are several benefits in doing so. At the outset, we note that the proposed territorial system of double taxation relief must be designed in a way that treats all taxpayers equitably. In that regard we propose that there be an elective regime so that multiple interests can be accommodated appropriately.

The benefits of such a regime would be that taxes are eliminated on foreign profits, Ireland's tax base is protected, and the tax code is simplified. In addition, a territorial regime would be congruent with the Pillar Two rules (under the OECD International Taxation Agreement) on the basis that Pillar Two effectively exempts foreign dividends and foreign branch profits.

The operation of the credit relief system under the worldwide regime is complex in terms of interpreting the provisions of Schedule 24 to determine whether credit relief is available for a particular item of income/gain, computing the credit relief and in computing the branch profits assessable to Irish corporation tax. This level of complexity results in an additional tax compliance burden for Irish companies with a branch network when compared to the position of entities headquartered in countries with branch exemption regimes. This has a key impact on Ireland's competitiveness as a destination for investment.

Moving to a branch exemption for foreign branch profits should simplify the Irish taxation regime for Irish entities with a branch network and should be neutral from a tax collection perspective given that Irish corporation tax on foreign branch profits is generally sheltered by foreign tax paid on such income. CCAB-I do not foresee that the OECD proposal on a minimum rate of corporation tax should change this position.

Further, the trend in tax policy in recent years has been a move towards a territorial-based system of taxation with most OECD countries (including the UK, the United States, France, Germany, and the Netherlands) adopting at some lease some for of a participation exemption and/or branch exemption regime for global taxation. In operating the current worldwide-based double taxation regime, Ireland is out of line with other EU an OECD jurisdictions. Furthermore, the current regime is largely inconsistent with the introduction of the BEPS and ATAD measures over the past decade.

A territorial-based regime should enhance Ireland's position as destination for investment and thereby improving Ireland's competitiveness with other jurisdictions. Such a regime also diminishes the need to have a worldwide regime to address the erosion of a foreign tax base. A territorial-based system of taxation which is not based on a company's tax residence nullifies any gain from inverting.

While a move to a form of territoriality regime would make Ireland's tax system more compatible with global norms, it is acknowledged that a territorial system would also have to be accompanied by robust anti-abuse measures; many of which are already in place.

Given the benefits listed above, in particular enhancing Ireland's competitiveness as a destination for investment, the CCAB-I is seeking the introduction of a territorial-based system of taxation with effect from 1 January 2023. To the extent this is not feasible, we are seeking a commitment that such measures can be introduced no later than with effect from 1 January 2024. We feel this timeline for implementation addresses concerns relating to Ireland's competitiveness.

Question 2

What would the broad benefits be for multi-national enterprises if Ireland were to move to such a system?

In assessing a whether a country is a suitable destination for investment, highly mobile international investors consider: (a) how dividends, branch profits, and capital gains on share disposals are taxed; and (b) what Controlled Foreign Company ("CFC") rules are in place in that jurisdiction preserving the tax-base of that jurisdiction.

In this regard, countries across the world have leveraged the tax system to reduce barriers to international capital flows and to enhance the competitiveness of domestically headquartered multi-national enterprises. A territorial-based system of taxation enhances international capital flows by exempting foreign income (branch exemption) and/or foreign gains (participation exemption) from further taxation in the country of residence. For multi-national enterprises with a widespread branch network, a branch exemption greatly enhances the attractiveness of Ireland as a headquarters for their international operations.

Further, a territorial-based system of taxation could encourage multinational enterprises already headquartered in Ireland to expand operations throughout the world as such a system equalises the tax costs between Irish-headquartered multinational enterprises and their overseas competitors in international jurisdictions. Such a system puts Irish-headquartered enterprises on a level playing field. Furthermore, for many multinational enterprises, a territorial system would potentially be simpler, reduce compliance costs, give greater certainty, and overall be more efficient.

Question 3

Are there any particular drawbacks or concerns for multi-national enterprises which should be considered if Ireland were to move to such a territorial system of double tax relief, including any indirect consequences or risks?

Very few countries in the world operate either a pure worldwide-based system of double taxation or territorial-based regime of taxation. In practice, most countries rely on a hybrid approach selecting certain attributes of each model. For this reason, we agree with the findings of the Coffey review that recommends Ireland adopt a limited territorial system that would offer a participation exemption for dividends and gains on foreign direct investments.

While we believe that Ireland should move to a territorial system of double taxation relief, based on international experience, we know that territorial-based tax systems can in some instances end up reflecting the complexity of the business models of multinational enterprises. For example, defining the source of a multinational enterprise's profits can be difficult, particularly if profits are attributable to intangible assets. Patents for example can contribute value to production in several locations. Clear and workable definitions of domestic source and foreign source income will be critical to the success of such a system.

The extent to which countries exempt foreign profits from domestic taxation vary significantly from country to country.

Notably, the OECD BEPS project limits the shifting of reported profits to low-tax countries with little economic activity and therefore should limit such abusive practices.

Question 4

Are there particular examples of best practice associated with a change to territoriality in other jurisdictions which could be considered, with a view to reducing compliance burdens without increasing avoidance risks?

CCAB-I believes that a branch must be engaged in a genuine business activity in order to avail of the branch exemption. Many other jurisdictions incorporate a trading test when establishing whether a branch exemption is available on foreign profits. For example, in the UK and in France, the branch must be engaged in a trade for the branch exemption election to be available. In Germany, the branch must be able to show that it is engaged in a genuine business activity overseas.

Minimum branch 'substance' conditions should also be set before any exemption applies. In the Netherlands, where foreign branches are located in a jurisdiction with which the Netherlands has a double taxation agreement, the branch is required to meet the threshold of being recognised as a permanent establishment under the applicable double taxation agreement. Where branches are located in a jurisdiction with which the Netherlands does not have a double tax agreement, the branch must not be regarded as a low-taxed branch engaged in passive activities. In the UK, non-double taxation agreement countries must meet the threshold to be recognised as a permanent establishment under the model OECD treaty.

We are not of the view that a double taxation agreement with the branch jurisdiction should be a requirement to avail of any proposed branch exemption regime. The conditions above should be drafted in such a way as to apply to non-double taxation agreement countries who otherwise would meet the necessary conditions.

Question 6 covers in more details some of the design features of a proposed scheme in Ireland.

Scope of Exemption Regimes

Question 5

Taking account of the above, what in your view would be the potential impacts of moving to a participation exemption regime as set out in the Coffey Report?

A full participation exemption would complement existing CFC rules which have already been introduced in Ireland. Where profits would otherwise be subject to a CFC charge, a full participation exemption would provide flexibility to companies. Effectively a full participation exemption would apply to any repatriation of profits from either a branch or a subsidiary of an Irish resident company.

The introduction of a full participation exemption should also include an extension of the existing participation exemption on the sale of shares in subsidiaries to foreign branches. This would see Ireland's treatment of foreign branches aligned with the treatment afforded in much of the EU for income and gains derived from foreign branches.

Question 6.

Are there particular considerations or design features that should be considered in reviewing the basis of the Irish corporation tax system?

Ireland is among a small minority of EU member states which solely operates a worldwide basis of taxation for resident companies. Most governments operate a predominantly territorial-basis of taxation in combination with an elective credit-based worldwide-system of taxation which is both effective and straightforward. The participation exemption, discussed above at Question 5, is the cornerstone of a territorial system.

The worldwide basis of taxation (as formulated by the Irish legislator) requires complex calculations to compute credit relief (discussed in further detail below). A territorial basis of taxation would make the overall compliance process more straightforward and should therefore greatly enhance efficiency within the Irish tax system.

Coffey notes the following features common to well-established participation exemption regimes:

a) CFC rules to prevent the shifting of profits to foreign subsidiary companies
b) Interest limitation rules to preserve the national tax base by denying interest deductions for funding of foreign investments that yield tax-exempt income
c) The maintenance of residual tax on foreign income (i.e. a partial exemption, say 95%), and
d) Limiting access to treaty benefits that might otherwise exempt foreign branches of Irish companies.

When designing a participation exemption regime, consideration should be given to whether certain provisions could encourage treaty shopping. The OECD's *Harmful Tax Competition* report recommends "countries that apply the exemption method to eliminate double taxation of foreign source income consider adopting rules that would ensure that foreign income that has benefited from tax practices deemed as constituting harmful tax competition do not qualify for the application of the exemption method". Coffey notes these recommendations should be taken into account when considering the impact of a participation exemption system. We are in agreement with the findings of the Coffey report in this regard.

We would also note that consideration should be given to establishing criteria similar to those required under section 21B TCA 1997 and/or section 626B TCA 1997. Furthermore, consideration should be given to always exempting foreign dividends, similar to the approach currently adopted by the UK. This would be subject to certain anti-avoidance rules.

Coffey makes the following additional points to consider when designed a participation exemption system:

a) Should any exemption be limited to DTA companies?
b) Should the rules contain minimum ownership requirements?
c) Should branch exemptions for income be limited to trading income?
d) How should profit be attributed to the activities of the branch?
e) Should taxpayers be given the option to elect for relief of foreign tax by exemption or credit?

We make the following additional comments the legislator should consider when designing a branch exemption, with the chief aims of simplicity of approach and preservation of tax base in mind:

- A corporation tax exemption should be available to profits of a trade arising in a foreign branch in all jurisdictions, except for profits arising in branches which are included on a blacklist of jurisdictions which do not meet acceptable corporate tax governance standards.
- The branch exemption should only be available to trading activities within a branch. Profit from a branch carrying on passive activities should remain fully subject to corporation tax in Ireland, subject to the current credit-based system for relief from foreign taxes.
- The branch exemption should only be available where the branch is recognised as having a taxable presence in the overseas jurisdiction. This measure would be consistent with hybrid mismatch measures that apply presently under ATAD for branches.
- Any proposed branch exemption should extend to gains arising on a disposal of foreign branch assets. This would ensure equality of treatment between foreign branches and foreign subsidiaries in equivalent circumstances.
- Relief should not, in most instances, be available for foreign taxes suffered on branch profits where a company elects for treatment under an exemption-based regime.
- Ireland's CFC regime should also apply to the profits of foreign branches which are subject to the branch exemption regime. Therefore, Ireland would retain taxing rights on foreign branch profits that are in fact attributable to significant and key people functions carried out in the State.
- Transitional measures would need to be considered in the case of carried forward losses relating to overseas branch activities. In the same way, where losses have been claimed in a certain number of years preceding an election to be treated under an exemption-based regime, the legislator may consider rules limiting exemption until tax is paid equivalent to the value of loss relief claimed for a pre-determined number of years. For example, if foreign losses sheltered Irish taxable profits of say €250,000, then the foreign income should only become exempt once the value of those losses has been recouped by the Exchequer.

Question 7

Taking account of, but not limited to, the design elements above, what in your view would be the best regime for Ireland to transition to, should a change take place? Please elaborate with consideration of the impacts, benefits and potential drawbacks both of

(a) your preferred approach and (b) any approaches which you do not think would be beneficial.

Given that most EU member states operate a predominantly territorial-based system of corporate taxation, it is our view that Ireland should transition to a territorial basis of taxation with the option to elect for treatment under the current (ideally simplified) worldwide credit-based system of taxation, in certain circumstances. This hybrid approach will ensure the multiple and varied enterprises operating within the Irish economy are accommodated appropriately

A territorial-based system of taxation into which taxpayers may elect is critical for enhancing Ireland's competitiveness as a destination for investment. To ensure the system operates efficiently and fairly, any proposed territorial-based system should be designed in conjunction with simplifying the existing credit-based double taxation regime and offering this latter system on an elective basis.

Ireland's current worldwide-based system of credit relief for foreign taxes is complex. There is significant analysis required on a case-by-case basis in interpreting the provisions of Schedule 24 TCA 1997. The level of complexity means the tax compliance process for Irish headquartered companies with an international branch network is significantly more onerous when compared to the position of enterprises headquartered in countries where those enterprises operate with the benefits of more straightforward, simplified branch exemption regimes.

Moving to a branch exemption regime for foreign branch profits should simplify corporation tax compliance process for Irish entities with international branch networks. Importantly, from a tax collection perspective, the proposed move to a predominantly territorial-based system of taxation should be fiscally neutral given that Irish taxes on foreign branch profits are typically sheltered by foreign tax paid.

Interaction with CFC Rules

Question 8

Please outline your view of whether Ireland's CFC rules would be adequately aligned with participation exemption and/or branch exemption regimes should these be introduced. What synergies or risks, if any, do you foresee arising?

CFC rules were designed by countries which operate a territorial system of taxation to preserve the tax base in those countries. As CFC rules have already been enacted into law in Ireland, Irish law already contains a part of the necessary measures to ensures the tax base is preserved following the introduction of exemption-based rules for taxation of foreign profits

Question 9

Please identify any particular design features of these exemption regimes that could have positive or negative impacts in this context? Please elaborate.

We do not have any specific comments regarding the design features of an exemption-based regime in the context of their impact on CFC rules, other than the above stated understanding that CFC rules have been designed to underpin exemption-based rules.

Given that CFC rules operate by attributing undistributed income of a CFC to a controlling company or a connected company in Ireland, the implementation of participation and/or branch exemption rules should be consistent with the CFC rules and the regimes should complement each other once the CFC rules are extending to apply to foreign branches

If the foreign branch exemption was optional, this would allow companies to be taxed either under general Irish tax rules on all income, or apply CFC rules to foreign branches and subsidiaries alike. In both scenarios, it simplifies and unifies the overall tax system across different scenarios to meet the needs of business while simultaneously protecting and preserving the Irish tax base.

Question 10

Please identify any adaptations to Ireland's CFC rules that should be considered in conjunction with the introduction of such exemption regimes.

We do not have any comments to make regarding adaptations required to Ireland's existing CFC rules in conjunction with the introduction of such exemption regimes.

Interest Charges associated with Exempt Income

Question 11.

In your view, should tax relief for funding costs of investments be reviewed, with a view to restrictions, if foreign income from such investments were to be exempted? What EU law or tax treaty constraints, if any, might impede such restrictions?

Under most taxation systems across the world, the interest companies pay on loans is deductible against taxable income, while interest income is taxable. It is common practice for a multi-national enterprise to lend itself funds, by providing loans to and from subsidiaries located in foreign countries. These financing arrangements enable companies to expand and make new investments in foreign markets.

Therefore, in effect, participation in foreign investee companies may be funded by borrowings from Irish-resident investor companies, and the interest costs in respect of such borrowings may reduce Irish profits and therefore Irish tax payable. The consultation poses the question: If the income from such participations were to be exempted, does the relief for such interest costs merit review?

To combat potential abuse of interest deductions, Ireland has placed informal limitations on such expenses and there are already certain restrictions on interest deductibility.

Furthermore, Ireland has introduced interest limitation measures in line with the requirements of the ATAD with effect from 1 January 2022.

Therefore, we do not believe that tax relief for such funding costs of investments requires a review.

Exit Tax

Question 12

Please outline what in your view the impacts, if any, of participation exemption and/or branch exemption regimes might be on Ireland's Exit Tax rules. Do you foresee any synergies or risks in this space?

Ireland's exit tax rules were updated by section 32 Finance Act 2018 and further updated by section 28 Finance Act 2019. These updates simplified the exit tax provisions and brought the rate in line with the trading rate for corporate tax receipts, i.e. 12.5 per cent.

The policy supporting exit tax provisions is to recoup value from assets when companies migrate their tax residence to another jurisdiction. The idea being that the value of those assets derived from economic activities carried out in the State.

Currently Section 627 TCA 1997 does not apply to foreign branches. In our review, the exit tax rules contained in section 627 TCA should be amended to remain consistent with a participation exemption and/or branch exemption regime and are fully aligned with ATAD rules.

A carve out should be provided in instances where a taxpayer may not wish to elect to apply a foreign branch exemption. Therefore, exit tax rules should not apply if such an election is made.

Question 13

Please identify how particular design features of the exemption regimes could have positive or negative impacts in this context.

Ultimately, the decision to exempt certain assets from the exit tax regime is a policy decision for the legislator. In order for coherency across Irish tax legislation, there is merit to removing assets from the exit tax regime where, under an exemption-based regime, the sale of those assets would be exempt from capital gains.

Schedule 24

Question 14

Do you believe that a review and simplification of Schedule 24 could be feasible and sufficient, instead of changing to participation exemption and/or branch exemption regimes? How might this simplification be achieved?

While CCAB-I welcomes a review and simplification of Schedule 24, our view is that this would not be feasible given the immediate need to adapt the Irish system for taxing overseas income and gains in light of the above stated issue regarding Ireland's competitiveness as a destination for investment. Further, a review and simplification of Schedule 24 would be insufficient in and of itself. Therefore, an elective territorial-based system of taxation (which we foresee would become the dominant system of taxation for foreign income and gain) should be designed and introduced with effect from 1 January 2023.

Under such an elective regime, as discussed earlier, Schedule 24 will continue to be relevant. For example, Schedule 24 would be applicable in cases where an enterprise is operating in a blacklisted jurisdiction, and where a territorial-based exemption is unavailable.

A review and simplification of Schedule 24 is not mutually exclusive of the design and implementation of a territorial-based system of taxation. However, our view is that this is a separate issue from the introduction of the appropriate exemptions. In particular, we are conscious that separating these issues means the desired effective date (1 January 2023) may be achieved by the legislator.

Question 15

What in your view are the relevant considerations in terms of any simplification of Schedule 24?

Broadly, the complexities of the current provisions arise because the provisions have evolved in an ad-hoc fashion over several years. To rectify this, we suggest that Schedule 24 is rewritten in its entirety and drastically simplified. The full scope of such a review should form a separate public consultation. As such, we do not propose to undertake a detailed review at this time as the priority, as stated, is the design and implementation of a territorial system of taxation as an alternative for Irish taxpayers to opt into. The simplification of Schedule 24 there ranks after the implementation of a territorial system of taxation in terms of priority.

Question 16

In the event of Ireland moving to participation exemption and/or branch exemption regimes, what simplifications, if any, could be considered for the remaining credit system of double taxation relief - including in respect of foreign-source interest and royalty income and out-of-scope dividend, branch income and capital gains?

Carrying on from the above point at question 15, the entire Schedule 24 requires simplification. Again, this should be a separate consultation to allow a full and complete consideration of the various issues facing practitioners in applying the legislation presently.

Interaction with Anti-Hybrid rules

Question 17

Please outline how territorial participation exemption and/or branch exemption regimes could impact on Ireland's Anti-Hybrid rules. Do you foresee any synergies or risks arising from the change?

In a similar way to CFC rules, anti-hybrid rules have been designed by countries which operate exemption-based regimes to preserve the tax base and prevent abuse. As such, the fact Ireland has already implemented anti-hybrid rules into law is a further measure which supports the introduction of an exemption-based regime.

Question 18

Please identify any specific design features of exemption regimes that could have positive or negative impacts in this context? Please elaborate.

If Ireland adopts a branch exemption regime, the design of the regime should factor in any potential anti-hybrid mismatch from the beginning. For example, a branch exemption for foreign profits should not be available unless those branch profits are subject to tax in the branch jurisdiction.

Any income or gain which is exempt in the State must be subject to comparable taxes in the foreign jurisdiction.

Question 19

Please identify any adaptations to Ireland's Anti-Hybrid rules that should be considered in conjunction with a transition to such exemption regimes.

We have no specific comments regarding adaptations to Ireland's Anti-Hybrid rules.

Interaction with the Two-Pillar Solution

Question 20

Do you foresee potential impacts, arising from moving to participation exemption and/or branch exemption regimes, for the way in which the two pillar solution is implemented in Irish tax law? Are there any potential synergies or risks with the implementation of the two-pillar solution and such exemption regimes?

It is our view that the implementation of the Pillar One rules into Irish legislation would compliment the introduction of a territorial regime of taxation. For example, under Pillar One, companies with revenues over €20 billion will be required to pay tax where their end consumers are located. Consider Facebook and its advertising revenue. When such an entity is required to reconsider its taxation of global profits as part of the Pillar One solution, a territorial system would be a more straightforward prospect in light of these impending requirements. It would significantly alleviate the administrative burden.

EU also has a proposal for a directive to implement Pillar One and Pillar Two. We can expect these rules to be finalised by June and implemented early 2023.

Ireland’s Double Taxation Treaty Network

Question 21

Do you foresee potential impacts, arising from moving to participation exemption and/or branch exemption regimes, for Ireland’s tax treaties?

Ireland’s current worldwide-based double taxation regime is inconsistent with the introduction of most BEPS/ATAD measures introduced over the past decade. The introduction of a territorial-based regime should be congruous with the objectives of these measures.

Further, administrative issues, complexity, and uncertainty associated with the current inclusion and credit approach, explained in detailed above, have a significant effect on Ireland’s competitiveness as a destination for investment.

Question 22

Should the renegotiation of Ireland’s tax treaties, as respects the Elimination of Double Taxation article, be considered in the event of the enactment of participation exemption and/or branch exemption regimes? Would this be necessary? If so, how might it be feasible to accomplish this in a targeted and efficient manner?

Further to our response to Question 6, we believe that minimum branch ‘substance’ conditions should be a requirement before any proposed participation or branch exemption applies.

However, we are not of the view that a double tax agreement with the jurisdiction in which the branch operates should be a requirement in order to avail of any proposed territoriality-based exemption.

The branch should be required to meet the threshold of being recognised as a permanent establishment under the applicable double tax agreement. Where branches are located in a jurisdiction with which Ireland does not have a double tax agreement, countries must meet the threshold to be recognised as a permanent establishment under the model OECD treaty.

Question 23

Would any amendment of Ireland’s worldwide tax system to allow for exemption of foreign dividends, gains or branch income necessitate a review of specific tax treaties in Ireland’s network, where previously Ireland’s worldwide charge would have ensured taxation of such dividends, gains or branch income? Alternatively, could such taxation be ensured by limiting the scope of any exemptions enacted in domestic law?

While implementing any amendment to Ireland’s worldwide taxation system would require amendments to Irish corporation tax domestic legislation, we are not of the view that such amendments would impact upon Ireland’s network of double taxation agreements. The introduction of a participation exemption and branch exemption would avoid double taxation. However, going forward as Ireland renegotiates or enters new double taxation agreements, the presence of a territorial regime (if introduced) in Ireland should be considered.

Transitional Arrangements

Question 24

Do you foresee impacts in relation to the matters identified above or any other matters related to transitional arrangements?

It is our view that exemptions should be introduced with effect from 1 January 2023. This is on the basis that a territorial-based regime is the global standard and therefore businesses will welcome its introduction at the earliest possible opportunity.

Given that a territorial-based regime is applied in most member states in both the EU and OECD, companies operating globally should be well placed to readily adapt to any changes.

As mentioned above, consideration should be given to appropriate transitional measures in the case of carried forward losses relating to overseas branch activities and losses utilised in earlier periods which sheltered otherwise taxable Irish source profits.

Other Issues

Question 25

In your view, what other relevant considerations should be taken into account? You may wish to consider this question in the context of the recent OECD Inclusive Framework Two-Pillar agreement.

We do not have any further comments to make.

Yours faithfully,

Peter Vale

Chair, CCAB-I