



An Roinn Airgeadais  
Department of Finance

# Consultation on new Taxation Measures to apply to Outbound Payments

## Summary Document

Prepared by the Taxation Division,  
Department of Finance  
[www.gov.ie/finance](http://www.gov.ie/finance)

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# 1. Introduction

The Minister for Finance, Paschal Donohoe T.D. launched a public consultation seeking stakeholder views on the introduction of new Taxation Measures to apply to Outbound Payments on 5 November 2021. The Update to Ireland's Corporation Tax Roadmap, published in January 2021, set out a series of commitments designed to update and enhance Ireland's corporation tax rules.

The consultation delivered on the commitments contained in the Update to Ireland's Corporation Tax Roadmap.

The Commitments in the Update to Ireland's Corporation Tax Roadmap are;

- Commitment 6 - Consider additional defensive measures in respect of countries on the EU list of non-cooperative jurisdictions, and
- Commitment 7 - Consider broader actions that may be needed in respect of outbound payments.

These commitments build on the introduced enhancements to the Controlled Foreign Company (CFC) rule, applying to corporate taxpayers with a subsidiary in a jurisdiction included on the EU list of non-cooperative jurisdictions for tax matters. As indicated in the January 2021 Roadmap, the design of any such measures will need careful consideration.

Further to these commitments, Ireland's National Recovery and Resilience Plan also sets out a series of milestones that will be delivered to limit opportunities for aggressive tax planning.

One of these milestones was to conduct a public consultation during 2021, seeking stakeholders' views on aspects of these measures to prevent double non-taxation in relation to outbound payments, with a view to developing and introducing legislation.

## 2. Public Consultation Process

The public consultation commenced on the 5 November 2021 and the public and interested stakeholders were invited to submit their views on the issues detailed in the public consultation document on the Department of Finance website. The preferred method of communication was e-mail; however, postal submission would also be accepted.

The consultation period ran from 5 November 2021 to 20 December 2021.

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## 3. Stakeholder Submissions

In total, eight submissions from stakeholders were received by the Department of Finance. The submissions broadly came from accountancy and legal firms along with business-representative bodies.

Please see the list of submissions below.

- AmCham
- Arthur Cox
- Deloitte
- EY
- Irish Debt Securities Association
- Irish Institute of Taxation
- KPMG
- PWC

All submissions were published on the Department of Finance website on 11 February 2022. They can be accessed at this [link](#).

## 4. Summary of stakeholder feedback

Many submissions highlighted that Ireland should be cautious in taking unilateral action in this area. Stakeholders highlighted the many positive domestic and international tax reforms in this area in recent years such as the EU Anti-Tax Avoidance Directive, Interest Limitations Rules, and Anti-Hybrid Rules. These reforms were emphasised as was the need to take into account the anticipated impact of the OECD global tax agreement and Pillar two model rules on taxpayers.

A number of submissions also pointed to the need to avoid adding unnecessary complications to Ireland's domestic taxation system, with some submissions seeking a simplification of this area in Ireland's tax code.

A number of submissions commented that if additional defensive measures were to be enacted on outbound payments that they should only apply to countries on the EU list of non-cooperative jurisdictions, as this is an objectively verifiable list. There were a number of queries as to the operability of defining a no tax/zero tax jurisdiction and other implementation concerns, as well as different positions as to whether a withholding tax or denial of deduction would be a more appropriate measure.

### I. Outbound payments of interest

Regarding additional measures to be applied to the outbound payment of interest, stakeholder submissions pointed to current measures such as the EU Anti-Tax Avoidance Directive, Interest

Limitations Rules, and Anti-Hybrid Rules as sufficient and stated that time is required to assess their impact before making any additional measures.

## **II. Outbound payments of royalties**

Regarding additional measures to be applied to the outbound payment of royalties, stakeholder submissions pointed to existing measures such as Transfer Pricing Legislation, Anti-Hybrid Rules, as well as the need to take into account the impact of the OECD global tax agreement and Pillar two model rules before making any additional measures. If measures were to be enacted stakeholder submissions outlined that these should only be applied to non-cooperative jurisdictions, as this is an objectively verifiable list.

## **III. Outbound payments of dividends**

Regarding additional measures to be applied to the outbound payment of dividends, stakeholder submissions highlighted that dividends are not deductible for corporation tax purposes and are paid from after-tax profits. Therefore it should be considered that the existing tax regime does not facilitate double non-taxation and aggressive tax planning for dividend payments. Stakeholder submissions reasoned that no additional measures should be required.

## **5. Next Steps**

Officials in the Department of Finance are reviewing the valuable feedback from stakeholders. Work is underway with officials in Revenue and the Department of Finance in developing legislative proposals that will be included in Finance Bill 2023.



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