Rialtas na hÉireann
Government of Ireland

Ireland's Corporation Tax Roadmap

Incorporating implementation of the Anti-Tax Avoidance Directives and recommendations of the Coffey Review

September 2018

Prepared by the Department of Finance

Ireland's Corporation Tax Roadmap

Incorporating implementation of the Anti-Tax Avoidance Directives and recommendations of the Coffey Review

September 2018

Prepared by the Tax Policy Division,
Department of Finance,
Government Buildings,
Upper Merrion Street, Dublin 2,
D02 R583, Ireland
Website: www.finance.gov.ie

An Roinn Airgeadais
Department of Finance

Contents

Foreword by the Minister

I am delighted to publish this roadmap which marks another milestone in Ireland's ongoing work on corporate tax reform. It lays out the next steps in Ireland's implementation of the various commitments we have made through EU Directives, the OECD BEPS reports and the recommendations set out in the Coffey Review.

In this decade of centenaries it is perhaps fitting to note that the modern system of double taxation agreements between nations was an outcome of a process of examining issues of double taxation and tax evasion commenced by the League of Nations in 1920. This process was driven by the increasing globalisation of trade in the early twentieth century, giving rise to conflicts between national tax systems resulting in unrelieved double taxation and barriers to international trade.

Almost a century later, the work undertaken by the OECD's Base Erosion and Profit Shifting (BEPS) project, and the related Directives agreed at EU level, have again demonstrated that co-operative, multi-lateral agreements between nations are the most effective means to facilitate international trade and counteract cross-border tax evasion.

These agreements at political level are a powerful statement of intent, signalling that countries stand together to require a fair share of tax to be paid by multinational organisations operating within their borders. The huge body of work required to implement these agreements into national legislation cannot be understated. Implementing the Anti-Tax Avoidance Directives (ATADs) alone will result in a fundamental re-writing of large parts of our corporation tax code – introducing new Controlled Foreign Company rules, a new Exit Tax, complex anti-hybrid and anti-reverse-hybrid rules, a new interest limitation ratio, and a review of our existing general anti-avoidance rule.

Ireland is fully committed to this process, and to ensuring that our corporation tax code is in line with international best practices. It is for this reason that the Coffey review of Ireland's corporation tax code was commissioned and, following its publication in 2017, I launched a consultation on the implementation of the review's recommendations and the ATAD measures. This roadmap reflects on the submissions received and sets out the direction of travel for corporation tax reform over the coming years. It demonstrates my commitment to continuing the significant progress already made to strengthen Ireland's corporation tax system.

Ireland has been criticised for the way in which our tax system has been used by multinationals in their aggressive tax planning structures to exploit mismatches among various countries and gaps in the international tax framework. Much has been changing in the international tax system in recent years and this will continue as the process of BEPS implementation is completed, the ATADs are transposed by EU Member States and the effects of US tax reforms become evident. I believe that these changes, both globally and in the Irish tax code, should prevent such mismatches from arising into the future and significantly reduce the opportunities for companies to engage in aggressive tax planning.

While all countries take steps to bring their domestic rules in line with the BEPS recommendations, the international tax rules remain in flux with continued focus on the question of where profits are actually generated and therefore where corporate tax should be paid, particularly by highly-digitalised businesses with new models for revenue generation. There is widespread agreement that this is an issue which requires global consensus so that profits are recognised in the right place, and tax is paid in the right place, for all types of business models. This work will continue with the expectation that agreement can be reached by 2020.

Ireland is committed in its support for an international tax framework that is founded on a shared understanding of value creation and that is responsive to the changing ways in which business operates. We demonstrate this commitment through our engagement in international fora, our agreement of new rules and recommendations at the EU and OECD and through implementing changes in our own domestic system. This roadmap sets out what Ireland has already done, and is committed to doing over the coming years, to implement these global changes.

The confluence of the OECD BEPS outcomes and the most significant US Tax Reform in recent history is likely to lead to significant changes in the structure of multinationals over the next number of years. The programme of changes set out in this Roadmap will see Ireland remaining on a sustainable path for growth and investment in this rapidly-changing international tax environment. We will continue to participate in the necessary adaptation of the international tax system to reflect how present-day revenue systems can work effectively in the complex, integrated, globalised modern economy of which Ireland stands part. In all of this we will continue to foster economic activity in Ireland, the EU and beyond by adapting and evolving our corporate tax regime, while maintaining our key 12.5% rate, and ensuring that we continue to have a regime that is transparent, sustainable and legitimate.

Paschal Donohoe

Paschal Donohoe T.D.
Minister for Finance and Public Expenditure and Reform

The journey so far – international tax reform in recent years

The international corporation tax framework is going through a period of unprecedented change. It is important to consider the context for this change and where we are on this necessary journey towards a sustainable, internationally agreed framework that is fit for the modern world.

The current international tax approach that was established in the 1920s has formed the bedrock of how companies are taxed around the world. This framework has however been questioned in recent years as the business environment in which companies operate has become increasingly globalised and digitalised.

Reform was needed

The onset of the financial crisis led to a growing demand for global action on all forms of tax avoidance and evasion. Initial efforts focussed on the critical question of tax transparency and ensuring tax authorities have all relevant information to determine if tax liabilities exist. While a lot of work was already underway in this area, led by the OECD Global Forum on Tax Transparency and Exchange of Information, 2009 onwards saw significant further developments. The OECD Common Reporting Standard (CRS) and the US FATCA agreements saw the widespread implementation of automatic exchange of information between tax authorities. Ireland were an early adopter of CRS and in 2012 became the 4th country in the world to sign a FATCA agreement with the USA. The concept of automatic exchange of information has continued to expand to include exchange of country by country reports, tax rulings and disclosures in relation to potential aggressive tax planning.

Attention increasingly focussed on the ability of multinationals to engage in aggressive tax planning as international tax rules failed to keep pace with technological developments and new business models. As work on international tax reform began, Ireland took action and made changes to our tax residence rules in 2013 and 2014 to prevent Irish incorporated companies from being stateless for tax purposes and to shut down aggressive tax planning arrangements that relied on exploiting mismatches between national tax rules.

In September 2013 the leaders of the G20 endorsed the OECD Action Plan to address BEPS. In October 2015, following two years of work and the participation of more than 60 countries the OECD and G20 released 13 reports covering 15 actions to combat BEPS.

The 15 actions have three broad aims –

(i) **Prevent mismatches** - ensuring that the interaction of national rules does not lead to the double non-taxation of corporate income,

(ii) **Ensure tax is paid where value is created** - aligning the right to tax with corresponding economic substance, and

(iii) **Transparency** - ensuring greater transparency for tax authorities while promoting increased certainty and predictability for business.

The agreement of the BEPS reports represented a major landmark and provided clear directions of travel for countries around the world. The BEPS Inclusive Framework was established to oversee further work and monitor implementation of the BEPS reports. The Framework currently includes 116 countries from around the world.

From agreement to implementation

The first key deliverable following the agreement of the BEPS reports was the introduction of Country by Country Reporting (CbCR), which requires large multinational groups to provide an annual report to tax authorities on where their business activities are located and where taxes are paid. Ireland introduced CbCR in Finance Act 2015.

At EU level, Member States have worked together to agree legally binding instruments to introduce key BEPS actions in a consistent manner. Since the agreement of the BEPS reports, Ireland, together with our fellow EU Member States, has agreed 6 new Directives primarily related to implementing the BEPS recommendations:

- Anti-Tax-Avoidance Directive (ATAD)
- Second Anti-Tax-Avoidance Directive (ATAD2)
- Fourth Directive on Administrative Co-operation (DAC4)
- Fifth Directive on Administrative Co-operation (DAC5)
- Sixth Directive on Administrative Co-operation (DAC6)
- Dispute Resolution Mechanism Directive

At OECD level, countries continued to work together to agree the BEPS Multilateral Instrument to implement key BEPS recommendations relating to bilateral tax treaties. Ireland signed the Multilateral Instrument in June 2017 and took the first steps towards implementing the Instrument in Finance Act 2017. Further procedural steps have been taken in 2018 and will continue to be taken with a view to ensuring Ireland is in a position to ratify the Multilateral Instrument after Finance Bill 2018 is enacted.

The debate continues

In a very significant development, US tax reform was agreed at the end of 2017 which is likely to have a significant impact on the ability of US multinationals to engage in aggressive tax planning. Where a US multinational structures itself in a manner that results in it paying a single digit effective tax rate in relation to profits earned outside of the US, US tax will typically now be charged on those global profits in the year they are earned. This should significantly reduce the benefits for US multinationals of engaging in aggressive tax planning worldwide.

At international level, the debate on tax has shifted from targeting aggressive tax planning to examining where tax should be paid by highly digitalised and globalised business. The ongoing debate is focussed on value creation and trying to reach a shared understanding of where value is created. The publication of an interim report by the OECD Task Force on the Digital Economy earlier this year was an important step in this ongoing work. The European Commission subsequently published two draft Directives on digital taxation which are now being discussed between Member States.

Ireland remains committed to international tax reform. We continue to believe that any reforms must be built on the arms-length principle and a common understanding of where value is created. Reforms must be globally agreed and implemented in order to prevent the recurrence of mismatches between jurisdictions and to continue to develop new robust global standards that are sustainable in the long term.

Actions Ireland has taken on corporate tax

Ireland has taken significant actions on corporate tax over the last 5 years. The key actions that have been taken by Ireland are:

1. Changes were made to Ireland's **corporate tax residence rules** in Finance (No.2) Act 2013 to prevent Irish incorporated companies from being stateless for tax purposes and in Finance Act 2014 to shut down known structures (such as the so-called 'Double Irish') which were designed to exploit gaps in US anti-avoidance rules. Action was taken by Ireland in the absence of US tax reform. US tax reform has subsequently taken place in a manner which should prevent any similar structures from being 0effective in avoiding US tax.

2. Ireland has continuously made changes to ensure we are constantly up to date with best practice on **tax transparency and exchange of information.** Ireland is one of only 24 jurisdictions to have been found to be fully compliant with new international best practice by the Global Forum on Tax Transparency and Exchange of Information. Ireland was an early adopter of the OECD Common Reporting Standard on Exchange of Financial Account Information, and in 2012 Ireland became the 4th country in the world to sign a FATCA Agreement with the USA.

3. Ireland commissioned and published[1] a **Spillover Analysis,** carried out by the independent International Bureau of Fiscal Documentation (IBFD), to examine the impact of our corporation tax regime on developing countries.

4. Ireland introduced **Country by Country Reporting** in Finance Act 2015 and subsequently agreed a Directive (DAC4) to ensure a consistent approach on CbCR across the EU.

5. Ireland agreed and have fully implemented an EU Directive (DAC3) to provide for the automatic **exchange of information on advance cross-border tax rulings** and advance pricing arrangements among all Member States. Ireland is also fully compliant with the BEPS Action 5 requirements on exchange of this taxpayer information.

6. Ireland were among the group of countries to sign the **BEPS multilateral instrument** at the first possible opportunity. This will see the majority of Ireland's tax treaties updated to be BEPS compliant.

7. Ireland agreed two **Anti-Tax Avoidance Directives** (ATADs) with our fellow EU Member States in 2016 and 2017. The Anti-Tax Avoidance Directives represent binding commitments to implement 3 significant BEPS recommendations into Irish law as well as two additional anti-avoidance measures. This Roadmap sets out the planned implementation of the ATAD measures into Irish law, as per the agreed schedule.

[1] http://www.budget.gov.ie/Budgets/2016/Documents/IBFD_Irish_Spillover_Analysis_Report_pub.pdf

8. Ireland agreed an EU Directive **(DAC5**) to ensure access for tax administrations to **information about beneficial owners** of companies and other information held for anti-money laundering purposes. Ireland has made necessary tax Regulations to ensure Revenue can access and exchange information on beneficial ownership of companies. Further work is ongoing on implementing the relevant anti-money laundering Directives.

9. Ireland agreed an **EU Directive (DAC6)** to introduce a common mandatory reporting regime for tax advisers and companies where transactions are entered into that meet certain hallmarks. Ireland was one of only 3 EU Member States to already have a mandatory disclosure regime in place prior to the agreement of the Directive.

10. Ireland agreed the **Directive on Dispute Resolution Mechanisms** to extend the availability of arbitration when two Member States disagree on how, and where, a taxpayer should be taxed.

11. Ireland agreed the first ever **EU list of non-cooperative tax jurisdictions** with our fellow EU Member States. The list has been extremely successful in encouraging third countries to commit to implementing international tax best practices.

12. Ireland commissioned an independent expert, Mr. Seamus Coffey, to carry out a thorough **review of our Corporation Tax Code** and to make recommendations for any reforms that may be needed. This review was published in September 2017[2] and work commenced on implementing the review's recommendations in Finance Act 2017.

[2] https://www.finance.gov.ie/wp-content/uploads/2017/09/170912-Review-of-Irelands-Corporation-Tax-Code.pdf

EU Anti-Tax Avoidance Directives

Following the publication of the BEPS reports in October 2015, a decision was taken at EU level to introduce the Anti-Tax Avoidance Directive (ATAD) as part of a package of measures aimed at ensuring a common and co-ordinated approach across EU Member States to the introduction of BEPS anti-avoidance measures.

The first ATAD, presented in January 2016 and agreed by all Member States in July 2016, provided for five separate anti-avoidance measures to be transposed on an agreed schedule between 2018 and 2023. It includes three measures for which a BEPS Common Approach was agreed (interest limitation, controlled foreign company rules and hybrid mismatch rules) and two further measures (exit tax and a general anti-abuse rule). The five measures and the implementation timelines are set out below:

ATAD 1 Article	ATAD 1 Provision	Implementation Deadline
4	Interest limitation rule	1 January 2019 or, where national targeted rules for preventing BEPS are equally effective, the end of the first full fiscal year following agreement between the OECD members on a minimum standard with regard to BEPS Action 4, but at the latest until 1 January 2024.
5	Exit Tax	1 January 2020
6	General anti-abuse rule (GAAR)	1 January 2019
7 & 8	Controlled Foreign Company (CFC) rules	1 January 2019
9	Hybrid Mismatches	Subsequently amended in ATAD 2

Immediately following the agreement of ATAD 1, work commenced on extending the anti-hybrid provisions to mismatches involving third countries in addition to mismatches that arise in the interaction between the corporate tax systems of EU Member States.

A Directive to amend the ATAD, referred to as ATAD 2, was adopted in May 2017. It expands the territorial scope of the ATAD to third countries, and also to address hybrid permanent establishment mismatches, hybrid transfers, imported mismatches, reverse hybrid mismatches and dual resident mismatches. As a result, the implementation date for the revised Article 9 (hybrid mismatches) was extended to 1 January 2020 and an implementation date of 1 January 2022 was agreed for the reverse hybrid provisions contained in the new Article 9a.

ATAD 1 Article Amended	ATAD 2 Provision	Implementation Deadline
9	Hybrid mismatches	1 January 2020
9a	Reverse hybrid mismatches	1 January 2022

The Coffey Review (described in the next chapter) considered matters relating to the implementation of ATAD in addition to a more wide-ranging review of Ireland's corporate tax code. A short summary of the ATAD anti-avoidance measures is therefore provided below and further commentary, including reference to existing Irish legislation and recommendations of the Coffey report where relevant, is contained in the chapter entitled Next Steps: Implementing ATAD and the Coffey Recommendations.

ATAD Interest Limitation

Following from the Common Approach agreed in BEPS Action 4, ATAD requires Member States to introduce a new interest limitation ratio, designed to limit the ability to deduct borrowing costs when calculating taxable profits. It is intended to prevent the use of excessive leveraging and interest payments, which have been identified as means by which base erosion and profit shifting by multi-national enterprises can occur.

The ATAD interest limitation rule operates by limiting the allowable tax deduction for 'exceeding borrowing costs' (in broad terms, net interest costs) in a tax period to 30% of Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA).

The general implementation date for the ATAD interest limitation rule is 1 January 2019, but a derogation is provided in Article 11 such that Member States having national targeted rules which are equally as effective at preventing BEPS risks as the ATAD interest limitation ratio may defer implementation until agreement on a minimum standard for BEPS Action 4 is reached at OECD level, but no later than 1 January 2024.

ATAD Exit Tax

Discussions at EU level on anti-tax avoidance measures were not limited to the BEPS reports and expanded to include the introduction of an exit tax in all Member States. The ATAD Exit Tax regime is designed to ensure that, where a taxpayer moves assets or migrates its tax residence out of a State, the State taxes the value of any latent capital gain accrued during the period of residence in the State, even though the gain has not yet been realised at the time of exit.

Specifically, the ATAD exit tax regime seeks to tax unrealised capital gains where a taxpayer transfers its residence, transfers assets from its head office to a permanent establishment (or vice versa) in another territory, or transfers the business carried on by a permanent establishment to another territory, to the extent that the country from which the assets or business are transferred loses the right to tax the transferred assets or business following the transfer.

Member States must introduce the ATAD exit tax, or bring existing exit taxes into alignment with the ATAD exit tax where relevant, no later than 1 January 2020.

ATAD General Anti-Abuse Rule

Article 6 of ATAD requires Member States to introduce a General Anti-Abuse Rule (GAAR) to tackle abusive tax practices that are not captured by targeted anti-abuse rules. It will require Member States to ignore arrangements which are not genuine (meaning that they are not put into place for valid commercial reasons that reflect economic reality) and have been put in place with a main purpose of obtaining a tax advantage that defeats the object or purpose of tax law.

Member States must introduce the ATAD GAAR, or bring existing national GAARs into alignment with the ATAD where relevant, by 1 January 2019.

ATAD Controlled Foreign Company Rules

Controlled Foreign Company (CFC) rules are an anti-abuse measure, designed to prevent the diversion of profits to offshore entities in low- or no-tax jurisdictions. They operate by attributing certain undistributed income of low- or no-tax subsidiaries (the CFCs) to the controlling parent company for immediate taxation. CFC rules are more usually associated with tax regimes with higher tax rates and/or participation exemptions for foreign income – just over half of EU Member States had CFC rules pre-ATAD.

In broad terms, an entity will be considered a CFC under ATAD rules where it is subject to more than 50% control by a parent company and its associated enterprises and the tax paid on its profits is less than half the tax that would have been paid had the income been subject to tax in the jurisdiction where the parent company is tax resident.

ATAD allows Member States to develop CFC rules to target entire low-taxed subsidiaries, specific categories of income, or income which has artificially been diverted to the subsidiary. Member States may choose one of two options to determine whether the income of a CFC should be attributed to a parent company:

A. Option A attributes undistributed income arising from certain categories of primarily passive income of a CFC to the parent company.
B. Option B attributes undistributed income arising from non-genuine arrangements put in place for the essential purpose of obtaining a tax advantage. It requires an analysis of the extent to which the CFC would own the assets or assume the risks it does if it were not for the parent company undertaking the significant people functions relevant to those assets and risks.

Member States must introduce CFC rules, or bring existing national CFC rules into alignment with the ATAD where relevant, by 1 January 2019.

ATAD Hybrid Mismatches and Reverse Hybrid Mismatches

The first ATAD directive originally required the introduction of anti-hybrid rules by 1 January 2019. However the hybrid provisions in the original ATAD Article 9 were simplistic and referred only to mismatches within the EU.

Specifically, a 'hybrid mismatch' was defined as a situation between a taxpayer in one Member State and an associated enterprise in another Member State, or a structured arrangement between parties in Member States, where as a result of differences in the legal characterisation of a financial instrument or entity:

- a deduction of the same payment, expense or loss both in the source Member State and in another Member State ('double deduction'); or
- a deduction of a payment in a source Member State without a corresponding inclusion for tax purposes of the same payment in the other Member State ('deduction without inclusion').

When ATAD 1 was adopted by the Council of the European Union in July 2016, a request was put forward for a proposal to address hybrid mismatches involving third countries as well as EU countries, in order to provide for rules consistent with the recommendations of the BEPS Action 2 report.

ATAD 2 was adopted in May 2017, and it both extends the anti-hybrid provisions to include mismatches involving third countries and expands the definition of hybrid mismatches to include hybrid Permanent Establishment mismatches, hybrid transfers, imported mismatches, reverse hybrid mismatches and dual resident mismatches.

As a result of this extension of scope the implementation deadline for the anti-hybrid rules was extended to 1 January 2020, with the exception of the anti-reverse hybrid rules which must be implemented by 1 January 2022. The anti-hybrid and anti-reverse hybrid provisions are extremely complex and it is anticipated that a significant level of stakeholder consultation will be required in the implementation process.

2017 Review of Ireland's Corporation Tax Code

In addition to contributing to the agreement of new international standards for global tax reform, Ireland has also been pro-active in taking steps at domestic level to ensure that our corporate tax regime remains competitive and continues to contribute to employment and economic growth, while also meeting the newly-agreed international tax standards.

The value of a stable and consistent approach to corporation tax policy, both for the business community and for the Exchequer, has long been recognised. The cornerstone of this policy is the long-term and continuing commitment to the 12.5% corporation tax rate, but it is also complemented by an open and consultative approach to policy making. In recent years this has included the following actions, consultations and publications in relation to Ireland's corporation tax policy:

Year	Action
2013	• Publication of Ireland's International Tax Strategy
2014	• Undertaking and publication of an Economic Impact Assessment of Ireland's Corporation Tax Policy, including a public consultation on the OECD BEPS Action Plan • Publication of a Road Map for Ireland's Tax Competitiveness, informed by the outcomes of the economic impact assessment
2015	• Publication of an Update on Ireland's International Tax Strategy
2016	• Publication of an Update on Ireland's International Tax Strategy • Commissioning of a review of the corporation tax code
2017	• Publication of a Review of Ireland's Corporation Tax Code (the Coffey Review), including input from public consultation • Publication of an update on Ireland's International Tax Strategy and consultation on implementation of the ATADs and the recommendations of the Coffey Review

The independent review of Ireland's corporation tax code noted in the table above was designed to complement the work being done at the OECD and EU level to establish new international tax standards. On Budget Day (11 October 2016), then Minister Michael Noonan T.D. published the terms of reference of the review (contained overleaf) and announced the appointment of Mr Seamus Coffey as the independent expert.

In facilitating this review, the Department of Finance conducted a public consultation seeking the views of the public and interested parties on the matters identified by the terms of reference of the review. The consultation ran from 21 February to 4 April 2017 and 16 submissions were received from a range of stakeholders, which were used by Mr Coffey to better inform his review.

Review of Ireland's Corporation Tax Code
Terms of Reference

The terms of reference provided for the following matters:

- achieving the highest international standards in tax transparency, including in the automatic exchange of information on tax rulings with other relevant jurisdictions, having regard to benefits which may accrue to developing countries from enhancing global tax transparency;
- ensuring that the corporation tax code does not provide preferential treatment to any taxpayer;
- further implementing Ireland's commitments under the OECD BEPS project to tackle harmful tax competition and aggressive tax planning;
- delivering tax certainty for business and maintaining the competitiveness of Ireland's corporation tax offering;
- maintaining the 12.5% rate of corporation tax; and,
- the role and sustainability of corporation tax receipts.

Completion of the Report

Mr Coffey delivered his review to the Minister for Finance and for Public Expenditure and Reform, Paschal Donohoe T.D., on 30 June 2017. The Review makes 18 recommendations under the terms of reference.

In the review, Mr Coffey noted that a number of the recommendations are very technical and complex and will require further consultation. The Minister agreed with this approach as it provides all stakeholders with an opportunity to provide input and better inform policy decisions.

The key recommendations focus on the following matters:

- The Review states that the level-shift in corporation tax receipts seen since 2015 can be expected to be sustainable over the medium term to 2020.
- The Review notes that Ireland meets the highest standards of tax transparency and recommends that Ireland should continue its work and commitment in this area, including in relation to the EU Directive on mandatory disclosure rules.
- The Review recommends that Ireland should update and extend the scope its transfer pricing legislation in line with commitments under the OECD BEPS project. However, noting the complexities of transfer pricing, the Review recommends that further consultation be taken in these areas with a view to improving tax certainty.
- The Review recommends that consideration should be given to Ireland moving from a worldwide tax system to one that is territorial.
- The Review recommends that all new measures should be assessed to ensure they meet OECD and EU standards regarding preferential regimes.
- In order to ensure some smoothing of corporation tax revenues, the Review recommends a reintroduction of the cap on capital allowances for intangible assets.

The Review states that most of the recommendations will require further consultation but that they should be implemented by the end of 2020.

Detailed Recommendations of the Coffey Review of Ireland's Corporation Tax Code	
	Ensuring the corporation tax code does not provide preferential treatment to any taxpayer
1	Any proposed measures should be carefully scrutinised to ensure they do not constitute: (i) a potentially harmful preferential tax regime, as identified by the OECD Forum on Harmful Tax Practices, or (ii) a potentially harmful tax regime, as identified by the EU Code of Conduct for Business Taxation.
	Enhancing Tax Transparency
2	Take account of the recommendations of the peer review being undertaken by the Global Forum on Transparency & Exchange of Information for Tax Purposes.
3	Continued commitment to support proposals for a Directive providing for mandatory disclosure rules in line with the BEPS Action 12 Report recommendations.
4	Passage of the Taxation and Certain Other Matters (International Mutual Assistance) Bill through Oireachtas should be facilitated.
	• Following the enactment of the Taxation and Certain Other Matters Bill, Ireland should withdraw its reservations on Sections II & III of the Convention on Mutual Administrative Assistance in Tax Matters (those sections encompassing the recovery of tax and service of documents). • However, the reservation on Article 12, which allows one state to request another state take measures of conservancy, for example through the seizure of assets of a taxpayer before final judgement is given, should be retained.
	Further implementing Ireland's commitments under the OECD/G20 BEPS reports
5	Recommendations 6, 7, 8, 9, 10 and 12 are made in concert with Recommendation 15, which suggests that further consultation should be undertaken on certain matters with a view to improving tax certainty.
6	Ireland should provide for the application of the OECD 2017 Transfer Pricing Guidelines incorporating BEPS Actions 8, 9 and 10 in Irish legislation.
7	Domestic transfer pricing legislation should be applied to arrangements, the terms of which were agreed, before 1 July 2010.
8	Consideration should be given to extending transfer pricing rules to SMEs, having regard to whether the administrative burden imposed would be proportional to the risks of transfer mispricing occurring.
9	• Consideration should be given to extending domestic transfer pricing rules to non-trading income. There is a strong rationale to do so where it would reduce the risk of aggressive tax planning. • Consideration should also be given to extending transfer pricing rules to capital transactions, having regard to whether such an extension would improve the existing provisions which already apply arm's length values to companies' transactions relevant to chargeable gains and capital allowances.
10	There should be a specific obligation on Irish taxpayers who are subject to domestic transfer pricing legislation to have available the transfer pricing documentation outlined in Annex I and II of Chapter V of the 2016 OECD Transfer Pricing Guidelines to ensure implementation of BEPS Action 13.

11	If it is decided to implement any or all of Recommendations 6, 7, 8, 9 and 10, this should take place no later than end 2020, which is the year to which the OECD and G20 have agreed to extend their co-operation on BEPS to complete the current work.
12	In transposing the ATAD, Ireland should have regard to the recommendations of Reports on BEPS Actions 2, 3 and 4.
	Delivering tax certainty and maintaining competitiveness
13	• In the context of the introduction of CFC rules, consideration should be given to whether it is appropriate to move from a worldwide corporate tax system to a territorial corporate tax system. • In doing so, considerations should include the potential requirement for additional anti-avoidance measures; and striking a balance between reduced compliance burden for Irish-resident outbound investors through an exemption of foreign income, the prospective increase in compliance burden necessitated by the introduction of any additional anti-avoidance measures required, and any potential revenue impact.
14	Alternatively, a review should be undertaken of Schedule 24 of the Taxes Consolidation Act (TCA) 1997 with a view to effecting a policy and revenue neutral simplification of the computation of the foreign tax credit for all forms of foreign income. This would achieve the competitiveness advantages associated with moving to a territorial CIT base, whilst avoiding the introduction of additional complexity to the corporation tax code by new anti-avoidance measures.
15	To reduce uncertainty and ensure that Ireland protects its corporation tax base, Ireland should ensure an adequately resourced Competent Authority.
16	A key element of reducing uncertainty in tax matters is pro-active consultation regarding proposed measures. In particular, it is recommended that consultation be carried out on: i. the implementation of the ATAD, to better understand the effect of the proposed technical changes to the Irish corporation tax code; ii. the implementation of Actions 8, 9 and 10 of the OECD/G20 BEPS initiative; iii. additional considerations regarding Ireland's domestic transfer pricing rules; and, iv. the effects of moving to a territorial corporation tax base and of reviewing Schedule 24 of TCA 1997.
	The role and sustainability of corporation tax receipts
17	Although it is impossible to be definitive and the volatility in receipts will remain, the level-shift increase in Corporation Tax receipts seen in 2015 can be expected to be sustainable over the medium term to 2020.
18	In order to ensure some smoothing of corporation tax revenues over time, it is recommended that the limitation on the quantum of relevant income against which capital allowances for intangible assets and any related interest expense may be deducted in a tax year be reduced to 80%.

Consultation on Coffey Recommendations & ATAD Implementation

Following the publication of the Review of Ireland's Corporation Tax Code, and in line with the approach suggested by Mr Coffey, the Minister for Finance and Public Expenditure & Reform launched a public consultation in early 2017 on certain recommendations of the Coffey Review and on the implementation of the ATADs (the Coffey/ATAD consultation).

This consultation process asked for feedback on nine specific questions relating to recommendations of the review, broadly focused on the following matters:

- The implementation of the ATADs
- The implementation of Actions 8, 9 and 10 of the OECD BEPS Package relating to Transfer Pricing
- Additional considerations regarding Ireland's domestic Transfer Pricing rules
- The effects of moving to a territorial corporation tax base and of reviewing Schedule 24 of the Taxes Consolidation Act 1997 to effect a policy and revenue neutral simplification of the computation of the foreign tax credit

The Department of Finance received a broad range of submissions, by and large detailed technical submissions focused on the questions asked in the consultation. In total, twenty two submissions were received from a range of stakeholders by the end of the consultation process in January.

Submissions Received	
1.	American Chamber of Commerce Ireland
2.	Arthur Cox
3.	ATTAC Ireland
4.	BDO
5.	Chartered Accountants Ireland
6.	Deloitte
7.	EY
8.	Fianna Fáil
9.	Grant Thornton
10.	Green Party
11.	IBEC
12.	IDSA
13.	Irish Funds Group
14.	Irish Tax Institute
15.	KPMG
16.	Matheson
17.	Minister for Business, Enterprise and Innovation, Ms. Heather Humphries T.D.
18.	Ms. Katherine Zappone T.D. (responding as an independent public representative and a member of Dáil Éireann)
19.	Oxfam Ireland
20.	PWC
21.	Shire
22.	Social Justice Ireland

Stakeholder Responses to Consultation

A short summary of the main views expressed by stakeholders in response to each of the consultation questions are noted below. The submissions received will be published in full on the Department's website.

Question 1:
Article 6 of ATAD requires the transposition of a General Anti-Abuse Rule (GAAR) by 1 January 2019. As Ireland already has a robust GAAR, what changes, if any, are needed to ensure this meets the minimum standard required by the Directive?

The ATAD GAAR targets arrangements which have a main purpose of obtaining a tax advantage and which are not genuine, meaning that they are not put into place for valid commercial reasons that reflect economic reality.

Over half of the submissions received addressed this question. The responses indicated a view that Irish GAAR is in line with or exceeds the ATAD requirements, with some stakeholders indicating that there should be a move to further align Irish GAAR with GAAR outlined under the Directive. It was not expected that any significant amendments to the Irish GAAR would be required in advance of the 1 January 2019 transposition deadline.

Question 2:
Article 7 of ATAD requires Member States to implement Controlled Foreign Company (CFC) rules by 1 January 2019. What are the key considerations regarding the implementation of CFC rules? In terms of the options for CFC legislation set out in Article 7, what are the key factors in determining the preferred approach for Ireland?

The majority of the submissions received indicated a preference, on balance, for the Option B approach, which would attribute income arising from non-genuine arrangements put in place for the essential purpose of obtaining a tax advantage to the parent company.

Several submissions expressed a preference for Ireland to transpose both Options A and B and allow businesses to individually elect which regime to use, or proposed that a hybrid approach be used incorporating elements of both Options A and B. However it is understood that the European Commission are of the opinion that the election between A and B must be made at country level, with only one option being provided for in legislation.

There was general consensus in the submissions received that Option B, which focusses on bringing income artificially diverted from Ireland to a low-tax jurisdiction back into the charge to Irish tax, is more consistent with Ireland's tax system as a whole, and is a proportionate approach to addressing BEPS risks.

The similarity of Option B to the CFC rules in place in the UK, a major trading partner, was also noted as beneficial, along with the link to determining profits based on the internationally recognised and understood arm's length principle.

Some concerns were expressed in respect of Irish headquarter companies about the lack of an explicit 'substantive economic activity' carve-out in Option B, as some level of people functions relevant to a subsidiary's activities is likely to occur in a headquarter location. However the text of Option B expressly targets "non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage", which should in practice carve out genuine activities in a subsidiary company established for valid business purposes.

Only one submission, from a Non-Governmental Organisation (NGO), favoured an Option A only approach, on the basis that this focuses on targeting worldwide profit shifting rather than on income shifted out of the territory of the parent company.

Submissions also noted the requirement for the provision to be transposed in a manner that respects the EU Freedoms and is in line with existing European case law on CFC rules.

Question 3:
Article 5 of ATAD requires Ireland to have an exit tax in four particular circumstances by 1 January 2020. Ireland currently has an exit tax which will be replaced by the ATAD exit tax. What are the key considerations in transposing Article 5?

Submissions were largely supportive of the ATAD exit tax and focussed mainly on the issue of the tax rate to apply. As the tax will apply to unrealised gains, most submissions expressed a view that the 12.5% rate of tax should apply in respect of assets in use for the purpose of a trade liable to tax at 12.5%.

The submissions also noted a number of technical points which will require consideration, including:

- The need to establish clear guidelines for valuing assets for the purposes of the tax.
- Determining the base cost for assets subject to the exit tax – rebasing of 'imported' assets, and whether all existing assets would rebase on the introduction of the new tax.
- How the tax will interact with existing legislative provisions including the capital gains tax participation exemption.

Question 4:

Article 9 of ATAD originally set out concise anti-hybrid rules applicable to intra-EU payments. In February 2017, the ECOFIN Council agreed an amendment to ATAD, ATAD 2, which extended the hybrid mismatch rules to third countries. ATAD 2 delays the implementation date for the introduction of any anti-hybrid rules to 1 January 2020 and allows a longer period, until 1 January 2022, to implement the elements of the rules which target so-called 'reverse hybrids', a type of hybrid entity that is treated as transparent for tax purposes in the payor jurisdiction and a taxable entity in the payee jurisdiction. What are the key considerations regarding the implementation of the hybrid mismatch rules?

Many of the submissions noted that the introduction of anti-hybrid and anti-reverse hybrid rules will be particularly complex. It was also suggested that Ireland should be cognisant of, and learn from, the difficulties that other jurisdictions have encountered when introducing anti-hybrid legislation.

In view of the complexity of the measures, it was noted that clear statutory language and definitions in both the legislation and accompanying guidance notes could assist in reducing uncertainty. Considerations raised in the submissions included that the new anti-hybrid rule should only apply to transactions which flow from a truly hybrid entity or hybrid financial instrument while at all times respecting the jurisdiction of the payee's tax code.

Certain stakeholders called for further consultation later in the year, when the design of the Irish CFC regime had been determined and the impact of US tax reform measures is better understood. Many submissions proposed that draft legislation should be published early, up to a year ahead of the implementation date, and that the Department of Finance should engage in ongoing consultation throughout the process.

Question 5 & Question 6:

Following their adoption by the OECD Council in June 2016, the 2017 OECD Transfer Pricing Guidelines are now the appropriate reference point for transfer pricing rules. Recommendation 6 of the Review of Ireland's Corporation Tax Code states that "Ireland should provide for the application of the OECD 2017 Transfer Pricing Guidelines incorporating BEPS Actions 8, 9 and 10 in Irish legislation." When incorporating the OECD 2017 Transfer Pricing Guidelines, what are the key considerations?

The Coffey Review recommends that "domestic transfer pricing legislation should be applied to arrangements the terms of which were agreed before 1 July 2010." What are the key considerations regarding the implementation of this recommendation?

Most submissions that addressed this question were broadly supportive of adoption of the new guidelines. However many noted the complexity and administrative burden for businesses, particularly SMEs. The importance of early notice of Transfer Pricing (TP) changes to enable businesses to comply with new rules from the effective date, and the importance of consultation with businesses to ensure common understanding of new requirements, was clearly stated.

Some submissions proposed grandfathering of prior arrangements, so that past transactions would not be treated according to the 2017 guidelines. In support of this proposal, it was highlighted that existing TP rules, which are based on the 2010 OECD TP guidelines, do not apply to transactions the terms of which were agreed before July 2010.

Other submission proposed retention of existing provisions for the grandfathering of transactions under arrangements agreed before the introduction of the 2010 Guidelines. Some stakeholders identified a belief that the rules should be introduced no sooner than

2020, to allow businesses the necessary time to review transactions and prepare for compliance requirements.

Other points noted for consideration were:

- The need for advance information on implementation of any changes to allow businesses time to prepare for compliance with new requirements.
- Ireland should not seek to change its current approach to TP of financing transactions until there is international consensus.
- Use of the authorised OECD method of attribution of profits to branches in the case of Irish branches of non-tax treaty resident entities and foreign branches of Irish residents that are not located in tax treaty jurisdictions.
- Concerns about the application of TP rules to non-trading income, given the different corporate tax rates for trading (12.5%) and non-trading income (25%).

Question 7:

The Coffey Review recommends that "consideration should be given to extending transfer pricing rules to SMEs, having regard to whether the concomitant imposition of the administrative burden associated with keeping transfer pricing documentation on SMEs would be proportional to the risks of transfer mispricing occurring." If Ireland is to introduce transfer pricing rules for small and medium sized enterprises (SMEs) what are the key considerations? Should all enterprises be subject to transfer pricing rules or should the scope of the rules exclude entities below a certain threshold? If Ireland introduces transfer pricing rules for SMEs what would be the appropriate documentation requirements?

A substantial number of responses expressed a view that TP rules should not be extended to SMEs, suggesting that this would impose a disproportionate burden in view of the lower BEPS risk in SME companies. In this context some stakeholders identified that other EU countries provide exemptions for SMEs.

The broad consensus from the stakeholders was that, should TP rules be extended to SMEs, de minimis thresholds should apply to minimise administrative burden and compliance costs. Some other stakeholders proposed that a simplified regime and/or less onerous documentation requirements should be applied to SMEs.

Question 8:

The Coffey Review recommends that "consideration should be given to extending domestic transfer pricing rules to non-trading income. There is a strong rationale to extend domestic transfer pricing rules to non-trading income where it would reduce the risk of aggressive tax planning. Consideration should also be given to extending transfer pricing rules to capital transactions, having regard to whether such an extension would improve the existing provisions which already apply arm's length values to companies' transactions relevant to

chargeable gains and capital allowances." In relation to the extension of transfer pricing rules to non-trading income, what are the key considerations of this proposal?

There were differing viewpoints on the application of domestic TP rules to non-trading income. Some stakeholders identified that TP rules should apply to non-trading income so as further restrict aggressive tax planning. Other stakeholders argued that this would have the potential to lead to double taxation and negatively impact on intra-group lending. Some stakeholders argued that the abolition of the 25% non-trading rate should be examined in the context of applying the standard 12.5% rate to non-trading income.

With regard to capital transactions, some stakeholders identified that the application of TP rules to capital transactions may restrict aggressive tax planning. Others noted that existing domestic law provisions already apply pricing requirements to capital transactions that have the same or very similar effect as arm's length TP rules and therefore introducing TP rules in this context would place an unnecessary additional burden on taxpayers.

Question 9:

The Coffey Review recommends that "there should be a specific obligation on Irish taxpayers who are subject to domestic transfer pricing legislation to have available the transfer pricing documentation outlined in Annex I and II of Chapter V of the OECD 2017 Transfer Pricing Guidelines to ensure implementation of BEPS Action 13." Since May 2016, Annex I and II of Chapter V of the OECD Transfer Pricing Guidelines contain a list of the information which should be included on the master file and local file respectively. When providing for Annex I and II what will be the effects for business?

Options proposed by stakeholders for consideration included the following:

- Ireland should adopt OECD's set of common criteria in Annex I & II of the Master and Local Files guidance, as the standard for TP documentation.
- Revenue's threshold for Master File (MF) requirements in Ireland should be the same as used for Country by Country Reporting (CbCR). Local File (LF) requirements in Ireland could consider a 'Country File' as a simplification measure and have de minimis thresholds for materiality purposes. The timing for TP documentation should remain in line with current practice; being available when the Irish corporation tax return is due. Revenue guidance, consulted on well in advance, is essential.
- The filing of MF & LF should be upon written request by Revenue rather than imposed as a mandatory filing requirement. MF & LF should only be updated to the extent there is a material change in the functional and risk profile of the parties to a transaction. Benchmarking updates should only be required every 3 years, not annually.
- Continue allowance for counterparty documentation to satisfy requirements under Part 35A TCA 1997 to reduce additional cost and compliance burdens.
- As the OECD recommends reduced documentation requirements as compared to larger enterprises, to continue the current position of SMEs under Irish TP rules or at least reduce the compliance burden for SMEs relative to large companies.

Question 10:

With the introduction of CFC rules under Article 7 of ATAD, the Coffey Review recommends that "consideration should be given to whether it is appropriate to move to a territorial corporation tax base in respect of the income of the foreign branches of Irish-resident companies and, in respect of connected companies, the payment of foreign-source dividends." Would moving to a territorial corporation tax base be a positive development for Ireland? What would be the effects for Ireland of such a move?

To what extent does Ireland's ultimate choice of how CFC rules are implemented under Article 7 of ATAD impact on the question of moving to a territorial corporation tax base?

The Coffey review recommends that should Ireland not move to a territorial corporation tax base, Schedule 24 should be simplified on a policy and tax neutral basis. Could such a simplification be an appropriate alternative to a territorial corporation tax base, particularly in the context of specific CFC implementation choices? How might such simplification be achieved?

Responses to this question linked the change from a worldwide tax system to a territorial tax system to the scheduled introduction of CFC rules from 1 January 2019 – responses to past calls from stakeholders to introduce a participation exemption as part of a more territorial tax regime always noted that such an exemption would require an accompanying set of CFC rules.

In general, there was support for moving to a territorial based tax system among stakeholders. Among the reasons provided is that the move would create certainty with regard to the taxation of foreign branch profits and foreign dividends, and that it would reduce the administrative burden currently experienced by businesses in relation to the foreign tax credit regime.

While a few stakeholders identified concerns such a move should not be made lightly and that it might increase the compliance burden on business, this viewpoint was not widely held.

Many stakeholders held the view that moving to a territorial system would make Ireland a more competitive holding company location, without significantly impacting on the exchequer. They also noted that a territorial regime is more easily administered and understood.

Submissions noted that a territorial regime should offer an exemption for profits arising from genuine activity of a foreign branch, while excluding regimes not meeting agreed international tax standards.

Next Steps: ATAD Implementation and Coffey Recommendations

The process of translating the political agreements reached via the BEPS reports and EU Directives into domestic law is already well under way. These multi-lateral agreements, together with actions at national level following from the independent review of Ireland's corporate tax regime, will result in a full calendar of legislation and consultation over the coming 2 to 3 years.

The success of international tax reform will rest on the ability of countries to translate the newly-agreed standards into clear and unambiguous rules that facilitate globalised trade while ensuring that taxes are paid where value is created. The importance of engaging with businesses to ensure that new measures are fully understood, are operable in practice, and are introduced with sufficient lead-in time to comply with new requirements is recognised. This section therefore summarises the intended next steps in the process of corporate tax reform.

Interest Limitation Rule (BEPS A.4, ATAD A.4, Coffey R.12)

Ireland's existing interest limitation rules are different in structure to the ATAD rule. A tax deduction for interest is only available where the relevant borrowings are used for certain limited qualifying purposes. The strict qualification criteria are supplemented by extensive anti-avoidance provisions relating to connected party transactions. It is our opinion, supported by case study data, that Ireland's existing interest limitation rules are at least equally effective to the rules contained in the Directive, and a notification in this regard has been filed with the European Commission.

Initial responses from the Commission to affected Member States indicate that a stringent, ratio-based, approach is being taken to assessing whether national targeted rules are 'equally effective' to the ATAD Article 4 provision. As the Irish targeted national rules are structurally different to the ATAD EBITDA ratio rule, and related reporting requirements are designed to capture data relevant to our existing regime as opposed to an EBITDA ratio assessment, it is unclear as yet if agreement will be secured in relation to the derogation.

Next Steps Action

Ireland will introduce an ATAD-compliant interest limitation rule. The timing of that legislation will be determined following further engagement with the European Commission.

Ireland remains of the view that our national targeted rules for preventing BEPS risks are equally effective to the interest limitation rule set out in Article 4 of the Directive and will continue to engage with the European Commission in this regard. However work has also commenced to examine options to bring forward the process of transposition from the original planned deadline of end-2023. In view of the complexity of our existing interest limitation rules, it is anticipated that transposition could potentially advance, at the earliest, to Finance Bill 2019.

A public consultation is planned for Q3 2018 to seek views on the inter-linked issues of the ATAD anti-hybrid and interest limitation rules.

Exit Tax (ATAD A.5, Coffey R.12)

The ATAD Exit Tax regime is designed to ensure that, where a taxpayer moves assets or migrates its tax residence out of a State, the State taxes the value of any latent capital gain accrued during the period of residence in the State, even though the capital gain has not yet been realised at the time of exit and the company may have no plans to dispose of the asset(s).

Ireland currently has a limited Exit Tax regime which was introduced in 1997 as an anti-avoidance measure. It was introduced following the identification of a number of transactions whereby an Irish company migrated its residence to avoid a charge to tax on a planned disposal of assets and subsequently migrated its residence back into the State. The intention of the current regime was to influence behaviour, rather than to serve as a tax raising measure. The ATAD exit tax is significantly broader in scope and will impose a tax charge on all unrealised gains of migrating companies, irrespective of any future intentions as to the disposal of the asset(s) and/or a future return to the State.

Next Steps Action

Legislation will be introduced to replace the current provisions with an ATAD-compliant exit tax, to take effect no later than 1 January 2020.

General Anti-Abuse Rule (ATAD A.6)

Ireland already has a robust GAAR, dating back to 1989, currently contained in section 811C of the Taxes Consolidation Act, 1997. Following review of these provisions it is considered that no amendments will be required for compliance with the ATAD provision.

Next Steps Action

No further action is required at this time.

Controlled Foreign Company Rules (BEPS A.3, ATAD A.7 & 8)

Controlled Foreign Company (CFC) rules are an anti-abuse measure, designed to limit the artificial deferral of tax through the use of low-tax offshore entities. CFC rules are often a feature of tax regimes with territorial elements, such as participation exemptions. General CFC rules do not currently exist in Irish law, therefore work is under way to introduce the required legislation in Finance Bill 2018.

Following consideration of the Coffey/ATAD consultation submissions received, it has been decided that Ireland will elect for the Option B approach when introducing CFC rules in Finance Bill 2018. In order to facilitate the passage of legislation later in 2018, it is planned that a feedback statement will be published in Q3 2018.

Next Steps Action

Legislation will be introduced in Finance Bill 2018 and CFC rules will be in effect from 1 January 2019.

A feedback statement will be published in Q3 to respond to views expressed in responses to the Coffey/ATAD consultation on CFC rules and to set out possible approaches for the implementation of an Option B methodology.

Hybrid Mismatch Rules (BEPS A.2, ATAD A.9 & 9a)

These rules are intended to counteract tax mismatches where the same expenditure item is deductible in more than one jurisdiction, or where expenditure is deductible but the corresponding income is not fully taxable.

Implementation of these rules will be extremely complex and, as recommended by the Coffey review and as requested by stakeholders, further consultation will be taken on this issue.

Next Steps Action

Legislation will be introduced in Finance Bill 2019 to bring the first tranche of anti-hybrid rules into effect from 1 January 2020. Further legislation relating to anti-reverse hybrid provisions will be introduced in a subsequent Finance Bill, in line with the ATAD schedule.

It is planned to launch a consultation paper considering both general and detailed technical issues relating to the interlinked issues of hybrid entities/instruments and interest in late Q3 2018. Given the complexity of these issues, it is intended that the consultation will be open for a period of c. 12 weeks, with a view to consideration of submissions beginning post-Finance Bill 2018.

It is likely that further consultation will also be held in advance of the 1 January 2022 deadline for implementation of the anti-reverse hybrid rules.

Transfer Pricing (BEPS A.8, 9, 10 & 13, Coffey R.6 - 11)

The outcomes of BEPS Actions 8 to 10 and 13 on Transfer Pricing (TP) have been reflected in a 2017 update to the pre-existing 2010 OECD TP guidelines. The Coffey Review recommended that Irish TP legislation should be updated to provide for the new 2017 guidelines, and that the following actions should also be considered:

- Application of TP legislation to arrangements the terms of which were agreed before 1 July 2010 (prior to the introduction of the 2010 OECD TP guidelines).
- Application of TP rules to SMEs, having regard to whether the resulting administrative burden would be proportionate to the risks of transfer mispricing occurring in SMEs.
- Extension of domestic TP rules to non-trading income and to capital transactions having regard to whether this would improve the existing provisions applying arm's length values.
- Obligations relating to TP documentation.

The Coffey review recommended implementation of any actions arising from these considerations by end-2020. Initial views of stakeholders were sought in the Coffey/ATAD consultation carried out early in 2018, and common themes in the responses received were summarised in the Consultation chapter above.

TP rules are complex. They must be sufficiently robust to allow jurisdictions to defend their tax bases, requiring in-depth analysis of transactions between associated entities and the maintenance of detailed documentation to substantiate pricing levels. However, to facilitate the administration of the rules by both businesses and Revenue authorities, they must also be clear, unambiguous and must take a risk-based approach in designing measures appropriate to differing taxpayers. Taking into account the resource commitments involved for business in operating TP rules, it is important for changes in Irish rules to be made in a careful and considered manner and as one coherent package, rather than in a piecemeal approach over a number of years.

Notwithstanding this need for a considered approach, while the Coffey review recommended implementation of TP changes by end-2020, we view strengthening of our TP regime as an important element in defending Ireland's tax regime in international fora. As part of Ireland's commitment to a pro-active approach to achieving globally agreed standards, it is intended to move forward with the updating of TP rules in 2019. The introduction of TP rules for the taxation of branches in Ireland in line with the Authorised OECD Approach will also be considered in that timeframe.

TP rules play a vital role in ensuring tax is paid where value is created. Ireland is committed to ensuring that our TP rules, and wider tax regime, are effective in achieving this aim.

Next Steps Action

Legislation will be introduced in Finance Bill 2019 to update Ireland's transfer pricing rules with effect from 1 January 2020.

It is intended to launch a public consultation in early 2019 to allow stakeholder input on the considerations outlined above. This may include consideration of whether any additional changes to Ireland's tax code are needed to ensure TP rules are fully effective in ensuring tax is paid where value is created and do not facilitate the transfer of profits to jurisdictions other than where value-creating activity takes place.

Consideration of a Territorial Regime (Coffey R.16)

At present, under our worldwide tax system, a company resident in Ireland is subject to Irish tax on its worldwide income and gains. In order to prevent double taxation of foreign income that is also subject to tax at source in the foreign jurisdiction, foreign tax paid on that income can be used to offset any Irish tax payable on the same income. In practice this results in very limited amounts of incremental tax becoming payable in Ireland on foreign earnings. However the legislation governing double tax relief, contained in Schedule 24 of the Taxes

Consolidation Act, has evolved over many years in response to changes in policy and to accommodate principles established in European case law, and is extremely complex.

By contrast, a territorial tax system focuses on the taxation of profits earned within the relevant jurisdiction, with appropriate anti-abuse measures (such as Controlled Foreign Company rules) to prevent the artificial diversion of profits offshore. Most OECD countries use a territorial based tax system. A territorial system can be less complex and provide greater certainty for businesses, but must also be accompanied by robust anti-abuse measures.

In general, responses to the Coffey/ATAD consultation indicated broad support for moving to a territorial based tax system among stakeholders, particularly in view of the forthcoming introduction of CFC rules into the Irish tax system from 1 January 2019.

Next Steps Action

It is intended that a public consultation will be launched in early 2019, seeking further input on the alternative options of moving to a territorial regime or conducting a substantial review and simplification of the rules for the computation of double tax relief.

Implementation of other international commitments

OECD BEPS Multilateral Instrument

The OECD Base Erosion and Profit Shifting (BEPS) project made a series of recommendations for international tax changes to combat aggressive tax planning. Four of the BEPS reports make specific recommendations for changes that should be incorporated into bilateral tax treaties.

Changing the approximately 3,000 bilateral tax treaties in existence around the world to reflect the new BEPS recommendations would take decades. Recognising this, the OECD developed the 'Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS' – more commonly referred to as the BEPS Multilateral Instrument.

The BEPS Multilateral Instrument provides a mechanism for countries to transpose these BEPS recommendations into their existing bilateral tax treaties. Some recommendations are considered to be "minimum standards" which countries have committed to implementing, while others are recommended best practices that countries can choose to adopt. The Multilateral Instrument therefore provides optionality for countries to select some or all of the possible changes.

Ireland has 74 tax treaties in place and the Multilateral Instrument will enable Ireland to update the majority of these treaties to ensure they are BEPS compliant without the need for separate bilateral negotiations.

Ireland was among the group of countries to sign the Multilateral Instrument at the first possible opportunity in June 2017. Ireland took the first steps towards ratifying the Multilateral Instrument in Finance Act 2017 and will seek to complete the process before the end of 2018. The Multilateral Instrument will then generally start to have effect for Ireland from the beginning of 2020.

The most important changes to Ireland's treaties under the Multilateral Instrument will be the introduction strong anti-avoidance rules that should prevent treaty benefits being claimed inappropriately. Consideration is also being given to whether any related changes need to be made to Ireland's domestic withholding tax provisions to give effect to the new anti-avoidance provisions that will be introduced by the Multilateral Instrument.

DAC6 – Mandatory Disclosure

Ireland is one of only 3 EU Member States to have a mandatory reporting regime in place. The regime requires tax advisers to notify Revenue when they promote or implement certain tax planning arrangement that meet hallmarks of aggressive planning. This ensures Revenue have the information they need to ensure aggressive tax avoidance can be challenged.

The DAC6 Directive, which is effective from 25 July 2018, requires Member States to introduce a common mandatory disclosure regime by 1 January 2020 and to share all reports received with each other. Ireland was supportive of this Directive, which builds on recommendations made in OECD BEPS Action 12 Report.

Ireland will make any necessary changes to our mandatory disclosure regime to ensure we fully implement DAC6 by the end of 2019.

Dispute Resolution Mechanism (DRM) Directive

The extent of the changes that have been, and are being, made to the international tax landscape makes it inevitable that disputes and disagreements among tax authorities will increase. To ensure that disputes are resolved in a timely manner, the DRM Directive was agreed to enhance the framework for mandatory binding arbitration of tax disputes in EU law.

Work in underway on implementing this Directive before July 2019 to provide Irish taxpayers with access to this new arbitration framework.

International Mutual Assistance Bill

Ireland ratified the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters in 2010. However Ireland lodged a number of reservations when depositing our instruments of ratification in respect of the Convention.

The Taxation and Certain Other Matters (International Mutual Assistance) Bill, when enacted, will facilitate the withdrawal of Ireland's reservations regarding the recovery of tax and service of documents, except in respect of taxes imposed by or on behalf of political subdivisions or local authorities and social security contributions.

The Taxation and Certain Other Matters (International Mutual Assistance) Bill will also enable Ireland to complete the ratification of some remaining provisions of the EU / Switzerland Anti-Fraud Agreement, which Ireland has partially ratified.

The Coffey Review recommended that the passage of the Taxation and Certain Other Matters (International Mutual Assistance) Bill through Dáil and Seanad Éireann should be facilitated. The Bill cleared pre-legislative scrutiny during 2017 and work is ongoing on finalising the drafting of this Bill.

EU list of non-cooperative tax jurisdictions

Member States of the EU agreed in 2016 to draw up a list of countries who do not meet international best practice on tax. Criteria were agreed by Member States early in 2017 which are based on agreed international standards and also require a closer examination of zero tax jurisdictions. All countries were reviewed and the first list was agreed by Finance Ministers at ECOFIN on 5 December 2017.

The EU list is intended to be a common list agreed by all Member States of jurisdictions that do not live up to good tax governance standards. The list has been drawn up by the EU Code of Conduct Group which consists of all EU Member States acting together. It is not a legislative initiative but rather Member States acting together to agree common action.

The list will be an evolving process – where countries make changes they will be removed from the list. Similarly, where countries have avoided being listed by making commitments, they will be added to the list should they fail to live up to these commitments in the future.

Discussions are underway at EU level as to whether defensive measures are needed in response to countries who are listed and refuse to make changes. Ireland is also considering what administrative measures may be appropriate to take in response to the list in line with commitment made at Council when the list was established.

Ireland's Commitments to Further Action

The commitments to taking further action which have been outlined above are summarised here.

No.	Commitment	Action to be taken by Ireland
1	**Controlled Foreign Company (CFC) rules** **(BEPS Action 4, ATAD Article 4 and Coffey Recommendation)**	Legislation will be introduced in Finance Bill 2018 to introduce CFC rules with effect from 1 January 2019. It is intended that a feedback statement will be published in Q3 to respond to views expressed in responses to the Coffey/ATAD consultation on CFC rules and to set out possible approaches for the implementation of an Option B approach.
2	**General Anti-Abuse Rule (ATAD Article 6)**	No further action is needed given the robustness of Ireland's longstanding General Anti-Avoidance Rule.
3	**BEPS Multilateral Instrument** **(BEPS Actions 2, 5, 6, 14 and 15)**	The final legislative steps required to allow Ireland to complete the ratification of the Multilateral Instrument will be taken in Finance Bill 2018. Dáil approval will be sought in September 2018 for the making of a Government Order that will allow Ireland to complete the ratification procedures for the BEPS Multilateral Instrument.
4	**Exit Tax** **(ATAD Article 5 and Coffey Recommendation)**	Legislation will be introduced to replace the current provisions with an ATAD-compliant exit tax to take effect no later than 1 January 2020.
5	**Interest Limitation rules** **(BEPS Action 4, ATAD Article 4 and Coffey Recommendation)**	Ireland will introduce an ATAD-compliant interest limitation rule. The timing of that legislation will be determined following further engagement with the European Commission. Ireland remains of the view that our national targeted rules for preventing BEPS risks are equally effective to the ATAD interest limitation rule and will continue to engage with the European Commission in this regard. However work has also commenced to examine options to bring forward the process of transposition from the original planned deadline of end-2023. In view of the complexity of our existing interest limitation rules, it is anticipated that transposition could potentially advance, at the earliest, to Finance Bill 2019. A public consultation is planned for Q3 2018 to seek views on the inter-linked issues of the ATAD anti-hybrid and interest limitation rules.

No.	Commitment	Action to be taken by Ireland
6	**Hybrid Mismatch Rules** **(BEPS Article 2, ATAD Article 9 & 9a)**	Legislation will be introduced in Finance Bill 2019 to implement anti-hybrid rules and further legislation will be introduced in a subsequent Finance Bill to introduce anti-reverse-hybrid rules. It is planned to launch a consultation paper considering both general and detailed technical issues relating to the interlinked issues of hybrid entities/instruments and interest in late Q3 2018. It is intended that the consultation will be open for a period of c. 12 weeks, with a view to consideration of submissions beginning post-Finance Bill 2018. Further consultation is likely to be held in advance of the 1 January 2022 deadline for anti-reverse hybrid rules.
7	**Transfer Pricing Rules** **(BEPS Actions 8-10 & Action 13, Coffey Recommendation)**	Legislation will be introduced in Finance Bill 2019 to update Ireland's transfer pricing rules. It is intended to launch a public consultation in early 2019 and this may include consideration of whether any additional changes to Ireland's tax code are needed to ensure TP rules are fully effective in ensuring tax is paid where value is created and do not facilitate the transfer of profits to jurisdictions other than where value-creating activity takes place.
8	**Consideration of a Territorial Regime** **(Coffey Recommendation)**	It is intended that a public consultation will be launched in early 2019, seeking further input on the alternative options of moving to a territorial regime or conducting a substantial review and simplification of the rules for the computation of double tax relief.
9	**Mandatory Disclosure Rules** **(BEPS action 12, DAC6, and Coffey Recommendation)**	Legislation will be introduced in Finance Bill 2019 to ensure that Ireland fully implements the DAC6 Directive.
10	**Dispute Resolution** **(BEPS Action 14 and EU Dispute Resolution Mechanism Directive)**	Regulations will be issued before July 2019 to implement the Dispute Resolution Mechanism Directive and provide Irish taxpayers with access to this new arbitration framework.
11	**International Mutual Assistance Bill** **(Coffey Recommendation)**	Work is ongoing on finalising the drafting of this Bill with a view to publishing a Bill before the end of 2018.

Ongoing EU and international tax agenda

The current focus at EU level is on the European Commission's digital taxation proposals. On 21 March the European Commission published two proposed Directives which seek to tax certain digital activities differently within the EU.

The first, which is proposed as a 'temporary' solution, is a 3% levy (called the Digital Services Tax) on turnover from certain digital service activities.

If adopted in its current form, the Digital Services Tax proposal would represent a departure from current international tax norms in that it proposes taxation on the basis of turnover in the belief that traditional corporation tax rules, which apply to profits of companies (rather than turnover), do not appropriately tax the profits of certain highly digitalised business. The OECD has flagged the potential risks from such short term measures and, in the context of current international trade tensions, such proposals could have unanticipated negative consequences for EU Member States and companies. Therefore it is important that this proposal is properly considered and analysed.

The second, Directive, which proposes rules for the corporate taxation of a "significant digital presence" and is labelled a "comprehensive solution", entails an overhaul of international taxation rules. It would establish the concept of a "digital permanent establishment", allowing countries taxing rights over the digital business carried out by a company in that country, even where that company has no physical presence there. It also proposes fundamental changes to profit allocation rules that would see an increased proportion of profits allocated to the countries where users of digital interfaces are located. Discussions on a long term solution for the taxation of the digital economy are also taking place in parallel at the OECD and the Commission's significant digital presence proposal will be one of the options considered and discussed in that forum.

On 15 May 2018, both Dáil and Seanad Eireann issued reasoned opinions to the European Commission that both digital tax proposals were in breach of the principle of subsidiarity.

Ireland will continue to actively engage on these matters with our fellow Member States and the related debate ongoing at OECD level so that we have a system of international taxation which is appropriate to meet the challenges and opportunities that arise from the digitisation of the economy.

Digital tax is not the only issue being discussed on the international tax agenda. Important discussions continue on a range of issues including:

- What type of tax measures constitute harmful tax competition between countries.
- The future of the EU list of non-cooperative tax jurisdictions and what defensive measures could or should be applied against listed countries.
- The Commission's Common Consolidated Corporate Tax Base (CCCTB) remains under discussion as countries try to determine what impact it would have on their tax bases.

- The future of transfer pricing and whether the Arm's Length Principle needs to be adapted for the modern world.

Ireland is strongly committed to global tax reform and believes that global agreement is the only way to ensure tax is paid by companies where value is actually created. A common understanding and agreement of how corporate tax rules should operate is vital to facilitate international trade and investment.

Ireland will continue to play our part, as we have always done, in the important international debate. Ireland is committed to working with our international partners to reaching a fair and appropriate solution to the on-going work on digital tax which ensures that tax is paid where real value-creating activities take place The Department will seek input from stakeholders as appropriate as part of this ongoing analysis.

Appendix 1 - The OECD BEPS Recommendations - How actions taken by Ireland match up to the BEPS agreements

BEPS Action	Aim of Action	Action Taken by Ireland
1	Address the tax challenges of the Digital economy	No options were recommended by the report which instead found that the digital economy cannot be separated from the overall economy. Ireland is actively engaged in work at the OECD Task Force on the Digital Economy which seeks to build on the original report. Discussions are also underway at EU level on the Commission's digital tax proposals.
2	Neutralise the effects of hybrid mismatch arrangements	Ireland has committed in both Anti-Tax-Avoidance Directives to introducing anti-hybrid rules in domestic law.
3	Strengthen Controlled Foreign Corporation (CFC) rules	Ireland has committed in the Anti-Tax-Avoidance Directive to introducing Controlled Foreign Company rules in domestic law.
4	Limit base erosion via interest deductions and other financial payments	While we believe our current rules relating to interest expenses are equally effective to the rules agreed in the Anti-Tax-Avoidance Directive, Ireland have committed to introducing the ATAD interest limitation ratio.
5	Counter harmful tax practices more effectively, taking into account transparency and substance	Ireland meets the standard set in BEPS Action 5 on tax transparency and exchange of information. The Knowledge Development Box is fully in line with the Modified Nexus Approach agreed in BEPS Action 5. This has been confirmed by the OECD Forum on Harmful Tax Practices and the EU Code of Conduct on Business Taxation Group.
6	Prevent treaty abuse	Ireland has agreed to introduce a Principal Purposes Test, and other measures, into our tax treaties through the Multilateral Instrument.
7	Prevent the artificial avoidance of Permanent Establishment (PE) status	Ireland has agreed to introduce 3 of the 4 proposed new rules on Permanent Establishment into our tax treaties through the Multilateral Instrument.
8 to 10	Assure that transfer pricing outcomes are in line with value creation	The Coffey Review included detailed consideration what changes are needed to ensure that Ireland's transfer pricing rules meet the standards set in the OECD transfer pricing guidelines.
11	Establish methodologies to collect and analyse data on BEPS and the actions to address it	Data analysis – no specific recommendations included in this action. Ireland is actively engaged in the follow up work in this area at the OECD.
12	Require taxpayers to disclose their aggressive tax planning arrangements	Ireland has longstanding mandatory disclosure rules already in our legislation. Ireland has agreed to introduce new mandatory disclosure rules under the DAC6 Directive which will be implemented during 2019.

BEPS Action	Aim of Action	Action Taken by Ireland
13	Country by Country Reporting	Finance Act 2015 introduced Country by Country Reporting in Irish law. The first reports have been filed with Revenue (covering tax data from 2016) and exchanged with other countries during 2018.
14	Make dispute resolution mechanisms more effective	Ireland has agreed to introduce new rules on dispute resolution into our tax treaties through the Multilateral Instrument. This includes a commitment to mandatory binding arbitration of disputes. Ireland has recently been subject to a peer review by the OECD in respect to our performance in this area and the outcome of this review is expected to be published in Q3 of 2018. EU Member States have also agreed the Tax Disputes Resolution Mechanism Directive which will extend the availability of arbitration to a much wider range of tax disputes. The Directive will be implemented in Irish law by July 2019.
15	Develop a multilateral instrument	Ireland has signed the Multilateral Instrument and began the process of ratifying the Instrument into Irish law in Finance Act 2017. It is expected that the ratification process will be completed in Finance Act 2018.

Appendix 2 - International tax fora in which Ireland are involved

Tax groups at the European Union	
Working Party on Tax Questions	The Working Party on Tax Questions handles all Commission legislative proposals relating to taxation, both direct taxation and indirect taxation.
High Level Working Party on Tax Questions	The High Level Working Party on Tax Questions is composed of high level representatives designated by Member States. It was established in 2001 to ensure coordination of work and achieve parallel progress on the all EU tax proposals.
Code of Conduct (Business Taxation)	On 1 December 1997, the Council and the representatives of the Governments of the member states, meeting within the Council, adopted a resolution on a Code of Conduct for business taxation, with the objective to curb harmful tax competition. The Code of Conduct is not a legally binding instrument but is a political commitment by member states to ensure that countries do not engage in harmful tax competition. Recently the Code group has focussed on developing the EU list of non-cooperative tax jurisdictions.
Platform for Tax Good Governance	The Platform for Tax Good Governance assists the Commission in developing initiatives to promote good governance in tax matters in third countries, to tackle aggressive tax planning and to identify and address double taxation. It brings together expert representatives from business, tax professional and civil society organisations and enables a structured dialogue and exchange of expertise which can feed into a more coordinated and effective EU approach against tax evasion and avoidance.
EU Joint Transfer Pricing Forum	The EU Joint Transfer Pricing Forum (JTPF) assists and advises the European Commission on transfer pricing tax matters. The JTPF works within the framework of the OECD Transfer Pricing Guidelines and operates on the basis of consensus to propose to the Commission pragmatic, non-legislative solutions to practical problems posed by transfer pricing practices in the EU.

Tax groups at the OECD	
Committee on Fiscal Affairs/Inclusive Framework	The Committee on Fiscal Affairs is the group which leads the OECDs efforts on taxation and is attended by senior officials from all OECD Members. The OECD has also established an inclusive framework on BEPS, which allows interested countries and jurisdictions to work with OECD and G20 members on developing standards on BEPS related issues and reviewing and monitoring the implementation of the whole BEPS Package.
Forum on Tax Administration	The FTA aims to improve taxpayer services and tax compliance by helping tax administrations increase the efficiency, effectiveness and fairness of tax administration and reduce the costs of compliance. FTA collaborative work is organised under three pillars: supporting the international agenda; improving compliance; and future tax administration.
Forum on Harmful Tax Practices	The Forum on Harmful Tax Practices enables countries to work together to decide what are the appropriate limits of tax competition. All members of the forum, including Ireland, are reviewed to ensure they do not engage in harmful tax competition.
Taskforce on the Digital Economy	The TFDE is leading the OECD's work on examining how digitalisation affects global tax. The TFDE aims to reach consensus on potential changes to international tax rules to reflect changing business models by 2020.
Working Party 1 on Tax Conventions and Related Questions	This working party is the body responsible for the development of the OECD Model Tax Convention and related guidance on tax treaty issues.
Working Party 2 on Tax Policy and Statistical Analysis	This working party is responsible for tax policy analysis and for statistical work.
Working Party 6 on the Taxation of Multinational Enterprises	This working party is the body responsible for the development of guidance on the interpretation of the arm's length principle in Article 9 of the OECD Model Tax Convention.
Working Party 9 on Consumption Taxes	The Working Party assists member countries to secure appropriate and effective taxation outcomes through the development of the OECD International VAT/GST Guidelines and any other relevant outputs that address these issues.

Working Party 10 on Exchange of Information and Tax Compliance	The Working Party provides strategic policy, legal, administrative and technical support to develop and improve the legal, practical and administrative framework to facilitate exchange of information and mutual administrative assistance with a view to improving tax compliance while ensuring that a proper balance is maintained with respect to the protection of taxpayers' rights. It strengthens international co-operation on exchange of information amongst tax administrations and tax policy makers and enhances countries' ability to tackle tax avoidance and evasion and to counter aggressive tax planning.
Working Party 11 on Aggressive Tax Planning	The Working Party provides policy, legal, administrative and technical support to the work on BEPS and strengthens international co-operation on countering aggressive tax planning amongst tax administrations and tax policy makers so as to improve the design and implementation of tax laws in an international context.
Global Forum on Transparency and Exchange of Information for Tax Purposes	The Global Forum has 150 members and is the premier international body for ensuring the implementation of the internationally agreed standards of transparency and exchange of information in the tax area. Through an in-depth peer review process, the Global Forum monitors that its members fully implement the standard of transparency and exchange of information they have committed to implement. Ireland is one of 22 jurisdictions to be rated as fully compliant with all international best practices in this area.
Platform for Collaboration on Tax	In April 2016, the IMF, OECD, UN and WBG announced in April 2016 the details of their joint effort to intensify their co-operation on tax issues, with the launch of the Platform for Collaboration on Tax. The Platform facilitates regular discussions between the four international organizations on the design and implementation of standards for international tax matters; it aims to strengthen their capacity-building support; deliver jointly developed guidance; and share information on operational and knowledge activities.
Task Force on Tax Crimes and Other Crimes (TFTC)	The TFTC has a mandate to improve co-operation between tax and law enforcement agencies, including anti-corruption and anti-money laundering authorities, to counter financial crimes more effectively. The TFTC's work is carried out in connection with the OECD's Oslo Dialogue, a whole government approach to tacking tax crimes and other financial crimes.

Tax Inspectors Without Borders	The Sustainable Development Goals and the Addis Ababa Action Agenda (AAAA) highlight the vital role of international tax co-operation and the need for technical assistance through multilateral, regional, bilateral and South-South co-operation. The Tax Inspectors Without Borders (TIWB) initiative enables the transfer of tax audit knowledge and skills to tax administrations in developing countries through a real time, "learning by doing" approach. The initiative deploys international experts to work directly and share general audit practices with local tax officials on current audits and audit-related issues concerning international tax matters. In addition to improvements in the quality and consistency of audits and the transfer of knowledge to Host Administrations (tax administrations seeking assistance), broader benefits also include the potential for more revenues, greater certainty for taxpayers and encouraging a culture of compliance through more effective enforcement. Irish Revenue officials participate in this important programme.

Appendix 3 - Spotlight on Tax Transparency and Exchange of Information

For over more than a decade there has been a growing focus on ensuring tax authorities have all relevant information to determine if tax liabilities exist.

Historically, the ability to exchange information between tax authorities was dependent on a bilateral agreement. International frameworks for the exchange of taxpayer information were in place at OECD and EU level but it was commonly agreed that these frameworks needed to be enhanced. In 2010, the OECD Convention on Mutual Administrative Assistance in Tax Matters was amended to provide a global mechanism for the exchange of information among tax authorities around the world. The amended Convention was opened for signature on 1 June 2011 and 124 jurisdictions currently participate in the Convention. At European level, the first Directive on Administrative Co-operation (known as DAC) was agreed by all Member States in 2011 to provide similar information exchange across the EU.

Countries around the world realised that for information exchange to work best it needed to be automatic – countries needed to exchange certain relevant information once they received it, rather than waiting for a request from another country. The first focus was on financial account information so that tax authorities were informed about overseas accounts held by its own tax residents. The US FATCA regime and the OECD Common Reporting Standard introduced a requirement for jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. Ireland was an early adopter of these standards. EU Member States also introduced common standards in this area through the Second Directive on Administrative Co-operation (DAC2) which was agreed in 2014.

At international level, the OECD BEPS project included a growing focus on the need to exchange cross border tax rulings (BEPS Action 5) and the desirability of requiring large multinationals to file County by Country reports of their activities, incomes and profits (BEPS Action 13). Ireland is fully compliant with the BEPS standards in both of those areas.

EU Member States continued to push ahead and expand the situations where Member States would automatically exchange taxpayer information among themselves:

- DAC3 introduced the obligation on all Member States to automatically share rulings and advanced pricing agreements issued by tax authorities to taxpayers which have a cross border impact.
- DAC4 introduced the obligation on all Member States to require the filing of Country by Country Reports, based on the BEPS Action 13 recommendation, and for those reports to be automatically exchanged among Member States.
- DAC5 introduced an obligation on Member States to ensure tax authorities could access and exchange information required to be held by taxpayers under Anti-Money-Laundering legislation.

- DAC6, agreed earlier in 2018, introduced an obligation for all Member States to introduce a mandatory disclosure scheme that would require taxpayers and their advisers to notify tax authorities when they promoted or entered transactions which had particular hallmarks. This is designed to be an early warning system of potential aggressive tax planning and the reports filed will be shared among Member States. Ireland already has a mandatory disclosure regime but changes will need to be made in 2019 to bring our regime in line with the requirements of the Directive.

The OECD led Global Forum on Tax Transparency and Exchange of Information is responsible for in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. There are currently 153 members of the Global Forum. The peer review assesses the legal and regulatory framework of each jurisdiction to verify that information that is relevant for tax purposes is available within that jurisdiction, that the tax authorities have the power to obtain that information and that there are mechanisms in place for the exchange of that information with partner jurisdictions. Ireland is one of only 24 jurisdictions worldwide that has been found to be fully compliant with all international best practice by the Global Forum. This finding which was first made in 2011, was confirmed again in 2017 following a thorough review of Ireland legislation and administrative practice by the Global Forum. Ireland is committed to continuing to take any action necessary to ensure that we continue to keep our rules up to date with developing international best practice.