Green Party Submission on the Review of Ireland's Corporation Tax Code

January 2018

The Green Party welcome this opportunity to engage in a public consultation on the review of Ireland's Corporation Tax Code. Our sister parties in the European Greens and the Greens/European Free Alliance (EFA) Group have been doing pioneering work on tax transparency and tax justice. The paper trails uncovered by the International Consortium of Investigative Journalists in the Paradise and Panama Papers shows tax avoidance is not happening in a vacuum, but is actively encouraged by nation states through tax incentives, loopholes and bilateral tax deals in what is a race to the bottom. New research commissioned by the European Greens for example, shows how this company legally structured itself to dodge €1 billion in taxes over the last 6 years using onshore European tax havens such as Belgium, Spain and Sweden. Given The skeptical response to our defence of Ireland's effective corporate tax rate at Davos last week from European colleagues we warmly welcome the Irish Government's willingness to engage on tax avoidance and evasion and make steps towards genuinely tackling the issue in a process of public engagement. It is our expectation that Ireland will quickly implement in full the EU Anti-Tax Avoidance Directive which implements at a minimum level of protection against corporate tax avoidance throughout the EU.

The Need for Just Taxation Measures

The Coffey Report, as stated by Minister Zappone, was originally due to deal with issues of 'tax justice' in detail. This was reiterated in Minister Zappone's speech presented at Inaugural Corporate Tax Summit, 16th February 2017. It is surprising then, that the opportunity to take a more comprehensive approach was not taken with the Coffey Report to explore the impacts of Ireland's tax regime on developing countries and within Ireland which presently deals with extremely high levels of inequality before social welfare distribution.

In 2014, a study by Eurostat on the implicit corporate tax rate (a backward looking measurement of the average effective tax burden) found an effective rate in Ireland of 6% in 2012, down from 9.3% in 2002, while the implicit tax rate on labour was 28.7% in 2012, up from 26% in 2002. There are social justice questions to be asked about the increasing inversion of the principle of solidarity where the strongest support the weakest.

As shown by recent Social Justice Ireland, Public Policy.ie and TASC reports - the redistributive element of ireland's taxation regime is a powerful barrier against poverty. Without social welfare payments 44.9% of Ireland's population would be living in poverty, instead of 16.5%. Those revenues must be protected. Irish policy-makers must also question our heavy reliance on foreign direct investment considering the movement in the US and EU towards a territorial taxation regime.

The effect of tax avoidance and evasion on Irish citizens, however, pales in comparison to that inflicted on developing countries. ActionAid has commissioned original research that makes the content of more

than 500 binding treaties signed by lower-income countries (those classified as low and lower-middle income by the World Bank) in Asia and sub-Saharan Africa available to the public and open to scrutiny for the firrst time. This undermining of the tax base in developing countries is particularly dangerous in the context of ever worsening climate change, and the the hasher effects that these countries will already endure. Eurodad has also recently commissioned research with civil society organisations across Europea to create the ‘Tax Games’ 2017 report, which the Irish Debt and Development Coalition contributed to.

As stated in these reports, globally taxation on labour, VAT and individual charges have had to increase to fill the gap left from a dramatic decrease in tax payments by multi-nationals and wealthy individuals. Since consumer taxes impact disproportionally hard on the poorest, this trend has the concerning consequence that tax systems are becoming more regressive, and risk exacerbating inequality rather than reducing it.

In light of this new research the Green Party call on the Department to conduct a review of Ireland’s Corporation Tax code that includes within its terms of reference the effect of that code on developing countries.

Transparency

The Green Party of Ireland do not have an issue with Ireland’s 12.5% corporation tax rate. The primary issue in the fight against tax evasion and tax avoidance is a lack of transparency around tax flows and documentation which enable tax avoidance and evasion, leading to effective tax rates of 1% or less being paid in 2015 by 13 of Ireland’s largest companies. This lack of transparency makes it difficult for countries, particularly developing countries with less resources, to uncover how much tax their citizens are owed. In that regard, the Green Party of Ireland joins with the Greens-EFA Group in the European Parliament in criticising the continued undermining of the Council of the European Union Code of Conduct Group on Business Taxation EU list of non-cooperative jurisdictions for tax purposes. We also question the undermining of its process and the undue focus on countries outside of the EU rather than addressing internal tax regimes in conjunction.

We recognise the strength of the case being made by our sister parties across Europe for the implementation of a common consolidated tax base throughout the EU. We assert that in the context of this review of our Corporation Tax Code that a full fiscal assessment be done to assess the impacts on Ireland prior to participation.

The Green Party express concern that the spillover analysis conducted by Government in 2014 concluded no meaningful significant impact on developing countries, however it also stated it was constrained by lack of access to data. Ireland has recently been described as the fourth largest “conduit” country in the world for aggressive tax planners seeking to siphon tax revenue from its founding base. Aggressive tax planners will continue to exploit legal loopholes - a transparent international tax regime will ensure that Governments do not inadvertently, or deliberately, facilitate such egregious behaviour.

The Irish Government must do more to ensure transparency in this area and not settle for already highly criticised EU 'black list' and OECD regimes. Recommendations include:

1. Work towards a Global Standard on Automatic Information Exchange, which includes a transition period for developing countries that cannot currently meet reciprocal exchange requirements due to lack of administrative capacity. This transition period should allow developing countries to receive information automatically, even though they might not have the capacity to share information from their own countries. Furthermore, under the current standards, developed country governments must commit to exchange information automatically with all developing countries that fulfill basic data protection requirements, by establishing the necessary bilateral exchange relationships.

2. Adopt full country by country reporting for all large multinational corporations, and ensure that this information is publicly available in an open data format that is machine readable and centralised in a public registry. This reporting should be at least as comprehensive as suggested in the OECD BEPS reporting template, but cover all corporations that meet the EU definition of 'large undertaking'.

3. Establish fully publicly accessible registries of the beneficial owners of companies, trusts and similar legal structures. At the EU level, the revision of the EU anti-money laundering directive provides an important opportunity to do so, and governments must ensure that the problems related to secret ownership, as exposed in the Panama Papers, are fully resolved.

4. To ensure greater credibility of the EU list of non-cooperative jurisdictions, the Council should publish all 55 commitment letters received as well as relevant information concerning the assessment by Member States of the seriousness of these commitments. This would clarify why countries have either avoided being placed on the blacklist or have been de-listed. EU Member States should also be included on the list. In addition, a clear timetable of next steps should be adopted and published by the Code of Conduct Group or the ECOFIN Ministers. More information should be available as to when the ongoing screening of Caribbean jurisdictions will be finalised, when discussions on coordinated implementation of counter-measures will provide concrete results and how the monitoring of the commitments will be conducted by the Code of Conduct Group.

The Impact of Ireland's Tax Regime on Developing Countries

A major issue that was not teased out in detail the Coffey Report is the negative impact of Ireland's tax regime on developing countries. Detailed research into the effects of the regime has been conducted by Action Aid (Mistreated Report), Christian Aid and other members of Ireland's Debt and Development Coalition who claim that evasion and avoidance are "costing societies around US$500 billion in lost revenue every year".

The Coffey Report has called for Ireland to maintain our commitment to BEPS and EU tax initiatives. The Green Party express their concern that the Department continue to promote OECD and EU rules as the highest possible standard for tax reform, when these rules have been proven to exclude the concerns of developing countries and cause manifest damage to their development trajectories. Instead, the Irish Government should adopt should adopt recommendations from the updated edition of the United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries. This handbook identifies a range of issues, for example, how the OECD's Base Erosion and Profit Shifting (BEPS) process has failed to deliver for lower-income countries.

While we can understand the underlying belief that an attractive tax regime for multi-nationals will increase tax revenue for the state, the reality is that this tax revenue will increase marginally in Ireland at the expense of other countries - particularly developing countries.

It is also of concern that the Irish government opposes the establishment of an intergovernmental UN tax body, which would give developing countries a truly equal say in global decision-making on tax matters.

We call on Government to implement the requests made including:

1. Call on the EU to carry out and publish spill-over analyses of all national and EU-level tax policies, including special purpose entities, tax treaties and incentives for multinational corporations, in order to assess the impacts on developing countries, and remove or reform policies and practices that have negative impacts on developing countries.

2. Include in the Government 2015 spillover analysis on the potential impact of Irish tax policies on developing countries an analysis of how Ireland's tax code impacts on developing countries when used in combination with other states, especially European countries such as Luxembourg and the Netherlands. Tax treaties signed with Zambia, Pakistan and Ethiopia should be renegotiated to effectively take into account this comprehensive spillover analysis.

3. The Department has promoted the fact that aspects of Ireland's tax regime, including the newly developed 'Knowledge Development Box' is compliant with OECD and EU taxation regimes. Government should not continue to present the OECD and EU regimes as "international best practice". What serves the wealthiest of countries well in terms of action on tax has not been beneficial to the poorest. Instead, Government must undertake a rigorous study, jointly with developing countries, of the merits, risks and feasibility of more fundamental alternatives to the current international tax system, such as unitary taxation, with special attention to the likely impact of these alternatives on developing countries. This action would ensure Ireland's highly regarded international aid regime does not fall into disrepute due to policy incoherence.

4. Support the establishment of an intergovernmental tax body under the auspices of the UN, with the aim of ensuring that developing countries can participate equally in the global reform of

international tax rules. This forum should become the main forum for international cooperation in tax matters and related transparency issues. The tax body should be adequately funded and allow full access to observers, including civil society and parliamentarians. One of the key priorities of the commission should be to negotiate and adopt an international convention on tax cooperation and related transparency.

5. Replace or fundamentally reform the EU Code of Conduct Group on Business Taxation to ensure that EU decision-making on international tax matters becomes fully transparent to the public, and that decision-makers become accountable to their citizens.

Climate Change and Tax Justice

The revenue lost due to aggressive tax practices is all the more worrying considering the significant funds that are required to tackle climate change in developing countries and elsewhere. Climate change action is set to cost at lease $1 trillion a year, and must be tackled along with the rest of the Sustainable Development Goals including the idea introduced by India at the Cancun climate summit in 2010 of the right to "equitable access to sustainable development" - the right of developing countries to use remaining resources to develop, as developed countries take the lead in reducing emissions. Tax justice is intimately connected to the concept of climate justice as a result - for without access to tax revenue, developing countries will not be able to adequately develop in time to mitigate, and adapt to, the effects of climate change. The cost of adapting to climate change in developing countries could rise to between $280 and $500 billion per year by 2050, a figure that is four to five times greater than previous estimates, according to a new United Nations Environment (UNEP) report. Not all development leads to climate resilience (Bowen et al. 2012), but developing countries should be afforded the revenue that is theirs to choose the pathway best suited to their citizens and environment.

Other issues of climate justice that link tax justice and climate change include:

- The fact that significant funds will also be needed to research and implement proposals that effectively decouple development trajectories from carbon emissions.
- Indebted countries can't afford to make adaptations to respond to climate change or transition to a low-carbon economy.
- Broader economic narrative prioritising growth is both contributing to climate change and perpetuating a boom-bust economic cycle causing repeated debt crises.
- Large scale infrastructure projects have an impact on debt and the environment
- Revenue lost through tax evasion/avoidance could support the just transition of workers from fossil fuels into clean energy

As noted by Nicholas Stern and Samuel Fankhauser from the Grantham Research Institute at the London School of Economics, "the public policy [that accelerates climate action] needs to be informed by better, more thoughtful economics, indeed a more "dynamic public economics"." Such 'dynamic public economics' requires transparent use of public funds and revenues to operate effectively. It is recommended that Government integrate tax justice into any development and Climate Finance work

towards UNFCCC and Sustainable Development goals to prevent policy incoherence and loss of trust on the international stage.