An Roinn Airgeadais
Department of Finance

Income Tax

Tax Strategy Group – 22/02

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Contents

Introduction 3

Summary of Tax Yields 2011 – 2021 3
Income Tax Projections 2022 4
Total Income Tax Projected Breakdown 2022 5
Structure of Income Tax and USC 5

Distribution and Burden of Income Tax and USC 7

Income Tax Distribution of Income Earners 2022 vs 2011 8
USC Distribution of Income Earners 2022 vs 2011 9
Estimated Cumulative Burden of Income Tax and USC for 2023 11
Resilience of Income Tax - Sector Breakdown of Yield 13

Recent Developments – Budgets 2015 to 2022 15

Programme for Government Commitments 19

Equality Proofing 21
Gender Proofing: Individualisation 21

Budget 2023 Options/Policy Considerations 22

Option 1 – Full Indexation 22
Option 2 - Partial Indexation 24
Option 3 – Third Rate of Income Tax 25
Comparison of Income Tax Options 27

International Comparisons 29

Further Potential Options for Consideration 34

Update on Income Tax Related Reviews 35

Reduced Rate of USC for Medical Card Holders 35
Policy Options to take account of possible changes to Revenue's Flat Rate Expenses (FRE) Regime 37
Update on Trans-Border Workers' Relief 42
Update on Key Employee Engagement Programme (KEEP) 50

Developments in the Pensions Landscape 69

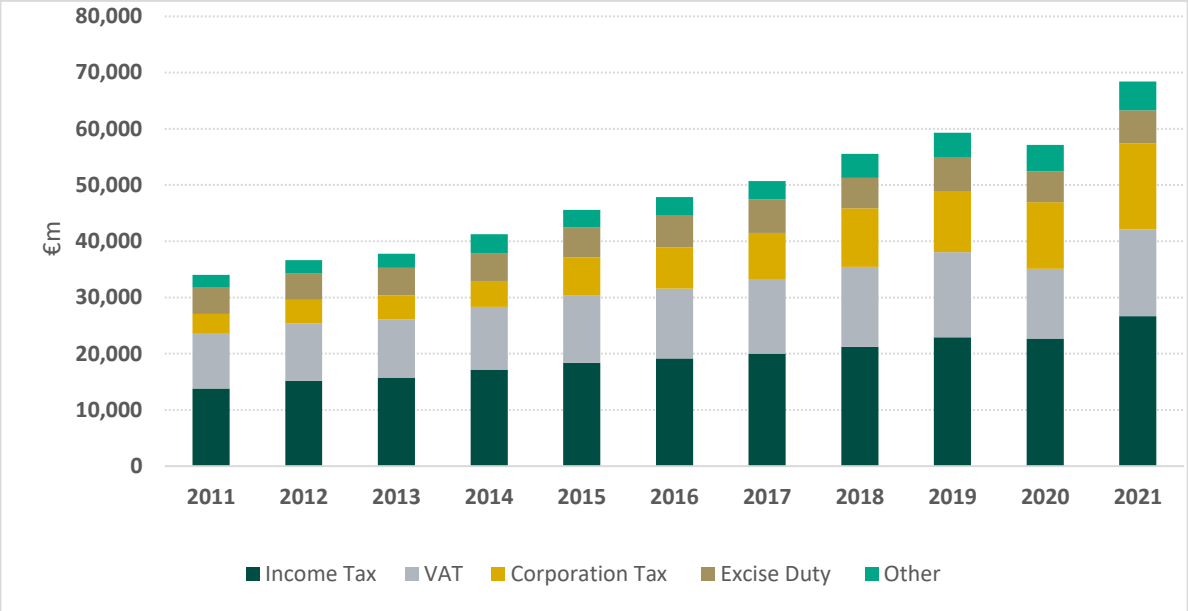
Interdepartmental Pensions Reform and Taxation Group 69
Auto-Enrolment 69
Pensions Commission Report 70
Transposition of PEPP Regulation 70
Policy proposals under consideration 71

Introduction

1. In 2021, total income tax receipts of c. €26.7 billion were collected, which represented around 39 per cent of the total Exchequer tax take. Of this, income tax, mainly PAYE and Schedule D (self-employed individuals), accounted for approximately €20.6 billion and Universal Social Charge (USC) contributed c. €4.4 billion[1].

2. The projection for 2022 shows no deviation with total income tax receipts expected to account for just under 39 per cent of the total Exchequer tax receipts at €29.5 billion[2]. Income tax and USC remain the single largest source of tax revenue to the Exchequer, having surpassed the proportion contributed by VAT in 2009.

Summary of Tax Yields 2011 – 2021



Data source: Department of Finance[3]

3. The total income tax yield for the last twelve years is set out in Table 1 below. Figures for the years 2011 to 2021 represent actual yields, while the figures in respect of the year 2022 are projections.

[1] Balance of c. €1.7 billion includes other items such as Professional Services Withholding Tax, Dividend Withholding Tax, Life Assurance Exit Tax, and DIRT.
[2] Department of Finance Stability Programme Update 2022: https://www.gov.ie/en/publication/1ca1d-draft-stability-programme-update-2022/
[3] Department of Finance – Databank: http://databank.finance.gov.ie/

Table 1: Income Tax (I.T) (including USC) Yield as a % of Total Taxes (T.T)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	*2022*
I.T. €bn	13.8	15.2	15.8	17.2	18.4	19.2	20.0	21.2	22.9	22.7	26.7	*29.5*
T.T. €bn	34.0	36.6	37.8	41.3	45.6	47.9	50.7	55.6	59.3	57.2	68.4	*75.8*
I.T % T.T.	40.5	41.4	41.7	41.6	40.3	40.0	39.4	38.2	38.7	39.7	39.0	*38.9*

4. Table 2 provides a breakdown of the income tax yield by income tax component for 2011 to 2021[4] and the projected component breakdown for 2022.

Table 2: Income Tax Yield Breakdown – PAYE, Schedule D, USC and other as a % of Total Taxes

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	*2022*
PAYE/Schedule €bn	9.3	9.9	10.5	12.1	12.4	13.9	14.9	16.2	17.8	17.4	20.6	*22.8*
% I.T	67.4	65.1	66.5	70.4	67.4	72.4	74.5	76.4	77.7	76.7	77.1	*77.4*
Total USC €bn	3.1	3.8	3.9	3.6	4.2	4.0	3.7	3.7	3.8	3.8	4.4	*4.8*
% I.T	22.5	25.0	24.7	20.9	22.8	20.8	18.5	17.5	16.6	16.7	16.5	*16.3*
Other	1.4	1.5	1.4	1.5	1.8	1.3	1.4	1.3	1.3	1.5	1.7	*1.9*
% I.T	10.1	9.9	8.9	8.7	9.8	6.8	7.0	6.1	5.7	6.6	6.4	*6.3*

5. Table 3 displays the actual USC yield - split between PAYE and Schedule D from 2014 to 2021 and the projected yield and split for 2022.

Table 3: USC Yield Breakdown – Between PAYE and Schedule D

	2014	2015	2016	2017	2018	2019	2020	2021	*2022*
Total €bn	3.6	4.2	4.0	3.7	3.7	3.8	3.8	4.4	*4.8*
PAYE €bn	3.2	3.6	3.3	3.1	3.2	3.3	3.3	3.7	*4.1*
Schedule D	0.5	0.6	0.7	0.6	0.5	0.5	0.6	0.7	*0.7*

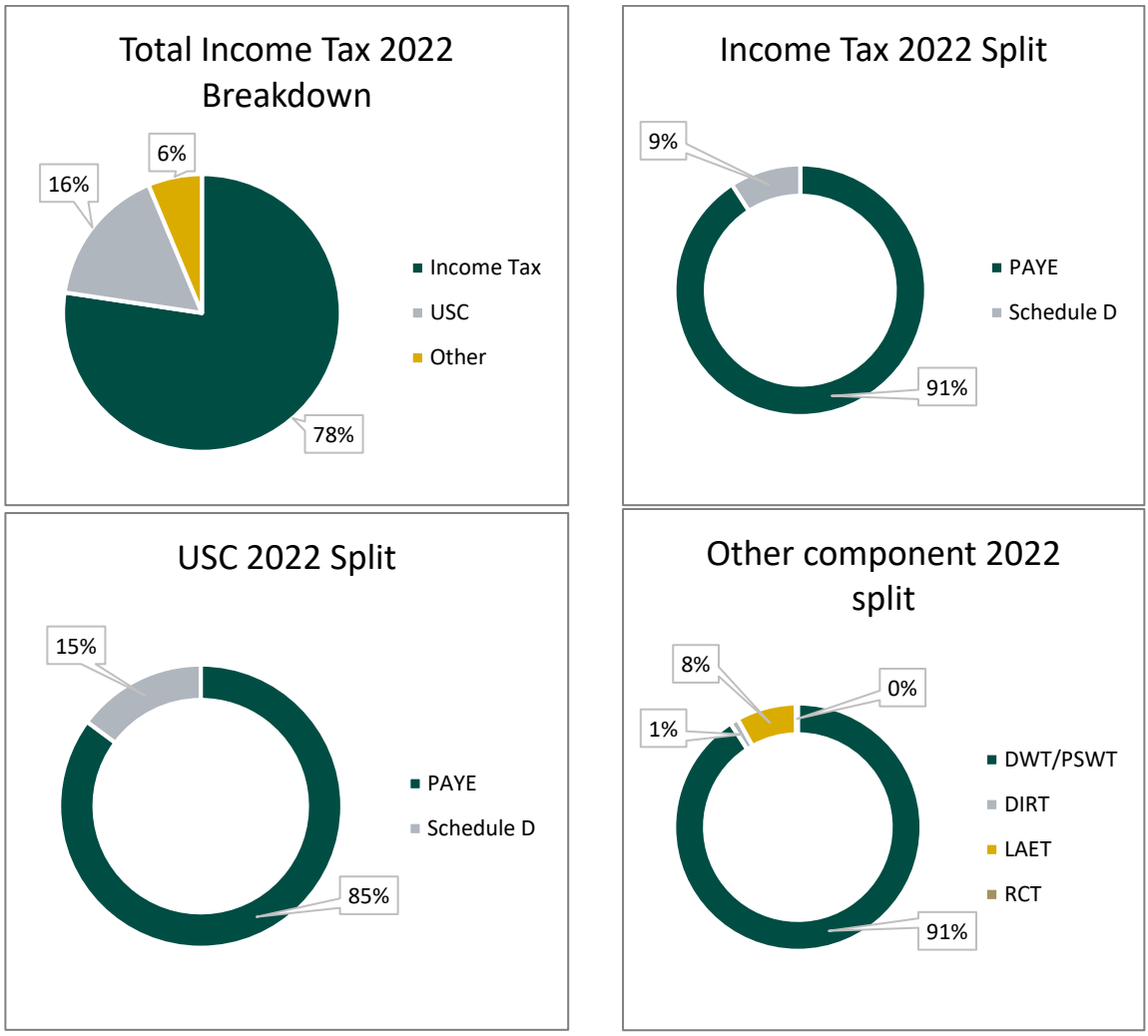
Income Tax Projections 2022

6. Encouragingly, total income tax receipts are expected to increase by 10.6 per cent or €2.8 billion in 2022, from €26.7 billion to €29.5 billion.

7. The largest component, income tax, is expected to yield €22.8 billion, while USC and the other component[5] will contribute €4.8 billion and just under €1.9 billion respectively.

[4] Revenue Commissioners: https://www.revenue.ie/en/corporate/information-about-revenue/statistics/receipts/receipts-taxhead.aspx
[5] Life assurance exit tax (LAET), Dividend Withholding Tax (DWT), Professional Services Withholding Tax (PSWT), Relevant Contracts Tax (RCT).

Total Income Tax Projected Breakdown 2022



Structure of Income Tax and USC

8. The 2022 rates and bands of income tax are as follows:
   - 20 per cent rate on income within the standard rate band, and
   - 40 per cent on income in excess of the standard rate band.

	Standard Rate Band
Single	€36,800
Single Parent	€40,800
Married – one earner	€45,800
Married – two earners (max)[6]	€73,600

9. Spouses and civil partners may elect for joint assessment under the income tax system, whereby the combined income of the couple is generally assessed in the name of the higher earner, net of their combined reliefs and credits. This can allow for a reduction in the couple's

[6] Where each spouse earns a minimum of €27,800 – the maximum rate band transferability between jointly-assessed spouses is €9,000.

overall tax liability as compared to separate assessment due to the transferability of the married tax credit and a portion of the standard rate income tax band.

10. The USC is an individualised tax, meaning that a person's liability to the tax is determined on the basis of his/her own individual income and personal circumstances, such as their age etc. The USC was introduced in 2011 and replaced two levies – the Income Levy and the Health Levy. The current rates and thresholds of USC are as follows:

- Incomes of €13,000 or less are exempt. Otherwise:
- First €12,012 @ 0.5 per cent;
- Next €9,283 (i.e. up to €21,295) @ 2 per cent;
- Next €48,749 (i.e. up to €70,044) @ 4.5 per cent;
- Balance (i.e. over €70,044) @ 8 per cent;
- Self-employed income > €100,000 @11 per cent; and
- Maximum rate of USC of 2 per cent for individuals aged 70 or over; and for full medical cardholders (under 70); whose aggregate income does not exceed €60,000.

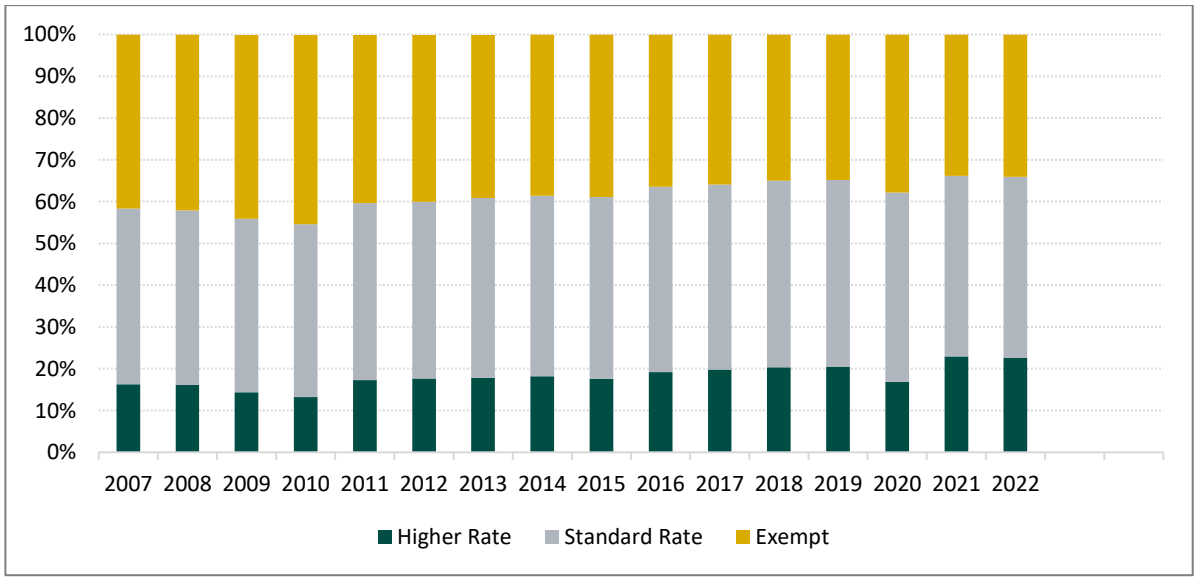
Distribution and Burden of Income Tax and USC

11. The years leading up to 2009 saw a progressive narrowing of the income tax base as Government policy at that time was focused on incentivising and rewarding work, by shifting taxes away from labour by increasing tax credits and bands. As a result, by 2009, 44 per cent of income earners were exempt from income tax and only 14 per cent of earners were liable to the higher rate of tax[7]. The subsequent fall in incomes and rising unemployment exacerbated the narrowing of the base further and by 2010 over 45 per cent of earners were exempt from income tax and just over 13 per cent were liable to the higher rate.

12. A range of structural changes were implemented between 2009 and 2014 primarily to raise revenue, however, an important secondary objective was the need to address the structural weakness, within the Irish taxation system that had contributed to the financial crisis. Some of the important specific income tax structural reforms included the introduction of the USC in 2011, reductions in tax credits and bands, and the phasing out and curtailing of many income tax expenditures[8]. As a result, the income tax base was widened considerably and re-oriented towards more stable revenue streams.

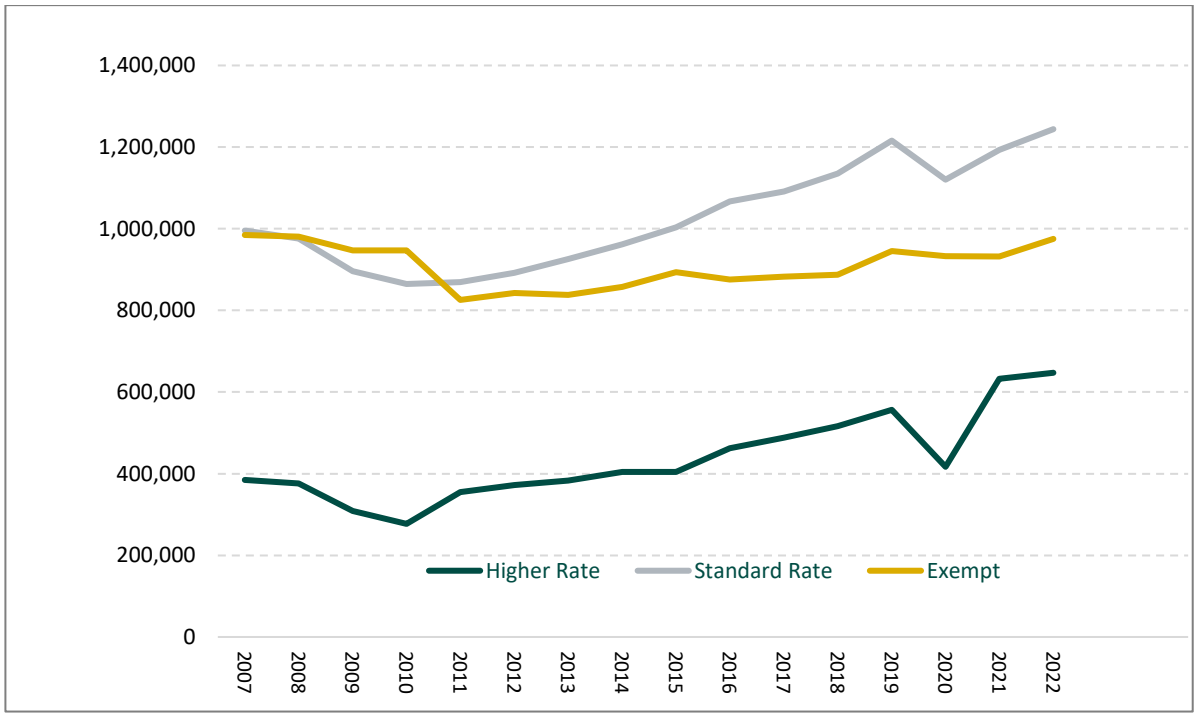
13. Taking account of the economic recovery, since 2015 Government policy has focused on reductions to income tax targeted at low to middle income earners. The graphs below, illustrate the evolution of the income tax distribution of income earners since 2007, in percentage terms and taxpayer units numbers respectively. The graphs show a reduction in taxpayers exempt from income tax and an increase in taxpayers at the higher rate of tax. 2020 somewhat bucks the trend and this is largely as a consequence of the Covid-19 pandemic.

Income Tax Distribution of Income Earners 2007 to 2022



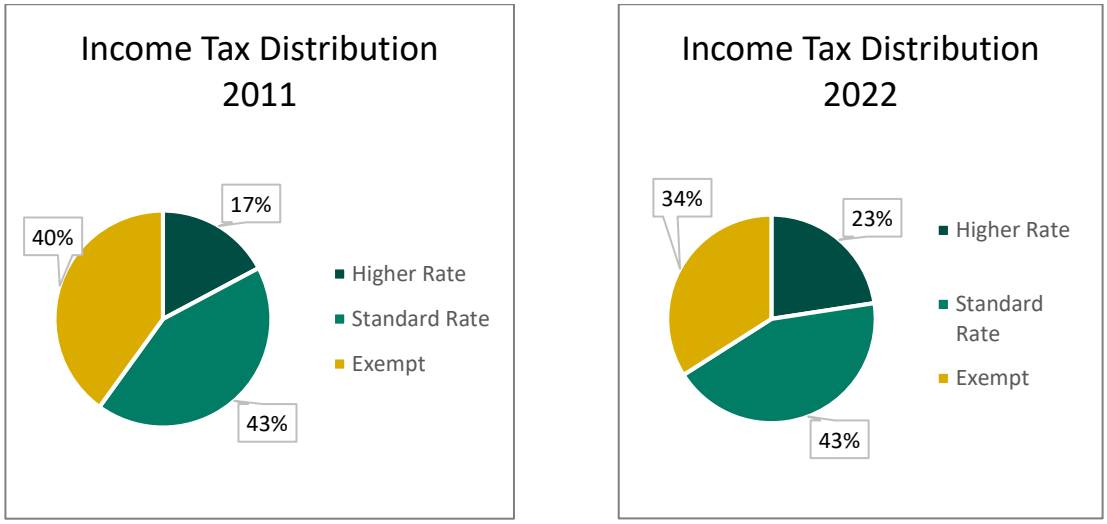
[7] Revenue Commissioners https://www.revenue.ie/en/corporate/documents/statistics/income-distributors/income-earners-tax.pdf

[8] For example, the abolition of tax relief on trade union subscriptions and bin charges, reducing the tax relief on health expenses (excluding nursing home fees) to the standard rate of tax and capping tax relief on medical insurance at €1,000.



Income Tax Distribution of Income Earners 2022 vs 2011

14. The following charts and tables show the 2022 projected distribution of income tax across income earners; exempt from income tax, pay the standard rate of tax at 20 per cent and pay the higher rate of tax at 40 per cent. For comparative purposes, the 2011 distribution of income tax is also provided.



Source: Revenue data Post Budget 2022 Ready Reckoner

Table 4: Income Tax 2011 Distribution of income earners

Income Tax	Earners	Percentage of Earners
Higher Rate	354,931	17 per cent
Standard Rate	868,979	43 per cent
Exempt	825,707	40 per cent
Total	2,049,617	100 per cent

Table 5: Income Tax 2022 Distribution of income earners[9]

Income Tax	Earners	Percentage of Earners
Higher Rate	647,200	23 per cent
Standard Rate	1,244,000	43 per cent
Exempt	975,500	34 per cent
Total	2,866,700	100 per cent

15. Over the period the number of taxpayers units paying tax at the higher rate has increased significantly by 6 percentage points from 17 per cent to 23 per cent of the tax base, which equates to just over an additional 290,000 taxpayer units. Indeed, this reflects the rise in incomes and the fall in unemployment over the period, which contributed to the widening of the tax base.

USC Distribution of Income Earners 2022 vs 2011

16. The structure and design of the USC has changed significantly since its inception in 2011. The original rates of USC were:

Table 6: USC Rates and Thresholds 2011

USC annual income thresholds (PAYE)	PAYE Income	USC annual income thresholds (Non-PAYE)	Non-PAYE Income
Below €4,004	0 per cent	Below €4,004	0 per cent
First €10,036	2 per cent	First €10,036	2 per cent
Next €5,980	4 per cent	Next €5,980	4 per cent
Balance	7 per cent	Next €83,984	7 per cent
		Balance	10 per cent

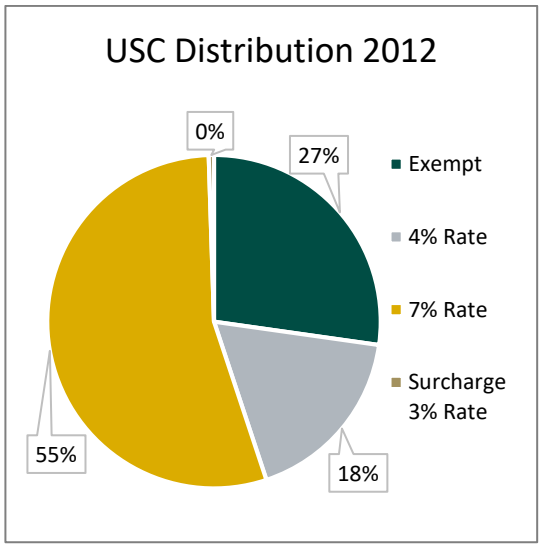
[9] Distributions for 2022 are estimates from the Revenue tax-forecasting model using latest actual data for the year 2018, adjusted as necessary for income and employment trends in the interim. Figures are provisional and likely to be revised. A jointly assessed married couple/civil partnership is treated as one tax unit. Percentages are rounded to the nearest percentage point. Figures in the tables are subject to rounding.
Revenue's Ready Reckoner: https://www.revenue.ie/en/corporate/documents/statistics/ready-reckoner.pdf

17. In the years following 2011 and as the economy stabilised, the Government introduced a suite of USC measures to reduce the personal income tax burden. The lower rates of USC were reduced from 2 per cent, 4 per cent and 7 per cent to 0.5 per cent, 2 per cent and 4.5 per cent respectively. In addition, the entry threshold for USC was increased from €10,036 to €12,012 in Budget 2015 and then subsequently increased to the current threshold of €13,000 in Budget 2016. In addition, a higher rate of 8 per cent was also incorporated into the structure to enhance the progressive nature of the charge. The current rates of USC in 2022 are:

Table 7: USC Rates and Thresholds 2022

USC annual income thresholds (PAYE)	PAYE Income	USC annual income thresholds (Non-PAYE)	Non-PAYE Income
Below €13,000	0 per cent	Below €13,000	0 per cent
First €12,012	0.5 per cent	First €12,012	0.5 per cent
Next €9,283	2 per cent	Next €9,283	2 per cent
Next €48,749	4.5 per cent	Next €48,749	4.5 per cent
Balance	8 per cent	Next €29,956	8 per cent
		Balance	11 per cent

18. The following charts and tables show the 2022 projected distribution of USC across the various income earners; and for comparative purposes, the 2012 distribution of USC is also provided.



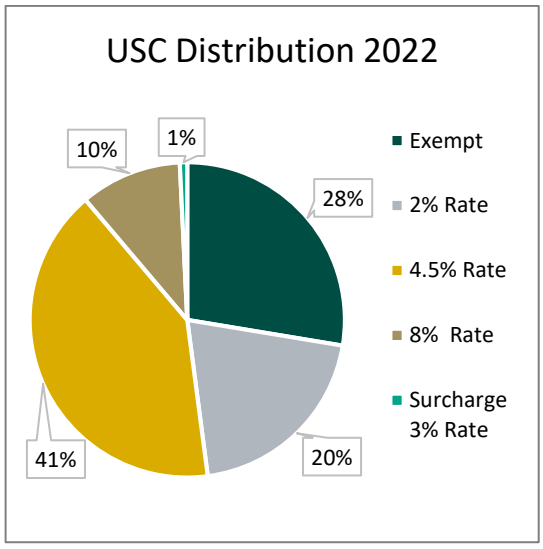


Table 8: USC Distribution of Income Earners 2012 v 2022 Rates

USC (2012)	Earners (2012)	USC (2022)	Earners (2022)
Exempt	573,968	Exempt	797,600
4 per cent rate	372,403	2 per cent rate	586,600
7 per cent rate	1,150,087	4.5 per cent rate	1,181,300
		8 per cent rate	301,200
3 per cent surcharge	10,750	3 per cent surcharge	21,900
Total	2,107,208	Total	2,888,600

Estimated Cumulative Burden of Income Tax and USC for 2023

19. Ireland has one of the most progressive income tax systems in the developed world, which is acknowledged by the IMF, the OECD and the ESRI. A progressive income tax system ensures that the burden of taxation falls most heavily on those with a higher ability to pay.

20. In 2022, it is estimated that the top 1 per cent of income earners, those earning in excess of €250,000 will pay 22 per cent of the total income tax and USC collected. While those earning less than €56,000, which represents the bottom 75 per cent of income earners, will contribute only 18 per cent of total income tax and USC receipts. The following tables and charts below illustrate the progressive nature of the personal income tax system.

Table 9: Burden of Income Tax 2022

Percentage of Income Earners	Tax contribution	Earnings
Top 1 per cent	22 per cent	>€250,000
Top 5 per cent	45 per cent	>€125,000
Top 10 per cent	60 per cent	>€92,000
Top 20 per cent	77 per cent	>€64,000
Bottom 75 per cent	17 per cent	<€56,000

Source: Revenue data.

Burden of Income Tax 2022

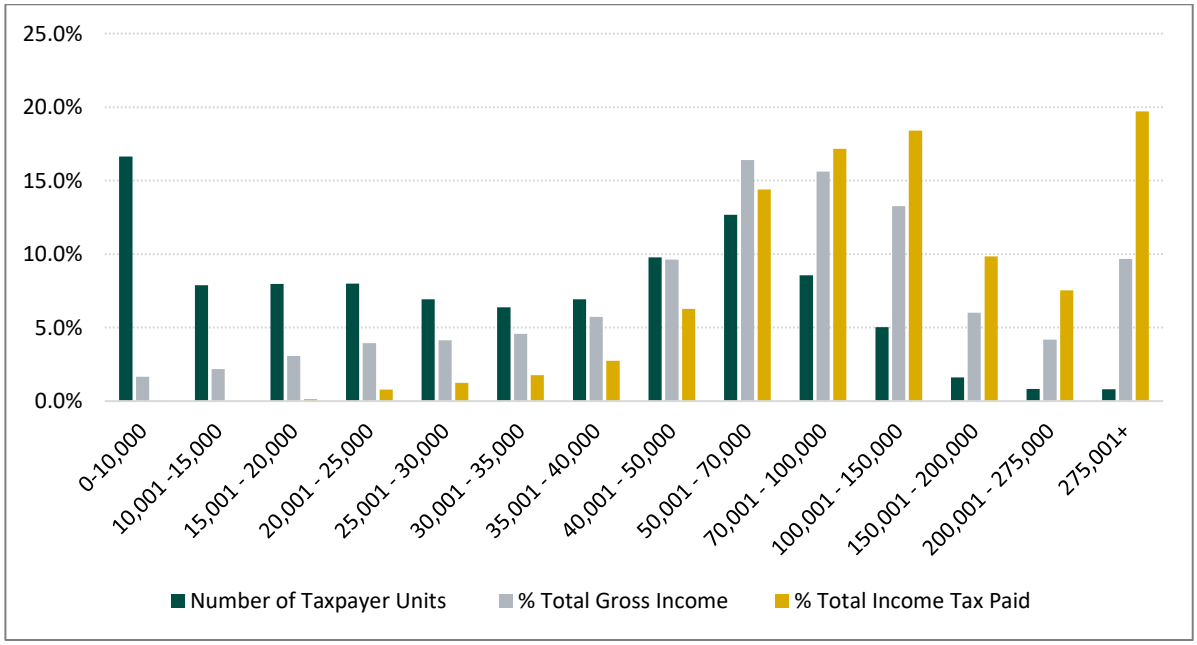


Table 10: Burden of USC 2022

Percentage of Income Earners	Tax contribution	Earnings
Top 1 per cent	25 per cent	>€250,000
Top 5 per cent	46 per cent	>€125,000
Top 10 per cent	59 per cent	>€92,000
Top 20 per cent	74 per cent	>€64,000
Bottom 75 per cent	21 per cent	<€56,000

Source: Revenue data.

Burden of USC 2022

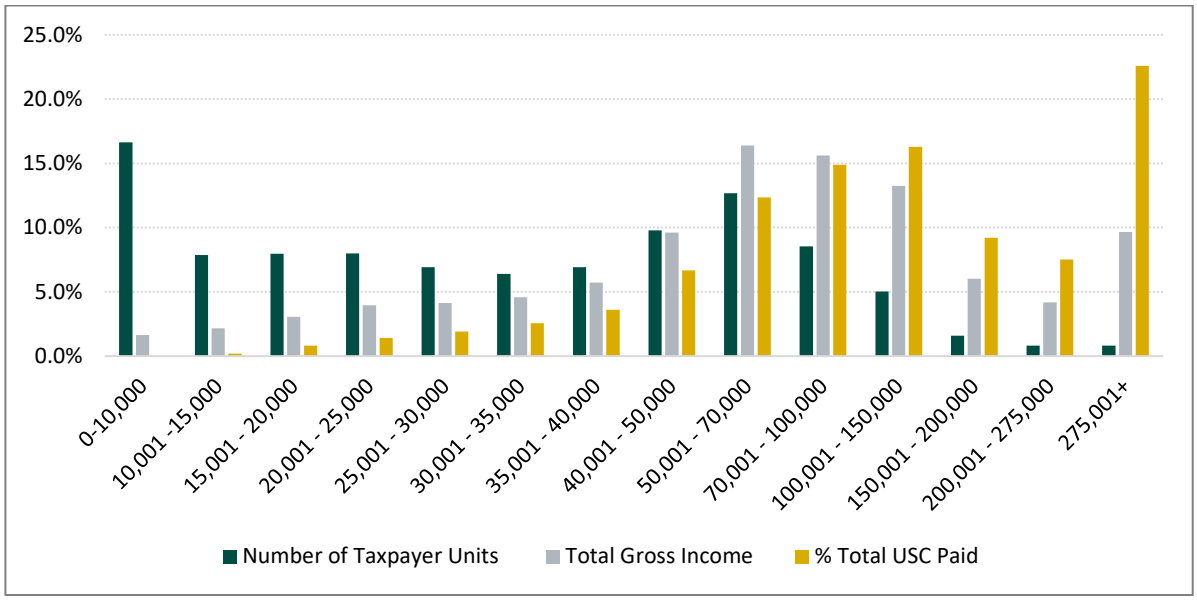
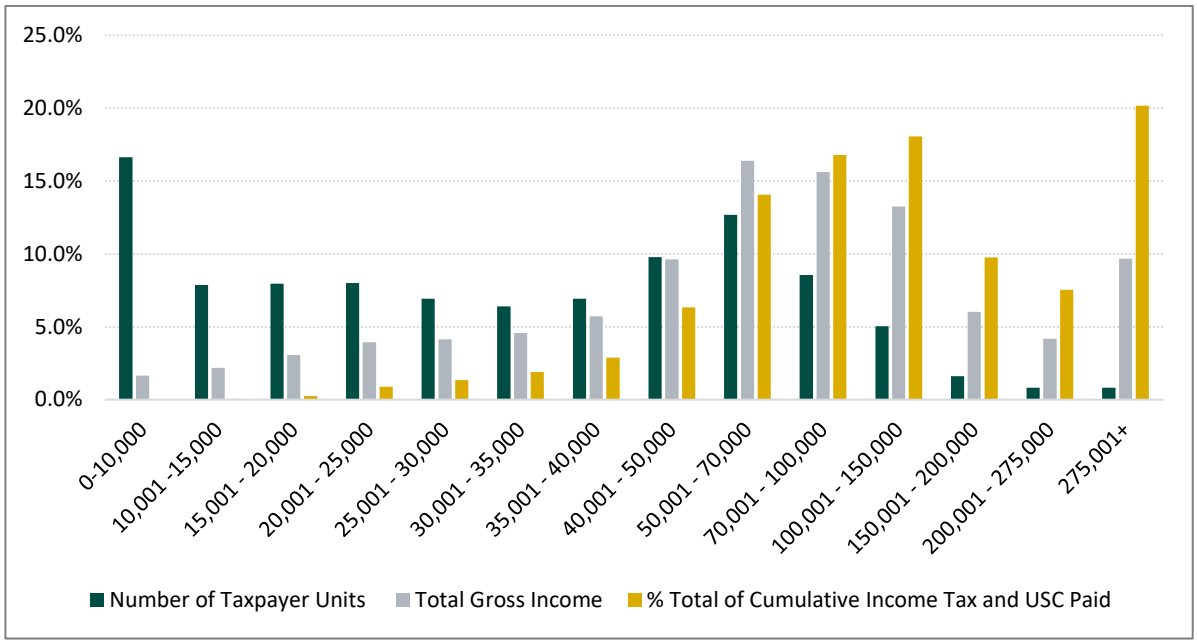


Table 11: Cumulative Burden of Income Tax and USC 2022

Percentage of Income Earners	Tax contribution	Earnings
Top 1 per cent	22 per cent	>€250,000
Top 5 per cent	45 per cent	>€125,000
Top 10 per cent	60 per cent	>€92,000
Top 20 per cent	77 per cent	>€64,000
Bottom 75 per cent	18 per cent	<€56,000

Source: Revenue data.

Cumulative Burden of Income Tax and USC 2022



Resilience of Income Tax - Sector Breakdown of Yield

21. Throughout the pandemic Ireland's income tax receipts have been more resilient than expected. Income tax receipts of €26.7 billion were collected in 2021, which represents year-on-year growth of 17.4 per cent or €4.0 billion. Furthermore, receipts were just over 16 per cent higher than their pre-pandemic level, reflecting an income tax base that proved highly resilient to an unprecedented shock to the labour market.

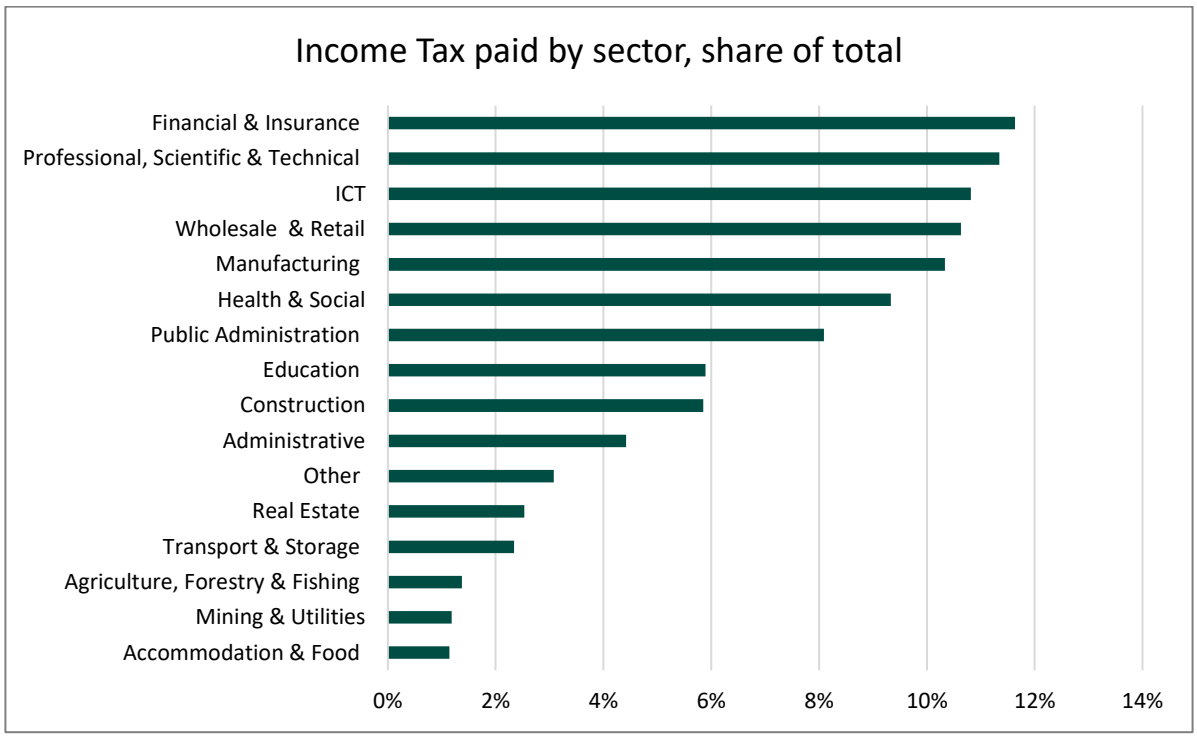
22. The resilience of income tax is primarily due to the highly progressive nature of Ireland's income tax system, combined with the sector-specific nature of the Covid shock to the labour market: job losses were disproportionately concentrated in public-facing, contact-intensive sectors dominated by employees towards the lower end of the wage distribution. These employees were largely outside of the income tax net. In contrast, sectors that could adapt to a remote working environment tended to have a higher proportion of high earning employees, which allowed the income tax yield to hold up despite the surge in unemployment.

23. By end-2021, the labour market had largely recovered from the pandemic shock, with relatively modest overall changes in employment compared to 2019. However, Revenue data indicates that the national wage bill grew by 9.8 per cent, from €98.9 billion in 2019 to €108.6 billion in 2021, and was mostly driven by wage increases. It is estimated that around two-thirds or approximately €2.4 billion of the total increase in income tax receipts since 2019 was attributable to employees in jobs that continued throughout the pandemic.

24. An important additional factor driving wage growth, and as a result income tax receipts, appears to have been compositional changes within the labour market i.e. employees moving into higher wage sectors and/or full-time employment, rather than the return of jobs lost during the pandemic. Revenue data suggests that there were 1.5 million new jobs created between 2021 relative to 2019, which effectively offset a similar number of ceased jobs. However, the average tax paid per new job was €500 higher than the jobs that ceased

suggesting that the composition of employment has improved relative to the pre-pandemic position. Analysis from the Revenue Commissioners suggests that around €0.8 billion of the increase in PAYE income tax and USC (around a quarter of the increase) over this period is attributable to labour market 'churn', i.e. reallocation of employees within the labour market.

25. The Graph below illustrates income tax paid by sectoral for 2021.



Recent Developments – Budgets 2015 to 2022

26. The stabilisation of the economy has allowed for reductions in the personal tax burden to be implemented in recent successive Budgets. It has primarily focused on reductions to income tax and USC targeted at low to middle income earners.

27. Budget 2022 included an income tax package with a first year cost of just over €540 million[10], which included a broad range of income tax and USC measures.

28. The main elements of the income tax package included an increase of €1,500 in the single standard rate income tax band from €35,300 to €36,800, and with commensurate increases for persons who are married or in civil partnerships. In addition, the main tax credits - personal, employee and earned income tax credits were also increased by €50 each from €1,650 to €1,700.

29. In relation to the USC, the ceiling applicable to the second rate of 2 per cent, was increased to take account of the increase in the National Minimum Wage. The National Minimum Wage increased by 30 cent per hour, from €10.20 per hour to €10.50 per hour with effect from 1 January 2022.

30. Furthermore, the USC concession for medical card holders was extended for a further year to end 2022. This provides for a reduced rate of USC payable by such individuals whose aggregate total income does not exceed €60,000 per annum, by allowing income in excess of €21,295 to be taxed at the second USC rate (currently 2 per cent) in place of the third rate (currently 4.5 per cent) until 31 December 2022.

31. The main cumulative effects of the last eight Budgets are as follows:

- The three lower rates of USC have been reduced from 2.0 per cent, 4.0 per cent and 7 per cent to 0.5 per cent, 2 per cent and 4.5 per cent respectively.

- However, a new higher rate of USC of 8 per cent was introduced in Budget 2015 in concurrence with the reduction of the higher rate of income tax from 41 per cent to 40 per cent. This USC rate band has allowed the benefits of the Budget 2015 to 2022 personal tax packages to apply on income up to €70,044 only, thereby limiting benefits arising to higher earners.

- The ceiling of the second USC rate band has been increased consistently in line with the increases in the National Minimum Wage. It now stands at €21,295.

- The income tax standard-rate band has increased by €4,000 from €32,800 to €36,800 for single individuals and from €41,800 to €45,800 for married one earner couples.

- A new Earned Income tax credit for self-employed individuals who do not have access to the PAYE tax credit was introduced in Budget 2016 and increased in subsequent Budgets to the current rate of €1,700.

[10] €520m attributable to Income Tax and €20m to USC

- The Home Carer tax credit, which is available to families where one spouse or civil partner works primarily in the home to care for children or dependents, has increased from €810 to €1,600. The limit on the income which the home carer is allowed to earn and still qualify for the full credit was also increased from €5,080 to €7,200.

32. As a result of the changes in the previous budgets, just over €3.6 billion has been allocated to income tax reductions, comprising both income tax and USC and other income tax measures.

33. The following table illustrates the estimated value of the various income tax packages that have been implemented since Budget 2015:

Table 12: estimated value of budget income tax packages[11]

Aggregate cost, Budgets 2015 to 2022 (rounded)	**Full Year Cost/Yield -€3,622m**
Budget 2022 **USC**	
€608 increase to €20,687 band ceiling to €21,295 1 year extension of reduced rate of USC for medical card holders	-€26m
Income Tax An increase of €1,500 in the income tax standard rate band for all earners, from €35,300 to €36,800 for single individuals and from €44,300 to €45,800 for married couples / civil partners with one earner.	-€597m
An increase in the Personal Tax Credit from €1,650 to €1,700 An increase in the Employee Tax Credit from €1,650 to €1,700 An increase in the Earned Income Credit from €1,650 to €1,700	
Extension of the Sea-going Naval Personnel Tax Credit to 31 December 2022	-€1m
Other Extension of Help to Buy additional measures to end 2021 Working from Home Measure	-€83m -€11m
Budget 2022 Total Cost	**-€718m**
Budget 2021 **USC** €203 increase to €20,484 band ceiling to €20,687 1 year extension of reduced rate of USC for medical card holders	-€7m
Income Tax Increase in the Earned Income Credit from €1500 to €1650 Increase in the Dependent Relative Credit from €70 to €245 Extension of the Sea-going Naval Personnel Tax Credit to 31 December 2021 and to increase it to €1,500 for 2021 (from €1270 in 2020)	-€24m -€6m -€1m
Other Extension of Help to Buy additional measures to end 2021	-€43m
Budget 2021 Total Cost	**-€81m**

[11] Figures are rounded to nearest €1m

Budget 2020	
USC	
1 year extension of reduced rate of USC for medical card holders	-
Income Tax	
Increase in the Home Carer Tax Credit from €1,500 to €1,600	- €8m
An increase in the Earned Income Credit from €1,350 to €1,500	- €35m
Other	
Enhancements to Key Employee Engagement Programme (KEEP)	
Enhancements to Employment and Investment Incentive	
Extension of Foreign Earnings Deduction to 31 December 2022	
Extension of Special Assignee Relief Programme to 31 December 2022	
Extension of Help to Buy until 31 December 2021	- €40m
Budget 2020 Total Cost	**- €83m**
Budget 2019	
USC	
Reduce 4.75% rate to 4.5%	-€123m
€502 increase to €19,372 band ceiling to €19,874	
Income Tax	
Increase the Standard Rate Band by €750	-€161m
Increase in the Home Carer Tax Credit from €1,200 to €1,500	-€24m
An increase in the Earned Income Credit from €1,150 to €1,350	-€48m
Other	
Agri-Taxation measures	-€11m
Amendment to Key Employee Engagement Programme (KEEP)	-€10m
Rented residential property interest deduction restoration	-€18m
Budget 2019 Total Cost	**-€395m**
Budget 2018	
USC	-€206m
Reduce 2.5% rate to 2.0%	
€600 increase in 2nd rate band ceiling to €19,372	
Reduce 5.0% rate to 4.75%	
Income Tax	
Increase the Standard Rate Band by €750	-€152m
Increase in the Home Carer Tax Credit from €1,100 to €1,200	-€8m
An increase in the Earned Income Credit from €950 to €1,150	-€31m
Other	
Tapered extension of Mortgage Interest Relief[12]	+€175m
Introduction of Key Employee Engagement Programme (KEEP)	-€10m
Pre-letting expenses – rented residential property	-€3m
Budget 2018 Total Cost	**-€235m**
Budget 2017	
USC	-€390m
Reduce 1% rate to 0.5%	
Reduce 3% rate to 2.5% and increase ceiling to €18,772	
Reduce 5.5% rate to 5%	
Income Tax	
Increase in the Home Carer Tax Credit from €1,000 to €1,100	-€8m

[12] 75 per cent of the existing 2017 relief will be continued into 2018, 50 per cent into 2019 and 25 per cent into 2020. The relief will cease entirely from 2021. (Generates an exchequer yield as the full relief is currently in the tax base.)

An increase in the Earned Income Credit from €550 to €950	-€58m
Other	
Help to Buy Initiative introduced	-€40m
HRI extended until 31 Dec 2018	-€38m
Rent-a-Room threshold increased to €14,000	-€1m
Living City Initiative enhanced	-€3m
SARP and FED enhanced and extended until end of 2020	-€11m
Start Your Own Business (SYOB) relief extended to end 2018	-€10m
Fishers' Tax Credit introduced	-€6m
ACAs for Energy Efficient Equipment available to sole traders	-€3m
Budget 2017 Total Cost	**-€568m**
Budget 2016	
USC	
Reduce 1.5% rate to 1%	-€772m
Reduce 3.5% rate to 3% and increase ceiling to €18,668	
Reduce 7% rate to 5.5%	
Income Tax	
Increase Home Carer Credit from €810 to €1,000 (+ threshold increase)	-€14m
Introduction of €550 Earned Income Credit	-€61m
Other	
EII changes (incl. Nursing homes)	-€3m
HRI extended until 31 Dec 2016	-€19m
Various Agri-Taxation measures (incl. Farm Succession)	-€23m
High Earners' Restriction (removal of woodlands)	-€1m
Incentives for Certain Aviation Services Facilities	-€1m
Budget 2016 Total Cost	**-€894m**
Budget 2015	
USC	
Reduce 2.0% rate to 1.5%	-€237m
Reduce 4.0% rate to 3.5%	
Introduce new 8% rate on income over €70,044	
Income Tax	
Increase in the standard rate band of €1,000 from €32,800 to €33,800 for single individuals and from €41,800 to €42,800 for married one earner couples	-€405m
Reduction in the higher rate of income tax from 41% to 40%	
Other	
Increase in artists' exemption threshold	-€0.8m
Foreign Earnings Deduction extended	-€1m
Special Assignee Relief Programme extended	-€1m
Rent-a-room relief threshold increased	-€0.4m
HRI extended	-€3m
Budget 2015 Total Cost	**-€648m**

Programme for Government Commitments

34. The Programme for Government (PfG), Our Shared Future, contains a number of specific undertakings with regard to personal taxation (income tax and USC) including the following commitments:

A. "There will be no increases in income tax or USC rates. In Budget 2021, there will be no change to income tax credits or bands".

35. This commitment was fulfilled in Budget 2021 as there were no increases in income tax or USC rates. Also, income tax credits and bands were not adjusted.

B. "From Budget 2022 onwards, in the event that incomes are again rising as the economy recovers, credits and bands will be indexed linked to earnings. This will be done to prevent an increase in the real burden of income tax, to prevent more low-income workers being taken into the tax net because of no changes to the tax system and to ensure there is no increase in the number of people having to pay higher income tax and USC rates".

36. Budget 2022 included a personal tax package with a first year cost of just over €540 million[13], which included a broad range of income tax and USC measures. Within the fiscal resources available, the income tax package effectively indexed the income tax standard rate bands and main personal tax credits. The single standard rate income tax band was increased by 4.3 per cent from €35,300 to €36,800, with commensurate increases for persons who are married or in civil partnerships. In addition, the main tax credits - personal, employee and earned income tax credits were also increased, by just over 3 per cent or €50 each from €1,650 to €1,700. As income levels rise in 2022, it is expected that these income tax changes will ensure that around 27,000 taxpayer units will be removed from the tax net and 39,300 taxpayer units earning in and around the average wage will be removed from liability to the higher rate of income tax.

37. The 2 per cent rate band ceiling for USC was also increased in line with the increase in the National Minimum Wage to ensure that a full-time adult worker who benefits from the increase in the hourly minimum wage rate would remain outside the top rates of USC.

38. The recently published Summer Economic Statement (SES), set out a budgetary framework for Budget 2023, including a total tax package of €1.05 billion. The SES also noted the priority of ensuring that workers are not exposed to higher taxation simply because of inflation.

39. A range of illustrative options and policy considerations are set out later in the paper for consideration by the Tax Strategy Group (TSG) members.

C. "The Earned income Tax Credit will be equalised with the employee tax credit".

40. The Earned Income Credit was increased in Budget 2021 from €1,500 to €1,650, which ensured that the value of the credit was equalised with the employee tax credit. This relationship was maintained in Budget 2022 which provided for both tax credits to be increased from €1,650 to €1,700.

[13] €520 million income tax package and €22 million for increasing the ceiling for the 2 per cent rate of USC.

D. "The 3 per cent USC surcharge applied to self-employed income is unfair and proposals will be considered to ameliorate this over time as resources allow".

41. A surcharge of 3 per cent applies in respect of individuals whose non-PAYE income exceeds €100,000 in a year. As such, a rate of 11 per cent applies to the non-PAYE income that exceeds €100,000. Based on the latest available Revenue data (2019), it is estimated that approximately 14,360 taxpayer units were subject to the 3 per cent USC surcharge with an estimated yield of €71 million.

42. Abolishing or reducing the USC surcharge on non-PAYE income would represent a further step in levelling the playing field between PAYE and self-employed income earners. In addition, it would also reduce the top marginal tax rate on self-employed income, which is currently 55 per cent and may be considered high by international standards[14].

43. At the same time, abolishing or reducing the USC surcharge on non-PAYE income would result in a reduction in tax yield that would need to be factored into the Budgetary arithmetic and/or replaced with an alternative revenue stream.

44. Having regard to the current cost of living pressures, which generally impact low income earners, the question of the appropriate timing of any change to the USC surcharge which effectively represents a tax reduction to higher earners with non-PAYE income, requires careful consideration.

E. "The Home Carer Tax Credit is an effective mechanism to support couples where one decides to home parent rather than working or availing of childcare subsidies and also where one parent stays at home to meet other caring needs. It will be increased to support stay-at-home parents as we increase subsidies for childcare".

45. The Home Carer Tax Credit is available to jointly assessed married persons or civil partners where one spouse or civil partner (the "home carer") cares for one or more dependent persons, for example a child. For 2022, where the home carer earns less than €7,200 the full credit of €1,600 can be claimed. Where the individual earns more than €7,200 but less than €10,400, a reduced tax credit can be claimed. The credit cannot be claimed where the home carer's income is €10,400 or greater.

46. In 2019, the Department of Finance undertook a technical review of the Home Carer Tax Credit, which was published as part of Budget 2020[15]. The review analysed taxpayer data from 2017 and the results included findings such as:

    - a relatively small cohort of the overall population benefit from the measure in a given year, though not necessarily the same cohort in each year,
    - most beneficiaries have total household income of between €20,000 and €40,000 per annum although a sizeable number of high earners also benefit,

[14] The marginal tax rate is described as the tax rate that applies to the last euro of the tax base. Marginal tax rates are important because they influence individual decisions to work more or indeed to work at all. An OECD working paper Tax and Economic Growth indicates that "there is also the possibility that high top marginal rates will increase the average tax rates paid by high-skilled and high-income earners so much that they will migrate to countries with lower rates resulting in a brain drain which may lower innovative activity and productivity".
[15] https://www.gov.ie/en/collection/b4c8d-budget-2020/

- most home carers are females who do not undertake other paid work outside the home and,
- the Home Carer Tax Credit mostly benefits families with two children or less.

47. The review also highlighted that given that the most carers are female, continued consideration should be given to the impact the credit has on female participation in the workforce in the context of any future changes to the income tax system.

48. Based on the latest Revenue data, 83,100 taxpayers claimed the credit in 2018 at a cost of €90 million and 83,800 taxpayers claimed the credit in 2017 at a cost of just under €84 million.

49. According to Revenue's Post-Budget 2022 Ready Reckoner, a €50 increase in the Home Carer Tax Credit would cost €3 million in the first year and €4 million for a full year.

Equality Proofing

50. The Programme for Government also contains commitments to expand equality budgeting across government departments and agencies, and to examine expenditure as it relates to people with a disability. This commitment has been accompanied by the adoption of national strategies in a number of equality areas such as gender, disability, LGBTI, youth, migrant integration, Traveller and Roma inclusion, and social inclusion.

51. As part of Budget 2022, the Department published a paper on Equality Budgeting from a Tax Perspective[16]. This paper includes some high-level insights on the personal income tax system from an equality perspective.

52. The Irish tax system contains a number of provisions which discriminate in favour of certain individuals, in view of additional challenges which they may face. These include, for example: the Age credit and income tax exemption limits for individuals aged 66 and over; reduced USC liability for those aged 70 whose income does not exceed €60,000; additional tax credit and standard rate band for single parents; additional tax credits for parents of disabled children, for the blind, for widows/widowers, and for carers of a dependant relative. While these measures are deviations from the principle of horizontal equity, under which each person with the same income should have the same tax liability, they have been introduced into the tax code as a result of social policy decisions to provide additional supports to individuals in these specific circumstances.

Gender Proofing: Individualisation

53. The issue of individualisation was outlined in the Budget 2020 Income Tax TSG paper.[17]

54. It should be noted that if a policy of individualisation were to be pursued over the coming years it could support the equality agenda and it would have a positive impact on female labour participation.

[16] https://www.gov.ie/en/publication/7e491-taxation-measures/
[17] https://assets.gov.ie/19505/a4393cfd96534ee89694fa077d70c6a3.pdf

Budget 2023 Options/Policy Considerations

55. This section of the paper puts forward a number of personal income taxation policy options for consideration by the TSG.

Option 1 – Full Indexation

56. Income tax indexation is primarily the adjustment of tax credits and income tax rate bands in response to inflation and or wage growth. The policy intention is to avoid bracket creep. Bracket creep can occur when inflation and or wage growth drives incomes into the tax net or into higher rates of income tax. This can result in incomes being taxed for the first time or being taxed at higher rates of income tax and therefore no real increase in purchasing power is experienced.

57. The purpose of tax indexation is to reduce or eliminate the potential for bracket creep by altering the tax credits and income tax rate bands before the fiscal drag occurs.

58. Indexation of the income tax system in line with wage growth, as opposed to price growth, ensures that workers see their income grow at the same rate. Adjusting tax bands and credits upwards, especially in a time of high inflation, is a move to try to maintain the value of net income for all taxpayers.

59. As outlined above, the Programme for Government includes a commitment in relation to indexing the personal tax system - “in the event that incomes are again rising as the economy recovers, credits and bands will be indexed linked to earnings”.

60. A formal policy of indexation would mean that indexation applies automatically. This approach provides certainty to income earners in that they know that their income and take home pay are going to keep pace with either wage growth or price growth. However, a policy of strict indexation of tax credits and bands diminishes the flexibility to adapt spending as necessary to the level of resources available to the Government in any given Budget. Such a policy would also restrict the ability of the Government to target resources where the need is greatest.

61. There are many issues which need to be considered if indexation is to be implemented, such as:
    - Whether indexation should take place by reference to increases in wages or price.
    - Whether the index used would be retrospective or prospective.
    - Whether, and to what extent, a facility for discretion to suspend or modify the system in any particular year would be built into the arrangements.
    - Whether the system would be placed on a statutory footing or something less binding such as a set of non-statutory guidelines.

62. As regards cost, in broad terms, it is currently tentatively estimated that full indexation of 1 per cent would cost c. €180 million in the first year and c. €210 million in a full year. For illustrative purposes, two examples are set out below - 3 per cent indexation and 4 per cent

indexation. Indicative costs of other percentage amounts can generally be extrapolated using a straight line or pro-rata calculation[18].

Option 1a – Indexation of 3 per cent

63. Using the most recent Revenue Ready Reckoner (post-Budget 2022) the cost of indexing the income tax system at 3 per cent would be in the order of:
    - First year cost €550 million in 2023.
    - Full year cost of €630 million.

Option 1b – Indexation of 4 per cent

64. Again using the most recent Revenue Ready Reckoner (post-Budget 2022) the cost of indexing the income tax system at 4 per cent would be in the order of:
    - First year cost €730 million in 2023.
    - Full year cost of €845 million.

65. Table 13 below provides a brief summary of the key points in respect of options 1a and 1b.

Table 13 – Full Indexation of Income Tax system – Summary of Packages

	Option 1a	Option 1b
Summary of Measures	3.0 per cent increase in: • All income tax credits. • Standard income tax rate band with commensurate increases in the married and civil partnership bands, • Age exemption limits. • USC thresholds (lower, middle and upper)[19].	4.0 per cent increase in: • All income tax credits. • Standard income tax rate band with commensurate increases in the married and civil partnership bands. • Age exemption limits. • USC thresholds (lower, middle and upper).
Total Cost	€550m first year. €630m full year.	€730m first year. €845m full year.
Maximum Gain	• Single Individual €416 per annum or €8 per week. • Married One Earner (no children) €466 per annum or €9 per week. • Married One Earner (with children) €516 per annum or €10 per week.	• Single Individual €560 per annum or €11 per week. • Married One Earner (no children) €630 per annum or €12 per week. • Married One Earner (with children) €695 per annum or €13 per week.
Distributional Impact	• Estimated that around 2m taxpayer units (72 per cent of taxpayer units) would benefit, i.e. everyone who pays income tax or USC.	• Estimated that around 2m taxpayer units (72 per cent of taxpayer units) would benefit, i.e. everyone who pays income tax or USC.

[18] The actual cost may differ from the indicative cost derived using this approach due the interaction and offset of tax credits and bands depending on the individual circumstances and income ranges.
[19] Does not include the exemption of threshold of €13,000 and the €100,000 threshold for non-PAYE income

Option 2 - Partial Indexation

66. In general, the approach of successive Governments over the years has been one where automatic indexation has not applied each year and where budgetary flexibility has been retained in large measure from year to year. This approach has delivered results which are broadly similar to what would have been achieved if indexation to earnings growth had been in place.

67. As previously highlighted, Budget 2022, included an income tax package with a first year cost of €520 million, which effectively indexed the income tax standard rate bands and main personal tax credits (personal, employee and earned income credit) within the fiscal resources available.

68. A number of partial indexation options are put forward for consideration by the TSG. These options broadly follow the approach adopted in Budget 2022 and index the standard rate bands and main tax credits (personal, employee and earned income credit), within different fiscal parameters[20]. Option 2a illustrates a €500 million income tax package and options 2b and 2c illustrate a €750 million and €1 billion income tax package respectively. Table 14 below provides a high level summary of the key points in respect of options 2a, 2b and 2c.

Table 14 – Partial Indexation of Income Tax system – Summary of Packages

	Option 2a	Option 2b	Option 2c
Summary of Measures	• Increase of €1,500 in the single income tax standard rate band[21]. • Increase of €50 in the Personal, Employee and Earned income tax credits.	• Increase of €2,200 in the single income tax standard rate band. • Increase of €75 in the Personal, Employee and Earned income tax credits.	• Increase of €3,000 in the single income tax standard rate band. • Increase of €100 in the Personal, Employee and Earned income tax credits.
Total Cost	€500m first year €585m full year	€750m first year €855m full year	€1,000m first year €1,145m full year
Maximum Gain	• Single individual €400 per annum or €8 per week. • Married one earner €450 per annum or €9 per week.	• Single individual €590 per annum or €11 per week. • Married one earner €665 per annum or €13 per week.	• Single individual €800 per annum or €15 per week. • Married one earner €900 per annum or €17 per week.
Distributional Impact	• Estimated that around 1.9 m taxpayer units (66 per cent of taxpayer units) would benefit.	• Estimated that around 1.9 m taxpayer units (66 per cent of taxpayer units) would benefit.	• Estimated that around 1.9 m taxpayer units (66 per cent of taxpayer units) would benefit.

[20] Not included are non-universal tax credits, age exemption limits and USC bands.
[21] With commensurate increases for persons who are married or in civil partnerships.

Option 3 – Third Rate of Income Tax

69. It is generally considered that the entry point for the higher rate of income tax in Ireland, at €36,800 for single individuals and €45,800 for married one-earners, is low by international standards. The policy rationale for introducing an intermediate rate of tax is to increase the entry point before taxpayers are subject to the 40 per cent rate of income tax, which would result in an increase in net pay for those taxpayers.

70. The introduction of an intermediate rate of income tax between the current standard rate of income tax (20 per cent) and the higher rate of income tax (40 per cent) would benefit middle and high income earners (i.e. those that have some part of their earned income between those income bands) and such taxpayers would see a direct increase in their net income due to the intermediate rate of tax.

71. Low and modest income earners would not directly benefit from this proposal, if it was introduced in isolation and without additional compensating measures. From an equity perspective, it may be desirable to introduce other tax measures in tandem that would benefit low earners.

72. An intermediate rate of income tax is an easily understood proposal, which would assist in increasing the entry point for the higher rate of tax and positively contribute towards the competiveness of Ireland's personal tax system.

73. From a structural perspective, it would insert into the personal income tax system a further lever that could be used to target budgetary resources.

74. At the same time, the introduction of an intermediate rate of income tax would represent a very significant change to the current structure of the income tax system, as the current two rate structure of income tax has been in place since the early 1990s. It would necessitate big alterations to Revenue's systems as well as changes for payroll providers to ensure the feasibility and operability of the new structure.

75. There may be consequential impacts regarding the interaction of the intermediate rate band and the current tax system. Some tax reliefs are granted at a taxpayer's marginal rate of tax (for example, tax relief for employee pension contributions and health expenses relief for nursing home charges). With a decrease in the marginal rate of tax for some taxpayers who would benefit from the intermediate rate, this could give rise to a reduction in the amount of tax relief they receive[22].

76. Two intermediate/third rate of income tax options (i.e. 3a and 3b) have been put forward for consideration by the TSG. Table 15 below provides a high level summary of the key points in relation to the proposed income tax packages.

[22] For example, if an intermediate rate of tax applies to a €10,000 band of income (€36,800 to €46,800), it is tentatively estimated that up to 200,000 taxpayer units could potentially see their marginal relief in respect of pension contributions reduced in full or in part from 40 per cent to 30 per cent.

Table 15 – Third Rate of Income Tax – Summary of Packages

	Option 3a	Option 3b
Summary of Measures	30 per cent rate of income tax between €36,800 - €41,800 (i.e. an intermediate band of €5,000)	30 per cent rate of income tax between €36,800 - €46,800 (i.e. an intermediate band of €10,000)
Total Cost	€460m first year €525m full year	€820m first year €945m full year
Maximum Gain	Single individual and married one earner couples €500 per annum,	Single individual and married one earner couples €1,000 per annum.
Distributional Impact	1.0m (35 per cent) taxpayers units would benefit	1.0m (35 per cent) taxpayers units would benefit

77. For completeness, abolishing the 40 per cent rate of income tax entirely and replacing it with a 30 per cent rate of tax would cost approximately €3.4 billion in the first year and €4.0 billion in a full year.

Comparison of Income Tax Options

Table 16 Comparison of Changes to Personal Tax System based on the Various Policy Options

	Cost First Year / Full Year	Main Tax Credits (Personal[23], Employee and Earned Income)	Standard Rate Cut-off Point[24]	Increase in Non-universal Tax Credits[25]	Increase in Age Exemption Limits	Increase in USC Bands[26]
Option 1 – Full Indexation						
1a – 3%	€550m / €630m	+€50 (€1,700 to €1,750)	+€1,105 (€36,800 to €37,905)	✓	✓	✓
1b – 4%	€730m / €845m	+€70 (€1,700 to €1,770)	+€1,470 (€36,800 to €38,270)	✓	✓	✓
Option 2 – Partial Indexation						
2a	€500m / €585m	+€50 (€1,700 to €1,750)	+€1,500 (€36,800 to €38,300)	×	×	×
2b	€750m / €855m	+€75 (€1,700 to €1,775)	+€2,200 (€36,800 to €39,000)	×	×	×
2c	€1,000m / €1,145m	+€100 (€1,700 to €1,800)	+€3,000 (€36,800 to €39,800)	×	×	×
Option 3 – 30% Rate of Tax						
3a - €5,000 band of income at 30%	€460m / €525m	×	€36,800 to €41,800 taxed at 30%	×	×	×
3b - €10,000 band of income at 30%	€820m / €945m	×	€36,800 to €46,800 taxed at 30%	×	×	×

[23] With commensurate increases for married persons and civil partners
[24] With commensurate increases for married persons and civil partners
[25] For example, Single Person Child Carer Tax Credit, Home Carer Tax Credit, Age Tax Credit, Blind Person Tax Credit, Dependent Relative Tax Credit, Incapacitated Child Tax Credit
[26] Does not include the €13,000 exemption threshold or the €100,000 threshold in respect of non-PAYE income

Table 17 - High Level Comparison of the Key Points in relation to the Various Policy Options.

	Option 1a/1b – Indexation 3 per cent and 4 per cent respectively	Option 2a/2b/2c – Partial Indexation	Option 3a/3b – Intermediate Rate of Tax
Who Benefits	• 2m taxpayer units (72 per cent of taxpayer units), i.e. everyone who pays income tax or USC	• 1.9 m taxpayer units (66 per cent of taxpayer units), i.e. everyone who pays income tax	• 1m taxpayer units (35 per cent of all taxpayer units) i.e. everyone on incomes above the standard rate band
Maximum Gain	• Option 1a – Single individual €416 p.a. or €8 p.w. • Option 1b – Single individual €560 p.a. or €11 p.w.	• Option 2a – Single individual €400 p.a. or €8 p.w. • Option 2b – Single individual €590 p.a. or €11 p.w. • Option 2c – Single Individual €800 p.a. or €15 p.w.	• Option 3a – €5,000 band – Single individual €500 p.a. or €10 p.w. • Option 3b – €10,000 band – Single individual €1,000 p.a. or €19 p.w.
Other Considerations	• Applies to all income tax credits and bands, and some USC bands • Broad applicability - large majority benefit • Equitable – all those who pay income tax or USC benefit • Idea of a move to maintain value of take home pay easily understood and within the existing tax system	• Applies to all those who pay income tax by increasing the main tax credits • In general slightly larger gain for those who benefit compared to full indexation • Well understood ground within the existing tax system • Broadly follows approach adopted in Budget 2022	• Larger gain for those who benefit • Broadens potential Budgetary options • Impact on marginal tax relief (pension contributions etc.) for those who will see their marginal rate of tax decrease • Complex structural change • Easily understood
Cost	• Option 1a first year cost of €550m and full year cost of €630m • Option 1b first year cost of €730m and full year cost of €845m	• Option 2a first year cost of €500 million and full year cost of €585m • Option 2b first year cost of €750m and full year cost of €855m • Option 2c first year cost of €1,000m and full year cost of €1,145m	• Option 3a €5,000 band – First year cost of €460m and full year cost of €525m • Option 3b €10,000 band – First year cost of €820m and full year cost of €945m • Further significant costs if other measures also implemented to confer similar benefits to those who would not otherwise benefit

International Comparisons

78. A progressive income tax system means that those on higher incomes pay proportionately higher rates of tax than those on lower incomes – this is in accordance with the concept of vertical equity. As previously stated, Ireland has one of the most progressive income tax systems in the developed world – the most progressive within the EU members of the OECD. The tax revenues are used, among other purposes, to fund social transfers such as welfare supports to those on lower incomes.

79. However high marginal rates of taxation as a result of progressive taxation can have a negative impact on incentives to work for income earners, and lead to increased labour costs for employers who may have to offer a certain level of net income in order to attract employees in a competitive labour market. Marginal tax rates which are high by comparison to competitor jurisdictions can therefore have a negative impact on domestic businesses seeking to attract mobile highly-skilled workers. They can also be a negative factor in the location choices of foreign direct investment, a particularly important issue for the Irish economy.

80. The latest data from the OECD (for 2018[27]), notes that Ireland has one of the most progressive system of taxes and transfers of any OECD member. Ireland ranks 31 of 33 among OECD members for income inequality before taxes and transfers[28]. Taxation and transfers do more to reduce income inequality than almost all other members, with the exception of Finland and Belgium. Compared to other OECD countries, Ireland ranks 13 of 33 for income inequality after taxes and transfers.

81. This is measured using the Gini coefficient, which is a standard measurement of income inequality used internationally, whereby 0 represents a situation where all households have an equal income and 1 indicates that one household has all national income. In Ireland, income inequality measured on the basis of disposable income using the Gini coefficient stood at 0.29 based on the latest OECD data for 2018. This figure is below the OECD average and points to the strongly redistributive nature of the tax and welfare system in Ireland.

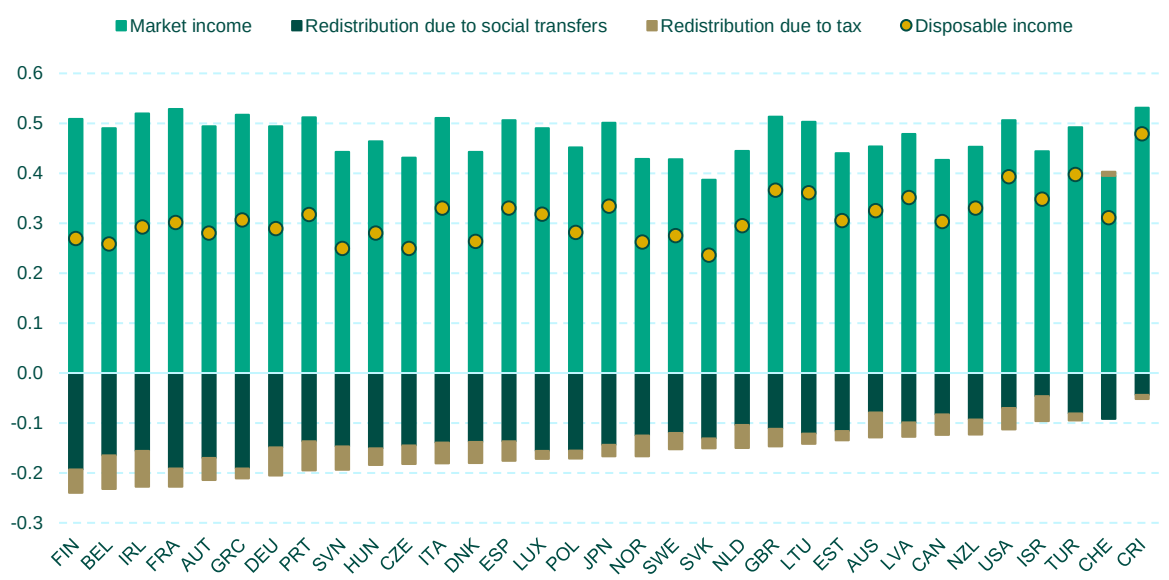
82. The contribution of the tax and welfare system to enhancing income equality can be measured by the relative fall in the Gini coefficient between market and disposable incomes (Figure 1). The latest OECD data show that Ireland recorded the third largest fall in the Gini coefficient between market and disposable income (after Finland and Belgium), with most of this reduction achieved due to welfare measures. The reduction in the Gini coefficient in Ireland due to tax was the largest across the OECD countries analysed.

[27] The OECD's Income Distribution Database is available at: https://stats.oecd.org/index.aspx?queryid=66670

[28] Data on income inequality in 2018 is not available for Chile, Colombia, and Iceland. Data on the Gini coefficient, gross income (i.e. before taxes) is not available for Korea and Mexico.

Figure 1: income inequality

Reduction in the Gini coefficient in 2018: role of tax and welfare



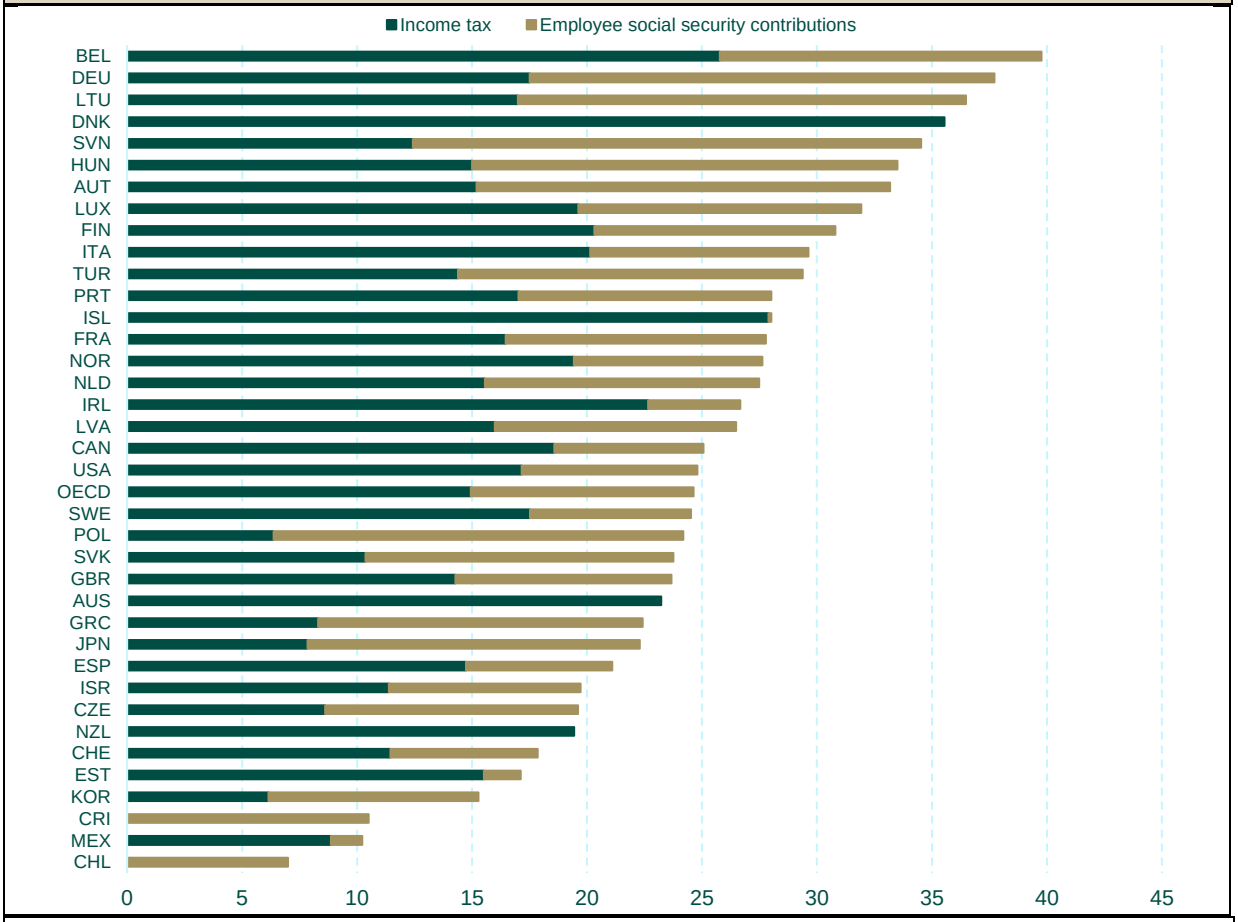
Source: OECD Income Distribution Database.

83. In terms of personal tax rates, Ireland ranked 17th highest out of 37 countries examined in the OECD "Taxing Wages 2022" report with an average personal tax rate of 26.7 per cent of gross earnings[29]. This was comprised of Income Tax (22.7 per cent) and employee social security contributions (4 per cent). The OECD average (based off 2021 data) was 24.6 per cent which was broken into average of 14.9 per cent for income tax and 9.7 per cent for employee social security contributions. This is based on a single worker on the average wage.

[29] Data is not available for Colombia. See: https://www.oecd-ilibrary.org/sites/f7f1e68a-en/1/3/2/17/index.html?itemId=/content/publication/f7f1e68a-en&_csp_=014eb424297c4447c12d00c21c4021cb&itemIGO=oecd&itemContentType=book htm

Figure 2: income tax and employee social security contributions, 2021

As a proportion of average gross wages, single individual without children



Source: OECD Taxing Wages 2022.

84. The Tax Wedge is defined as the sum of personal income tax plus employee and employer social security contributions together with any payroll taxes less cash transfers, expressed as a percentage of labour costs. It is the difference between what an employer has to pay in terms of gross wages plus taxes to hire an employee and the net income received by that employee after deduction of all taxes on their wages. High tax wedges particularly affect low skilled workers, second earners and older cohorts whose labour force participation is more sensitive to taxation.

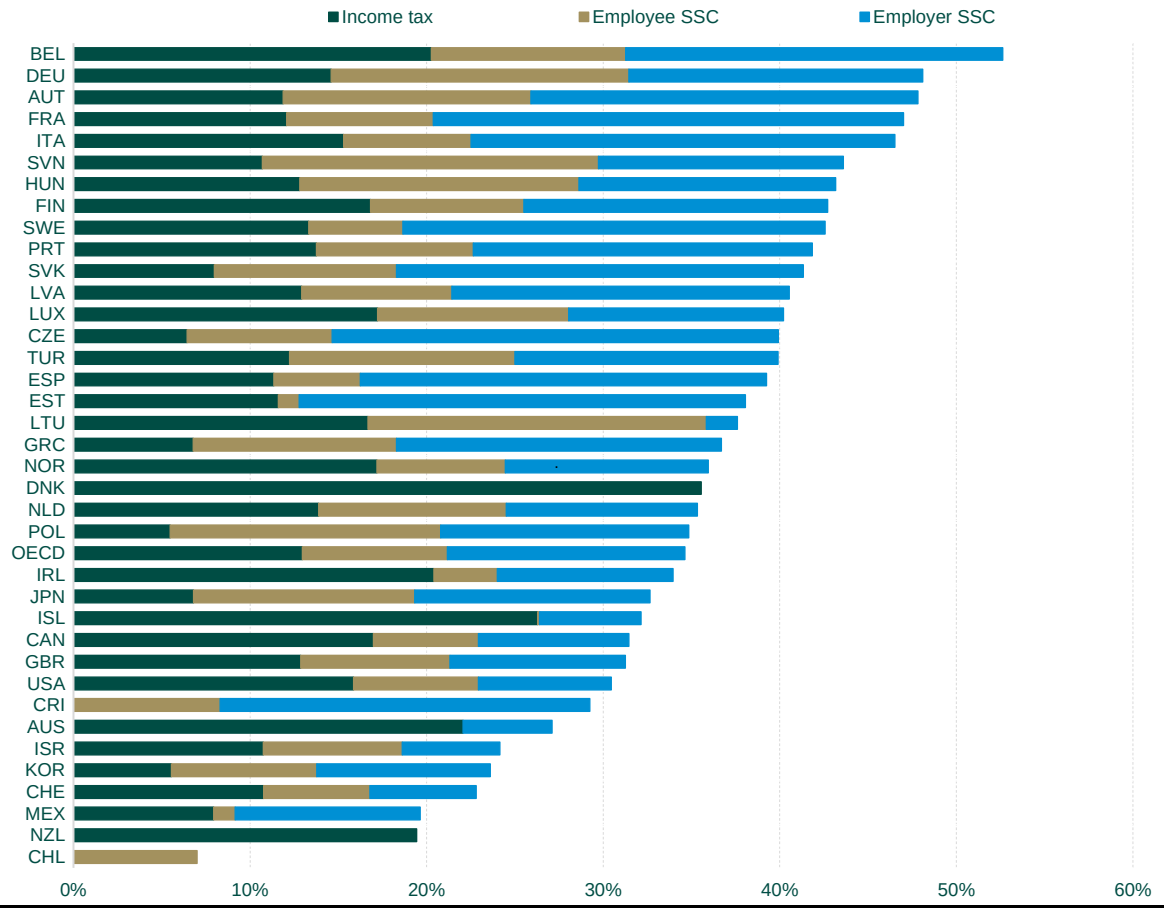
85. Reductions in the tax wedge can also increase the demand for labour from employers. For these reasons, a competitive tax wedge is considered vital in encouraging employment growth across all income categories and to incentivise individuals to remain in or return to the labour market.

86. In terms of international comparisons, according to the OECD Taxing Wages Report 2022[30], based on 2021 data, Ireland has a tax wedge of 34 per cent which places Ireland as the 24th lowest nation (out of 37 OECD members included) for a single worker on average earnings.[31] Ireland's tax wedge sits below the average of 34.6 per cent. Ireland is the lowest of the 22 EU members of the OECD included in the report.

[30] https://www.oecd-ilibrary.org/sites/f7f1e68a-en/index.html?itemId=/content/publication/f7f1e68a-en
[31] Data is not available for Colombia.

Figure 3: income tax, employee and employer social security contributions, 2021

As a proportion of labour costs, single individual without children



Note: Single indiviual without children at the income leve of the average worker. Includes payroll taxes where applicable.

Source: OECD Taxing Wages 2022.

87. Income Tax and Employer PRSI account for 89 per cent of the tax wedge in Ireland. This is significantly higher than the OECD average of 77 per cent and is due to Ireland having relatively low rates of employee social insurance payments.

88. The tax wedge for a single income married couple with two children was found to be 19 per cent in Ireland, below the OECD average of 24.6 per cent. Ireland ranked 7th lowest out of the 38 countries examined (in the bottom 20 per cent). This is a change of approximately minus 15 per cent from the tax wedge for a single earner with no children, the 8th greatest difference of the OECD countries and significantly greater than the OECD average of 10 per cent.

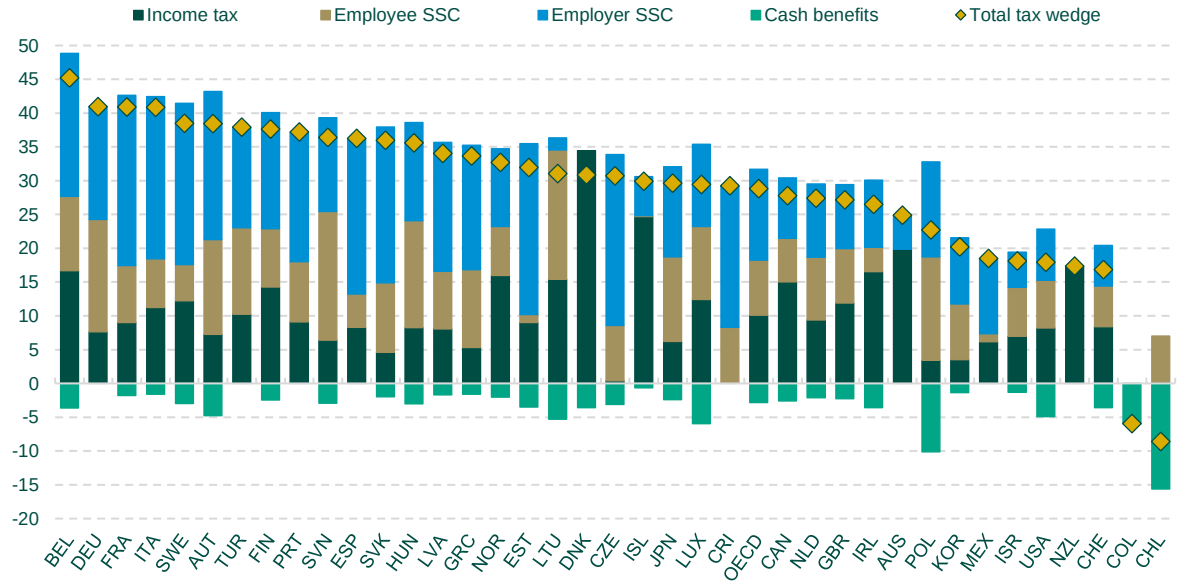
89. Furthermore, the OECD's *Taxing Wages 2022* report shows that for those on 67 per cent of the average wage, the tax wedge in Ireland is one of the lowest in the OECD, standing at about 25 per cent. In contrast, for higher earners, the tax wedge is 42.4 per cent, which is above the OECD average.

90. The tax wedge for a two-earner married couple with 2 children is 26.5 per cent, below the OECD average of 28.8 per cent, eleventh lowest in the OECD and the second lowest of the

EU members included in the report. This assumes one person earning 100 per cent of the average wage and the other earning 67 per cent of the average wage.

Figure 4: income tax, employee and employer social security contributions less cash transfers, 2021

As a proportion of labour costs, two-earner married couple with two children



Note: Two-earner married couple, one at 100 per cent and the other at 67 per cent of the average wage, with 2 children. Includes payroll taxes where applicable.

Source: OECD Taxing Wages 2022.

Further Potential Options for Consideration

91. The Post-Budget 2022 Ready Reckoner (dated 05 November 2021) allows calculation of the cost/yield of adjustments to the rates, bands and major credits in the income tax system. The below table reflects the Post-Budget 2022 ready reckoner that was published 05 November 2021.

(See notes below table regarding costing methodology)

No.	Options	First Year Cost/Yield	Full Year Cost/Yield
	Tax Rate	€m	€m
1	Decrease 20 per cent rate to 19 per cent	- 648	- 745
2	Decrease 40 per cent rate to 39 per cent	- 339	- 404
3	Increase 20 per cent rate to 21 per cent	+ 648	+ 744
4	Increase 40 per cent rate to 41 per cent	+ 338	+ 403
	Standard-Rate Bands		
5	Increase standard rate cut off point by €1,000 (single, married one-earners and two earners)	- 199	- 228
6	Increase standard rate cut off point by €1,500 (single, married one-earners and two earners)	- 296	- 340
	Tax Credits		
7	Increase Earned Income Credit by €50	-5	-8
8	Increase Single Persons Tax Credit by €100	- 90	- 102
9	Increase PAYE Credit by €50	-90	-102
10	Increase Home Carer's Credit by €50	- 3	- 4
	Universal Social Charge		
11	Increase USC entry point to €13,500	- 2	- 3
12	Increase USC entry point to €14,000	- 5	- 5
13	Increase €12,013 and €21,295 ceilings of second USC rate band (by €1,000) to €13,013 and €22,295	- 68	- 78
14	Reduce 0.5 per cent rate to 0.0 per cent	-124	-144
15	Reduce 2 per cent rate to 1 per cent	-200	-231
16	Reduce 4.5 per cent to 3.5 per cent	-374	-433
17	Reduce 8 per cent to 7 per cent	-174	-215
18	Increase 8 per cent rate to 9 per cent on income over €70,044 (with consequential increase from 11 per cent to 12 per cent in rate applying to non-PAYE income over €100,000)	+ 174	+ 215

Points to note regarding costing methodology and assumptions:

- *Individual element cost estimates stand-alone i.e. putting two elements together may not simply cost the aggregate of the two elements as there may be interaction between the elements.*
- *Figures are provisional and likely to be revised.*
- *A jointly assessed married couple/civil partnership is treated as one tax unit.*

Update on Income Tax Related Reviews

92. Following various commitments, including those set out in the Department of Finance Tax Expenditure Guidelines, a number of income tax incentives are being reviewed over the course of 2022.

Reduced Rate of USC for Medical Card Holders

93. The Universal Social Charge (USC) was introduced in 2011, to replace the Income Levy and Health Levy. When devising the USC charge in 2010, it was recognised that medical card holders would be at an immediate financial disadvantage, as they were previously exempt from paying the Income Levy and Health Levy. As such, it was decided to introduce a temporary provision which applied a reduced rate of USC to medical card holder income earners to act as a transitional measure to assist those taxpayers in becoming accustomed to the USC charge prior to paying the full rates of USC.

94. In Budget 2013 an income threshold of €60,000 per annum was introduced to ensure high income earners in receipt of medical cards could not benefit from the reduce rate of USC This qualifying income threshold of €60,000 per annum has remained unchanged since its implementation in 2013. Once a medical card holder's aggregate annual income is above €60,000 the normal USC rules and rates apply.

95. The original policy intention for the reduced rate of USC envisaged a phasing in of the full USC charge for medical card holders via a transitional approached for the duration of the National Recovery Plan (2011-2014). As such, this concession for medical card holders was never intended to be a permanent feature of the USC. However, since 2014, the temporary reduced rate for medical card holders has been extended on a number of occasions. For example, it was extended for 3 years in Budget 2015, and again extended for a further two years in Budget 2018, and has been extended for an additional year in each of the last three Budgets (i.e. Budget 2020 to Budget 2022 inclusive).

96. The latest figures from the Health Service Executive (HSE) indicate that 1.55 million individuals were covered by medical cards in 2021. In addition, it is estimated that around 85 per cent of these individuals qualified for a medical card via means assessments, and the remainder through a variety of criteria such as discretionary granting (e.g. if a person has endured undue hardship) or if a person is taking part in certain government work schemes or returning to work.

97. However, not all of those individuals with a medical card would be subject to the USC, for example, if they are in receipt of certain social welfare payments or their income is less than the current USC exemption limit of €13,000. It is estimated that the Exchequer cost of this USC concession is in the region of €40 million per annum.

98. The Department of Finance's Tax Expenditure Guidelines indicate that tax expenditures should be reviewed regularly to assess the continuing relevance of the measure and its impact.

99. This measure has a positive impact on those who are eligible for the reduced rates of USC, in terms of a direct financial benefit. For 2022, the reduced rates of USC that apply with this concession are 0.5 per cent on the first €12,012 of income and 2 per cent on the balance. Taxpayers that avail of this concession benefit from a reduced rate of 2 per cent on their income between €21,295 and €60,000 rather than the standard rate of 4.5 per cent.

100. Equity is a fundamental principle of the income tax system. As noted above, the tax system contains a number of specific provisions which discriminate in favour of certain individuals in light of their circumstances. It could be suggested that the reduced rate of USC for medical card holders is such a measure.

101. It may also be suggested that a medical card is a means of identifying individuals who may be of low means or face undue hardship due to their personal circumstances. At the same time, additional support is provided to those individuals via the medical card scheme, a direct expenditure intervention, which is the approach recommended by the Department's Tax Expenditure Guidelines[32].

102. The original policy intention of this concession was to act as a temporary measure to facilitate a lead-in period prior to paying full rates of USC. It could be asserted that the policy objective has been achieved with a lengthy transition period of over ten years. As such, the continued relevance of this measure could be questioned.

[32] Tax expenditures should be used in limited circumstances of demonstrable market failure where a tax-based incentive is more efficient that a direct expenditure intervention.

Policy Options to take account of possible changes to Revenue's Flat Rate Expenses (FRE) Regime

Introduction

103. During the course of Revenue's review of its flat rate expenses regime in 2018 and 2019, a number of policy issues emerged. Revenue decided to defer its implementation of any planned changes to the regime pending the outcome of a policy review by the TSG.

104. A detailed account of the review of the tax treatment of employment expenses including flat rate expenses was included in the Income Tax TSG paper in 2020 (20/02)[33]. As part of the presentation and examination of the issues in that paper, a number of policy options as to how the flat rate expense issue might be addressed going forward were outlined and discussed. This was also discussed in the 2021 TSG Paper (21/02)[34].

105. While the 2020 and 2021 TSG did not reach specific conclusions in the paper, the Group observed that, having regard to the huge disruption in the labour market brought about by Covid-19, the question of the appropriate timing of the introduction of any policy changes relating to the flat rate expenses regime was one that would require careful consideration.

106. The pandemic had dominated the economic position for the last two years and global inflationary pressures are resulting in cost of living challenges for individuals and businesses.

107. As such, the question of the appropriate timing of the introduction of any change that seeks to adjust or withdraw what may be seen as a modest tax benefit, especially for those on lower incomes, which may result in a reduction of income for a significant number of employees, remains a valid consideration at this time.

108. At the same time, Revenue has deferred the implementation of its review for two years and, from a good governance perspective, implementation of Revenue's review would ensure that the flat rate expenses regime is appropriate to modern day employments and work practices, and in accordance with the legislative requirement for deduction as set out in section 114 of the TCA 1997.

109. The policy options to take account of possible changes to Revenue's flat rate expenses regime are set out below for further consideration by the TSG, against the background of the prevailing economic circumstances.

Data

110. Revenue has supplied the most recent data available regarding taxpayers who claimed flat rate expenses. The information below encompasses both 2018 and 2019 and gives an insight into the number of taxpayer units availing of FREs, information on the type of income earner availing of FREs as well as details on the estimated cost of the reliefs:

[33] https://www.gov.ie/en/publication/fdd38-budget-2021-tsg-papers/
[34] https://www.gov.ie/en/collection/d6bc7-budget-2022-tax-strategy-group-papers/

	No. of Taxpayer Units	Gross Claims	Tax Cost
		€million	€million
2018	637,900	196	54
2019	737,800	204	62

Number of Taxpayer Units		
Personal Status	2018	2019
Single Male	174,000	208,400
Single Female	187,200	211,900
Married Both Earning	181,800	201,700
Married One Earning	89,600	110,100
Widower/Widow	5,300	5,700
Total Combined	**637,900**	**737,800**

Number of Taxpayer Units		
Gender	2018	2019
Male	376,000	435,300
Female	261,900	302,500
Total Combined	**637,900**	**737,800**

Number of Taxpayer Units		
Age Range	2018	2019
<=25	99,400	149,100
26-34	129,900	153,300
35-44	172,600	189,000
45-54	127,100	139,100
55-64	84,300	89,500
65-69	16,400	12,400
>=70	8,100	5,500
Total	**637,900**	**737,800**

111. In 2019, almost 738,000 taxpayer units claimed a flat rate expense(s). Broadly, this equates to over a quarter of all taxpayer units. For 2019, approximately 81,000 taxpayer units that claimed a flat rate expense, did not use it, as they did not pay tax in that year. The corresponding figure in 2018 is approximately 67,500 taxpayer units. As such, just over 10 per cent of claimants do not actually use the expense claimed.

112. It can be seen that the number of people claiming flat rate expenses increased by approximately 100,000 tax units or 15.7 per cent during the period 2018-2019 while the total cost of the claims increased by approximately €8 million (4.1 per cent). It is understood that the increase in the number of taxpayers claiming flat rate expenses was due to increased publicity associated with the regime following Revenue's announcement of intended changes in late 2018, some element of a general increase in the number of PAYE employments between 2018 and 2019, and the implementation of PMOD, which contributed to an increase in registrations on MyAccount and an increase in FRE claims.

113. Other trends observed include the significant increase in younger claimants. The number of claimants aged 25 and under increased by 50 per cent. This is in contrast to older categories with claimants aged 55-59 increased by only 6.2 per cent while claimants aged 65-69 and 70 and over decreased by 24.4 per cent and 32.1 per cent respectively. These were the only two age categories to see decreases during the period 2018-2019.

Policy Options to take account of possible changes to Revenue's Flat Rate Expenses Regime

114. All employees have a statutory right to claim a deduction under section 114 TCA for any valid expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment, to the extent which the expenses are not reimbursed from any source. This would be done on a specific "vouched basis" following a claim to Revenue.

115. In order to provide clarity to employees, Revenue's flat rate expenses regime forms part of their administration of the tax code. This concessionary practice is applied where both specific commonality of expenditure exists across an employment category, and the statutory requirement of Section 114 is satisfied.

116. The purpose of the practice is to simplify tax administration for both taxpayers and Revenue by making it easier for large groups of employees working in the same sector to avail of their entitlement to tax relief in respect of allowable expenses incurred in the performance of their employment duties.

117. Any maintenance or progression of the practice can only take place if Revenue are satisfied that there is a legally valid basis to give the concession, and a decision on same typically involves extensive engagement with the relevant representative body acting on behalf of the various categories of workers.

118. Revenue carried out a review of their flat rate expenses regime in 2018 and 2019 to ensure that their on-going practice complied with the legislation.

119. This review may result in a change to the current list of flat rate expenses, by either increasing, reducing, maintaining or withdrawing the various expenses that cover 53 employments and broadly 134 categories of expense. Currently, this equates to 182 flat rate expense rates.

120. In the event that the review is seen as potentially resulting in changes that increase the burden of taxation on workers in a way that is not considered desirable, the options presented below may be considered. The first two policy options were included in previous TSG papers and are included below for completeness and for the benefit of the TSG. The latter two policy options are potential new options that may also be considered.

1. Legislate to allow the individual expense be claimed by amending Section 115 TCA

121. Section 114 of the TCA is the legislative basis for employment expenses. Any changes to this section could constitute a substantial erosion of the income tax base, with potentially significant additional costs to the Exchequer.

122. An amendment to this section would therefore not be considered advisable – but an alternative option might be considered in relation to Section 115.

123. Section 115 of the Taxes Consolidation Act, 1997 states that *"(w)here the Minister for Finance is satisfied, with respect to any class of persons in receipt of any salary, fees or emoluments payable out of the public revenue, that such persons are obliged to lay out and expend money wholly, exclusively and necessarily in the performance of the duties in respect of which such salary, fees or emoluments are of the average amount for a year of assessment so laid out and expended by persons of that class, and in charging the tax on such salary, fees or emoluments, there shall be deducted from the amount of such salary, fees or emoluments the sums so fixed by the Minister for Finance; but, if any person would but for this section be entitled to deduct a larger amount than the sum so fixed, that sum may be deducted instead of the sum so fixed".*

124. Currently, the deductions provided under this section apply to public servants. It is possible that this legislation could be amended to expand the application to all workers and allow the list to be updated to specify deductions for specific categories of workers.

125. An advantage of this approach is that workers would have some level of certainty if expenses were explicitly referenced in legislation and it would not be expected to have an additional Exchequer cost as it would be legislating for what is already the current practice.

126. Disadvantages include that the legislation still requires that the expense be *"wholly, necessarily and exclusively"* incurred so it may not satisfactorily resolve the issue – for example, in relation to historic expenses that are no longer incurred by workers that may be withdrawn.

127. A number of equity issues may arise vis-à-vis other workers and it is likely that this list would need to be reviewed regularly to make sure that the expenses remain valid and take account of up-to-date work practices, which is similar to what Revenue do already under their flat rate regime.

2. Increase Employee (PAYE) Tax Credit

128. Under such an option, there would be a general increase to the Employee (PAYE) Tax Credit to compensate for the withdrawal of flat rate expenses from that date.

129. The 182 flat rate expense rates for 2022 range from €21 to €2,476. The average value is almost €250 and the median value (where half of values are above, and half of values are below this amount) is close to €160. Using these estimates as a guide, indicative costs associated with increases to the PAYE Tax credit are set out below.

130. If the PAYE Tax Credit was increased by €250 to €1,950 this would cost €450 million and €510 million in the first and full year respectively.

131. If the PAYE Tax Credit was increased by €160 to €1,860 this would cost €288 million and €326 million in the first and full year respectively.

132. Advantages are that this is a straightforward solution that might allow for the withdrawal of the flat rate expenses while seeking to ensure that no-one is worse off.

133. Disadvantages are that it is not a targeted and the distribution of the benefits of the measure are uneven as it treats all employees in the country in the same way whether they have a large amount of expenses, a small amount, or none. This also results in an Exchequer cost.

3. Legislate to maintain the existing flat rate expenses regime for current beneficiaries

134. Under this option, the TCA would be amended to ensure that no current beneficiary of the flat rate expenses regime would be worse off as a result of the changes arising from Revenue's review, that is "grand-fathering" the existing regime. Where the changes being introduced result in an increase in the allowable deduction, the increased amount would apply. Where the changes being introduced result in reductions or withdrawals of expenses, such changes would only apply to new beneficiaries of the regime.

135. On the positive side, this option would provide certainty to current beneficiaries of the existing regime and such individuals would not be at a financial disadvantage. It would not be expected to have an additional Exchequer cost as this option would legislate for what is already the current practice.

136. On the negative side, it may be perceived as contrary to good governance, as following Revenue's review, the previously allowed amount is considered out of step with modern day employments and work practices. Another drawback of this option is that it raises questions of equity – for all taxpayers and specifically for new entrants to the employment categories covered by the flat rate expenses regime. With the implementation of this option, a situation could arise where two individuals work in identical roles and with identical costs but one individual may avail of more favourable expense deduction than the other. As such, this option would also have to be considered carefully before any decision is made.

4. Introduce a new "Transitional" Tax Credit

137. To financially assist individuals in the short term, introduce a new "transitional" tax credit for those who would see a reduction in or a withdrawal of the allowable deduction arising from Revenue's review.

138. The credit would be either equal to the current flat rate expenses amount to which the individual was entitled to in 2022 or a fixed sum. The credit would only be available to individuals who claimed flat rate expenses in 2022 and would be time-bound for a set period, for example, one or two years.

139. This option would facilitate a smooth transition to the implementation of Revenue's review, while ensuring that those who would be affected by the change in practice have time to adjust and are not at an immediate financial loss. It would also result in minimal additional cost, if any, to the Exchequer.

140. The disadvantages associated with this option are mainly centred around equity as new entrants to those categories of employment would not be able to claim the credit while existing claimants could. Issues could also arise regarding individuals who had claimed flat rate expenses in previous years but did not claim in 2022 due to legitimate reasons, such as maternity leave, illness, unemployment, etc.

Update on Trans-Border Workers' Relief

Introduction

141. Broadly, if a person is tax resident in Ireland, they are liable to pay income tax in Ireland. This is a long standing and accepted rule, both domestically and in an international context[35].

142. Ireland's domestic tax code, provides a relieving measure, known as Trans-Border Workers' Relief, which in general terms, applies to individuals who are resident in the State, but travel daily or weekly to work in another country and pay tax in that other country.

143. This relief is not normally available for Irish residents who work from home in the State. However, in light of the unprecedented circumstances arising due to the Covid-19 pandemic and the resulting public health restrictions to limit movement, Revenue confirmed that a concessional treatment for this relief would apply, whereby if employees were required to work from home in the State due to Covid-19, such days working at home in the State would not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief were met[36].

144. There were calls to place this concessional treatment on a more permanent and statutory footing so that individuals who are resident in the State but work outside the State for a non-resident employer, could continue to avail of the relief if they exercise their duties of employment in the State.

145. During the debates on Finance Bill 2020, the Minister for Finance undertook that this matter would be examined as part of the work of the 2021 TSG. The resultant paper was discussed by the TSG as part of its deliberations on 8 September 2021[37]. The examination encompassed very detailed consideration of all relevant matters including the equity of treatment between Irish residents who pay tax in the State, the competitive position of Irish employers and the established principles of international tax. The review identified a number of significant concerns from a policy perspective when having regard to the interest of the wider body of taxpayers encompassing Irish resident employees and employers.

146. This section of the paper provides an update on developments in the intervening period and outlines the current state of play.

Background

147. In the case of a person who lives and is tax resident in the State, the general tax position is that, as an Irish tax resident, he/she would be subject to Irish tax on their worldwide income, from any source, which may include income from an employment exercised outside of the State. At the same time, the employment may also be subject to tax in the country in which the work is carried out. In accordance with the principles of international taxation, where instances of double taxation arise on the same income, relief against Irish tax may be claimed by way of a credit for any foreign tax already paid, subject to the terms of any applicable Double Taxation Agreement (DTA).

[35] The residence principle is underpinned in Article 15 of the OECD's Model Tax Convention for Double Tax Agreements. Article 15(2) allocates a taxing right to the country of source, subject to a number of conditions.
[36] Revenue's concession was in place for tax years 2020, 2021 and part of 2022, expiring on 31 March 2022.
[37] https://www.gov.ie/en/collection/d6bc7-budget-2022-tax-strategy-group-papers/ - (TSG 21/04)

148. Subject to meeting the qualifying criteria, where Trans-Border Workers' Relief applies, the relief effectively removes the foreign employment income from a liability to Irish tax where foreign tax has been paid on that income (and such foreign tax is not refundable). In simple terms, the effect of the measure is that Irish tax will only arise where the individual has income other than income from a foreign employment. If the individual only has foreign employment income, he/she will pay no tax to the Irish Exchequer notwithstanding that he/she lives in Ireland.

149. In order to avail of the relief, an individual must satisfy the following criteria:
- Be tax resident in the State.
- work in a country that Ireland has a DTA with, in an employment held for a continuous period of 13 weeks in the tax year.
- the employment duties must be wholly exercised outside of the State with none of the duties performed in the State, save for duties considered incidental to the foreign employment.
- the income from that employment must be subject to tax in the other country and must not be exempt or relieved from tax in that country.
- foreign tax due on the income must have actually been paid to the relevant authorities and must not be repaid or be eligible to be repaid.
- be present in the State for at least one day for every week they work abroad.

150. Revenue's temporary Covid-19 related concession, that allowed individuals to work from home in the State and continue to avail of the relief, was in operation for the tax years 2020, 2021 and from 1 January 2022 to 31 March 2022. The removal of the concession from this date was in accordance with the public health guidance which allowed for a phased return of employees to their workplace with effect from 24 January 2022.

151. As such, in order for individuals to continue to avail of Trans-Border Workers' Relief, from 1 April 2022 all duties of employment, except for incidental duties, must be performed outside the State in a country with which Ireland has a DTA.

152. Where Trans-Border Workers' Relief does not apply, a person resident in Ireland will be liable for personal tax in Ireland as well as in that other jurisdiction. However, it is important to note that in practice there is no double taxation.

153. It may be the case that individuals who previously availed of Trans-Border Workers' Relief are now paying tax to the Irish Exchequer in respect of their employment income and due to the higher rates of personal income tax in Ireland generally in comparison to the UK, this means that they are now paying higher rates of tax than previously. However, in terms of personal income tax, this additional payment of tax does no more than to bring the individual's income tax liability on par with other individuals who are resident in the State and pay income tax on the same size income in the State.

154. It is also important to note that Revenue's concessional treatment is only relevant to those individuals whose employment enables them to perform their duties from home. Certain service type employments require in-person attendance at the workplace (for example, retail, construction, healthcare, etc.) and as such, the concession would not necessarily be relevant to these individuals as they would already qualify for the relief by virtue of having to attend the workplace in person.

Statistics

Revenue Data

155. Individuals who avail of Trans-Border Workers' Relief are required to make a claim in writing to Revenue or file an end of year Income Tax return. Revenue has provided the following breakdown of those who claimed the relief in 2019 in terms of salary, employee/employer numbers and the geographical spread of foreign employments.

156. In 2019, 1,716 individuals claimed the relief in their Form 11 self-assessment tax returns, with the majority in UK based employments (89.1 per cent) and the majority of claimants on salaries of less than €50,000 (76.7 per cent).

Data from 2019 Form 11s				
Salary range	**No. of individuals**	**No. of individuals %**	**Gross foreign employment income**	**Average gross foreign employment income**
			€	€
Less than 50k	1,316	76.7	29,403,754	22,343
50k – 100k	189	11.0	13,041,870	69,005
100k – 200k	116	6.8	15,660,730	135,006
200k – 300k	32	1.9	7,631,998	238,500
300k – 400k	27	1.6	9,369,878	347,033
400k – 500k	11	0.6	4,981,768	452,888
Over 500k	25	1.5	27,259,584	1090,383
Total	1,716	100.0	107,349,582	62,558

2019 Form 11 analysis of employee numbers per employer	
No of Employees	**No of Employers**
1	833
2 – 10	176
11+	15
Total	1024

Geographical spread of foreign employments				
	No. of individuals who claimed TBR in 2019	**Spread of claims by Country of employment**	**Gross income from foreign employment on which TBR was claimed**	**Amount of foreign tax paid**
		%	€	€
G.B. / N.I.	1,529	89.10	81.35	20.84
Other countries (25)	83	4.84	11.97	2.80
Not disclosed	104	6.06	14.03	0.07
Total	1,716	100.00	107.35	23.71

157. It is likely that these data are understated, possibly as a result of lack of awareness on behalf of individuals in respect of their obligation to make a claim to Revenue for the relief.

CSO Data

158. Data from the 2016 Census found that approximately 9,350 people were crossing the border between Northern Ireland and the Republic for work and school. Approximately 7,000 (75 per cent) of these were cross border workers[38].This represented a decrease of 2.1 per cent from the previous Census.

159. The Census provided a number of insights including:

- *Location* - Donegal accounted for the majority of these commuters (5,600), followed by other border counties including Monaghan (1,112), Louth (926) and Cavan (493). Note that these numbers include students so a reasonable estimate of worker numbers would be to calculate approximately 75 per cent of commuter numbers. Derry was seen to be the most common location with approximately 4,407 commuters (47 per cent) travelling there.
- *Age / Gender* - The gender breakdown of Cross Border Commuters was found to be relatively even (52 per cent female, 48 per cent male). There was an increase in working age commuters.
- *Occupations / Industry* - Health and Social work was the most common industry among Cross Border Workers comprising approximately 19 per cent of total numbers. Other significant industries included Manufacturing (14 per cent), Wholesale and Retail Trade (13.5 per cent) and Education (12 per cent).
- *Other locations* - Census 2016 also saw 3,531 people reporting that their place of work was outside the island of Ireland. Great Britain was the most common location, comprising 2,144 (61 per cent) individuals.

160. There is a general acceptance that data relating to the number of cross-border workers and the nature of the employments is sub-optimal at present; it may be incomplete or considered relatively dated. Better data would be beneficial to all stakeholders. As outlined further below, steps are being taken to obtain better data.

Overview of Tax Policy Issues

161. Ordinarily to avail of Trans-Border Workers' Relief, the duties of employment must be performed wholly outside the State, apart from incidental duties, and in a country with which Ireland has a DTA. As part of its review in 2021, the TSG identified a numbers of significant concerns, from a policy perspective, in relation to amending Trans-Border Workers' Relief to place the temporary Covid-19 related concession on a more permanent, statutory footing.

Taxing Rights

162. Individuals resident in the State are liable to income tax on their worldwide income. Trans-Border Workers' Relief is anomalous to this general residence principle because, where the relief applies, the State foregoes a taxing right it has over that income. While the relief is contrary to general residence principle, the rationale is that all duties of employment are performed in a country with which Ireland has a DTA and foreign tax has been paid in that other jurisdiction. Allowing residents in the State to avail of the relief while working in the State, significantly weakens this rationale.

[38] https://www.cso.ie/en/media/csoie/newsevents/documents/census2016profile6-commutinginireland/Cross_Border_Commuters_2016_v2.pdf

163. The potential for double non-taxation also materialises, as it is unclear how another jurisdiction would have taxing rights over income earned in the State in respect of duties carried out in the State[39] by an individual who is resident in the State. Double non-taxation is clearly undesirable from a public policy perspective.

Equity and Fairness

164. The 2021 TSG review identified issues relating to equity for all Irish taxpayers. Trans-Border Workers' Relief is generally more favourable than availing of relief under a DTA from an administrative perspective and also financially where the Irish tax rate is higher than the tax rate applying in the other country where the duties are performed. The relief operates so that those availing of the relief only pay tax in the other jurisdiction and they do not pay any further tax (income tax or USC) to Revenue on their foreign employment income.

165. For illustrative purposes, the following table compares the personal tax position (income tax and USC) and PRSI/National Insurance position of employees in Ireland compared with the UK at different salary levels for 2021. The information has been sourced from the Irish Tax Institute's Commission on Taxation and Welfare Response to the Public Consultation[40].

Gross Salary	Irish Tax / PRSI	Irish Effective Tax / PRSI Rate	UK Tax / National Insurance	UK Effective Tax / National Insurance Rate
€25,000	€3,012	12.0%	€3,705	14.8%
€48,000	€11,807	24.6%	€11,066	23.1%
€55,000	€15,202	27.6%	€13,305	24.2%
€75,000	€25,076	33.4%	€21,314	28.4%
€100,000	€38,076	38.1%	€31,813	31.8%
€150,000	€64,076	42.7%	€58,709	39.1%

166. The data show that for an individual with a gross salary of €25,000, the effective tax rate is lower in the State than that of the UK. However, as the salary levels increase the effective tax rate in Ireland is higher than in the UK. Therefore, Trans-Border Workers' Relief is beneficial for individuals on higher salaries as outlined above as those individuals pay less tax to the UK than they would have to pay to the Irish Exchequer.

167. While currently there may be different tax liabilities and different effective tax rates between those Irish residents who can avail of Trans-Border Workers' Relief as compared to those who cannot avail of the relief, there is a key distinguishing factor in that the employment duties are exercised outside the State for a non-resident employer. The move to increased levels of remote working, including blended working arrangements, within the State may appear to dilute that critical distinction.

168. If Trans-Border Workers' Relief was relaxed to allow for work carried out in the State to qualify for the relief, there would no longer be a distinguishing factor between Irish residents as both sets of Irish residents would be exercising their employment duties in the State. In such circumstances, some (those with Irish resident employers) would be liable to tax at the Irish tax rates (income tax and USC) and a potentially higher effective tax rate, while others

[39] https://www.cso.ie/en/media/csoie/newsevents/documents/census2016profile6-commutinginireland/Cross_Border_Commuters_2016_v2.pdf
[40] https://taxinstitute.ie/wp-content/uploads/2022/01/Commission-on-Taxation-and-Welfare_vfinal.pdf?_cldee=c29yc2hhLmZvcmFuQGZpbmFuY2UuZ292Lmll&recipientid=contact-01ec03fcfff9e71180fd3863bb3600d8-b07ff18e79a74c6c9cf58185b66cfc9a&esid=47442f58-e37a-ec11-8d21-6045bd9239f7

(those with non-resident employers) would be liable to tax at the tax rates (income tax and USC) in the other jurisdiction and a potentially lower effective tax rate.

169. This would give rise to a question as to how Irish income tax rules could apply a different Irish income tax treatment to an Irish resident solely because of the location of their employer, as opposed to the location of where they carry out their employment duties as is the current position.

170. From the perspective of all resident employees in the State, it would raise issues of equity and fairness which are fundamental features of Ireland's income tax system. For employees with Irish based employments they would be paying a higher rate of income tax than those with foreign based employments, solely as a result of the residency of their employer. This is because those with a non-resident employer could potentially avail of Trans-Border Workers' Relief, which has the effect of reducing their effective rate of tax when compared to an Irish resident with an Irish based employment. It is unclear how this would be sustainable and acceptable from the perspective of all Irish resident taxpayers.

171. The equity principle is closely aligned with the residence principle in that there is a strong link between the individual and the country in which he/she lives.

172. Further, from a social equity perspective it may be reasonable to assert that, as a general principle, where individuals live in the State and benefit from the public infrastructure and services provided by the State, it is equitable that they should contribute to the State by being subject to personal income tax (in accordance with their means).

Competitiveness Issues

173. The 2021 TSG review found that the competitive position of Irish-based employers or Irish-based activities could potentially be undermined if employees of non-resident employers could carry out their employment duties in respect of the foreign based employment in the State, while availing of the lower tax rates applicable to UK based employments.

174. It would potentially place Irish based employments at a competitive disadvantage in terms of the need to offer a higher salary to employees so that employees would receive the same net income as those who are employed by a non-resident employer. It may also have implications for Irish based employments with regard to competing for the available talent pool and make Irish based employment appear less attractive due to higher tax rates.

175. As such, the availability of Trans-Border Workers' Relief may in fact make it more attractive for Irish residents to work for employers based outside the State in order to avail of the relief and the lower tax rate available in other jurisdictions such as Great Britain and Northern Ireland.

176. While this represents one perspective, some stakeholders, including those representing employers, have indicated that competitiveness issues are not an overriding concern.

Cost Implications

177. There would be no additional Exchequer cost directly arising from the changes sought to extend the temporary concession. This is because the tax that would be collected, in the absence of the measure, is foregone in any event due to the operation of the relief. However, for the longer term the likelihood of financial or other behavioural costs cannot be ruled out

arising from the inequities which the removal of the requirement that duties of employment must be performed wholly outside the State would introduce.

Other Considerations

178. While the issue of Trans-Border Workers' Relief is mainly viewed from the perspective of the employee and their potential eligibility for the relief, there may also be tax consequences from an employer's perspective where an employee performs their duties of employment in Ireland on behalf of a non-resident employer. For example, depending on the precise nature of the duties performed by the employee, it may result in the non-resident employer creating a permanent establishment with a taxable presence in Ireland, with the potential for additional tax and reporting requirements. The employer may also be required to register with Revenue as an employer for PAYE purposes, withhold Irish PAYE in respect of the employment income exercised in Ireland and pay the Irish PAYE withheld to Revenue.

179. In addition, there are social security considerations. The Trade and Co-operation Agreement between the UK and the European Union largely mirrors the social security coordination rules that apply between EU/EEA members and stipulate that social insurance is due on a 'one country only basis'. As such the rules regarding social security contributions operate differently to tax and that an individual pays social insurance to one country only.

180. Generally, the social insurance contributions are paid in the country of employment. However, a person employed in more than one Member State shall be subject to the legislation of the State of residence if that person pursues a substantial part of their activity in that State; indicative criteria suggest that 25 per cent or more of the activity/working time/remuneration would be considered a substantial part of the activities. As such, there may be other considerations and implications for the individual and employer in terms of social insurance obligations.

International Comparisons

181. The 2021 TSG paper provided an overview of international comparisons and found that Ireland was exceptional in having a domestic relief such as Trans-Border Workers' Relief. There is no comparable measure in place in the UK nor in many countries in mainland Europe that share land borders.

182. A number of countries, such as Germany, France and Belgium, had introduced temporary concessions due to travel restrictions relating to the Covid-19 pandemic. However, all of these concessions have either expired or are coming to an end in the coming months.

Conclusion and Next Steps

183. Trans-Border Workers' Relief was introduced in Finance Act 1998 to deal with Irish resident individuals living in border counties who commute daily to Northern Ireland to work, returning home in the evening. However, the relief now applies in a broader context for employments held in a DTA country.

184. The relief, as it currently stands, is already a generous tax-relieving measure as it allows a resident taxpayer to claim an exemption from Irish tax on overseas employment mainly due to the fact that they hold an employment, and carry out the duties of that employment, outside Ireland.

185. The findings of the TSG paper raise significant issues from a tax policy perspective, in particular the fundamental point regarding the equitable treatment of all Irish residents. Issues of social equity also arise.

186. It is a very complex matter involving taxing rights between different jurisdictions depending on the tax residence of the individual and the source of the income. There are also implications for individuals, employers and Exchequer revenues. It is clear that the State cannot move unilaterally.

187. The issue of cross border workers and remote working is not only an Irish issue and is now receiving more attention on a global level than prior to the Covid-19 pandemic (which accelerated the rise of remote working). Discussions in relation to global mobility and the policy implications for cross border workers are commencing at international level.

188. The integrity of Ireland's tax base is paramount and any changes in this space more generally need very careful consideration and must have regard to the wider international developments.

189. The Department of Finance is engaging with relevant stakeholders, to keep them informed about the state of play and the course of action being taken. The following three issues are actively being pursued:

- **Obtain Better Data** – there is a general acceptance that data in relation to the nature and extent of cross-border working could be improved; a point which was also raised in the NESC Shared Ireland Report[41]. A research project will be commissioned to obtain data which will be of benefit to all concerned. It is expected that this project will be completed by year end.

- **Minimise Administrative Burden** – Revenue is currently looking at ways to minimise and simplify the administrative burden insofar as possible.

- **International Discussions** – The Department of Finance will actively engage in any international discussions on the policy implications of cross-border working. The Department will also engage bilaterally with other jurisdictions as appropriate to the circumstances.

[41] https://www.nesc.ie/publications/shared-island-shared-opportunity-nesc-comprehensive-report/

Update on Key Employee Engagement Programme (KEEP)

Introduction

What is the Key Employee Engagement Programme (KEEP)?

190. The Key Employee Engagement Programme (KEEP), introduced in Budget 2018, is a focused share option programme, intended to help SMEs attract and retain talent in a highly competitive labour market.

191. Gains arising to the employee in respect of the KEEP share options are taxed at the time of share sale and subject to Capital Gains Tax (CGT) rather than income tax. This allows a differential of 16 to 19 per cent in the rate of tax payable by the employee on the discount received as compared to the treatment of standard share option gains. Employers also do not have to pay any tax.

Aim of the scheme

192. SMEs are crucial to the functioning of the Irish economy, making up the vast majority of firms (99.7 per cent) and employing the majority of individuals (66.4 per cent)[42]. Furthermore, supporting SMEs growth and development is crucial to further productivity growth and dynamism in the Irish economy.

193. Improved competitiveness of companies supports the creation and maintenance of employment, and this in turn supports economic growth, which benefits the economy as a whole.

194. Small, fast growing companies are often at a disadvantage when compared to larger firms with regard to their capacity to offer competitive salary and remuneration packages. This is because they will not yet have the revenue from which to offer competitive levels of pay. Furthermore, SMEs can also face additional challenges when trying to access finance from traditional sources when compared to larger firms. This further constrains their ability to offer competitive levels of pay. This scheme is another support for firms in addition to existing schemes such as the Future Growth Loan Scheme and Microenterprise Loan Fund, which help them access finance.

195. Where the employee believes in the growth potential of the firm, and by extension the potential for the company shares to increase in value, remuneration in the form of share options can improve the attractiveness of the SME employment offer.

Details of the scheme

196. In accordance with the provisions of Section 128 Taxes Consolidation Act (TCA) 1997, income tax is generally chargeable on any gain realised by an individual on the exercise of a share option acquired in his or her capacity as an employee or director.

197. However, gains realised on the exercise of qualifying KEEP options by employees and directors will not be subject to income tax, the Universal Social Charge (USC) or Pay Related Social Insurance (PRSI), where the requirements of Section 128F TCA 1997 are satisfied.

[42] CSO, Business in Ireland 2019

198. CGT will arise on a subsequent disposal of the shares, at which time the sales proceeds will be available to discharge the tax due.

199. KEEP is applicable in respect of share options granted during the period 1 January 2018 to 31 December 2023. In order to qualify for the KEEP, an option must be exercised within 10 years of grant.

Overview of main requirements pertaining to the qualifying individual, company and share options granted

200. It is worth noting that the below requirements are those that currently apply, and do not include the changes in Finance Act 2019 (outlined in section 1.5, History of the scheme). Discussion on outstanding State Aid issues relating to the 2019 changes are at an advanced stage between officials from the Department of Finance and European Commission.

201. The Qualifying Individual;
- Must be a full time employee / director (30+ hours per week) of the qualifying company throughout the entirety of the relevant period;
- Their employment must be capable of lasting at least 12 months from the date the KEEP options are granted;
- They cannot hold a material interest (i.e. more than 15 per cent) in the qualifying company; and
- They must hold the options for 12 months prior to exercise (limited exceptions apply).

202. The Company;
- The total market value of all shares in respect of which qualifying share options have been granted by the company to an employee or director must not exceed–
  - €100,000 in any one year of assessment;
  - €300,000 in all years of assessment; or
  - 100 per cent of the qualifying individual's annual emoluments in the year of assessment in which the qualifying share option is granted.
- Must exist wholly or mainly for the purpose of carrying on a "qualifying trade" on a commercial basis with a view to the realisation of profit. A "qualifying trade" involves the carrying on of a trade with the exception of the following "excluded activities":
  - adventures or concerns in the nature of trade, e.g. companies engaged in once-off or speculative transactions,
  - dealing in commodities or futures in shares, securities or other financial
  - assets,
  - financial activities,
  - professional services companies,
  - dealing in or developing land,
  - building and construction,
  - forestry, and
  - operations carried out in the coal industry or in the steel and shipbuilding sectors.
- Must be a micro, small or medium-sized enterprise (SME) within the meaning of the Annex to EU Commission Recommendation 2003/361/EC[43]. In general terms, a company will be considered a micro, small or medium sized enterprise where the

[43] European Commission (2003). *Commission Recommendation concerning the definition of micro, small and medium-sized enterprises. 2003/361/EC* Official Journal L123, p. 36. Available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF

company employs fewer than 250 employees and its annual turnover / annual balance sheet does not exceed €50 million and €43 million respectively.

- Must be an unquoted company none of whose shares, stock or debentures are listed in the official list of a stock exchange or quoted on an unlisted securities market of a stock exchange, other than on the Euronext Growth market operated by the Irish Stock Exchange or on any similar or corresponding stock exchange in an EEA country or in the United Kingdom or a country with which Ireland has a double taxation agreement.
- Must not be regarded as a company in difficulty for the purposes of EU Commission Guidelines on State Aid.
- Must not issue qualifying share options with a market value exceeding €3,000,000.

203. The shares, which may be acquired by the exercise of the share option, must be new, ordinary, fully paid up shares in a qualifying company. The share options must:
    - be granted at the market value of the same class of shares at the date of grant;
    - be subject to a written contract of agreement setting out the relevant details;
    - be within the maximum permitted limit in terms of overall awards in the year; in all years of assessment; and annual emoluments;
    - not be exercisable within 12 months from the date of grant; and
    - not be exercisable more than 10 years from the date of grant.

History of the scheme

204. The KEEP scheme was introduced by the Finance Act 2017.

205. Finance Act 2018 introduced two changes to the operation of the scheme, which was subject to approval by the EU Commission and commencement by Ministerial Order. The commencement order has been signed giving effect to the change from 1 January 2019. The changes were that:
    - the restriction on total annual market value of share options that may be awarded to an employee under the scheme was increased from 50 to 100 per cent of the qualifying individual's annual emoluments in the year of assessment.
    - the limit on the total value of qualifying share options that may be granted to a qualifying employee in all years of assessment was increased from €250,000 to €300,000.

206. Finance Act 2019 also introduced a number of changes to the scheme. These changes are subject to commencement by Ministerial Order, on approval from the EU Commission. Such approval is currently pending. These changes will:
    - change the definitions within the legislation relating to a qualifying companies and holding companies so as to allow companies who operate through a group structure to qualify for KEEP;
    - change the conditions relating to qualifying employees to allow for part-time / flexible working and movement within group structures (as business needs dictate); and
    - to allow existing shares to qualify for use in a KEEP arrangement.

Data Analysis

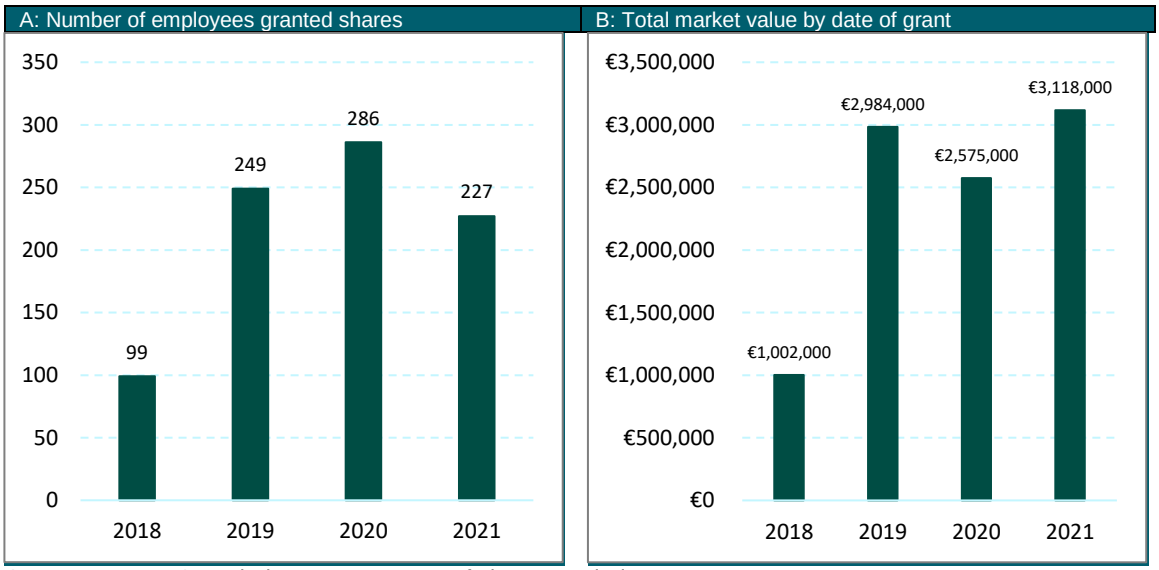
Overview

207. While take-up for the KEEP is still at relatively low levels, much of the data available suggests a steady increase in the schemes relevance since its introduction in 2018. The number of shares exercised (Figure 7B), as well as the gross and net value of shares exercised (Figures 8A and 8B) have shown consistent increases in take-up. This is also the case for tax foregone (Figure 9).

208. However, some of the data is more consistent with a plateauing in take-up in recent years. This is the case when looking at the number of employees who have been granted shares (Figure 5A) and the number of employees who exercised shares (Figure 7A), with a sharp increase in 2019 and remaining at similar levels in 2020 and 2021.

209. One explanation to reconcile these competing narratives is that take-up has plateaued at the stage of share options being granted, while the value of the share options already granted has continued to increase over time.

Figure 5: Shares being granted KEEP, 2018-2021



Source: Revenue Commissioners, Department of Finance analysis.

Granted Share Options

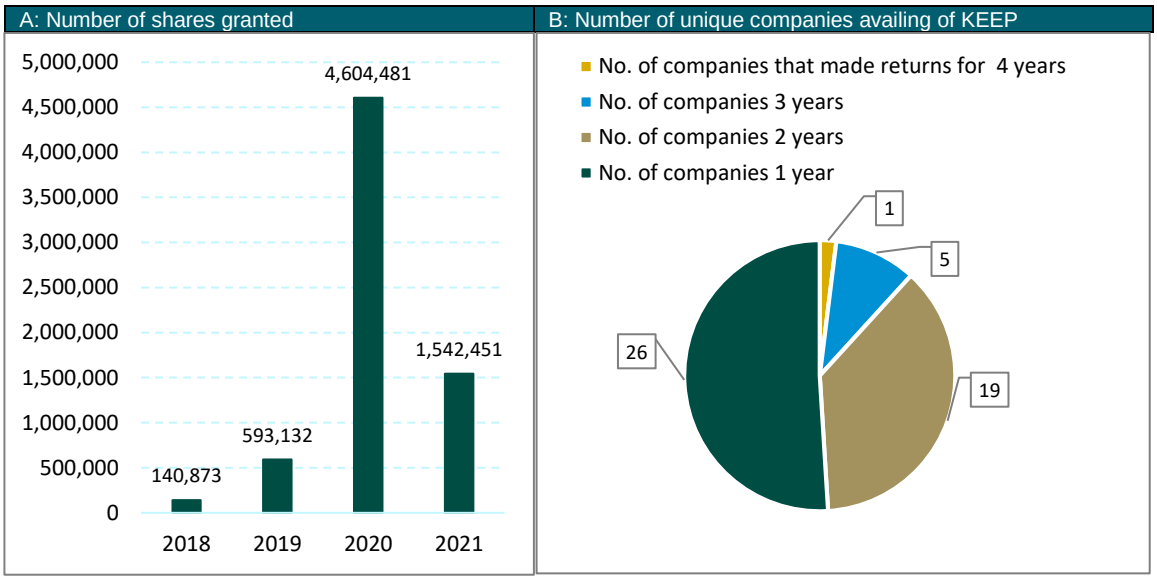
210. As with any new government scheme, it takes time for take-up to progress. The data available shows a significant 152 per cent increase in take-up in terms of the number of employees granted share options in 2019 compared to 2018 (Figure 5A). However, this take-up stagnated in 2020 and 2021. There is a similar trend for the total market value of shares by the date of grant, with an increase of 198 per cent in 2019 compared to 2018, before the values remained around this level in 2020 and 2021 (Figure 5B).

211. The economic effects associated with the Covid-19 pandemic complicates interpretation of this data.

212. When examining the number of shares granted there is a sharp increases in both 2019 (321 per cent) and 2020 (676 per cent), before a substantial decline in 2021 (67 per cent). However, it should be noted that there need not be any relationship between the number of shares granted (Figure 6A) and the value of such shares (Figure 5B). Indeed we can see that there isn't any clear relationship between these values from year to year.

213. The data also shows that the majority of firms have only made returns for the scheme in either one year (26 firms) or two years (19 firms) – see Figure 6B. Five firms have made returns for three years and one firm has made returns for four years.

Figure 6: Take-up of the KEEP, 2018-2021



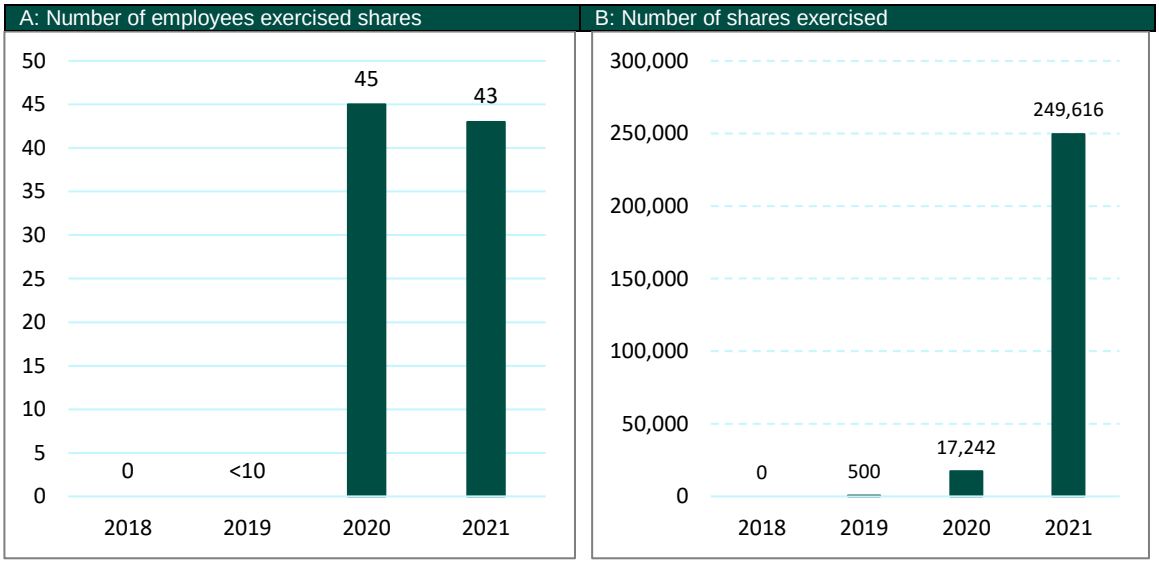
Source: Revenue Commissioners, Department of Finance analysis.

Exercised Share Options

214. While any new scheme takes time for clear data to emerge, the fact that the KEEP scheme consists of share options means that this is particularly the case for data on the exercising of share options. Share options can be exercised between 1 and 10 years after they have been granted. This inherent time lag is clear in the data that is available, with substantial increases in share options exercised in recent years.

215. The number of employees who exercised shares increased significantly in 2020 and remained at this level in 2021 (Figure 7A). However, the number of shares exercised tells a somewhat different story, with significant increases in both 2020 and 2021 (Figure 7B).

Figure 7: Exercised KEEP shares, 2018-2021

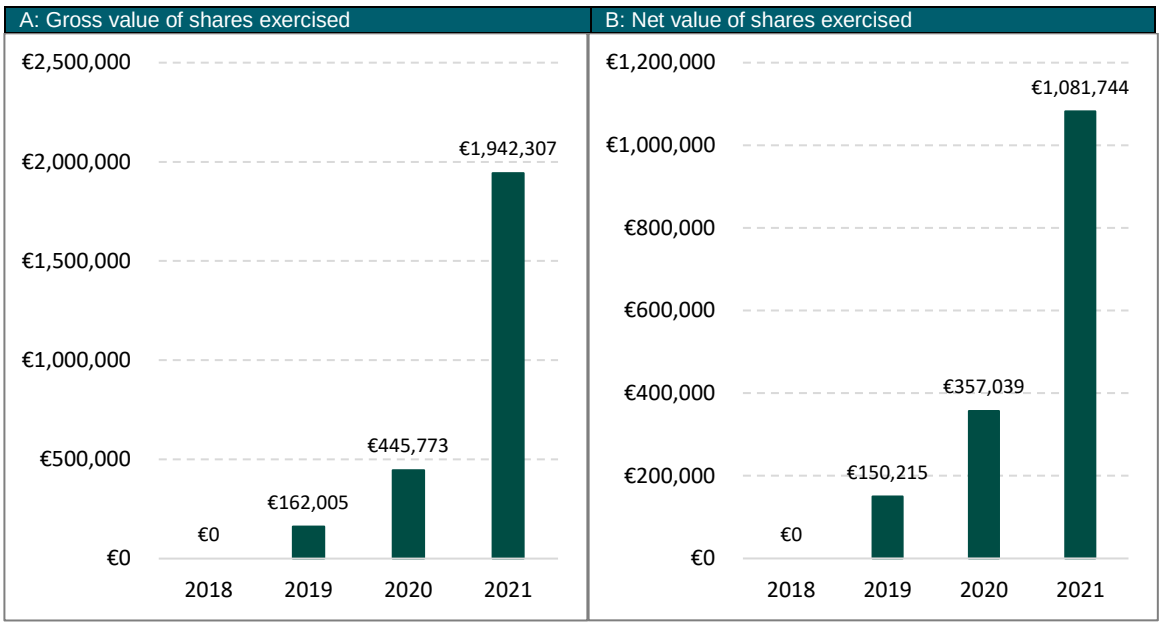


Source: Revenue Commissioners, Department of Finance analysis.

216. The gross and net value of shares exercised (Figure 8) also saw significant increases in 2019, 2020 and 2021. This was also the case for the measure of tax foregone (Figure 9).

217. Gross value of shares exercised refers to the total value of the shares at the time they are exercised. Net value of shares exercised refers to the difference between the share options at the time they were granted and the time they were exercised.

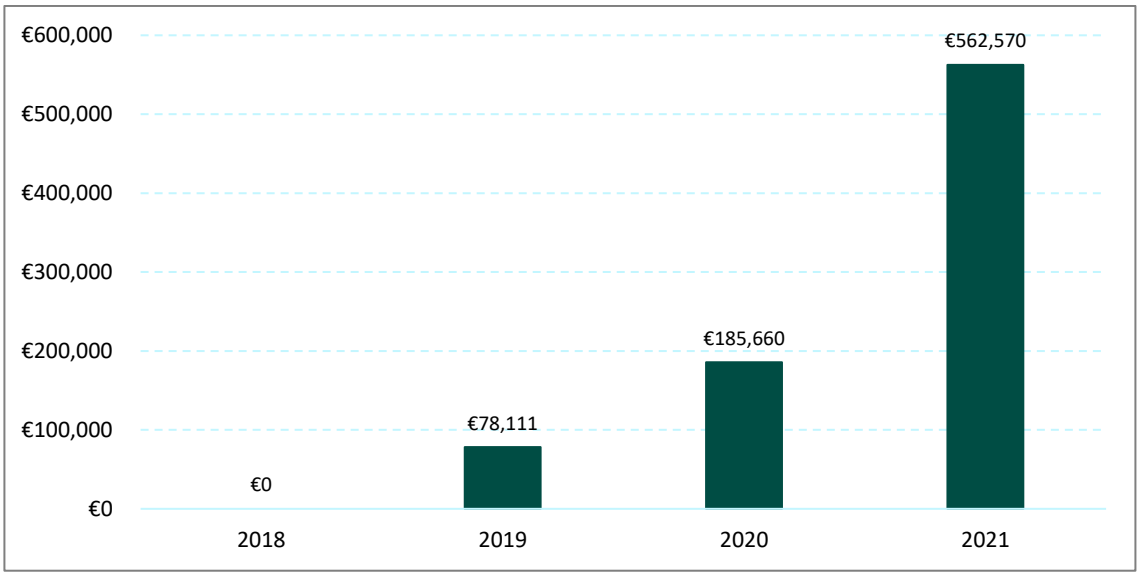
Figure 8: Value of exercised KEEP shares, 2018-2021



Source: Revenue Commissioners, Department of Finance analysis.

218. Tax foregone assumes that in absence of the scheme individuals would have paid total income tax on the share options upon being exercised at the rate of 52 per cent (i.e. 40 per cent income tax plus USC and employee PRSI) on the increase in their value from the time they were granted. However, with the KEEP scheme employers do not pay any tax upon the exercise of the share option.

Figure 9: Tax foregone following take-up of the KEEP, 2018-2021



Source: Revenue Commissioners, Department of Finance analysis.

Statistics on firms using the KEEP scheme

219. To be eligible for the scheme, firms must employ fewer than 250 employees and their annual turnover / annual balance sheet cannot exceed €50 million and €43 million respectively.

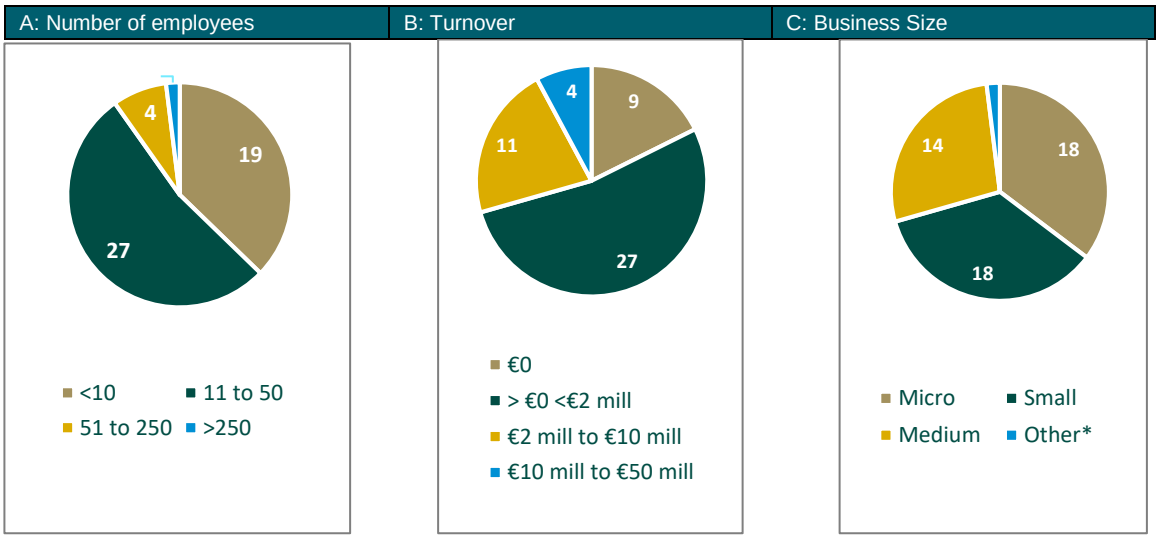
220. The data shows that the vast majority of the firms using the KEEP scheme are of a small size. This shows that the scheme is being successfully targeted at its intended recipients. The aim of the scheme is to help smaller firms who can't compete with larger firms in terms of cash remuneration to retain and attract employees.

221. The data shows 27 firms with between 11 and 50 employees, 19 with less than 10 and only four firms with between 51 and 250 firms (Figure 10A). Similarly, 27 firms have turnover of between zero and two million euro, while a further nine firms have turnover of zero euro (Figure 10B). 11 firms have turnover of between two and 10 million euro while only four firms have turnover between 10 and 50 million euro.

222. 18 firms are classified as Micro with a further 18 categorised as Small, 14 as Medium and one as other (discussed above) – see Figure 10C. Whether SMEs are classified as Micro, Small or Medium depends on both the number of employees and turnover.

223. While one firm is classified as having over 250 employees while utilising the scheme (Figure 10A), this is a yearly averaged figure based on the company's CT financial statements and does not necessarily imply anything about the eligibility of the firm for the scheme.

Figure 10: Firm size for KEEP, 2020

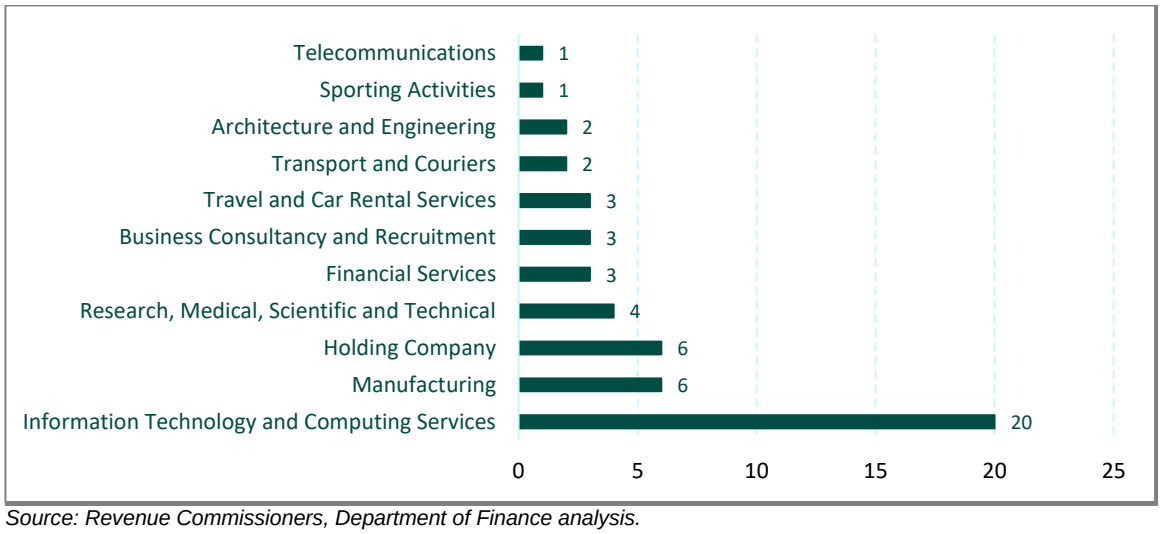


Source: Revenue Commissioners, Department of Finance analysis.

224. In terms of firms by industry or sector, the most common industry is Information Technology and Computer Services (Figure 11). Manufacturing and Holding Company's

at six companies each are also relatively common. However, it should be noted that sometimes the business descriptions on record do not always accurately reflect the actual business activity of firms and can change from time to time.

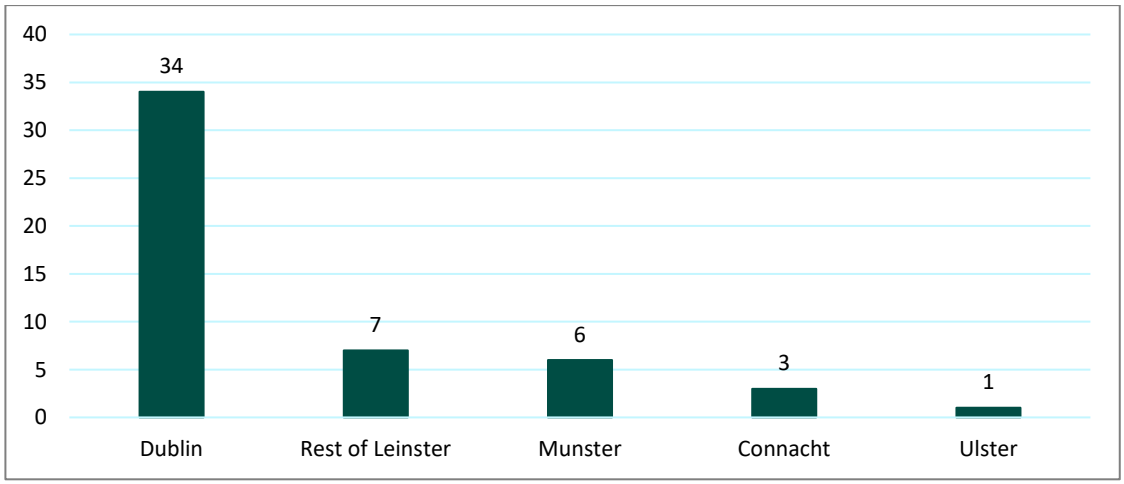
Figure 11: Take-up of the KEEP across industries/sectors, 2020



Source: Revenue Commissioners, Department of Finance analysis.

225. In terms of location, Dublin is by far the most common county for firms to be located in with 34 firms (Figure 12). Out of the twelve other counties in which firms are utilising the scheme, only three have more than one such firm.

Figure 12: Take-up of the KEEP by location, 2020



Source: Revenue Commissioners, Department of Finance analysis.

International Comparison

Introduction

226. This section of the review examines the key characteristics of similar share option schemes in Ireland's peer countries. Specifically it will focus on schemes in the United Kingdom, France, Sweden and Italy.

United Kingdom – Enterprise Management Incentive (EMI)

227. The aim of the UK EMI scheme, first introduced in 2000, is the same as Ireland's KEEP Scheme; to assist smaller companies in attracting and retaining key employees. Like the KEEP, it is also a scheme which allows SMEs to offer share options to employees at favourable tax rates.

228. **Tax rate -** CGT is paid once the shares are sold at a rate of 10 per cent on the increase in the value of the share options price. If the company offers a discount on the market value then income tax or National Insurance is paid, but only on the difference between what was paid for them and the true market value.

229. **Limits -** The company can only offer up to a maximum of £250,000 of share value per employee in a three-year period and £3 million for the whole company.

230. **Qualifying companies -** To qualify for the EMI, the company must have assets of £30 million or less. The company must have fewer than 250 full-time employees. It cannot work in any of the 'excluded activities' including banking, insurance, farming, property, legal services, hotels and care homes, and shipbuilding. Options must be exercisable within 10 years.

231. **Qualifying individuals -** They must work at least 25 hours per week for the company or, if less, at least 75 per cent of their working time. This also applies to company directors. Employees cannot qualify for the scheme if they already own 30 per cent or more of the company.

France – Bon de Souscription de Parts de Créateur d'Entreprise (BSPCE)

232. The BSPCE scheme allows companies to offer employees share options at favourable tax rates. The rationale of the scheme is to better align worker and company incentives, as well as giving companies a better chance to compete for workers internationally. Unlike the Irish KEEP, the BSPCE is not specifically aimed at smaller firms.

233. **Tax rate –** While somewhat complex, in general, a tax rate of 30 per cent is paid on the increased value of the shares upon their sale if the individual has worked for more than 3 years with the company. The tax rate is 47.2 per cent if the employee has worked for less than 3 years with the company.

234. **Limits –** There is an annual limit of €300,000 after which different tax rates apply.

235. **Qualifying companies –** must be a joint stock company (SA, SCA or SAS) subject to corporate income tax in France; OR may be issued by a company with its registered office in an EU Member State; OR in a State or territory which has concluded a tax treaty with France containing an administrative assistance clause to combat tax evasion or avoidance

and where the company is subject in that same State to a tax equivalent to corporate income tax.

236. Listed companies may also issue BSPCEs provided they have a market capitalization of less than or equal to €150 million.

237. **Qualifying individuals -** BSPCEs may be issued to all employees of the company as well as to corporate officers if the latter are subject to the employee tax regime (i.e. chairman, managing director, deputy managing directors, members of the management board). These categories of beneficiaries have widened to also include members of the board of directors, the supervisory committee and, in the French sociétés par actions simplifiée (SAS), members of any equivalent statutory body. They may also be issued to employees and corporate officers of subsidiaries in which the company holds at least 75 per cent of the shares.

Sweden – Qualified Employee Stock Option (QESO)

238. The Qualified Employee Stock Option (or QESO) is a scheme which allows employers to offer stock options to employees at favourable tax rates. The scheme initially applied to small and newly started companies, although now somewhat larger companies are eligible.

239. **Tax rate –** 25 per cent tax rate on the increase in the value of the shares when they are sold.

240. **Limits –** The value of the option holder's share options does not exceed SEK3 million. The value of the option holder's share options together with every other option holder's share options do not exceed SEK75 million.

241. **Qualifying company –** Companies must have less than 150 employees and net turnover or balance sheet total not exceeding SEK 280 million. Business may not have been conducted for more than 10 years and must not be listed on a stock market.

242. Conduct operations that are not primarily (applies to the Group) - asset management, banking or financing operations, insurance operations, coal or steel production. trade in land, real estate, commodities, or financial instruments, long-term rental of premises or housing, provision of services relating to legal advice, accounting or auditing ("excluded activities").
243. **Qualifying individuals –** works an average of 30 hours a week at least for the company and or other group companies. Board members and deputy board members are now also eligible.

244. **Minimum salary –** 13 income base amounts during the vesting period (3 years) (for the company and / or other group companies collectively). The income base amount is changed every year in line with developments within Sweden. For 2020, the income base amount is SEK 66,800.

Italy – Start-up Act

245. The Italian Start-up Act encompasses a wide range of benefits for innovative start-ups, including favourable tax treatment of stock options. These benefits include exemptions from various regulations, different labour laws, tax credits and access to credit through guarantees on bank loans.

246. **Tax rate –** individuals pay CGT (at 26 per cent) on the increase in the value of the shares when they are sold.

247. **Limits –** *N/A*

248. **Qualifying company –** The Start-up Act defines a set of eligibility criteria to identify start-ups that are expected to be (or become) innovative firms and thus may benefit from policy support:
    - the company should be operational for less than five years;
    - be headquartered in Italy;
    - have an annual turnover lower than €5 million;
    - not be the result of a branch split or merger from a previous company;
    - have a mission statement explicitly related to innovation;
    - be a limited company and not publicly listed; and
    - should not have distributed profits.

249. Furthermore, firms need to fulfil at least one of the following three criteria: 1) at least 15 per cent of R&D expenditure ratio; 2) $^{1}/_{3}$ of employees are PhD students or graduates or researchers and / or $^{2}/_{3}$ hold a Master's degree; and, 3) being the holder, depository or licensee of a patent, or owner / author of registered software.

250. **Qualifying individuals –** Employees and outside consultants can all qualify for these stock options.

Comparison to other schemes

Table 1: Similar share option schemes across Ireland's peer countries

	Ireland[44]	UK	France	Sweden	Italy
Name of scheme	Key Employee Engagement Programme (KEEP)	Enterprise Management Incentives (EMIs)	Business creator share subscription warrants (BSPCE)	Qualified Employee Stock Option (QESO)	Innovative start-ups scheme
Year introduced	2018	2000	2015	2018	2012
Company Qualifying Conditions	Under 250 employees and annual turnover not exceeding €50 million or an annual balance sheet total not exceeding €43 million; Cannot work in any of the 'excluded activities', Incorporated in the State/EEA State/UK and resident in Ireland.	Assets £30 million or less, 250 employees or less, Cannot work in any of the 'excluded activities'.	Subject to corporate income tax in France OR registered in EU MS or State / territory with tax treaty with France containing certain tax evasion / avoidance clauses for corporate income tax. Listed companies must have market capitalization of no more than €150 million.	Under 150 employees and net turnover or balance sheet total not exceeding SEK 280 million. Operational 10 years or less years. Not listed on a stock market. Do not primarily work in any of the 'excluded activities'.	Under 5 years old; Based in Italy; Annual turnover €5,000,000 or less; Not the result of a branch split / merger; Not publicly listed; No distributed profits. At least 1 of 3: 1) at least 15% of R&D expenditure ratio; 2) $^{1}/_{3}$ employees PhD students / graduates or researchers and / or $^{2}/_{3}$ hold Master's degree; and 3) holder, depository or licensee of patent, or owner / author of registered software.
Individual Qualifying Conditions	Full time employee / director (30+ hours per week) of the company, cannot own more than 15% of the company	Work at least 25 hours a week for company or, at least 75% of working time. Cannot own 30% or more of the company.	Employees and corporate officers, members of board of directors, supervisory committee. Employees / corporate officers of subsidiaries that company holds at least 75% of shares.	Work at least 30 hours a week for company. Board / deputy board members eligible. Minimum salary c. 868,400 SEK (€83,000) during vesting period (3 years).	Employees and outside consultants all qualify.
Limit per employee	€100,000 in one year, €300,000 in all years, 100% of annual emoluments in year that option granted.	£250,000 of share value in three-year period	Annual limit of €300,000	SEK3 million (290,000 euro).	N/A
Limit per company	€3,000,000	£3,000,000	N/A	SEK75 million (€7,100,000)	N/A

[44] Information for the Irish KEEP scheme does not include proposed amendments in the Finance Act 2019, which are awaiting commencement pending state aid approval.

	Ireland[44]	UK	France	Sweden	Italy
Tax rate	33% on the increase in the value of shares when sold.	10% on increase in value of shares when sold. If discount on market value then income tax / National Insurance on discount.	30% if working in company more than 3 years, 47.2% if less than 3 years.	25% on the increase in the value of the shares when sold.	26% on the increase in the value of the shares when sold.
Excluded Activities	Includes financial activities (see below), professional services companies, dealing in or developing land, building and construction, forestry, and operations carried out in the coal industry or in the steel and shipbuilding sectors. 'Financial activities' are defined It is defined as "the provision of, and all matters relating to the provision of, financing or refinancing facilities by any means which involves, or has an effect equivalent to, the extension of credit." It is not the intention to capture companies predominantly engaged in R&D type activities.	Excluded activities include banking, farming, property development, provision of legal services and ship building.	It is unclear if specific restrictions around excluded activities apply in addition to the Company Qualifying Conditions listed.	Conduct operations that are not primarily asset management, banking or financing operations, insurance operations, coal or steel production, trade in land, real estate, commodities, or financial instruments, long-term rental of premises or housing., provision of services relating to legal advice, accounting or auditing.	In addition to the Company Qualifying Conditions listed above, companies must: have a mission statement that concerns, predominately or exclusively, the development, production and commercialisation of innovative products or services with a clear technological component.
Approach to Share Valuations	Strike price must be set at market value of the shares. This market value should be determined through the use of a method which complies with relevant accounting standards. Revenue will not provide an opinion regarding company specific share valuations.	Companies can agree a valuation with HMRC (the UK tax authorities). This valuation then holds for 90 days unless there is a significant event. A discount on the market value can be offered on the share options, however then income tax must be paid on the difference between price paid and market value.	If the shares of the company are not listed, the option price must be equal to the valuation of the shares at the date of grant. A valuation by an outside valuator is recommended.	Option price can be set at any level.	Unclear at what price shares can be offered and what the process for share valuation is.

Source: Department of Finance research based on information from national authorities and other organisations

Comments/Observations

251. In terms of company qualifying conditions, the KEEP is broadly in line with the schemes in place in the UK and in Sweden. France's schemes allowance for companies incorporated outside of France is a key difference with Ireland's scheme. Italy's scheme has tighter qualifying conditions, including conditions related to how newly established the firm is and the educational attainments of employees.

252. In terms of the individual qualifying conditions, the 2019 proposed changes to allow more part time and flexible working arrangements will bring the KEEP more in line with other countries schemes who do not require employees to work full time (apart from the Swedish scheme, which does). The schemes in France and Sweden are also broader in allowing board members to be eligible for the scheme, while the Italian scheme also allows outside consultants to qualify.

253. The limit per employee is broadly in line with limits in other countries schemes, although the French scheme has an annual (as opposed to lifetime in the case of Ireland) limit of €300,000 while the Italian scheme does not appear to have a limit per employee.

254. The KEEP limit per company of €3,000,000 is similar to the UK schemes limit of £3,000,000. However, it is substantially below the Swedish limit of SEK75 million (roughly €7,100,000), while the French and Italian schemes do not appear to have a limit per company.

255. In terms of tax treatment the KEEP is identical to the other schemes in not applying tax on exercise of the options and instead only applying tax on the dispersal of options. In terms of the tax rate, the Irish rate at 33 per cent is slightly higher than most of the other schemes which are at 25, 26 and 30 per cent. However, the UK rate at 10 per cent is substantially lower than the schemes in other countries.

256. In terms of excluded activities, the KEEP is similar to schemes in the UK and Sweden in excluding certain activities from eligibility. The UK and Swedish approach appears to be more accommodating of sectors like FinTech and InsurTech compared to Ireland, where some respondents to the Department of Finance's consultation (see below) believe the broad definition of 'financial activities' is too restrictive.

257. Finally, in terms of share valuations the UK and Sweden appear to better accommodate the issue of share valuations through various policies. France's approach is similar to Ireland's while it is not clear what approach is taken in Italy to this issue.

Consultation and Potential Changes

Introduction

258. This section provides an overview of the public consultation that was undertaken as part of the KEEP review, before considering specific potential changes that could be made to improve the scheme's effectiveness. In light of the scheme's sunset on 31 December 2022, the Department of Finance committed to undertake a review of KEEP as part of the preparations for Budget 2023 and Finance Bill 2022.

Consultation overview

259. As part of the KEEP review, a public consultation was undertaken consisting of a questionnaire that stakeholders were encouraged to respond to. The questionnaire was

published on the 27 May 2022 with submissions closing on the 17 June 2022. The Department of Finance received 11 replies.

260. This consultation followed on from a public stakeholder consultation event on tax incentives for the SME sector held in June 2019. This event led to several changes being made in Finance Act 2019 (detailed in introduction), which are awaiting commencement pending state aid approval.

261. The 2022 questionnaire focused on five questions;
    1) What aspects of the current design of KEEP as it operates at present work effectively and why?
    2) What aspects of the current design of KEEP do not work effectively and why?
    3) What do you see as the most important barriers to further take-up of the KEEP, and what is your suggestion for overcoming these constraints?
    4) As is outlined above, there are currently three amendments to the operation of the KEEP scheme which are intended to be commenced shortly. What impact do you expect these changes will have on the take up and operation of the KEEP scheme?
    5) Do you have further proposals for changes to the operation of KEEP assuming it is extended for a further three year period from the start of 2023? If so, please provide a brief description of these.

Consultation replies

262. In terms of the aspects of the current design of the KEEP that work effectively at present, there were a few common responses across the different stakeholders. They include the deferral of the tax cost until shares are ultimately sold, avoiding upfront tax costs. The fact that CGT rates apply instead of income tax rates alongside USC, employee and employer PRSI was also mentioned as a significantly positive aspect of the scheme. The self-assessment nature of KEEP was also noted as a positive aspect of the scheme.

263. Aspects of the current design of the KEEP that respondents said do not work effectively, and suggestions for overcoming the most important barriers to further take-up of the KEEP are set out in more detail below.

264. This TSG paper focuses on key issues raised most frequently by respondents to the consultation. In terms of the expected impact of the three un-commenced changes to the KEEP scheme awaiting state aid approval, respondents generally felt that the changes would have a positive impact on take up, although there was no consensus over how significant an impact they were likely to have. Respondents also tended to emphasise that further changes were still desirable.

Potential Options for Change

265. Future changes will be considered in the context of Budget 2023.

Extend the KEEP until end 2025

266. Given that strong support exists for the scheme, and that it has a relatively modest cost, a continuation of the scheme beyond its current sunset date of 31 December 2022 would seem to merit appropriate consideration.

Measures to facilitate share valuations

267. Throughout the responses received a common theme was that obtaining share valuations is seen as a costly barrier to firms using the KEEP scheme, with many respondents

considering it the most important or one of the most important barriers to further take up of the scheme.

268. Several potential changes to the scheme were suggested to address this issue. They were:
- Firstly, for Revenue to provide safe harbour for valuations (in the same way as HRMC does for the Enterprise Management Incentive scheme).
- Secondly, for Revenue to provide more guidance on appropriate methodologies for undertaking share valuation (accompanied by examples) and guidance on how long a valuation remains "in date" (i.e. from last funding round / last professional valuation).
- Thirdly, in instances where Revenue disagrees with valuation, ensure that only the value of share options in excess of the threshold market value at date of grant will be deemed non-qualifying for the purposes of the scheme. This would mean that an income tax charge only arises on the undervalue amount, rather than disqualifying the entire application.

269. Respondents say that this is an obstacle hampering further take up of the KEEP, however there are practical issues with each of the proposed options which will need to be considered.
- In terms of the first potential option, significant additional resources would be required if Revenue were to approve such valuations. Such a change would also obviously conflict with Revenues principle of self-assessment which applies to KEEP (and other schemes).
- In terms of the second potential option, this would be an operational matter for Revenue and would not require legislative changes.
- In terms of the third potential option, it may be desirable for some penalty to exist to discourage unduly low valuations from firms of their shares.

Permit share buy backs

270. Stakeholders noted that there is often a lack of a liquid market for the sale of SME shares. Respondents argue that it can be difficult for employees to see the value of share options if they cannot envision selling them in the future. While a company buyback of shares is treated as income rather than capital, CGT treatment can apply to a buyback if it is for the benefit of the trade.

271. Respondents argue that an amendment should be made to reflect that shares acquired under the KEEP can be expected to meet the conditions for the benefit of the trade test. This would allow CGT treatment to apply to the gain in the value of the share options, as opposed to income tax.

272. There are concerns that this could facilitate undesirable tax planning arrangements. Careful consideration would need to be given this aspect and the feasibility of appropriate anti-avoidance measures.

Widen definition of eligible group structures

273. A number of respondents argued that the rules around group structures currently eligible for the KEEP are unnecessarily restrictive and do not allow several common types of group structures. Indeed, this was cited as the most or one of the most important issues restricting take-up by several of the respondents. Specifically, arguments related to restrictive definition of a 'holding company' and 'qualifying group'.

274. Changes aimed at this issue were introduced in Finance Act 2019 (and are awaiting formal approval from the European Commission). Respondents noted and welcomed these changes, however they argued that they will not be sufficient to cover many common group structures for SMEs, and that further changes are necessary.

275. It remains a priority to commence the Finance Act 2019 changes before any further action could be taken. However, common SME group structures being ineligible for the KEEP is a key issue according to correspondents and could be monitored once the Finance Act 2019 measures have been implemented.

Narrow the list of excluded activities

276. The KEEP legislation excludes a range of service activities. Respondents to the questionnaire argued that many of these exclusions were inappropriate and should be removed. In particular, the definition of excluded financial activities is seen as problematic.

277. The definition of excluded financial activities which applies in the KEEP provisions is the definition applied in section 488, TCA 1997. It is defined as “the provision of, and all matters relating to the provision of, financing or refinancing facilities by any means which involves, or has an effect equivalent to, the extension of credit.” It is argued that the inclusion of “and all matters relating to” is broad and could include many companies operating in the FinTech, InsurTech and BioTech industries. Stakeholders have suggested that the relevant phrase could be removed from the above definition. Respondents also suggested that the excluded activities could be amended to that used for Revised Entrepreneur Relief which are: holding of securities or other assets as investments, holding of development land and development or letting of land.

278. However, changes to the list of excluded activities to include financial and professional services more broadly is not considered appropriate. KEEP is a notified State Aid and the excluded activities are specified in the relevant State Aid approval.

279. The issue of the interpretation of financial activities, including activities such as FinTech, InsurTech and BioTech in the KEEP, might warrant further consideration at an administrative level.

Change rules around share option company limits

280. Currently a company cannot issue qualifying share options with a market value exceeding €3 million. Responses from stakeholders to the questionnaire argued that this limit is too restrictive, and that the uncertainty over how much a firm will grow means that companies cannot be sure in advance of whether they will exceed this limit.

281. Proposals to resolve this issue are to increase the amount of the cap, or instead to move to a limit based on a per cent of the company’s overall issued shares. These proposals would allow firms to offer larger amounts of share options to more employees, increasing its effectiveness at allowing SMEs to compete with larger companies for workers.

282. Furthermore, it is possible that these changes would help with the issue of obtaining a share valuation. The fixed cost of obtaining a professional share valuation would provide more benefit if used to offer a larger value of share options, and so expanding this limit should encourage more firms to overcome the hurdle of obtaining such a valuation.

283. At the same time, the scheme is intended to assist companies with attracting certain key employees only, and not intended to be a more general remuneration strategy. An increase in the company limits may conflict with this targeted intention of the programme.

284. Nonetheless, it is noted that the scheme aim is to promote high growth companies and as a result strong share price growth, which is a by-product of success.

285. These limits are in place to ensure a fair balance is struck between appropriate incentives for SMEs and equity with regard to the tax treatment when compared to other taxpayers. Expanding the limit per company must ensure that such a fair balance is maintained. In particular, limits based on a percent of a company's stock may not have the same guarantees of maintaining such a fair balance as limits based on nominal amounts.

286. Finally, the potential State Aid implications of such changes would need to be considered.

Change rules around employee limits

287. Currently the qualifying share options granted by the company to a KEEP employee cannot exceed: €100,000 in any one year of assessment, €300,000 in all years of assessment or 100 per cent of the qualifying individual's annual emoluments in the year of assessment in which the qualifying share option is granted.

288. Respondents proposed the elimination or relaxation of each of these limits. Any such changes to the scheme would obviously increase the attractiveness of the scheme and so may improve its effectiveness as an incentive for SMEs to retain or attract key employees when competing with larger firms.

289. In terms of the monetary limits over the lifetime, this limit is in place due to considerations of fairness with respect to the tax rate that other taxpayers face. Furthermore, this limit is broadly similar to limits imposed for similar schemes in our international peers (see international comparison section).

290. In terms of the ratio between individuals annual emoluments and the qualifying share options specifically, this was something mentioned particularly regularly throughout the questionnaire. Eliminating or loosening this requirement would be consistent with the aims of the scheme in terms of allowing cash-poor SMEs to offer share options instead of cash based remuneration. There is also an argument to simplify the scheme rather than having several sets of binding restrictions on employee limits.

291. However, such changes would have consequences from an equity perspective vis-a-vis other taxpayers. KEEP is not intended to wholly divert an employee's remuneration from cash salary to share options. If removed, a situation which could arise if the current restriction is removed.

292. Finally, here again the potential State Aid approval implications of such changes would need to be considered.

Reduce the tax rate to 10 per cent on disposal of shares

293. Finally, some respondents argued that the 33 per cent tax rate on disposal of shares does not provide a sufficient incentive for uptake of the scheme and that it should be reduced to a 10 per cent tax rate, in line with Revised Entrepreneurs Relief.

294. The 33 per cent tax rate is only paid on the gain in the value of the shares on disposal of the shares, with no tax paid on exercising of the share options as would typically be the case. Furthermore, the 33 per cent tax rate is significantly lower than the top income tax rate of 40 per cent plus USC and employee PRSI that could alternatively be paid. Employers PRSI with a top tax rate of 11.05 per cent is also avoided.

295. Therefore, it is clear that there is a very substantial tax saving for individuals and companies availing of the KEEP. Moreover, more broadly it is not clear that insufficient generosity of the tax treatment of KEEP share options is a significant obstacle to further uptake of the KEEP, with other issues discussed in this review appearing to be more important.

296. While tax benefits to assist SMEs in the labour market are important, equity when compared to other taxpayers is also important and such a significant differential in tax treatment would not appear to give due consideration to such equity considerations.

Developments in the Pensions Landscape

Interdepartmental Pensions Reform and Taxation Group

297. The Interdepartmental Pensions Reform and Taxations Group (IDPRTG) was established to carry out a number of tasks set out in the Roadmap for Pensions Reform 2018-2023. The Roadmap set out the need to promote long-term pension saving to address income adequacy in retirement, in particular for low income earners.

298. The IDPRTG, chaired by the Department of Finance, published its report in November 2020[45]

299. The Report represents a significant building block for reform in the area of personal pension provision. It makes a number of practical, focussed recommendations on the reform and simplification of the existing supplementary pension's landscape, elements of which have developed in an ad hoc manner over a number of years.

300. The IDPRTG continues to meet monthly to drive the implementation of the IDPRTG report. A number of specific recommendations relate to pensions tax policy and have been assigned to the Department of Finance and Revenue for consideration. The following package of recommendations were enacted in Finance Act 2021:
    - the removal of 15 year rule for transfer from Occupational Pension Scheme to Personal Retirement Savings Account (PRSA)
    - the abolition of the Approved Minimum Retirement Fund (AMRF)
    - The extension of an Approved Retirement Fund option to death-in-service benefits rather than a successor being required to purchase an annuity.

301. Further recommendations from the IDPRTG report are being actively considered for Finance Bill 2022 and are discussed below.

Other pension amendment in Finance Act 2021

302. Finance Bill 2021 also amended section 774(6) TCA to allow a tax deduction for a contribution by a company to a pension scheme established for the benefit of employees of another company, where that other company is subject to a legally binding agreement under which the first company agrees to make these contributions. Previously a deduction was only allowed for contributions by one company for employees of another company where both companies were parties to the agreement.

Auto-Enrolment

303. In line with the 'Roadmap for Pension Reform 2018– 2023', the Government has committed to develop and implement a State sponsored 'Automatic Enrolment' supplementary retirement savings system.

[45] https://www.gov.ie/en/press-release/4c555-minister-donohoe-welcomes-publication-of-the-report-of-the-interdepartmentalpensions-reform-and-taxation-group/

304. In March this year, the Minister for Social Protection announced the details of the Final Design principles for the Automatic Enrolment Retirement Savings System for Ireland.[46]

305. Under Automatic Enrolment it is being proposed that employees without personal retirement savings and who meet certain age and earnings criteria will be automatically enrolled into a State sponsored quality assured supplementary retirement savings system, with freedom of choice to opt-out. The reforms will make it easier for people to access retirement savings options to help them meet their own income expectations for when they retire.

306. The auto-enrolment system, will be delivered on a gradual basis with a phased roll-out over a decade. Matching contributions will be made by both workers and employers and the State will top up contributions.

307. Now that the overall design of auto-enrolment has been confirmed, work can begin on the necessary legislative, organisational and process structures. This work will continue throughout 2022 and 2023.

Pensions Commission Report

308. The Pensions Commission was established in November 2020 to fulfil a Programme for Government commitment, to examine sustainability and eligibility issues with state pensions and the Social Insurance Fund. The Commission was tasked with providing options for the Government to address certain issues including qualifying age, contribution rate, total contributions and eligibility requirements. The Pensions Commission published their report in October 2021.[47]

309. Amongst its recommendations, the Commission emphasised the need for enhanced transparency, and recommends ongoing communication relating to State Pension reform to secure public understanding of the importance of sustainability, certainty and poverty prevention.

310. In its report the Commission endorsed the early introduction of a system of automatic enrolment savings system noting that it can help ensure adequate income in retirement for pensions by encouraging the funding of pensions.

Transposition of PEPP Regulation

311. In June 2017 the European Commission launched a proposal to provide pension providers with the tools to offer a simple and innovative Pan-European Personal pension Product (PEPP).

312. The Department of Finance had policy responsibility for negotiating this EU Regulation and engaged with key domestic stakeholders such as the Department of Social Protection, the Pensions Authority, the Central Bank of Ireland and the Office of the Revenue Commissioners as part of the negotiation process.

[46] https://www.gov.ie/en/publication/27bab-launch-of-the-final-design-of-an-automatic-enrolment-ae-retirement-savings-system-for-ireland/
[47] https://www.gov.ie/en/publication/6cb6d-report-of-the-commission-on-pensions/

313. The objective of the PEPP is to lay the foundations for a safer, more cost-efficient and transparent market in affordable and voluntary personal pension savings that can be managed on a pan-European scale. It is envisaged that the PEPP framework will constitute a complementary voluntary scheme alongside national regimes.

314. The PEPP was agreed and adopted on 25 July 2019 (Regulation (EU) 2019/1238 (the PEPP Regulation))48 . On 22 March 2022 the PEPP Regulation became applicable. There are a number of Member State discretions which will be set out in legislation via a PEPP Statutory Instrument (SI) and through inclusion in the TCA. Broadly these are as follows:
    - Member States will designate a Competent Authority for PEPP, The Central Bank will be assigned as the sole competent authority for PEPP and the legislative basis will be set out in the PEPP SI
    - Member States will set out the sanctions regime for PEPP providers and products. This is proposed in the PEPP SI
    - Member States should detail the tax treatment for PEPP products and the tax treatment for PEPP will be proposed via amendment to the TCA through the Finance Bill 2022 – see below.

315. Work is ongoing to finalise the PEPP SI.

316. It too early to say what the impact of the PEPP will have on the pensions market but the PEPP may introduce greater competition in the pension market if European providers offer the PEPP to Irish savers on a cross-border basis. This in turn should help lead to better retirement outcomes for pension savers.

Policy proposals under consideration

317. The following policy issues are actively being considered, with a view to putting forward legislative amendment in the context of Finance Bill 2022:

Abolish the differential treatment of the PRSAs for funding purposes

318. The IDPRTG has focussed closely on this recommendation from the Report this year. Having examined the issue the Group considered a number of alternative ways to equalise the funding options for occupational pension schemes and PRSAs. The Department is now proposing to amend the TCA to implement the recommendation.

Changes to TCA to facilitate the transposition of PEPPs

319. The Commission has issued a Recommendation (COM (2017) 4393), encouraging Member States to grant PEPP products the same tax treatment as national personal pensions products and while the Commission's recommendation is not binding the intention is to grant PEPP products the same tax treatment.. As PEPPs are a personal pension product. It is proposed to amend the TCA to provide equivalent tax treatment for PEPPs as is available for PRSAs. It is proposed that the tax treatment of the PEPP should be consistent with Ireland's "Exempt-Exempt-Taxed" system of pension taxation. Under this system contributions to the pension fund are exempt, the income and gains of the fund are exempt and amounts paid from the fund (after any tax free lump sum) are taxed.

Tax treatment of lump sums from foreign pensions when resident in Ireland

[48] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R1238&from=EN

320. Consideration is being given to amendments to the TCA to provide that foreign pension lump sums drawn down by Irish residents will receive the same tax treatment as Irish pension lump sums. This would allow a tax free lump sum of €200,000, with any lump sum greater than €200,000 taxed in the same manner as lump sums from Irish pensions (20 per cent on lump sums between €200,000 and €500,000 and 40 per cent on the balance over €500,000).

Permit transfers from Retirement Annuity Contracts (RACs) to Occupational Pension Schemes

321. There is an additional proposal from the IDPRTG regarding transfers from Retirement Annuity Contracts (RAC) that will not be included in the Finance Bill because related amendments to the Pensions Act are also required. There is nothing specific in tax legislation on RACs which prohibits transfers from RACs to an occupational pension scheme but to put the matter beyond doubt it is considered appropriate to amend the TCA to permit such transfer.

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