Irelands 12.5% Corporation Tax Rate

The case for Ireland retaining our 12.5% tax rate is well understood by all stakeholders in the Irish economy. This briefing note is designed to provide some broader context and to state in concise terms the main arguments in favour of the long term retention of the 12.5% rate.

Pact for Convergence and Competitiveness: All sound and fury, signifying nothing?

The leaders of Germany and France announced at a summit of EU Leaders on 4 February their proposal for all Euro-Zone members to sign up to a convergence and competitiveness pact. The pact, they proposed, would be effected by way of an intergovernmental agreement and its legal framework would therefore sit outside the framework of the EU treaties. The detail of the pact will be discussed further at a Euro-Zone meeting (as yet unscheduled) in March, with a view to achieving agreement at an EU summit at the end of March. This timetable is wholly unrealistic, as is the package of proposals.

EU President Herman Van Rompuy is reported to have said that no concrete or detailed proposal has been put forward, leaving little time for these matters to be considered properly, let alone agreed. In addition, it is understood that strong opposition was expressed by most member states to many of the ideas put forward.

The French and German governments' pact is understood to propose:

- The abolition of salary indexation systems
- Greater harmonisation of member state corporate tax systems
- An overhaul of national pension systems leading to increased retirement ages for certain member states
- A requirement for individual member state constitutions to be amended to impose national debt limits
- The establishment of national crisis management regimes for banks
- The mutual recognition of certain educational qualifications

This package of measures taken as a whole appears to be so radical that the likelihood of agreement is extremely low.

Specifically, in relation to corporate tax, the pact's sponsors have been unclear on what they want to achieve. In mid January it was higher corporate tax rates in certain EU countries. Then on 4 February it was indicated that a common tax base across the EU was desired. Even then it was unclear whether it was a common base or a common consolidated base (ie. apportioning the base to different countries) that was desired. These are all very different proposals. Higher rates are unlikely to be achievable and any such proposal is in direct opposition to the proposals of EU Tax Commissioner, Semeta. A common consolidated system is favoured by the EU Tax Commissioner but has little chance of ever being implemented as it is so complex.

In relation to the Common Consolidated Corporate Tax Base or CCCTB proposal, we expect:

- The EU Tax Commissioner will issue a proposal later this year – at the earliest in March. This proposal will aspire to a common method of computing taxable profits and a method for the allocation of the taxable profits across member states. Tax rates will not feature in the proposal.
- Given the level of political opposition to CCCTB within individual member states or because those that support CCCTB do not want to take any risks with tax revenues in a time of fiscal deficits, the proposal is most unlikely to result in any change in the medium term, if ever. Notwithstanding, we are likely to hear a lot about CCCTB in the next few months. Much of it will be inaccurate and most of it will convey a threat of immediacy that is likely to be unjustified.

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The French Finance Minister, Ms. Christine Lagarde, is reported as saying that where tax competition is concerned, it is about effective tax rates and not headline tax rates and that the differences in effective rates across the EU are less stark. Indeed Germany's Finance Minister Schauble admitted in November that he had been convinced by the case made by the Irish government for retaining our existing corporate tax rate and that "tax is not a community concern".

Regardless of what the French and German governments want, they cannot achieve it without the agreement of member states. It's worth remembering that the Irish government resisted French and German calls for changes in our corporate tax regime when the EU/IMF Funding Agreement was negotiated just over two months ago. The logic for retaining our current corporate tax system is unchanged.

The French and German governments did not prevail in November, rather logic prevailed. It should, in our view, prevail again but not without the creation of needless speculation for a period of time. The winners could be Switzerland and Singapore – the EU's largest competitors for FDI.

Ireland has a transparent regime - unlike a number of other EU countries whose headline rates are at least double Ireland's but whose effective tax rates are well below Ireland's. Some countries in Europe even offer extra statutory private letter rulings providing effective tax rates that are as low as 1%. Some of these rulings are so sensitive that the tax authorities concerned will not allow the rulings to be taken outside their jurisdiction. These practices of maintaining high nominal rates of business tax but reducing effective rates to extremely low levels "behind the scenes" is disingenuous. Let these countries introduce a transparent system like Ireland's 12.5% regime and then let's talk about corporate tax rates in the EU.

We will hear more commentary on these issues in the weeks and months ahead. The commentary may be exaggerated and may cause some concern. But it will not change the reasons why maintenance of Ireland's corporate tax regime remains in the interests of the EU as a whole.

Contact Us

To stay up to date with the latest developments and to find out more about investing in Ireland, please contact Anna Scally, Chair of the Tax Working Group, American Chamber of Commerce in Ireland or Shaun Murphy, Head of Tax, KPMG in Ireland.

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