American Chamber of Commerce Ireland

Submission to the Department of Finance

The Taxation of Share Based Remuneration

Public Consultation

1 July 2016

Introduction

Ireland needs talent to sustain and build its economy. The priority for the American Chamber of Commerce Ireland is that Ireland remains a global location of choice for US foreign direct investment (FDI) into Europe. Ultimately, if Ireland is to remain ahead of the pack we must be positioned as the global location of choice for talent to thrive. Achieving this will 'future proof' the country and its industrial base in an ever-changing business environment.

Ireland is a unique transatlantic gateway. Today, over 140,000 people are directly employed in over 700 US firms in Ireland, accounting for over 70% of all IDA supported employment. Collectively US companies have US $310bn in foreign direct investment in Ireland, representing over 11% of all US investment in the EU. This investment remains instrumental in helping to create and develop a world class labour force; critical in dispersing technology and innovative capabilities across the economy; and key in expanding the global reach of indigenous firms. Ireland's sustained FDI performance is attributed to Ireland's track record of delivery, flexibility and innovation in a secure and business friendly environment.

Ireland's competitive corporate tax regime and certain policy is a necessary part of Ireland's offering, but it is by no means sufficient. Ireland must continually build its international reputation for the availability of affordable talent and as a source of innovation, as these factors are becoming increasingly important in FDI decision making for high-value activities. As we have previously stated in past submissions, the marginal personal income tax rate (together with PRSI and USC) with its low entry threshold should be reformed to enhance Ireland's ability to retain and attract leadership talent and specialised skills, improve productivity and reduce upward pressures on labour costs.

Senior leaders in our member companies are deeply concerned about the persistently high level of the personal tax burden in Ireland and are uniformly of the view that reforms can be made within the income tax code to improve the current competitive position.

Against this backdrop, the Chamber welcomes the decision to hold a public consultation on the taxation of share based remuneration. We propose certain amendments to the current taxation treatment of share based awards which, in conjunction with other reforms to Ireland's personal tax regime, will significantly enhance Ireland's overall FDI offering.

Taxation of Share Based Remuneration - Recommendations

In order to enhance the ability of companies to retain and attract key individuals, the Chamber would recommend the following amendments:

1. The personal tax treatment of shares acquired under all share based remuneration arrangements (e.g. share option schemes, Restricted Stock Units, etc.) should be enhanced by removing the income tax charge on the acquisition/granting of such remuneration in favour of a capital gains charge on the realisation of the share based income to the individual. Hence, move the marginal charge from today's marginal income tax, PRSI and USC liability to a capital gains tax (CGT) of 33%.

2. As an alternative to the above suggestion, improve the tax treatment of all share based remuneration arrangements by removing Employee PRSI and the USC. This would lead to direct take home pay benefits to all workers in such schemes, enhancing their attractiveness and reducing the administrative complexity for business/employers.

3. Under various approved Profit Sharing Schemes employees, under certain conditions, can receive up to €12,700 worth of shares in any one tax year free of income tax, PRSI and USC. The limit of €12,700 has been in place for a significant period of time and accordingly the value of this benefit has declined over time. We recommend that limited threshold should be significantly increased to not just reflect indexation but also to continue to encourage employee share ownership.

4. The current employer social security position on the granting of share based remuneration should be maintained. This represents a 10.75% cost saving for all employers and represents a significant cost saving for US MNCs with operations in Ireland as such companies generally commit to strong levels of share awards.

Other recommendations

The Chamber is of the view that in conjunction with the proposed amendments to the taxation of share based remuneration detailed above, there are a number of other changes that should be made to the Ireland's personal tax regime in order to attract key talent form abroad and in retaining our key talent here in Ireland. We will provide our detailed proposals on these changes in our pre-Budget 2017 submission which will be made shortly.

Concluding Remarks

The American Chamber of Commerce Ireland promotes policies that enhance Ireland's competitiveness to be the location of choice for US foreign direct investment into Europe. Ireland remains a unique gateway for US investment into Europe and EU-US policies that advance transatlantic trade and investment will retain and attract further investment and jobs here.

Competition for FDI remains intense as investment, rather than trade, emerges as the key driver of the global economy in this century. Hence it is vital that an environment that supports the retention and growth of foreign direct investment continues to be fostered. While opportunities persist, Ireland must remain nimble and responsive to the evolution of industrial and tax policy in other jurisdictions or investment will be diverted away from Ireland and the EU.

We believe that if the measures suggested in this submission are embraced they will help drive growth by making Ireland more attractive for future inward investment. We remain available to the Department for further consultation.