'Special Assignee Relief Programme Consultation',
Income Tax Incentives Section,
Fiscal Policy Division, Department of Finance,
14-16 Upper Merrion Street,
Dublin 2.

12th May 2014

Dear Sir/Madam,

We are responding to the invitation by the Minister for Finance to make a submission on the **Special Assignee Relief Programme** (SARP) as part of the Public Consultation process announced at the end of March.

The American Chamber of Commerce in Ireland supports tax policies that enhance Ireland's competitiveness for investment, increases economic growth and provides for sustained job creation. Our objective is that Ireland remains a location of choice for US foreign direct investment to Europe and by doing so, we retain and attract further investment and jobs.

Introduction – Attracting Leadership and Specialised Skills

Since 2010 we have seen the greatest surge of US investment into Ireland in over a decade. Ireland remains a unique gateway for US investment into Europe. Today, over 115,000 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 $204b in foreign direct investment in Ireland, representing almost 10% 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.

The Chamber has been committed to a strategy to make Ireland a more attractive environment for expatriate employees of member companies for a number of years. One aspect of that commitment has been to advocate for an assignee scheme which will be attractive and competitive. The Chamber's view is that Ireland's offering (S.A.R.P) is neither attractive nor competitive enough, and that we are losing out on potential assignees coming to Ireland. These **assignees represent an important artery of knowledge transfer and removing disincentives to relocate to Ireland would bring competitive advantages** to its FDI base. The importance of such assignees is that they are typically senior leaders or experts within their organisations who can bring not alone experience and skills to Ireland, but additional investment and jobs as well.

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Making Ireland a more attractive place for **senior leaders and specialised talent** to locate is one aim of our strategy. Another related objective is to ensure a broader attractive offering to expatriate talent in general. Ireland has made a number of significant changes to its Employment Permits regime in 2013 and will continue to implement reforms into 2014. While it is too early to be definitive about how those changes have assisted business in meeting its hiring objectives, the signals are positive that Ireland is open and welcoming to talent.

However, if US businesses in Ireland are to continue to attract and retain talent then more must be done. Those businesses do interesting and exciting things but that is not enough to secure talent in a competitive marketplace. The introduction of a new assignee tax relief (SARP) in 2012, aimed at attracting leadership executives and specialised skills to relocate to Ireland was at first welcomed. However, feedback from our members highlights that the relief, as it is currently designed, is not achieving its objectives. Ireland is thus losing out on investment opportunities and the creation of new jobs they bring with them.

In order to maximise the potential of SARP, it would be necessary to demonstrate that:

- It is intended to apply as a genuine incentive and is structured accordingly;
- The relief is readily understood by potential investors in Ireland;
- The relief is targeted at addressing the talent and expertise shortfall in the economy;
- It is internationally competitive in the context of Ireland's high marginal income tax rate; and
- Is easy to promote and simple to operate.

Unfortunately, the relief has failed to meet some of these requirements and we would be pleased to share our members' experiences with the Department with a view to improve the effectiveness of the regime.

Recommendations

The detailed provisions and limitations in the existing legislation, while well intended, have had the unfortunate effect of significantly limiting the ability of employees to meet the qualifying criteria required for the relief to apply. This is reflected in the very low level of take-up of SARP to date. A new relief needs to be designed, promoted and implemented as an incentive to attract and retain people with the necessary key skills, talent and experience to drive growth in the economy.

We would therefore recommend that a new relief should incorporate the following features:

- The relief should be driven by the talent and expertise needs of industry such that it will result in a **tangible contribution to economic growth** in Ireland. This would immediately and significantly contribute to employment creation and ensure Ireland's competitiveness in attracting further investment, which is now predominantly driven by the availability of the necessary talent;

- The exemption should be open to 'new hires' and the existing condition of at least 12 month's prior service with the foreign employer should be removed. The removal of the prohibition on 'new hires' being eligible for the relief would **facilitate organisations in attracting the specific key talent from outside the organisation which may be needed to drive the business forward**. This would also be an added attraction for indigenous businesses striving for growth and seeking key talent with overseas experience where they currently have no overseas entity;

- **The relief should aim to be best in class or at least internationally competitive**. By increasing the relief to 35% of qualifying income and ensuring that the maximum and minimum income limits reflect the variety of talent needs at both lower and higher income levels would go some way towards achieving this goal. The lower income limit for eligibility currently excludes individuals who might have the requisite skills which are in short supply (such as foreign languages). It is also arguable that the upper income threshold is too restrictive for leadership talent and is more limiting than that available in competing jurisdictions;

- The **relief should be made available to all assignees to Ireland once they become tax resident in Ireland under our domestic rules**. This condition to be resident in Ireland and not resident elsewhere in particular has had a disproportionate impact on the availability of the relief to our member's assignee population. Due to domestic US residence rules, individuals can, depending on their travel pattern, remain subject to US tax for several years following the commencement of an assignment to Ireland. Furthermore, it is unsatisfactory that the issue of residence based on citizenship is not addressed in legislation but instead is treated by way of concession from Revenue (where consistency of approach could become an issue). The current **link to the assignee being 'non-resident' elsewhere should be discontinued**. The legislation creates difficulties for assignees to Ireland in their year of arrival. As a result, the vast majority of assignments of key talent to Ireland post 1 January 2012 could not qualify for the relief;

- The relief **should be applied to income tax, PRSI and USC**. The current position is at odds with other reliefs in the legislation, such as flights and/or school fees, which are exempt from income tax, USC and PRSI. This adds cost to employers and employees and to the complexity of the administration of the relief;

- The relief **should reflect the fact that overseas travel is an integral part of any business** which operates cross borders and the relief should not operate in a way which would restrict normal business travel;

- Consideration should be given to applying the relief from 2015 to assignments which commenced on or after 1 January 2012;

- The application and reporting requirements of the relief should be simplified as much as possible.

Ireland's FDI sector continues to be robust and resilient, providing a source of stability for the Irish economy. Ireland will only be able to continue the revitalization of its economy by creating new jobs in the private sector with a business friendly environment for investment. We believe that if the measures suggested above are implemented it will increase the leadership and specialised talent pool available, secure existing employment levels in the economy, and help drive growth by making Ireland more attractive for future inward investment and assist employers in controlling assignment costs. In essence, the relief would function effectively and we would anticipate a substantially increased level of take up.

We would be pleased to meet with you to discuss our suggestions and any other measures being considered to improve the effectiveness of SARP.

Yours sincerely,

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