
Commission on Taxation and Welfare Public Consultation

Submission from the American Chamber of Commerce
(AmCham)

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General Questions

What elements of the taxation and welfare systems do you feel are working well?

As AmCham noted in our 2021 Report ‘Building Bridges Better’, Ireland follows best in class principles in tax policy and administration. Ireland is a signatory to tax treaties with 73 countries and has been externally validated for following best international practice on tax transparency.

The Irish Revenue Authorities constant innovation, including in the area of digitalisation, and its adherence to best practice, works to ensure Ireland has a strong international reputation in terms of inward investment.

Furthermore, Ireland has a reputation for predictability and stability on taxation matters, and the use of public consultations by the Department of Finance to hear from stakeholders and ensure their views are considered in relation to potential taxation changes provides the certainty necessary to stakeholders.

What elements of the taxation and welfare systems do you feel are not working well?

As outlined in AmCham’s submission to the Department of Finance’s public consultation on the OECD International Tax Proposals, AmCham believes Ireland should revise and modernise its tax code to ensure it is agile and adaptable and aligns with 21st century business models. This would ensure Ireland remains attractive for inward investment.

Ireland has updated its tax code in line with EU Directives and with international developments, and these changes have been beneficial in terms of increasing global tax transparency and fairness. However, these reforms have also made Ireland’s tax code more complex. The increased complexity of the Irish tax system, with differing incentives and levels of tax, in practice means that the system may be cumbersome for businesses to navigate.

As AmCham outlined in its 2022 pre-budget submission to Government entitled '*Next Century Ireland*', and as will be highlighted in this consultation, AmCham believes there are a number of actions which could be utilised to improve the Irish tax code. These include:

- Reforming the R&D Tax Credit:
 - Expansion of the list of qualifying scientific fields within the R&D Tax Credit, to include artificial intelligence, data analytics, digitalisation, and other emerging technologies from the field of Industry 4.0 and carbon neutrality.
 - Publication of additional Revenue Guidance on qualifying expenses, aimed at removing uncertainty from the audit process.
 - Simplification of the annual reporting requirements.
 - Review of potential to reform the restrictions of third-party cost, within permitted state aid rules.
 - Expansion of the guidance on the applicability of 291A (including how data is defined)
- Public consultation on how to improve the competitiveness of Ireland's inbound royalties' regime
- Increasing the capacity of knowledge intensive sectors within the Revenue Commission
- Further reform interest limitation rules
- Expansion of supports from the Revenue Commissioners including:
 - increased guidance on audit preparation
 - consideration of including issues relating to TP within the CCF audit regime.

AmCham notes the separate consultation by the Department of Finance on moving to a territorial system of taxation.

Furthermore, as AmCham has previously outlined in its pre-budget submission, and building on the commitments in the Climate Action and Low Carbon Development Act, AmCham is calling for a review of Ireland's corporate tax regime for the transition to a carbon neutral economy. Issues for consideration within the review include:

- The potential development of guidance on the tax treatment and accounting principles for investment in tangible and intangible sustainable assets
- An assessment of the competitiveness of sustainable investment and green finance in Ireland.

Good quality public services, welfare provision and infrastructure are financed mainly from taxation and PRSI. What are the features that you think our taxation and welfare systems should have in order to meet these needs?

In ensuring our taxation and welfare systems can meet the need for good quality public services, welfare provision and infrastructure, AmCham is of the view that the advancing of the digitalisation of our systems would be beneficial. The development of MyGovID and the necessary digitalisation of supports necessitated by the Covid-19 pandemic have shown how progress can be made in this regard to support individuals and businesses in accessing their required supports. As mentioned, the Irish Revenue Authority has worked well in adapting to innovation, including on digitalisation.

AmCham believes the logical extension of the capabilities of MyGovID and the Government Digital Postbox is investing in self-sovereign identity management. In doing this, our public services can become more accessible to individuals, while also allowing the individual to have control over the visibility and use of their data.

In your view, what main reforms are necessary so that the Irish taxation and welfare systems can embrace the opportunities and meet the challenges that Ireland may face over the next 10-15 years?

The continued digitalisation of the Irish taxation and welfare systems will be important in embracing the opportunities and facing the challenges Ireland will face over the next 10-15 years.

As AmCham has recommended to Government in our 2022 pre-budget submission, in order to ensure our public sector is aligned with our increasingly digitalising society, the Government should implement a public cloud-first policy requiring public sector bodies to first consider the public cloud, before any other options, when upgrading or introducing a new service. In advancing this, a uniform data classification model would need to be put in place. This would address uncertainty that may act as a barrier to cloud adoption by allowing relevant data to be classified as unclassified, official, or secret and above.

Furthermore, the recent OECD international tax agreement, which will require amendments of the Irish tax code for its implementation, provides the opportunity for the simplification of the Irish tax code. This opportunity could also be utilised to reduce the administrative burden which organisations can face.

Furthermore, ensuring Ireland remains an attractive location for talent will be important in terms of Ireland's future competitiveness for FDI. As such, ensuring the high marginal tax burden is not increased, and a roadmap is put in place to match the marginal tax burden to international standards will be important in terms of ensuring Ireland's competitiveness into the future.

Fiscal Sustainability

What reforms to the taxation and welfare systems should be considered to ensure the system is sustainable and resilient and that there are sufficient resources available to meet the costs of public services in the medium and longer term?

Please specify taxation reforms you consider important:

The modernisation of the Irish tax code to ensure it is agile, aligns with the 21st century business model, and is not cumbersome for businesses to navigate, as outlined in the 'General Questions' section of this consultation would ensure the tax system is better accessible. Certain elements of Ireland's tax code date back to the 19th century, and, as AmCham outlined

in its submission to the OECD public consultation, reforms of areas such as the Scharular system, three rates of tax for companies, interest limitation and foreign tax credits are long overdue.

Given approaching demographic pressures and future uncertainties, future funding of public services is a critical issue. In order to meet these challenges, what is the appropriate balance between the taxation of a) earned income, b) consumption e.g. VAT and c) wealth e.g. capital acquisitions tax?

The future of work will be focused as much on where people want to live as on where companies would like to locate. As such, ensuring Ireland is an attractive home for talent will be essential. In the context of approaching demographic pressures and future uncertainties, ensuring Ireland can retain and attract talent into the future will be important. As further outlined in the 'Promoting Employment' section of this consultation, AmCham is of the view that addressing the marginal tax burden and ensuring the personal tax regime does not act as a barrier to attracting and retaining talent, including with regard to capital acquisitions tax, will be important in ensuring Ireland can retain talent based here, and continue to be competitive in attracting talent.

Promoting Employment

What reforms to the taxation and welfare system should be considered to ensure that taxation and welfare work in tandem to support economic activity and promote employment while also supporting those most vulnerable in an equitable way?

High levels of personal taxation can act as a barrier to growth and a barrier to attracting talent to Ireland. 93% of AmCham members have called out Ireland's personal tax regime as a barrier to attracting and retaining talent, while, and 40% see it as a barrier to further investment and expansion.

AmCham, as outlined in its 2022 pre-budget submission '*Next Century Ireland*', recommended that a commitment be given to not increase any personal tax burdens during the lifetime of this Government, and further called for a roadmap to be outlined to reduce the personal tax burden to match international standards.

Following the recent OECD international tax agreement, in order to ensure Ireland remains competitive in terms of attracting talent, AmCham recommends that, in order to attract and retain talent in Ireland, the marginal rate of income tax rates should be reduced, with thresholds at which they apply also being addressed. The combination of income tax, USC and employee PRSI results in a high marginal tax burden which could impact Ireland by international standards in attracting key talent.

Furthermore, as AmCham also outlined in its submission to the OECD public consultation, encouraging key, in-demand individuals to locate in Ireland by making the personal tax regime more attractive could be beneficial. This could be done through further enhancements to the SARP regime, and through the non-application of CAT and CGT to such individuals.

What changes to the social insurance system should be considered to ensure sustainability into the medium to longer term? (Please note the recommendations of the Pensions Commission and NESC Report 151 on the future of the Irish social welfare system)

AmCham recommends that the individual's Personal Fund Threshold and the Standard Fund Threshold should be increased in line with the Consumer Price Index (CPI) and this indexation should occur automatically each year.

Climate

As Ireland moves to a low carbon economy, what should be the role of the taxation and welfare system in:

taking advantage of opportunities?

AmCham is of the view that, as we move to a low carbon economy, the development of emerging technologies should be supported. A more targeted approach to the development of such emerging technologies is required, as opposed to the current buyer led model. AmCham, as outlined in our response to the public consultation on the Climate Action Plan 2021, is of the view that subsidies should be focused on developing technologies, rather than proven technologies. Furthermore, AmCham outlined the view that it would be beneficial for early-stage support for pre-commercial floating offshore, to ensure offshore projects are open to purchase power agreement investment, and that 'taxes' currently associated with renewable sources are reconsidered.

The knowledge economy will support Ireland's transition to a carbon neutral economy through the development of the necessary technologies. AmCham is of the view that the maintenance and enhancement of tax incentives which work to stimulate job creation and promote investment in research, development and innovation are important.

mitigating the risks?

In relation to carbon pricing, AmCham believes that Ireland should work to ensure Irish carbon pricing mechanisms develop in line with other regimes worldwide and pre-existing reporting requirements by continuing to engage with the EU, US and other key international partners. Effectiveness and consistency can be ensured through the development of global mechanisms, which should encourage international competitiveness.

Furthermore, AmCham recommends that clear accounting principles and tax treatment are developed for investment in green technologies and other initiatives that promote the decarbonisation of the economy.

in meeting Ireland's emissions targets?

In relation to Ireland's transition to a carbon neutral economy, AmCham has called, in its Pre-Budget 2022 submission for a review of our corporate tax regime to include an assessment of the competitiveness of sustainable and green finance in Ireland, and the potential

development of guidance on the tax treatment and accounting principles for investment in tangible and intangible assets.

Are there existing taxation and welfare measures that are counter-productive to Ireland's climate change commitments?

The creation of a pro-investment environment, including the removal of policy barriers that hinder corporate power purchase agreements (CPPAs) would be beneficial, in addition to modification of the PSO levy, a more equitable allocation of business rates, and consideration of transmission costs.

To what extent are these justified in the Irish context and are any reforms necessary?

In relation to CPPAs, consideration of mechanisms to reduce the associated credit risk, thereby increasing the amount of organisations who can consider entering into a CPPA, would be welcome. Furthermore, as outlined in AmCham's submission to the public consultation on the Climate Action Plan 2021, AmCham would welcome the adoption of financing and de-risking facilities measures that are available in other EU Member States. For example, the Spanish government announced a financial support scheme for corporates seeking power purchase agreements (PPAs) that includes credit risk guarantees.

What changes should be made to the taxation system to ensure longer term fiscal sustainability given the expected impact of the continued decarbonisation of the Irish economy, in particular the impact of reducing tax revenues from energy, carbon and motor taxes?

In relation to carbon pricing, many AmCham members are accustomed to this through the EU Emission Trading System (ETS). AmCham is of the view that, should this scheme be expanded

to a broader range of companies, or similar measures be taken, that it is important that clear guidance and training in relation to the EU ETS and carbon pricing is provided to companies.

This would facilitate and assist companies in adopting to carbon pricing requirements, ensuring that they understand how to comply with a carbon pricing regime, measurement mechanisms for planning for carbon costs, and price transparency.

Housing

Taking into account previous taxation related interventions in the housing market, what role do you think the taxation and welfare systems have to play in contributing to the long-term supply of housing?

Ireland is not unique in facing a growing housing crisis. However, one of the aspects that does distinguish Ireland is the link between the availability of residential accommodation and our competitiveness as an inward investment location. In relation to dereliction levels across Ireland and in our major urban centres, AmCham believes that a smart strategy for bringing these properties back to life would have a significant impact on the housing crisis, reinvigorate urban centres and towns and assist in the promotion of Ireland as a place where people want to live. Taxation systems and incentivisation could play a key role in such a strategy.

Introduction of incentives and taxes to help increase the availability of suitable residential stock should be strongly considered. As outlined in AmCham's 2022 pre-budget submission '*Next Century Ireland*,' AmCham recommends that the Government launch a timebound incentivisation strategy to convert derelict properties, which includes resources to increase capacity and the skills necessary to work with historic buildings.

Supporting Economic Activity

How can Ireland maintain a clear, competitive, sustainable, and stable taxation policy with regard to its attractiveness to Foreign Direct Investment (FDI) in light of the rapidly changing global environment?

Following on from the OECD International Tax Agreement, in order to ensure Ireland remains competitive, AmCham has outlined key recommendations.

- Reform of the R&D Tax Credit to expand the list of qualifying scientific fields within the R&D Tax Credit, to include artificial intelligence, data analytics, digitalisation, and other emerging technologies from the field of Industry 4.0 and carbon neutrality.
- Publication of additional Revenue Guidance on qualifying expenses, aimed at removing uncertainty from the audit process.
- Simplification of the annual reporting requirements.
- Review of potential to reform the restrictions of third-party cost, within permitted state aid rules.

The implementation of the OECD international tax agreement will require a major overhaul of the Irish tax system. However, this provides an opportunity to improve aspects of our tax code. Other countries will be re-evaluating their tax codes to ensure they are attractive in terms of FDI, and Ireland must take similar action.

As AmCham outlined in our submission to the Department of Finance public consultation on the OECD International Tax Proposals, AmCham believes that the below recommendations would assist Ireland in remaining an attractive location for inward investment:

- Moving to a more territorial system of taxation and simplify the double tax credit relief provisions—currently mainly contained in Schedule 24. AmCham notes the separate Department of Finance consultation on moving to a territorial system of tax.
- Reducing the marginal income tax rates and the thresholds at which they apply to encourage and retain a talented work force in Ireland, as further outlined in the ‘Promoting Employment’ section of this consultation

- Making the personal tax regime for key, in-demand individuals more attractive to encourage talent to move to Ireland, as further outlined in the 'Promoting Employment' section of this consultation
- Remove Section 757 which provides for a Case IV charge on capital sums received for the sale of patent rights.

Ireland's economic recovery from the impact of the Covid-19 pandemic can be supported by the knowledge economy. As such, support for the knowledge economy, as outlined in the 'Climate' section of this consultation, should be maintained, and enhanced.

How can the taxation environment support indigenous enterprise, particularly small and medium sized enterprises (SMEs) to be productive, to innovate and be competitive internationally?

The Covid-19 pandemic has resulted in a difficult time for many businesses and many sectors of the Irish economy. The post-Covid period will remain difficult for many companies in many sectors. As such, AmCham is of the view that Government should maintain enterprise supports for businesses and employees who have been adversely impacted by the pandemic.

Separately, AmCham is of the view that in supporting businesses to grow and be competitive internationally, air connectivity is important. As we would to rebuild our air connectivity following the pandemic, the Department of Finance, and the Government should liaise with all relevant Government Departments to consider key PSOs with the aim of incentivising the western seaboard for carriers in order to provide that connectivity to support regional development and the growth of businesses based there.

With regard to starting, scaling or growing a business in Ireland:

a) what features of the current taxation system work well?

As outlined in the ‘General Questions’ section of this consultation, the stability and the predictability provided by the Department of Finance’s approach to consulting with stakeholders and hearing their views in relation to potential taxation changes is beneficial in terms of providing certainty in the context of the inward investment community. The innovation and adherence to best practice by Revenue maintains Ireland’s strong international reputation in relation to inward investment.

b) what features do not work well and how can these be improved?

The opportunity exists for Ireland to update and modernise its tax code. This would be beneficial in addressing complexities and administrative burdens businesses can face in navigating the tax code.

Administration

How can modernisation of the taxation and/or welfare administrations evolve to best meet customer needs in a satisfactory manner while respecting data rights and ensuring secure and reliable tax collection?

Please outline your views:

As outlined in the ‘General Questions’ section of this consultation, AmCham is of the view that continued digitalisation can benefit customer needs. By investing in self-sovereign identity management and adopting a cloud-first policy requiring public sector bodies to first consider the public cloud, before any other options, when upgrading or introducing a new service, customers can have more ease in accessing services.

As outlined throughout our response to this consultation, the major overhaul required to comply with the OECD international tax agreement provides an opportunity for Ireland to modernise the Irish tax code to ensure Ireland remains competitive. In this context, the Government should provide the Department of Finance and Revenue which additional

resources to assist them with the administrative and legislative burdens which would accompany the implementation of the agreement.

What do you see as the implications of modernisation for taxpayers either positive or negative?

Building on recommendations in AmCham's paper entitled '*Digitalisation – How Ireland can Accelerate*', self-sovereign identity management can allow the individual to have control over the visibility and use of their data.

Submit your ideas

Taking into account the Terms of Reference, submit any other thoughts, ideas or feedback on taxation and welfare in Ireland:

AmCham believes the Government should, as outlined in our pre-budget submission, commit to increasing the capacity of knowledge intensive sectors within the Revenue Commission.