DELIVERING RETURNS FOR INVESTORS

IAIM Pre-Budget Submission 2018

Contents

1. **Introduction**

The Irish Association of Investment Managers (IAIM) represents the major investment managers operating in Ireland. Our members manage assets of approximately €320bn on behalf of Irish and international clients. The services our members provide are critical to individual and institutional savers and investors alike, allowing them to achieve their financial goals and meet their responsibilities. Individually and as an association, we are committed to ensuring proper and responsible management of assets for the benefit of all clients.

Investment management also represents a fundamental and high-value part of Ireland's financial services offering – and a part that is changing rapidly, driven by technology and other market forces. We firmly believe that this environment requires effective cooperation between public and private sector stakeholders to ensure that the necessary national capacity exists across areas including skills, enterprise support, international marketing and regulation.

IAIM would like to suggest changes to the tax system that could encourage relocation of key personnel to Ireland and bring equity to the tax treatment of investment product returns.

2. **Recommendations**

Special Assignee Relief Programme (SARP)

- Calibrate SARP to give Ireland a competitive advantage in attracting highly-skilled personnel;
- Increase the exemption level from 30% to 50%;
- Apply relief to all income, with a qualifying threshold of €75,000;
- Open SARP to new hires to allow talent to be recruited, and not just transferred from groups;
- Extend the programme to provide certainty for staff and employers;
- Provide for a tax-free allowance of €30,000 for relocation expenses;
- Allow tax-free reimbursement of up to five return trips per year;
- Extend the certification window to ease application process.

Taxation of Investment Products

- Eliminate the 1% Life Levy;
- Restore parity between DIRT and Exit Tax.

Property Tax

There have been significant changes to the taxation of Irish commercial property in the last two Finance Acts – First of all the Irish Real Estate Fund tax which was introduced in FA 2016 (and subsequently revised in FA 2017) and then the increase in the rate of stamp duty on Irish commercial property from 2% to 6% in FA 2017.

While investors in property are not averse to paying tax, constant changes in the structuring of such taxes as well as in the rates are a real cause for concern.

Reforming LP Legislation

We urge the Department of Finance to bring forward the draft legislation as soon as possible to deliver on the strategic objective of developing and growing employment under IFS 2020.

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3. Taxation Measures

3.1 Special Assignee Relief Programme (SARP)

SARP is a targeted relief that incentivises the location of high-value employees in Ireland. We believe that enhancements to the programme would offer an effective and revenue generating approach to encouraging the development of high-value activity here, particularly within the context of potential Brexit relocations.
Whilst SARP is of particular importance to the investment management industry, the programme also supports the development of other sectors within financial services, such as aircraft leasing, and several other industries, including ICT, pharmaceuticals and medical technology.

- Persuading highly-skilled staff to move to Ireland is essential to the growth of high-value businesses here, and personal taxation is a key aspect of this decision.
- While SARP is a valuable part of Ireland’s offering, it needs to be improved if it is to be a competitive advantage in attracting highly-skilled personnel.
- SARP improvements would not constitute a reduction in existing tax revenue, and are revenue generating if even a small number of relocations are achieved.
- For the investment management industry and for other financial services firms, this is vital in the context of Brexit, as UK-based firms are considering competing jurisdictions.
- The IMF Staff Report of July 2016 highlighted that Ireland’s personal income taxation system ‘discourages high-skilled worker migration to Ireland’.
- Entities that move staff to Ireland have almost always done so with a view to increasing employment among currently Irish-resident staff – many of the largest IFS employers started with a small number of senior staff.
- Revenue figures show each SARP position has directly supported at least two/three additional positions, and these estimates are from a period of lower overall employment growth.
- Facilitating senior staff moves helps ensure that sufficient substance exists in Irish operations to satisfy Central Bank of Ireland requirements and to address future BEPS needs.
- Allowing SARP to be used for new hires enables indigenous firms and others without large international groups to benefit from SARP and compete effectively for international talent where roles are unlikely to be filled by Irish-resident staff.

Impact Analysis

Statistics released by Revenue covering 2012-14 provide a picture of the relevance and impact of the existing regime. Initial uptake was relatively limited in 2012-3 with 121 cases in 2013. Following improvements in 2014, there was a significant increase in interest with 302 cases. Data has not been made available for subsequent periods. The Revenue data highlights three important points:

- **SARP is valuable for multiple sectors** – the breakdown by sector for 2014 shows that financial services, ICT and Pharma/MedTech have been the primary users of the relief (with 71% of cases), but that it has also been availed of in other sectors.
- **The uptake of the relief is still relatively small** – by comparison, the Dutch programme has an average of over 13,000 applications per annum. The increased SARP uptake in 2014 (from 121 in 2013) also highlights that demand does exist if a sufficiently compelling proposition can be created.
- **The potential for job creation -** employer data gathered by Revenue for 2014 shows that 126 jobs were created and 708 positions retained by SARP, or slightly under three positions per assignee. While this is a limited snapshot during a much less favourable job creation period and does not consider the wider impact in the respective company and broader economy, it does illustrate the value that these assignees bring.

The total cost in terms of tax foregone through SARP was €5.9m in 2014, at an average of €19,500 per assignee. Based on this level of relief, however, a reasonably conservative estimate is that the direct additional Exchequer yield from payroll taxes arising from the assignees is €35m), before any consideration of indirect yield (through VAT, CT etc.) and downstream economic impact.
Accordingly, even if only 17% of SARP usage was 'additional' – i.e. the relocation of the assignee would not have occurred had the programme not existed, it still has a positive direct Exchequer impact. When indirect effects are considered, the threshold of what proportion of the uptake must be additional to generate a benefit for the Exchequer reduces even further.

International Comparators

Targeted assignee regimes exist in several countries.

The Netherlands operates a tax relief for expatriates which allows the employer to pay a qualifying employee a tax-free amount of up to 30% of his/her total remuneration for a maximum period of 8 years.
This scheme includes a nominal 'skills criteria', requiring the employee to have specific expertise which is scarce or not available on the Dutch labour market. This requirement will typically be met once the employee meets a minimum salary level (€51,969 in most cases).
While a like-for-like comparison with SARP is not appropriate, as noted by the Department of Finance, uptake is nonetheless considerably higher, with 13,581 users in 2012.

The French regime operates similarly to the Dutch '30% ruling regime' in that the employee can be paid a tax-free amount equal to approximately 30 percent of their total remuneration for a maximum period of up to 5 years. The French regime does not impose a skills requirement.
In addition to allowing an exemption from tax on 30% of total remuneration, the regime also provides for tax exemptions in respect of all assignment related allowances and benefits in kind (e.g. housing), cost of living allowances and tax equalisation payments.
The individual's taxable remuneration after consideration of the exemptions cannot be less than 'normal' remuneration paid to other French employees, performing similar functions within the company or the group or similar company.

In Luxembourg, payment of certain benefits and allowances can be made to assignees tax-free for up to 5 years to cover e.g. housing costs, living costs, schools etc.

In Belgium, certain relocation allowances can be paid tax-free. Where time is spent working outside Belgium, this can reduce the amount of employment income taxed in Belgium.

In Sweden, 25% of an assignee's salary and benefits can be exempt from tax and social security for up to 3 years. Relocation expenses can also be paid tax-free.

Recommendations

SARP can be calibrated to be a crucial competitive advantage to encourage companies to locate their operations in Ireland, and to move the staff that will ensure that those operations have substance and a long-term attachment to Ireland.

IAIM is proposing the following key changes to SARP that would realise this objective by making it competitively best-in-class, easy to explain and simple to implement.

1. Increase exemption level from 30% to 50% - *so that half of income is subject to tax relief at the marginal personal income tax rate of 40%.*

For an assignee under the present SARP, 30% of their eligible income over €75,000 is subject to tax relief at the current marginal personal income tax rate of 40%. No relief is provided from USC and PRSI. For an assignee on a salary of €250,000 this reduces their effective tax rate from 47% to 39%. Increasing the exemption level to 50% reduces the effective tax rate to 33%. All eligible income is still liable to USC and PRSI, ensuring the integrity of a broad base is retained. This ensures a highly competitive relief and matches the French proposals.

2. Apply relief to all income, with a qualifying threshold of €75,000 – *independent of the level of relief, it should apply to all eligible income, once the assignee qualifies.*
Applying relief to all income simplifies application and makes the programme easier to communicate. It also aligns with international competitors and reduces administrative complexity. The eligibility threshold of €75,000 ensures that labour market displacement is limited, and that the programme remains targeted at high-value assignees.

3. Open SARP to new hires to allow talent to be recruited – *so that indigenous firms can recruit the talent they need if they can't source it here.*
To qualify for SARP currently an individual must be employed by their company for six months. This restricts the availability of the relief to companies with international operations and limits the ability of both indigenous companies and MNCs to attract new talent to Ireland. Removing this condition also will bring Ireland into line with competitors.
At the eligibility threshold of €75,000, Ireland has virtually full employment and a shortage of available talent in highly skilled and executive positions. The roles that will be recruited or created in Ireland for assignees will be new positions that would otherwise not exist.
Opening SARP to new hires will also remove the restraint on indigenous business without a foreign office who currently benefit from SARP to compete for global talent. It will also aid domestic exporters and start-ups who may be seeking to hire expert skills not available locally to navigate the uncertainty of Brexit, achieve access to new markets and maintain their status in the UK.

4. Extend the programme and lengthen the certification window – *to ease operation and give certainty to staff and employers***.**
Amendments to SARP in Finance Act 2014 introduced a 30-day certification period from the date of arrival of the assignee. This increases the administrative burden for companies and the individual to ensure that their tax affairs are in order in their first month in Ireland. Relocating to a new country is disruptive for the employee and can be a period of change in a business. Extending the certification window to 90 days reduces the burden on companies, while maintaining appropriate compliance requirements.

5. Provide for a tax-free allowance of €30,000 for relocation expenses – *to improve the attractiveness of the programme and simplify existing reliefs.*
There is already provision under Revenue rules for tax-free vouched removal and relocation expenses paid by the employer. For ease of communication, we propose that a tax-free lump sum of up to €30,000 be provided for new assignees and hires under SARP, with any amount in excess subject to full vouching. This will ease compliance and benefit direct comparison of the Irish offering.

6. Allow tax-free reimbursement of up to five return trips per year – *to provide for realistic travel commitments.*
Currently, SARP provides for an employer to reimburse a relevant employee for the costs associated with one return trip for their family to their previous country of residence or nationality. In general, families will often travel in summer and in the Christmas period, and often at mid-term breaks. In the first years of an assignment a spouse and children may remain in their previous residence for academic and personal reasons. SARP rules should ensure Ireland's offering is competitive and reflective of the complex arrangements involved in moving to a new country.

3.2 Taxation of Investment Products

This matter has been considered by the Department of Finance Tax Strategy Group and options and costings included in the published paper TSG 17/11 Capital & Savings Taxes.

As provided for in the Finance Act 2016, the rate of Deposit Interest Retention Tax will be reduced progressively between 2016 and 2020 from 41% to 33%, making it equal to the rate of Capital Gains Tax applicable to property and/or equity gains. However, as stated by the then Minister during the Committee Stage of the 2016 Act, this change will not, at least initially, be matched by a reduction in the rate of Exit Tax charged on investments, including life policies. The primary reason for this decision was cited as cost: as deposit interest rates were extremely low, the cost of a reduction in DIRT was considerably less than a corresponding change in the rate of Exit Tax.

The two most significant aspects of Exit Tax are Life Assurance Exit Tax (LAET) and Investment Fund Exit Tax (IFET). As indicated by the Tax Strategy Group, the expected take in 2017 from LAET is €238m and while IFET is not projected, if it increases in line with LAET as it has historically, it is likely to be c. €40m. A reduction of 2% in the rate of Exit Tax is estimated by the Tax Strategy Group to have an impact of €14m per annum, though this does not account for substitution effects. A further levy of 1% is imposed on contributions to life policies.

It is the Association's view that the 1% life levy should not be continued, and that parity should be restored and committed to on an ongoing basis between DIRT and Exit Tax.

The equality of tax treatment of deposits and investments has existed for almost 20 years and is logical. The objective of life insurance and investment fund products is to ensure that savers can provide for their financial well-being into the future. At different stages of people's lives, different approaches to risk and reward are appropriate, but diversification remains at the heart of a sound savings portfolio. Both deposits and different types of investment products play a key role in allowing savers to achieve their goals. For most savers, investment products do not represent a desire to speculate but rather to receive a reasonable return that will safeguard the value of their savings. To achieve this, a mix of deposit and investment products is usually the best course. Investment products also provide access to professional portfolio management and other benefits compared to direct investment in equities. These considerations apply regardless of the size of the savings. In fact, due to the outlay required for a diversified direct equity portfolio or property investments (which are currently subject to the 33% CGT regime) smaller savers tend to find investment funds and life insurance investments considerably more accessible.

The Association believes that in the long-term it is clearly appropriate that different forms of saving and investment are treated equally and fairly by the State. A difference of 8% between equally appropriate and socially useful approaches to saving would unfairly punish savers for adopting a diversified approach and would send out the wrong message that deposits are preferable in all cases.

A differentiated tax approach can be justified where there is market failure and indeed is often used by governments to correct such failures. It is the Association's view that this discrepancy is in fact creating a distortive effect that could have detrimental effect on individual's portfolios.

4. LP Legislation

We note that the updating of Ireland's limited partnership legislation is a key strategic initiative under the Government's Strategy for Ireland's International Financial Services Sector 2015-2020 ("IFS 2020"). We are fully supportive of this initiative to help achieve the ambitious target of creating at least 10,000 net new jobs in the international financial services sector by the year 2020. We note that there is significant opportunity for the use of limited partnerships and this is a significant gap in Ireland's funds offering. Ireland's legislative framework for limited partnerships is outdated and does not provide a fit-for-purpose regime for fund managers seeking to use them. We therefore support the initiative to update both the Investment Limited Partnerships Act 1994 and the Limited Partnerships Act 1907.

Over 16,300 people are employed in the funds industry in over 12 counties across Ireland today, making this the largest sector by employment in international financial services. We are very keen to see initiatives taken forward which will help to protect and grow employment in the funds industry for the benefit of the regional and national economies.

We understand that the Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach recently reviewed draft Heads of Bill with respect to updating Ireland's legislative framework for investment funds structured as limited partnerships and that the Committee took the decision to progress with the drafting of this legislation.

We believe however that this process should be fast tracked as the length of time taken to get to this stage has been inordinately long and will delay the achievement of the jobs plan in IFS 2020.