McCann FitzGerald

Budget 2018 – How Did It Deliver on the 5 Cs For Businesses?

In our pre- Budget briefing we identified the "5 Cs" of Commitment, Competitive, Creative, Certainty and Consultation as the core pillars on which the Minister for Finance, Mr. Paschal Donohoe should frame his budget. In this briefing we examine how Budget 2018 delivered against the 5Cs for businesses.

1. *Commitment*

The 12.5% rate of corporation tax is a key pillar of our economy. In his Budget speech Minister Donohoe reaffirmed Ireland's commitment to the 12.5% rate of corporate tax by stating that "The 12.5% tax rate is, and will remain, a core part of our offering". This is further backed up in the Department of Finance's Update on Ireland's International Tax Strategy which was also published today in conjunction with the budget where it states "We have a competitive 12.5% tax rate, which is not going to change."

In the context of Brexit, potential US Tax Reforms and EU proposals for a Common Consolidated Corporate Tax Base ("CCCTB"), the Minister's commitment to the 12.5% rate of corporate tax is to be welcomed as this is a key pillar to attracting foreign direct investment (FDI) to Ireland.

2. *Competitive*

A central feature of Ireland's FDI regime in recent years has been Ireland's ability to attract global corporates in the technology, pharma, medical devices, biotech and other sectors involved in the commercialisation of intellectual property to Ireland. In this regard, 9 of the world's top 10 technology companies are based in Ireland with Dublin recently ranked 3rd (behind Singapore and London) in the latest rankings of the fDi European

City of the Future 2016/2017[1]. Key features of our ability to attract these companies to Ireland are (1) the robust and developed IP laws which exist in Ireland, (2) the abundance of skilled graduates being produced by Irish universities and (3) the competitive tax regime that Ireland has to offer.

[1] fDi Global Cities of the Future 2016/2017 Report from the fDi Magazine of the Financial Times.

A key component of our tax offering to encourage companies to locate IP operations in Ireland, particularly US Technology companies, has been the ability of such companies to write off the capital cost of acquiring IP against income being generated from use of the IP. Minister Donohoe has today confirmed that companies will continue to be able to avail of this relief albeit that the period for claiming such allowances will be extended by limiting the amount that can be claimed in any year to 80% of the relevant income arising from the IP. This measure is being introduced after consultation with industry to ensure a smoothing of corporation tax revenues over time.

In addition, in a welcome boost to the SME sector, the Minister announced the introduction of a new Key Employee Engagement Programme incentive to support SMEs in their efforts to attract and retain key employees in a competitive international labour market. Under this incentive, gains arising to employees on the exercise of share options will only be subject to tax when the employee subsequently disposes of the shares and will be subject to CGT (currently at 33%). In the absence of this incentive, the share-option gain would be liable to income tax, USC and PRSI at the time of the exercise of the option (circa 52%).

This commitment to ensuring that Ireland has a competitive environment for companies and individuals establishing operations in Ireland is to be welcomed.

3. *Creative*

As the Minister had limited "fiscal space" in which to manoeuvre he needed to balance the desire to cut taxes and to provide incentives with the need to fund key infrastructural projects such as building affordable housing to tackle the increasing housing problem in Ireland.

Mr Donohoe has to a large extent balanced the books on the proposed reductions in USC and increase in income tax thresholds by increasing excise duty on cigarettes, reducing mortgage interest relief, introducing a sugar tax on sweetened beverages and increasing focus on targeting non-compliance.

To tackle the increased need for affordable housing in Ireland the Minister announced a number of measures designed to increase the supply of housing in Ireland. In particular the Minister announced the creation of a new fund called House Building Finance Ireland which will provide debt financing to developers of residential housing in Ireland. In addition a number of measures were introduced to seek to encourage developers from hoarding land banks such as (i) an increase in the vacant site levy from 3% to 7% in 2020 and (ii) an amendment to the 7-year CGT relief which applies to properties acquired between 7 December 2011 and 31 December 2014, which amendment will allow owners of qualifying assets to sell those assets between the fourth and seventh anniversary of their acquisition and still enjoy full relief from CGT.

Separately the Minister has announced an increase in the rate of stamp duty from 2% to 6% that will apply to all instruments effecting transfers of non-residential property executed after midnight tonight. This change is likely to increase the cost for businesses of establishing in Ireland. In addition, the impact that this measure will have on the valuation of pension investments will need to be considered.

4. Certainty

Given the economic uncertainty created by Brexit and the mooted changes to US Tax policy it was critical that the Budget continued to offer certainty for those businesses seeking to invest in Ireland. In the Department of Finance's Update on Ireland's International Tax Strategy it states that "With the current changing environment internationally, certainty has become a valuable commodity. Ireland's reputation for stability has been earned over a long period of time, and I intend to plan for the future in that same spirit". The Budget has for the most part to be viewed in a positive light for businesses with perhaps the one negative the changes to the rates of stamp duty on commercial property transactions, which will apply to all instruments effecting such transactions executed on or after 11 October 2016, with no grandfathering in respect of legally binding contracts entered into prior to this date.

5. Consultation

A key element of reducing uncertainty in tax matters is pro-active consultation regarding proposed measures. In this regard the publication of a Public Consultation Paper on recommendations of the review carried out by Mr Seamus Coffey in his Review of Ireland's Corporate Tax Code is to be welcomed. The findings of the consultation process particularly on any proposed changes to Irelands existing transfer pricing regime or movement to a corporate tax base needed to be carefully considered in light of any potential negative impact on Ireland's attractiveness for FDI. It is however disappointing that a similar consultation process was not implemented in advance of the announcement of the proposed changes to the rates of stamp duty on commercial property transactions.

Conclusion

In summary, from a business perspective, Budget 2018 should be viewed in a positive light as it continues to build on the pillars of providing certainty and a competitive tax environment for businesses to operate in. The one negative from Budget 2018 is the lack of a public consultation to assess the potential impact that the changes to the rates of stamp duty on commercial property transactions may have on FDI and the valuation of pension investments.

Michael Ryan
Head of Tax
+353 1 611 9130
michael.ryan@
mccannfitzgerald.com

Eleanor MacDonagh
Head of Financial Services Tax
+353 1 611 9174
eleanor.macdonagh@
mccannfitzgerald.com

Alan Heuston
Partner, Tax
+353 1 607 1472
alan.heuston@
mccannfitzgerald.com

Deirdre Barnicle
Senior Associate, Tax
+353 1 607 1323
deirdre.barnicle@
mccannfitzgerald.com

For further information on the measures announced in the budget please contact a member of the Tax Team in McCann FitzGerald.