



BREXIT

Tax Opportunities for Ireland?

BRIEFING

From an Irish taxation perspective, Brexit does not give rise to any immediate tax issues. However, in the longer term, there are likely to be significant tax consequences for UK based companies in the context of their wider European activities and these may be of particular importance to companies considering a tax domicile in the UK post-Brexit. In light of this, such companies may wish to consider whether establishing a tax domicile in Ireland would be advantageous for their overall business strategy.

UK companies currently enjoy the benefit of various tax exemptions and reliefs relating to withholding taxes and group re-organisations and transactions pursuant to various EU Directives *eg* the Parent-Subsidiary Directive and the Interest and Royalty Directive. When the UK leaves the EU and the domestic UK legislation implementing these Directives is revoked/amended, EU based subsidiaries of a UK parent may not be able to make payments to the UK parent free of withholding taxes. It is likely that when these provisions cease to apply, there will be a complex patchwork of tax treaty provisions that will have to be considered. In addition, if a withholding tax on dividends being paid out of the EU is implemented, as suggested by the European Parliament recently, this would impact on the UK's attractiveness as a holding company location.

Many domestic legislative exemptions from withholding taxes in EU countries are available to persons resident for tax purposes in other EU member states only. When the UK leaves the EU, such domestic exemptions may no longer be available. Although relief may still be available under a double taxation treaty between the UK and the relevant jurisdiction, there may be significant administrative burdens in obtaining such relief. Companies should review all relevant agreements which may be affected by these changes and consider how any obligations relating to withholding tax are to be addressed.

The UK is currently bound by decisions of the European Court of Justice ("ECJ") on tax matters. In recent years, the ECJ have struck down a number of UK tax laws which were deemed to be contrary

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to EU law. If the UK leaves the EU and is no longer bound by the decisions of the ECJ, it may seek to re-introduce such laws. In such circumstances, the use of losses from overseas operations may cease to be possible.

VAT legislation in the UK is currently aligned with VAT legislation in other EU member states. If the UK leaves the EU, it is possible that VAT on imports and exports between the UK and other EU member states will be introduced (potentially in addition to customs duties). In addition, the current rules concerning cross-border provision of services will be impacted, leading to possible changes to the tax treatment of the provision of services both to and from the UK.

Until there is agreement on the future relationship between the UK and the EU, there is no certainty in relation to

how European businesses engaging in activities in the UK may be taxed going forward. In light of this, companies who wish to access the common market from an English-speaking common law jurisdiction which is a member of the EU may consider establishing a tax domicile in Ireland. In addition to its 12.5% corporation tax rate for trading profits, Ireland's holding company regime provides for a capital gains tax exemption for certain shareholders together with reliefs for overseas tax suffered on dividend income. Other key tax incentives include generous tax depreciation (capital allowances) for capital expenditure and an extensive double tax treaty network, with 72 signed treaties, 70 of which are currently in force.

Further information is available from:



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Alternatively, your usual contact in McCann FitzGerald will be happy to help you further.

This document is for general guidance only and should not be regarded as a substitute for professional advice. Such advice should always be taken before acting on any of the matters discussed.

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