

# Investing in Ireland

Issue 4, June 2009

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## Ireland introduces new IP tax regime



Welcome to the fourth edition of PwC's newsletter on foreign direct investment ("FDI") into Ireland. This issue goes to print as our annual CEO Pulse survey suggests strong and continued support for Ireland as an investment location into 2009. Ireland's recent Finance Act also introduced a new intellectual property ("IP") tax regime aimed at encouraging further inward investment.

Should any of the topics covered in this newsletter be of particular interest to you, please do not hesitate to contact me, any member of my team, or your usual PwC Ireland contact. If any of your colleagues would like to be included on our mailing list, please let us know.

Liam Diamond - Tax Partner  
Inward Investment Leader  
Office: +353 1 792 6579  
Mobile: +353 86 405 6965  
Email: [liam.f.diamond@ie.pwc.com](mailto:liam.f.diamond@ie.pwc.com)

# Editorial

Following the positive R&D tax credit changes introduced in December 2008, the Irish government delivered on their strong commitment to further enhance Ireland's attractiveness as a location to develop, manage and exploit intellectual property with further positive changes introduced in the supplementary Finance Act 2009.

In broad terms, the measures provide for tax relief on the acquisition of IP, with such IP widely defined. When taken together with our 12.5% corporate tax rate and our strong R&D tax credit regime, Ireland has now positioned itself to the forefront of countries for intellectual property development and management.

In global news, US President Obama announced a number of proposed tax changes on 5 May last that will impact on how US MNCs are taxed in respect of their non-US earnings. The good news for Ireland is that the proposals do not repeal deferral as some had feared. These changes are likely, however, to influence how US MNCs structure their existing and future foreign investments.

Our preliminary analysis on the proposals indicates that Ireland should still play a major role for many US MNCs in respect of their international businesses.

We also report on the findings of the annual PwC CEO Pulse survey, which suggests strong and continued support for Ireland as an investment location of choice into 2009, notwithstanding the very challenging economic environment.

## Meet the team

Liam Diamond  
Tax Partner - Inward Investment Leader  
Tel: +353 1 792 6579  
Mobile: +353 86 405 6965  
Email: [liam.f.diamond@ie.pwc.com](mailto:liam.f.diamond@ie.pwc.com)

Brían Ó Cuív  
North America - West  
Tel: +353 1 792 6564  
Mobile: +353 86 829 4397  
Email: [brian.ocuiv@ie.pwc.com](mailto:brian.ocuiv@ie.pwc.com)

Brian Leonard  
North America - East  
Tel: +1 646 471 4244  
Mobile: +1 646 945 3995  
Email: [leonard.brian@ie.pwc.com](mailto:leonard.brian@ie.pwc.com)

Joan Callaghan  
Grant Services  
Tel: +353 1 792 8623  
Mobile: +353 87 290 5474  
Email: [joan.callaghan@ie.pwc.com](mailto:joan.callaghan@ie.pwc.com)

## What does Ireland's new IP tax regime mean for me?

In a welcome move for Irish business, Finance Act 2009 contained the legislation implementing Ireland's new IP tax regime. The measures introduced are summarised as follows:

- Tax depreciation available on the acquisition of IP
- IP is broadly defined and includes the acquisition of, or the license to use, patents, designs, inventions, trademarks, brands, copyrights, know how, and goodwill directly attributable to such IP
- Tax deduction for P&L amortisation or over 15 years: (14yrs x 7%) + (1 yr 2%)
- Deduction (including any associated interest) limited to 80% of the IP related trading income
- No clawback of tax depreciation claimed if IP disposed of after the 15 year period
- Any excess IP allowances can be carried forward for use in future periods, again subject to the 80% restriction
- IP acquired from a related party can qualify for the tax depreciation (subject to amount incurred not being in excess of arm's length)
- IP (as defined) will also qualify for the Irish stamp duty exemption

Further details on Ireland's new IP regime can be found at [www.pwc.com/ie](http://www.pwc.com/ie)

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## How will US tax changes impact Ireland?

President Obama's proposed changes provide for a number of amendments which impact on US tax deferral, but critically do not provide for its repeal. This means that US companies should continue to be able to benefit from Ireland's low tax rate.

The backdrop for much of the discussion in the US regarding foreign tax changes has been focussed on tax havens, tax evasion, banking secrecy and "inappropriate" tax planning. There is also a significant economic incentive – tax increases are required to fund US spending plans and increasing budgetary deficits.

The proposed provisions are generally focused on these areas (i.e. the use of tax havens by individuals, the restriction of US tax deductions for expenses incurred relating to foreign activities, and the tightening of rules regarding foreign tax credit calculations).

In addition, there is a perception that the rules relating to "check the box" elections (i.e. the ability to treat a foreign entity as a flow-through or partnership for US tax purposes) have been used to facilitate tax structuring which is considered unacceptable, and the proposals suggest a restriction of these rules.

The proposals will typically result in many US MNCs having to review and amend their international structures to take account of the expected changes. Our preliminary analysis on the proposals indicates that Ireland should still be in a position to play a major role for US MNCs in respect of their international businesses.

# A selection of 2009 announcements

**CDiscount** is establishing its regional headquarters for the UK and Ireland, which will create 50 new jobs over the next two years, at the IDA Business and Technology Park, Co. Louth...

**Paypal** to invest €15m developing a new European Centre for Operational Excellence in Dublin, creating 35 highly skilled positions...

**Trend Micro** to expand their Cork centre, creating 100 jobs...

**Gala Inc** to expand their EU head quarters in Dublin, creating 50 jobs...

**Gerson Lehrman Group** to establish a new operations hub in Dublin, creating 50 jobs...

**Intel** to invest €50m in Shannon expanding their R&D Facility creating up to 300 jobs...

**Hewlett Packard** to invest €18m in Co. Kildare with the expansion of their service desk operation, creating up to 500 jobs...

**Helsinn Holding S.A.** announce an investment of over €13m creating a Centre of Excellence in Research & Development in Dublin...

**Big Fish Games Inc.** will create up to 100 new jobs in Cork when they establish their European Headquarters in the city...

**Pfizer** has invested almost €10m in a new high-tech research laboratory in Cork...

**Merck Sharpe and Dohme** announced an additional €20m investment as part of the first phase of construction for its new vaccines and biologics facility in Carlow, bringing the total investment to €220m...

Ohio toolmakers **SGS Tools** has announced that it will create 50 jobs in Shannon area...

As part of a joint venture between **Sony, Toshiba and IBM**, Trinity College Dublin has been chosen as the location for a Research Centre into the Cell Broadband Engine, which is the powerful chip in the Sony Playstation 3...

**Microsemi** is to expand its operations in Ennis, creating 315 new jobs, with roles in manufacturing, sales and technical support...

**Option Wireless** is to undertake leading Process Development activities in Cork, creating an additional 145 high quality production jobs...

**Cerner Corporation** is expanding its presence in its Dublin headquarters creating up to 40 high-tech jobs by the end of 2009...

**Boston Scientific** have announced an investment of €91m for their plant in Galway city. The initiative will lead to the immediate creation of 45 jobs at the medical devices company...

**IBM** is to create 100 new jobs in Dublin, Cork and Galway following a €25 million investment. The technology firm already employs 4,000 people in Ireland...

...and finally, **Cooper Industries, Warner Chilcott, Covidien, Ingersoll-Rand** and **James Hardie Industries** are relocating their global headquarters to Ireland.

*“We were extremely impressed with the attitude of the Irish Government, and its functional business development arms, in their strong commitment to encouraging entrepreneurial activities and their supportiveness of new business activities.”*

Mr. Herve Charle,  
**CDiscount** Founder

## OECD/G20

Ireland's status as an onshore, well regulated and transparent low-tax regime has again been recognised by the OECD/G20 with our inclusion on the “white list” of countries which have implemented the internationally agreed standards in relation to the exchange of tax information.

New figures from the US Bureau of Economic Analysis show that the level of US investment in Ireland remained steady at \$19 billion last year. That was twice the level of investment in Germany and almost three times what France attracted.

*“Ireland has one of the lowest tax burdens of all OECD countries, according to OECD figures published this month”*

# What are the CEOs saying?

The annual PwC CEO survey suggests strong and continued CEO support for Ireland as an investment location into 2009, notwithstanding the extremely challenging environment. Ireland's continued status as an attractive investment location is reflected in the following survey results:

- 78% of CEOs of Irish headquartered groups stated that Ireland forms part of their future expansion plans. 85% of these CEOs indicated that they are not considering relocating Irish activities overseas.
- 88% of CEOs of MNCs are of the opinion that Ireland's tax regime is the most important influencing factor in the decision to continue to operate in Ireland, followed closely by workforce and EU advantages.
- Only one-third of MNC CEOs indicated that additional Irish investment is currently being considered – this is down from just under two-thirds last year. This is indicative of global sentiment on cutting costs in the short term, although it is notable that approximately three quarters of MNC CEOs still believe that Ireland is well placed to attract certain investments going forward.
- 68% of MNC CEOs indicated that the Irish holding company regime helped to promote Ireland as an investment location within their group.

Cost control was cited by CEOs as the clear number one challenge facing their groups. Cost reduction initiatives present significant opportunities for Ireland as many international groups will need to utilise a business friendly low-tax location as they centralise business models, simplify group structures and reconfigure supply chains to reduce operating and tax costs and inefficiencies.

## Supplementary Budget and Finance Act 2009 Other areas of Interest

Notwithstanding the new IP tax regime detailed in this issue, the Budget and consequent Finance Act 2009 were primarily focussed on income tax measures. There were some increases in income and health levies, and the employees' PRSI ceiling was increased. There were also increases in the rates of CGT and CAT from 22% to 25%. However, there were no changes in relation to VAT rates or employers' PRSI.

## Would you like to know more?

Should any of the topics covered in the newsletter be of particular interest to you, please do not hesitate to contact any member of the Inward Investment team, or your usual PwC Ireland contact. If any of your colleagues would like to be included on our mailing list, please let us know.

Please click on our website [www.pwc.com/ie/fdi](http://www.pwc.com/ie/fdi) for various topics of interest for investors, including:

- New intellectual property tax regime
- Research and development updates
- Impact of proposed U.S. tax changes
- Finance Act 2009
- Doing business and investing in Ireland
- Tax facts
- Grants regime for inward investors

[pwc.com/ie](http://pwc.com/ie)

# 12.5% tax rate guaranteed

The Minister for Finance has again taken the opportunity to reinforce the importance of the 12.5% corporation tax rate and emphasised that it will not change. In his 7 April Budget speech, the Minister stressed that Ireland will retain the 12.5% corporation tax rate as a key feature of its inward investment strategy.

## Treaty updates

- Ireland now has signed comprehensive double taxation agreements with 46 countries following the new agreement with Vietnam, which came into effect from 1 January 2009.
- Treaties with Macedonia, Malta and Turkey have been concluded and are expected to come into effect in January 2010.
- New treaty negotiations with Albania, Argentina, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia Herzegovina, Egypt, Georgia, Kuwait, Moldova, Morocco, Saudi Arabia, Serbia, Singapore, Thailand, Tunisia, UAE and Ukraine are currently taking place.

## R&D tax credit developments

Following on from recent positive R&D tax credit changes as summarised in Issue 3, a deadline of 30 April 2009 was imposed for claims relating to prior years up to and including 31 December 2007. Going forward, a claim for R&D tax credits must be made within one year of the end of the accounting period to which the expenditure relates.

In accounting developments, companies now have the ability to account for the credit 'above the line' in the Profit & Loss account thereby immediately impacting on the unit cost of R&D, which is the key measurement used by MNCs when considering the locations of R&D projects. This is extremely helpful to Irish subsidiaries of MNCs in terms of being able to compete with lower cost jurisdictions. The Irish Revenue have confirmed that where a company accounts for the R&D tax credit through profit or loss before tax, the tax credit will not be regarded as taxable income of that company or another company to which the credit has been surrendered.