Introductions

My name is Rónán Hession and I am the Principal Officer in the Business Tax Unit of the Department of Finance.

I would like to thank the Committee for the invitation to attend today.

I am joined by my colleague Brendan Crowley, who handles the department's international tax files.

I am also joined by two colleagues from the Revenue Commissioners: Kate Levey, Principal Officer in the EU Branch of the International Division, and Yvonne Quirke, also of Revenue's International Division.

Background: The Commission's proposal

On 25 October, the European Commission published a package of tax measures, containing three distinct legislative proposals.

The first is an **Anti-Tax Avoidance Directive** to deal with **hybrid mismatches**. These are situations where a particular instrument or entity goes untaxed because of differing tax treatment in different jurisdictions. This Directive is at an advanced stage and was discussed at this morning's Ecofin. Ireland supports the work on this Directive, which mirrors the work done at OECD level.

The second proposal seeks to improve **Dispute Resolution Mechanisms** within the EU. Ireland is supportive of this proposal which will be helpful in resolving disputes under tax treaties in a timely way. This will improve certainty within the system and will be good for business and tax authorities. My Revenue colleague, Kate Levey, will say a little more on this proposal in a moment.

The third element is the proposal for a **Common Consolidated Corporate Tax Base**, which I understand is the main focus of the discussion today.

What is being proposed?

Strictly speaking, the Commission has made two proposals here. First, is a proposal for a common tax base, which is to be discussed in its own right as a "double C" TB. Second, the Commission has made a proposal on consolidation

– a “treble C” TB – which is intended to be negotiated if and when a common base is agreed.

A **common corporate tax base** would consist of agreed rules for how a company calculates its taxable profits in each Member State. The Member State would then apply its own tax rate to those profits. It would essentially replace our entire existing corporate tax system for large companies with a whole new set of rules for how their taxable profits are calculated.

The common tax base is by necessity a very complex proposal. Each Member State currently applies different rules in terms of what income is taxable, which deductions are allowed, which credits are given etc. Ireland currently has a very wide tax base while some Member States have narrow bases.

The second stage of the process, **Consolidation**, relates to how profits are attributed to each country in the EU. A common base would give countries common rules for how to calculate profits but it would not impact on where the profits, and therefore taxing rights, are attributed. Currently, Member States use OECD transfer pricing rules to determine how profits are attributable to each country. Transfer pricing looks at where the real value-adding activities happen and attributes a proportionate share of the profits to those activities.

Consolidation would replace the transfer pricing approach with a formula for dividing profits among Member States. This formula would be based on:

- where sales happen;
- where staff are located; and
- where a company’s assets are.

Each corporate group’s total EU profits would be added together and divided among countries under this formula. The country would then tax the profits attributed to it at its own corporate tax rate. Consolidation would not legally impact a country’s tax rate but would have a significant impact on how much tax was paid in each Member State.

The impact assessment published by the Commission says that CCCTB can lift growth in the EU by up to 1.2%, but it is silent on the impact on Member States individually.

How does the new CCCTB compare to the previous proposal?

The CCCTB proposal has a long history. It dates back to 2001 when the Commission first put it forward as long-term comprehensive measure to reform corporate tax within the EU. The concept was discussed in Ecofin and technical working group meetings from 2004 and the Commission published a detailed proposal in 2011, which would be superseded by this new proposal.

With a proposal like CCCTB – which has been debated publically and at length over many years – it is perhaps tempting for us to simply reheat our old analysis and pick up where we left off. However, it is important that we consider it anew and with fresh eyes, as the proposal includes some important differences when compared to its predecessor.

The separation of a common base from the more problematic issue of consolidation is significant – this is a separation which Ireland has supported since our Presidency.

Most significantly, this CCCTB would be **mandatory** for multinational companies with a group turnover of more than €750 million, whereas the 2011 proposal was optional for all companies. The new proposal allows smaller companies to opt into the CCCTB or remain taxable under our existing corporate tax rules. This would require Ireland to operate **two corporate tax systems side-by-side:** CCCTB for large companies, and a domestic system for smaller companies that don't opt for CCCTB.

While the consolidation aspect of the proposal is broadly similar to the 2011 version, there a number of substantial technical differences in design of the proposed common base. For example, an **Allowance for Growth and Investment** is included in the new proposal which effectively allows a business to claim a tax deduction for equity investment in the business.

Additionally, under the common base an enhanced **Research & Development deduction** is proposed of between 25% and 100% of qualifying R&D expenditure.

It is also important to recognise that there have been significant changes in the corporate tax landscape since the previous proposal was published in 2011. Since 2011, the **OECD BEPS** process has been launched, and 15 comprehensive BEPS reports were published in October 2015. The implementation of the

BEPS reports is now underway at national and international level, including through the EU Anti-Tax Avoidance Directive.

The business environment has also changed considerably since 2011. The profile of taxpayers in Ireland will naturally have changed over the past 5 years. This is also true of the broader international environment, where issues like **Brexit and US tax reform** are part of the backdrop to our assessment of the CCCTB.

How is the CCCTB different from our existing system?

A focus of our work since the proposal was published has been to compare the common base proposed by the Commission to the existing Irish corporate tax base. There are some significant technical differences.

In some areas, the proposed common tax base is likely to be significantly narrower than the existing Irish tax base. For example:

- The CCCTB allows much broader rules for deducting **business expenses** – for example business client entertainment, which is not deductible in Ireland, would be 50% deductible under the common base;
- There are broad **exemptions for foreign income** earned by Irish companies;
- There is a new tax deduction for **equity investment**; and
- The **anti-avoidance rules** are less specific across all aspects of the base.

As I have already said there is a super-deduction for R&D under the Commission's proposal, which would raise a question about the continuation of our own best-in-class **R&D tax credit**.

The Commission proposal does not appear to distinguish between trading and non-trading profits, nor does it include separate tax treatment for capital gains. <u>This raises a question over whether we would get to keep our 25% rate for non-trading profits or our 33% capital gains rate.</u>

What is the Government's view of the CCCTB?

<u>Neither the Minister for Finance, nor the Government, have taken a position on the CCCTB at this point</u>.

As with any complex proposal, at this stage it is appropriate that officials would undertake a **detailed analysis** to understand the implications for Ireland and to inform our advice on Ireland's negotiation position.

Some preliminary work is now underway within the Department and the Revenue Commissioners but we will consider commissioning a more detailed piece of analysis if we feel that is necessary.

Obviously this is a Commission proposal which requires the **unanimous approval** of all 28 Member States. There are months of detailed technical analysis and technical negotiation ahead, during which the proposal is likely to change shape.

We will engage constructively with that process as things progress.

Conclusion

In conclusion, the new CCCTB represents a significant new proposal that warrants careful consideration and analysis. That work is now underway and will take some time.

We are happy to assist the Committee in its deliberations and to answer your questions.

Thank you Chairman.