OPENING STATEMENT to Select Committee on Budgetary Oversight

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Introduction

I thank the Committee for the opportunity to present today. I am here solely in a personal capacity. For the purposes of my opening statement, I will focus on Chapter Nine of the Report of the Commission on Tax and Welfare which is titled *Promoting Enterprise*. I will briefly consider some of the Commission's conclusions on the rate of Ireland's Corporation Tax and the main reliefs and credits available under the Irish regime. I am sure there are other topics that will arise during the course of the discussion, both relating to Corporation Tax and to other issues covered in the chapters of the Commission's report identified to be covered in this meeting, and I hope to be able to offer some insight to Members from my work in these areas.

Corporate Tax Rate

The terms of reference for the Commission on Tax and Welfare restricted the set of possible recommendations on Corporation Tax to those that retained the 12.5% rate. Specifically, the Commission was asked to consider:

- *how Ireland can maintain a clear, sustainable, and stable taxation policy as regards Ireland's attractiveness to Foreign Direct Investment in a changing global taxation environment, including retention of the 12.5% corporation tax rate.*
  (Terms of Reference, June 2021)

Successive governments have held the position that the 12.5% rate was a cornerstone of economic policy. The Commission endorsed this view and when considering the impact of the, then proposed, Two-Pillar proposal of the

OECD for ongoing international tax reform in its final report of September 2022 noted that:

> *Public assurances have been given by the Irish Government with regard to the retention of the 12.5 per cent rate for the foreseeable future and companies and groups have organised themselves on that basis. A change to the domestic rate now, particularly against the current backdrop of ongoing international change, could impede the stability and certainty that is granted by providing timely notice of key changes where practicable; a measure underpinning Ireland's corporate tax strategy* (p.189)

However, the previous October, the government had already announced that the domestic rate would change for all companies in Ireland with annual revenues over €750 million. (Department of Finance, October 2021) At the time of the announcement it was indicated that this new rate of Ireland's Corporation Tax would apply to 56 Irish multinationals and to the subsidiaries of 1,400 foreign multinationals operating in Ireland. This will bring to four the number of rates applicable under Ireland's Corporation Tax code.

The introduction of a new 15% rate goes significantly beyond the scope of the OECD agreement. The proposed minimum tax under Pillar Two requires only that Ireland ensure that Irish multinationals have paid a minimum of 15% on their profits in all jurisdictions in which they operate. It is the U.S. that is required to ensure that U.S. multinationals have paid 15% on their profits. We have decided to move in front of this and apply a 15% rate to the profits of all companies operating in Ireland with revenues over €750 million. This is not retaining the 12.5% rate as set out in the terms of reference of the Commission or as assured by numerous Irish governments.

Reliefs and Credits

The Irish corporate tax system is one that could be characterised as applying a relatively low rate to a wide base. There are limited reliefs and credits within the Irish corporate tax system.

Table 1:

Year	2016	2017	2018	2019	2020
	€m	€m	€m	€m	€m
Gross Tax Due	**9,450**	**10,508**	**13,150**	**14,574**	**14,697**
less Reliefs					
Double Taxation Relief	(758)	(832)	(894)	(1,137)	(1,507)
Additional Foreign Tax Credit	(603)	(857)	(1,308)	(1,589)	(402)
Other Tax Reliefs	(80)	(78)	(93)	(66)	(116)
plus Clawbacks and Surcharges	171	186	93	113	129
Tax Payable	**8,180**	**8,928**	**10,948**	**11,895**	**12,802**
less Credits Used					
R&D Tax Credit	(434)	(297)	(246)	(429)	(402)
Income Tax Suffered Credit	(45)	(45)	(56)	(25)	(27)
Gross Withholding Tax on Fees	(301)	(320)	(310)	(367)	(403)
Film Credit	(14)	(16)	(43)	(30)	(50)
	7,386	8,250	10,293	11,044	11,920
plus Credits Refunded Against Other Taxes	9	6	72	11	25
less Payment of the Excess R&D Tax Credit	(236)	(152)	(109)	(200)	(256)
TAX DUE	**7,159**	**8,105**	**10,211**	**10,939**	**11,754**

Source: Revenue Commissioners

In the Irish Corporate Tax system, the largest deductions from gross tax due are double tax relief granted for tax paid in other jurisdictions on foreign income included in Ireland's tax base and the existence of the research and development tax credit, which also includes a refundable element.

Irish-resident companies include their worldwide income in their Irish tax return. Thus Irish-resident companies can be in receipt of dividends from their foreign subsidiaries on which foreign tax has already been paid. The Irish system grants a credit for the foreign tax paid and if the amount of foreign tax paid is less than the required Irish rate, a top-up payment is required to bring the total tax paid to the required amount. As the relevant Irish rate is typically lower than the applicable rate in the foreign jurisdiction little additional Irish tax is paid. If Ireland moved to a territorial regime for Corporation Tax this foreign-source income would not be included in Irish tax returns. The Commission made no recommendations on the nature of the Irish corporate tax regime.

The other large credit available for Corporation Tax in Ireland is the Research and Development tax credit. The cost of the credit varies and in 2020 the cost was €658 million, of which €466 million (70%) was to companies with more than 250 employees. Similar to a recent report from this Committee, the

Commission’s recommendations for the R&D credit focussed on small and medium enterprises.

> *The Commission also recognises the importance of the Research and Development (R&D) tax credit in this area and therefore recommends that enhanced relief measures be introduced which are targeted at small and micro-sized enterprises. Furthermore, more guidance and supports should be introduced to facilitate greater uptake by Small and Medium Enterprises more generally. The Commission recommends that consideration be given to a limited acceleration of the refundable element of the R&D tax credit from three years to one in order to support early-stage and research and development intensive businesses.* (Recommendation 9.6)

The R&D credit was introduced in the 2004 Finance Act and the rate was increased from 20% to 25% of eligible expenditure from 2009. For large, foreign-owned companies it should be noted that the R&D credit was introduced and enhanced at a time when the rate of the U.S. federal corporate income tax rate was 35%.

One result of the introduction of the R&D tax credit in Ireland was to bring near equivalence between the tax benefit of incurring R&D costs in Ireland and the U.S. In the U.S., these costs would be deducted from revenues with the company’s tax bill reduced by 35% of the amount deducted. If the same costs were deducted in Ireland the company’s tax bill would be reduced by only 12.5% of the amount deducted, in the absence of the R&D credit. The R&D credit brought the tax benefit of eligible expenditure in Ireland up to 37.5% of the amount incurred. This is 12.5% from the standard deduction plus 25%, from the R&D credit.

Following the introduction into law of the Tax Cuts and Jobs Act, the rate of the U.S. federal corporate income tax was reduced from 35% to 21% from 2018. This means that the tax benefit of U.S. firms for R&D expenditure incurred in Ireland is now significantly higher than if the same expenditure was incurred in the U.S.

An examination by the Revenue Commissioners (Revenue, 2022) has shown that of the eligible €3.1 billion of R&D expenditure included in Corporation Tax returns filed in 2020, €2.6 billion (83%) was undertaken by foreign-owned multinationals, with U.S. companies in the pharmaceutical and other sectors likely to be responsible for a large share of this. A focus on the use of the R&D credit by SMEs is warranted but the benefits of most of the current tax expenditure go to large, foreign-owned multinational enterprises. Both the additionality that this tax foregone generates and the size of the credit needed to generate any additionality should be subject to review, particularly considering changes in the U.S. tax rate.

For completeness, the calculation of taxable income on which the gross tax due figure from the previous table is derived is shown below:

Table 2:

Aggregate Corporation Tax Computation, 2016-2020

Year	**2016**	**2017**	**2018**	**2019**	**2020**
	€m	€m	€m	€m	€m
Gross Trading Profits	**159,228**	**160,090**	**183,655**	**196,051**	**193,645**
plus Balancing Charges	4,976	7,000	7,235	7,764	5,616
	164,204	167,090	190,890	203,815	199,261
less Allowances and Losses Forward					
Capital Allowances used	(59,254)	(61,926)	(72,357)	(80,065)	(76,250)
Trade Losses Carried Forward used	(14,627)	(13,974)	(13,048)	(11,158)	(8,505)
Net Trading Income	**90,323**	**91,190**	**105,483**	**112,592**	**114,506**
plus Other Income					
Net Rental Income	627	718	765	810	837
Gross Interest Received	641	700	839	1,635	853
Taxed Interest	96	196	246	91	34
Foreign Income	8,362	11,367	12,184	14,398	10,518
Capital Gains (regrossed)	2,217	1,589	1,837	2,144	3,279
Other Income	1,351	738	521	312	1,044
Total Income	**103,617**	**106,499**	**121,874**	**131,982**	**131,071**
less Charges and Deductions					
Trade Charges	(23,876)	(16,038)	(16,391)	(16,197)	(10,112)
Group Relief	(3,164)	(3,958)	(4,161)	(4,387)	(5,629)
Relief Under Section 247 (interest)	(3,695)	(5,253)	(3,632)	(2,852)	(2,972)
Current Year Trading Losses	(316)	(450)	(346)	(1,296)	(929)
Management Expenses	(700)	(813)	(1,066)	(1,019)	(937)
Other Deductions	(391)	(331)	(232)	(208)	(34)
Taxable Income	**71,475**	**79,655**	**96,049**	**106,439**	**110,458**
Of which:					
Amount Chargeable at 12.5%	67,350	75,246	86,898	96,284	103,336
Amount Chargeable at 25.0%	4,126	4,409	9,151	10,155	7,123

Source: Revenue Commissioners

I thank the Committee for the invitation to attend here today. I look forward to our discussions covering these and other issues and hope I can assist with the questions you have.