

Doing business in Ireland

If you are planning on doing business in Ireland, knowledge of the investment environment and information on the legal, accounting and taxation framework are essential to keep you on the right track.

Foreword

Ireland's low rate of corporation tax i.e. 12.5%, holding company regime, research and development credit combined with many other tax incentives, makes it a very popular choice for inward investment. These factors, together with a highly skilled and motivated workforce, has resulted in almost 1,000 overseas companies choosing to invest in Ireland as their European base. Companies involved in a wide range of activities in sectors as diverse as engineering, information communications technologies, pharmaceutical and research and development view Ireland as a uniquely attractive location in which to do business.

This guide has been prepared for the assistance of those interested in doing business in Ireland and includes legislation in force at 1 January 2011. It does not cover the subject exhaustively but is intended to answer some of the important, broad questions that may arise. When specific problems occur in practise, it will often be necessary to refer to the laws and regulations of Ireland and to obtain appropriate accounting and legal advice.

Tax

Summary

Ireland provides a very favourable tax environment to encourage business development and sustain rewarding investment. Tax reliefs form an important part of the total incentive package available to overseas companies establishing a business in Ireland. Many provisions establish Ireland as a favourable location for multinational corporations to base regional headquarters and holding companies. As multinationals tend to consolidate their financing, regional head office and R&D activities in one location, Ireland is well equipped to cater for all these requirements. The incentives for the establishment of multinational organisations in Ireland are:

- Research and Development (R&D) Credit;
- tax credit for foreign dividends;
- EU parent subsidiary directive;
- credit for tax on foreign branch profits;
- CGT exemption on share disposal;
- intellectual property stamp duty exemption; and
- no thin capitalisation/transfer pricing/CFC rules.

These provisions, coupled with Ireland's low corporation tax rate of 12.5% on trading activities and absence of transfer pricing and controlled foreign company rules, place Ireland in a very competitive position for attracting international companies to establish their global or European headquarters in Ireland.

Companies

Liability to tax

A company that is tax resident in Ireland is liable to Irish corporation tax on its total profits wherever arising. Companies not tax resident in Ireland are only liable to corporation tax on profits generated by an Irish branch or agency.

A company is tax resident in Ireland if it is an Irish incorporated company or if it is managed and controlled in Ireland (there are certain exceptions to the rule on Irish incorporated companies).

Tax rates

The standard rate of corporation tax in Ireland is 12½% on trading income. There is a rate of 25% on non-trading income and certain trades. These rates have been agreed by the EU.

Expenditure on scientific research and development

Incremental R&D expenditure will qualify for a 25% tax credit. This credit will be in addition to any existing deductions or capital allowances for R&D expenditure. The following conditions must be fulfilled in order to qualify for this credit:

- R&D activities must be carried out in the European Economic Area;
- relief is granted provided the expenditure is not deductible in any other territory;
- qualifying expenditure will be reduced by any grant or State Aid received;
- payments to a connected party in respect of tax-exempt patent royalty income will not qualify for the relief; and
- payments made other than at arm's length will not qualify for relief.

R&D is extensively defined to include systematic, investigative or experimental activities in the field of science or technology being one or more of the following:

- basic research;
- applied research; or
- experimental development.

Such activities, however, will not be regarded as Research and Development activities unless they:

- seek to achieve scientific or technological advancement; and
- involve the resolution of scientific or technological uncertainty.

Foreign dividends

Double taxation relief is available on dividends paid by subsidiaries to parent companies. The relief makes it more attractive for headquarter operations to be located in Ireland by reducing the shareholding requirement under double tax treaty provisions or under unilateral credit relief provision (where no treaty applies) from 25% to 5%, and by also allowing the Irish recipient company to "pool" the tax credits arising on foreign dividends. In addition, credit can be taken for local tax suffered by a branch of a foreign subsidiary. This onshore pooling allows companies to mix the credit for foreign tax on different dividend streams for shareholdings of 5% or more for the purposes of calculating the overall credit. Any unused credit balance can be carried forward and offset in subsequent accounting periods.

The 2003 EU Parent-Subsidiary Directive extended the list of entities that can avail of the Directive's exemption from withholding tax on distributions made by an Irish subsidiary company to its EU parent company. Its provisions include the following:

- the requisite holding of share capital in the subsidiary is reduced from 25% to 5%;
- credit can be taken for underlying tax in lower tier subsidiaries;
- Irish branches of EU resident companies are entitled to the same reliefs as Irish resident companies;
- the Parent/Subsidiary directive covers unlimited companies; and
- credit will be available in Ireland for foreign tax suffered by companies that are "transparent" for Irish tax purposes.

Effect of treaties

The Irish tax treaty network continues to be expanded and updated and now numbers 49 tax treaties. New treaties with Bahrain, Belarus, Bosnia Herzegovina, Georgia, Moldova, Serbia and Turkey; and a Protocol to the existing treaty with South Africa, have been agreed. Negotiations are underway on treaties with Argentina, Egypt, Kuwait, Morocco, Thailand, Tunisia, and Ukraine. In addition, some existing treaties, such as those with Cyprus, France, Germany, Italy and Korea are being reviewed. Where a double taxation agreement does not exist, there are provisions within the Irish Taxes Acts which allow unilateral credit relief against Irish tax for tax paid in the other country in respect of certain types of income (e.g. dividends and interest). There is also legislation implementing the EC "Parent-Subsidiaries Directive" (90/435/EEC) (TCA 1997 section 831), the "EU Mergers Directive" (90/434/EEC) (TCA 1997 sections 630-638) and the EU Arbitration Convention (European Communities Mutual Assistance in the Field of Direct Taxation Regulations 1978) (S.I.334 of 1978).

Foreign branch profits

The 2007 Finance Act introduced unilateral credit relief for foreign tax paid by a company that has a branch or agency in a country with which Ireland does not have a tax treaty. This allows such a company to reduce its Irish corporation tax liability by the foreign tax suffered on the profits of the branch or agency.

The Act also introduced pooling in the case of foreign branch profits. Where the foreign tax on branch profits in one country exceeds the Irish tax on those profits, the credit is limited to the Irish tax on those profits and no credit can be given for the balance of the foreign tax. However, pooling allows such surplus foreign tax to be credited against tax on branch profits in other countries in the year concerned. Any foreign tax not credited in the period in which it is paid cannot be carried forward for credit in subsequent periods.

Other foreign income

Foreign taxes borne by an Irish resident company (or EU branch), whether imposed directly or by way of withholding, may be creditable in Ireland. The calculation of the credit depends on the nature of the income item but, in all cases, the credit is limited to the Irish tax referable to the particular item of income. The credit is computed on an item-by-item basis (except for dividends from 5% subsidiaries) and excess credits can be relieved only by deduction; there is no carry-back or carry-forward of excess credits.

Capital Gains Tax exemption on share disposal

There is an exemption from tax on capital gains arising to Irish-based holding companies on disposals of shareholdings in EU/double tax treaty resident (DTA) companies. The exemption will apply where the following conditions are satisfied:

- the parent company must hold a minimum of 5% of the subsidiary's ordinary share capital;
- the investee company must be resident in an EU state (including Ireland) or DTA State; and
- at the time of disposal, the investee must exist wholly or mainly for the purposes of carrying on a trade.

Individuals

Income tax is payable by individuals (and certain non-resident companies on Irish source income) and is charged on an annual basis. The income tax year runs from 1 January to 31 December.

Tax rates – 2011

Single/widowed person First €32,800 20% Balance 41%

Married couple – one spouse with income First €41,800 20% Balance 41%

Married couple - both spouses with income First €41,800 20% Balance 41%

With an increase of €23,800 max)

Note that a further sum for the Universal Social Charge of 2-7% applies to income.

PRSI

| Employee Rate | Employee | Employer |
|---------------------------------------|--|----------|
| Annual earnings not exceeding €18,512 | 4% | 8.50% |
| Annual earnings exceeding €18,512 | 4% | 10.75% |
| Employees are | <p>Are exempt from PRSI On the first €127 per week.</p> <p>Employees earning €352 or less per week are exempt from PRSI.</p> <p>However, where earnings exceed €352 per week, employee's PRSI free allowance remains at €127 per week.</p> | |
| Self Employed person | | |
| PRSI on all income | 4% | |

UNIVERSAL SOCIAL CHARGE (USC)

Health Levy and income Levy to be abolished and replaced by a new Universal Social Charge on a revenue-neutral basis, in 2011, at the following rates and thresholds:

- 0 % <€4,004
- 2% €0 to €10,036
- 4% €10,037 to €16,016
- 7% >€16,016

Taxable income

Taxable income is the total of income from all sources. Income tax is reduced by tax credits for personal circumstances.

a Residence criteria

An individual is resident in Ireland for tax purposes where he is in Ireland for a total of 183 days in any tax year, or where the total number of days in that tax year (ignoring 30 days or less) and the previous tax year exceed 280 (known as the look-back rule). A day will be taken into account where a person is present at anytime of the day in Ireland.

If an individual does not satisfy these tests, he may still opt, in certain limited circumstances, to be treated as Irish tax resident. Exercising this option would be of benefit to the individual in a limited number of cases, such as where advantage could be taken of a Taxation Treaty.

Where an individual satisfies these tests, but is not domiciled or ordinarily resident in Ireland, he may obtain relief in that his foreign income and gains will only be subject to Irish tax if they are remitted to Ireland.

b Taxation of domiciliaries

Non-domiciled foreign executives working for overseas companies in Ireland will continue to be taxed under the PAYE regulations as introduced in last years Finance Act. This will ensure that Irish income tax will be assessed on all earnings relating to employment duties in Ireland, irrespective of the residence or domicile position of the employee.

In these situations it will be necessary to distinguish between that part of an individual's income attributable to the performance of duties of employment in the State and that part of income attributable to the performance of duties of employment outside the State.

The remittance basis (income and gains will be subject to tax to the extent that the proceeds are remitted to Ireland from abroad) will continue to apply in the following cases:

- non-Irish/non-UK investment income;
- the element of employment income relating to duties performed outside of Ireland/UK in the case of foreign employment; and
- in respect of capital gains tax for non-Irish nationals.

NON RESIDENTS

All Irish nationals and domiciled individuals, whose worldwide income exceeds €1 million and whose Irish located capital is greater than €5 million, must pay €200,000 as an Irish domicile levy each year regardless of where they are tax resident. (Finance Bill 2010).

Value Added Tax/Sales taxes

Scope

Value Added Tax (VAT) is based on the European System. VAT is chargeable on most supplies of goods and services within Ireland by a taxable person in the course or furtherance of any business carried on by him, and on goods imported into Ireland from outside the EU.

Taxable persons account for VAT on their outputs and they are allowed credit against this liability for tax borne on business purchases and other inputs as evidenced by correctly prepared VAT invoices; therefore, it is a tax ultimately borne by the final consumer.

VAT is also chargeable on the intra-EU acquisition of goods by VAT registered persons and on the intra-Community acquisition of new means of transport such as motor vehicles, boats etc. by either a registered or unregistered person. The amount on which VAT is chargeable is the total consideration which the person supplying goods or services becomes entitled to receive.

Exports are zero-rated for VAT purposes except those to unregistered persons in the EU. Companies that export 75% or more of their output can apply to the Revenue Commissioners for authorisation to purchase goods and services without any VAT charge. This reduces administration and the need to get a refund of VAT.

Taxable persons must be registered with the Revenue Commissioners for VAT purposes. This is required where the annual value of the goods supplied exceeds €70,000, the annual value of services exceeds €35,000 or the annual value of Intra – EU acquisitions exceeds €41,000.

Rates

VAT rates range from 0 to 21% depending on the product or service, with most being charged at 21% (rising to 23% by 2013). Certain activities involving immovable goods (land and buildings together with all fixtures attached) are liable to VAT at 13½%.

Other taxes

There are other taxes which have to be considered, aside from those mentioned above. These taxes include Stamp Duty, Capital Gains Tax and Gift and Inheritance Taxes. These taxes are very wide in scope and detail, but are outlined below briefly.

Stamp duty

Stamp duty is payable on the transfer of land and buildings and the lease of property as well as on certain legal instruments. Rates vary between 1% and 6%.

All existing stamp duty reliefs relating to residential property are removed with certain transition reliefs. Duty on residential property is now:-

- 1% on the first €1million of any residential transaction;
- 2% on the excess above €1million in any residential transaction.

Transfers between companies with a 90% relationship are exempt from stamp duty subject to certain conditions. There is also an additional exemption for sale, transfer or other disposition of intellectual property.

Capital Gains Tax

Capital Gains Tax is payable on chargeable gains made by Individuals, Trusts and unincorporated bodies. Capital Gains made by companies are chargeable to Corporation Tax with the exception of the disposal of development land, which is subject to Capital Gains Tax.

Capital Gains are determined by the difference between the proceeds of disposal and the original cost of the asset. A disposal takes place whenever the beneficial ownership of an asset transfers. Assets include all forms of property, whether in the State or not.

An Irish domiciled individual who is resident or ordinarily resident in the State for a year of assessment is chargeable to capital gains tax on chargeable gains made on the disposal of all assets wherever situated.

An individual who is neither resident nor ordinarily resident in the State for a year of assessment is chargeable to capital gains tax on chargeable gains made on the disposal of the following:

- land or buildings in the State;
- minerals in the State;
- exploration or exploitation rights in the continental shelf;
- unquoted shares deriving the greater part of their value from such assets mentioned
- above; and
- assets of a business carried on in the State.

A resident individual, who is not domiciled in the State, is liable to capital gains tax on the disposal of assets situated outside Ireland and the United Kingdom, only to the extent that the chargeable gains are remitted to the State.

The rate of capital gains tax is 25%, with the exception of foreign life assurance policies and offshore funds, where the rate is 40%.

Estate tax/inheritance tax

Capital acquisitions tax at 25% is applied to gifts and inheritances. There is a territorial limit to the extent to which gifts and inheritances are taxable for non residents. As it is a tax on acquisitions, the donor is responsible for the payment of the tax. There are a number of exemptions and reliefs.

FINANCE ACT 2011

The Finance Act was signed into Law on the 6th of February, 2011

Key Points

Universal Social Charge

- 2% up to €10,036
- 4% for income in excess of €10,036 but not > €16,016
- 7% thereafter.

Personal Allowances

Amended and on average reduced by 10%.

Benefit in Kind (BIK)

BIK on professional fees on subscriptions by employers to be removed.

Restriction on Ex Gratia Payments for Loss of Office

This lifetime limit is now restricted at €200,000 from 1st January 2011

Share Options

The former tax relief which existed in regard to the grant of share options is now abolished from 24th November 2010.

Restriction on Interest Relief

Interest on borrowed monies to purchase directly or indirectly an interest in or make a loan to a trading company is to be restricted to:-

- 75% of interest charged in the tax year 2011;
- 50% of interest charged in the tax year 2012;
- 25% of interest charged in the tax year 2013;
- Abolition in full in 2014.

Abolition of Tax Relief on Trade Union Subscriptions

Energy Relief

Income tax relief for expenditure incurred by individuals who are tenants on a range of works to be carried out to improve energy efficiency. Relief will be available at the standard rate tax for qualifying expenditure up to €10,000 for individuals and €20,000 for married couples.

Rent Relief

Rent relief which is currently available to tenants is to be phased out over a 7 year period.

Artist Exemption

The exemption of certain earnings of writers, composers and artists is now restricted to a maximum of €40,000 per annum.

Acceleration of Self Assessment Rules

The former Self Assessment Rules of 31st October are now accelerated to 30th September in any tax year i.e. the file and return date will be 30th September.

Retirement Options

The flexible options on retirement introduced and known as "ARF's" are being extended to all Defined Contribution Pension Arrangements. There are certain restrictions. The ARF and inputted distribution increases from 3% to 5%.

Tax Relief Pension Funds

The Standard Fund Threshold is reduced from €5,400,000 to €2,300,000.

Pension Contributions

Pension contributions limit for tax deduction are reduced from €150,000 of relevant earnings to €115,000 annual earnings limit which determines the maximum tax relievable contributions.

Lump Sum Payments on Retirement

Maximum lifetime retirement tax free lump sum is €200,000 from 1st January 2011.

Amounts in excess of €200,000:-

- €200,000 - €575,000 – taxed at standard rate of 20%;
- The standard rate charge is ring fenced so that no reliefs, allowances or deductions may be set off against that portion of a lump sum;
- Balance at marginal rate of tax.

Income Tax, Corporation Tax, Capital Gains Tax

Relevant Contracts Tax (RCT) scheme to be replaced with a three tier withholding system:-

- 0% on same basis as C2 Holder, criteria to include compliance with tax obligations for the period 3 years;
- 20% for sub contractors registered for tax with compliance record (but not 3 years);
- 35% with a default rate where both 0% and 20% are not appropriate.

Restriction on Capital Allowances

This area of the Finance Act is comprehensive and will not be implemented before 2012.

Patent Royalty Relief

This relief of exemption on income generated from Patents as and from 24th November 2010 is now abolished.

Restriction on Interest or Extraction of Funds from Closed Companies on Tax Free Basis

As of 21st January 2011 where income is extracted from a company by the preparation of a Deed of Settlement. Any such payment is deemed to be a distribution and be subject to income tax under Case IV Schedule D.

DIRT

Increased by 2% to 25% distributions.

Withholding Tax on Life Assurance Policies and Investment Funds

Increased by 2% to 27%.

Business Expansion Scheme ("BES")

Major changes to the BES:-

- Qualifying trades are now open to all trades of small and medium sized trading companies;
- Certification is simplified;
- Companies carrying on green energy activities will qualify;
- Lifetime company investment limit is increased from €2million to €10million;
- Annual amount that can be raised is increased from €1.5million to €2.5million;
- Period for which shares need to be held is reduced from 5 years to 3 years;
- Maximum rate of tax relief for subscription has been reduced from 41% to 30%;
- Further 11% of tax relief available at the end of the holding period providing an increase in the number of employees and the company has increased its expenditure on R&D.

Corporation Tax

Restriction on interest relief for intergroup borrowing, in particular:-

- To qualify for interest on a loan the borrowing money must be wholly and exclusively for the purposes of the trade, purpose of property rental or acquiring trading or property rental companies;
- The company qualifying for the interest relief must have a material interest in the company that ultimately uses the borrowing money and these companies must have a common director;
- Relief due under Section 240 of the TCA will be restricted where the Company which has used the borrowing monies are not within the charge to Irish Corporation Tax and are in receipt of interest on those monies;
- Interest related to monies used for the purposes of a trade will be relieved at 12.5% against trading income.

Customs & Excise

- Single rate of air travel tax at €3 from 1st March 2011;
- Duty on a bookmaking license to be €5,000;
- Duty payable on renewal will relate to betting turnover in the case of remote bookmakers and commission earnings in the case of remote betting intermediaries;
- Betting duty of 1% to bets made by remote bookmakers with a new duty – Betting Intermediary Duty – at a rate of 15% to commission earned by remote betting intermediaries from parties in the State to bets made using their facilities.

Stamp Duty

All existing stamp duty reliefs relating to residential property are removed with certain transition reliefs. Duty on residential property is now:-

- 1% on the first €1million of any residential transaction;
- 2% on the excess above €1million in any residential transaction.

Capital Acquisitions Tax

Reduction of threshold to:-

- Group A - €332,084;
- Group B - €33,208;
- Group C - €16,604.

Pay on file date remains 31st October.

New Mandatory disclosure requirement for Tax Advisors to report certain tax avoidance schemes.

Miscellaneous

A mandatory reporting regime which requires the names, addresses and tax reference numbers of persons to whom promoters have made certain tax transaction available for implementation, these are to be made available by:-

- The tax agent;
- The tax payer himself;
- The lawyers subject to legal professional privilege.

Business entities

In considering business entities in Ireland, a distinction needs to be made between unincorporated and incorporated bodies. A significant feature of an incorporated body is that it has a legal status separate from its owners and is capable of suing and being sued in its own name. An unincorporated body may be a sole proprietorship or a partnership. Incorporated bodies include private limited companies, public limited companies and unlimited companies.

Private limited companies are the most common form of business entity used in Ireland. The essential features of a private limited company are that the liability of members is limited to the amount of share capital (common stock) subscribed and that certain obligations imposed on public limited companies do not apply to private limited companies.

To qualify as a private limited company the company must:

- limit the maximum number of members to 50 with a minimum of one;
- restrict the members' right to transfer shares; and
- prohibit any invitation to the public to subscribe for shares or debentures of the company.

A private limited company is required to show the word "Limited" (which may be abbreviated to "Ltd") in its name. Stamp duty is payable at a rate of 1% of the market value on the transfer of shares in all companies. The constitution of a private limited company is made up of the Memorandum of Association and the Articles of Association which set out the objects and rules of the company.

Corporations

Formation

The following is a brief summary of the main requirements when incorporating a company:

- a company must have the intention of carrying on an activity in Ireland. This includes any activity that a company may lawfully be formed to carry on and includes the holding, acquisition or disposal of property of any kind;
- details of the place or places in Ireland where it is proposed that the company will carry on its activity and the place where the central administration of the company will normally be carried on (full business postal address) must be provided;
- a name search with the Companies Registration Office to ensure that the intended name of the company is not already being used or is not too similar to the name of an existing company;
- at least one of the directors is required to be resident in Ireland. Alternatively, the company may hold a bond to the value of €25,400. Two original bonds will be provided by the insurance company and both must be filed with the Companies Registration Office.

It is likely to take approximately ten working days to incorporate a company and the Registrar will then issue a Certificate of Incorporation. When incorporating a company, it is important to ensure that the company name has not already been used in Ireland or is so unwittingly similar to any existing names as to give rise to confusion in the marketplace. The Registrar will not permit the use of any such similar name.

Other entities commonly used by foreign investors

Public limited company

Public limited companies have the same essential characteristics as private limited companies i.e. the liability of members is limited to the amount of nominal capital subscribed, but the key differences are:

- shares in a public limited company are freely transferable;
- there is no restriction on the maximum number of members but the minimum number is seven;
- shares may be issued to the public and may be listed on a stock exchange; and
- certain additional reporting and capital requirements apply to such companies.

The word "public" refers not to the listing of the company's shares on a stock exchange, but rather to the facility to issue shares under a general public offering. Any limited company that does not qualify as a private company is deemed to be a public limited company. As with private limited companies, the Memorandum and Articles of Association set out the objects and rules of the company. There is no upper limit on the level of the issued share capital, but a minimum of €38,092 of share capital must be issued, of which 25% must be paid up. The name of a public limited company must include the letters "plc". In all other respects, public limited companies are similar in nature and form to private limited companies. In practice, public limited companies are seldom used by inward investors since the facility to issue shares to the public is often not of interest to such investors, while the minimum requirements in relation to the number of members and issued share capital can prove unnecessarily burdensome.

Unlimited company

This is a form of business entity where there is no limit on the member's liability if the company's assets are insufficient to discharge the creditors. As a result of the risk of unlimited liability, inward investors do not often use these companies unless such risk can be eliminated. This can be achieved by having a limited liability company in a DTA State as the parent of the unlimited company. A number of advantages arise from this form of body corporate and these can be summarised as follows:

- an unlimited company may, without formality, purchase its shares from its members and may reduce its share capital without recourse to the courts;
- an unlimited company is generally not required to file a copy of its annual accounts with the Registrar of Companies provided at least one of its members does not have a limit on its liability.

However, if all the members of the unlimited company are companies with limited liability, the unlimited company is required to file its accounts with the Registrar of Companies. On application to the Registrar of Companies, an

unlimited company may be converted into either a private or a public limited company and vice versa. However, this process is not reversible. An unlimited company is required to have at least two members, one of which may act as nominee for the other. In all other respects, unlimited companies are similar in form to private limited companies. In practice, the use of unlimited companies is confined to particular situations where greater flexibility is required in terms of share capital movements. In addition, the members may wish to avoid the public disclosure associated with filing of accounts with the Registrar of Companies.

Partnerships: general and limited

A partnership, under Irish law, is defined as the relationship that exists between "two or more persons carrying on business in common with a view to profit". In practice, most partnerships are between individuals but a partnership may exist between individuals and companies and indeed between companies alone. The partnership entity does not have a legal personality separate from that of its partners. In the legal sense, the partnership does not enter into contracts in its own name, but in the names of its partners. Similarly, for legal purposes, the assets of the partnership usually belong jointly to the persons making up the partnership and, subject to the comments below regarding limited partnerships, each partner is jointly and severally liable for the debts of the partnership. A partnership other than a limited partnership is described as a general partnership. Partnership arrangements are often formalised by way of a written partnership agreement. Where such an agreement is not in place, a general partnership is governed by the provisions of the Partnership Act 1890. It is usual for a partnership to prepare accounts showing the results of the partnership business. Generally, partnerships are not obliged to file these accounts with the regulatory bodies nor are they otherwise obliged to publish these accounts. It is also possible to establish what is known as a limited partnership. A limited partnership is comprised of at least one general partner (who has unlimited liability) and one or more limited partners. Limited partners are liable for partnership obligations only to the extent of the cash and property they contribute. Where no written partnership agreement is in existence, limited partnerships are governed by the Limited Partnership Act 1907. If the general partner is a limited company, the limited partnership is obliged to file its accounts for public record with the Registrar of Companies. A partnership, limited or general, is required to register the business name of the partnership with the Registrar of Business Names.

Sole proprietorship

An individual setting up business as a sole proprietor is the most rudimentary business form. There are few legal formalities or costs associated with the operation of a business as a sole proprietorship and this form of business entity appeals primarily to small enterprises. Because the business is undertaken directly by the owner, he or she is personally liable for the business' obligations and may be required to pledge personal assets as collateral when borrowing funds. However, the owner has absolute managerial control and direct access to profits.

Incorporated in other countries trading in Ireland

Foreign companies (i.e. companies incorporated outside Ireland) may conduct business in Ireland either through a branch or a place of business, depending on the level of independence of the Irish operation.

Branch

For Irish company law purposes, a branch is a division of a foreign company trading in Ireland that has the appearance of permanency, has a separate management structure, has the ability to negotiate contracts with third parties and has a reasonable degree of financial independence. EU regulations have been implemented that impose a similar registration regime on branches to that imposed on local companies.

A foreign company setting up a branch in Ireland is required to file basic information with the Registrar of Companies. This includes the date of incorporation of the company, the country of incorporation, the address of the company's registered office, details regarding the directors of the company and the name and address of the person responsible for the branch's operation within the State. The foreign company's constitution, certificate of incorporation and audited accounts must also be filed with the Registrar of Companies.

A foreign company trading in Ireland through a branch is also required to file its financial statements with the Registrar of Companies within 11 months of the company's year end or at the same time as they are published in the country of incorporation, whichever is the earlier. Separate branch financial statements are not required. As with Irish incorporated entities, changes in previously notified information must be reported to the Registrar of Companies.

Other entities

Place of business in Ireland

A foreign company undertaking business in Ireland from a fixed place of business, not being a branch, must file a copy of its constitution, together with a list of the directors of the company and the address of its established place of business in Ireland, with the Registrar of Companies. Foreign companies which have a place of business in Ireland (not being a branch) and which would be regarded as a public limited company if registered in Ireland, are required to file annual accounts with the Registrar of Companies.

Labour

The labour market in Ireland offers inward investors a pool of young, well-educated and highly motivated workers. Irish people have a strong work ethic and this is reflected in the rate of employee turnover which tends to be well below the European average. The profile of the Irish population is such that the availability of a young workforce is likely to continue well into the next century. Approximately 38% of people in Ireland are under 25 years of age; this compares with a European average of approximately 30%. These features have been a significant factor in attracting the large number of multinationals which have located operations in Ireland.

In terms of demographic factors, immigration from outside the European Economic Area continues to contribute to labour force growth through the work permit system. In a study of demographic trends, economists at NCB Stockbrokers forecast that projected population declines across much of Europe meant Ireland's already strong economy would look even more attractive in a European context over the next decade. The population of the Republic will grow by 30% to over 5.3 million by 2020 and to six million by 2050.

Structure of the labour market in Ireland

The educational system in Ireland ranks among the best in the world. Over 60% of new entrants to third level education in Ireland undertake business, engineering, computer science or science courses.

While Ireland is English speaking, a significant proportion of students and graduates are proficient in more than one language.

Labour migration & employment permits

All European Economic Area (EEA) nationals are allowed to work in any European Union country without requiring Work Permits. Non-EEA nationals will require differing types of permission depending on their circumstances.

Work visa / Work authorisation

Prospective employees who are non-EEA nationals in the high-tech, medical and engineering sectors may apply for a work visa or work authorisation. The criteria for issuing work visas and work authorizations change regularly according to the demands of the economy. This form of employment permit is issued to an individual, as opposed to an employer. The working visa/work authorization entitles holders to work for any company in the specified sector for the duration of the employment permit.

Work permit

A work permit is applied for and issued to an employer as permission to employ a specific, named, non-EEA national, for a specific job, for a specific period of time not exceeding one year in duration. The non-EEA national is not allowed to work for other employers during the period of the permit. Non-EEA nationals working in Ireland on

foot of a work permit can change employer and job, so long as the new employer has made a successful application for a new work permit.

In order to receive a work permit employers are obliged to have demonstrated that they have made every effort to employ an EEA national before a Work Permit will be issued. All employees are advised that a Work Permit will entitle them to work for the specific company named and no other for the duration of the permit. When the permit has expired their permission to work in Ireland has expired.

Interaction of work permit requirements and tax compliance clearance

The Department of Enterprise, Trade and Employment seeks clarification in relation to the tax compliance status of the employees on whose behalf the work permits are being sought. Work permit applications ask for the employer's tax registration number and the individual's Personal Public Service Number (PPSN), and renewal applications request a copy of the individual's most recent annual certificate of pay and tax deducted (P60).

Visas

All EEA nationals may enter into Ireland without a visa. Some non-EEA nationals will require visas to enter into Ireland. The individual must apply for a visa as the visa may not be applied for by the company on behalf of the individual. The employee should apply for a visa in the Irish embassy or consulate in his country of residence. In addition, the employee must specifically apply for an employment visa as opposed to a business or tourist visa. The standard employment visa (single entry) allows only one entry to Ireland. The current exceptions to this rule are the spouses of work permit holders eligible to apply for work permits under the Spouses' Work Permits Scheme.

Residence permits

Non-Irish nationals (with the exception of UK nationals) are required to register with the local police authorities within seven days of their arrival in Ireland, if they plan to stay longer than three months. Their passports will then be stamped and they will receive a residence permit which is renewable annually.

Country profile

The primary focus of Ireland's strategy to attract investment has been to create a favourable economic and fiscal environment, which is supportive of industry. Ireland's strategy has proven successful, as in recent years there has been growing recognition of Ireland as a jurisdiction providing a stable economic environment. Ireland's government policies have continued to provide infrastructure and support conducive to business activity.

In addition to the commercial aspects of investing in Ireland, there are other factors which have seen Ireland become recognised as the pre-eminent jurisdiction for establishing a European foothold for multinational business such as its geographical proximity to neighbouring European Union nations, the competitive advantages it holds in telecommunications and infrastructure, its supply of qualified labour, together with one of the most beneficial tax environments.

Key to creating a beneficial tax environment in Ireland is the corporation tax rate of 12.5% from 1 January 2003 on all trading income, whether manufacturing or not. A low corporation tax rate is an incentive which has been maintained by successive Governments since 1955, an endorsement of their support for private enterprise and industry. This endorsement is also demonstrated by the availability of non-repayable financial grants, which can significantly reduce start-up costs. Competitive operating costs, low corporation tax and generous financial incentives combine to give investors in Ireland a uniquely high return on their investment. The continued cost competitiveness of Ireland as a business base is ensured through low inflation and a stable currency.

Language

Although the Irish language, as the national language, is the first official language, the country is English speaking.

Business hours/time zone

Time in Ireland is GMT.

Offices in Ireland usually open from 9 a.m. to 6 p.m. with an hour for lunch. Keep in mind that some offices will close between 1 p.m. and 2 p.m. for lunch. Factories usually start at 8 a.m. and run to 5 p.m.

Most banks open from 10 a.m. - 4 p.m. Monday to Wednesday and Friday, with later opening on Thursday until 5p.m.

Government offices generally open between 9 a.m. and 4 p.m. Most will be closed from 1 to 2 p.m. for lunch.

Shops open from 9 a.m. to 6 or 7 p.m. Monday to Wednesday, Friday and Saturday with later opening on Thursday until 8 or 9 p.m. and Sunday opening from 12 to 6 p.m.

Public holidays

Irish statutory holidays/public holidays are as follows:

- New Year's Day - 1st January
- St. Patrick's Day - 17th March
- Easter Monday (date varies)
- May Day - first Monday in May
- June holiday - first Monday in June
- August holiday - first Monday in August
- October holiday - last Monday in October
- Christmas Day - 25th December
- St. Stephen's Day - 26th December.

Regulatory environment

Ireland provides a very favourable tax environment to encourage business development and sustain rewarding investment. Tax reliefs form an important part of the total incentive package available to overseas companies establishing a business in Ireland.

There has also been a considerable increase in the level of focus on regulatory and compliance practices in Ireland over recent years. This has been due to both the continuing success of Ireland as an e-commerce hub and also an increased interest in consumer protection. The Irish Financial services Regulatory Authority (IFSRA). IFSRA is responsible for consumer protection and prudential supervision. EU and international regulatory developments are also impacting on the industry.

Government Incentives

Since 1 January 2003, a corporation tax rate of 12.5% applies to nearly all Irish trading profits in all sectors, including manufacturing and international services.

Ireland offers an extremely cost competitive business environment with operating costs among the lowest in Europe. An important part of the incentive package offered is the availability of generous grants towards initial start-up costs. A variety of grants are available which can be specifically tailored to meet the needs of each company. These cash grants are non-repayable and are administered by Enterprise Ireland, the Industrial Development Agency (IDA) or by Shannon Development.

Each proposed investment project is assessed by the IDA against a number of criteria. Grant levels are determined by negotiation and grant payments are structured in a way that best suits the financing requirements of the company. The European Union (EU), as part of its social and regional development policy, contributes towards the funding of industrial development.

Capital grants

Cash grants towards the cost of fixed assets are available to companies to help to defray the cost of setting up an operation. Fixed assets eligible for assistance include site purchase and development, buildings and new plant and equipment. Where a factory building is rented, a grant towards the reduction of the annual rental payments may be available instead.

Employment grants

Employment grants are specifically geared towards companies which create employment but do not need to invest heavily in fixed assets. These grants are non-taxable and are geared to low employment areas. An amount will be approved for each job.

One-half of the agreed amount per job will be paid on certification that the job has been created and the balance one year later, provided the job still exists.

Training grants

Grants are available towards the cost of training workers and management for new industries. The costs that are covered include trainees' wages and travel and subsistence expenses, either in Ireland or abroad. The cost of bringing training personnel to Ireland may also be recovered. The grants also extend to the engagement of instructors, technical advisors or consultants to train or to assist in the training of persons for supervisory or management positions. Training grants are based on specific training programmes agreed between each investing company, IDA Ireland and FÁS (the Irish Training Authority).

Research and Development (R&D) grants

Cash grants are provided to assist overseas companies to engage in industrial research and development that will result in increased competitiveness and growth.

Product and process development

Grants are available for research into new and improved products and processes. The costs eligible for grant-aid include expenditure on the provision of sites, premises and plant and equipment to set up facilities including wages and salaries, materials, services and consultancy fees.

Feasibility studies

Companies based in Ireland investigating the feasibility of new products or markets may apply for a feasibility grant. The work can include assessing markets, technical work and raw material sourcing. Eligible expenditure includes salaries, travel costs, expenses and consultancy.

Technology acquisition

Grants are provided towards the cost of acquiring new technology which will assist companies in their production operations.

Equity

In some situations, the IDA will take an equity stake in companies, in the form of ordinary or preference shares.

Restrictions on foreign ownership

Irish laws are very liberal toward trade and industry. There are no general prohibitions against the acquisition of majority holdings by foreign interests in Irish companies or against foreign ownership of either business entities or real property.

Competition rules/consumer protection

Competition law is designed to protect competition and consumers by prohibiting anti-competitive business practices. The Competition Act, 2002, sets out the basic competition rules gives the Competition Authority power

to investigate reaches of the law and, where necessary, to bring court actions. The Acts are designed to protect consumers by preventing competing firms from coming together to fix prices, limit output, divide business between them, or to make other anti-competitive arrangements that provide no benefit to consumers and to prevent firms in a dominant position from abusing that position. The role of the Competition Authority is to protect consumers in such circumstances by enforcing the legislation.

Import and export controls

The Licensing Unit of the Department of Enterprise, Trade and Employment administers European Union (EU) restrictions on the importation into the Union of certain non-EU products. In some instances, it may be necessary to apply to the Licensing Unit for a license to import such products.

Some degree of control of exports from Ireland has to be retained in order to:

- prevent the export of "Dual-Use" items i.e. items which have both civilian and military uses;
- prevent the export of military goods to countries whose behaviour is considered a threat to international or regional peace; and
- to comply with restrictions imposed by the UN, EU and OSCE.
- Exporters are strongly advised to consult the legislation where and when queries arise in relation to specific exports and exporting situations. Applications for export licences should be submitted to the Export Licensing Unit of the Department of Enterprise, Trade and Employment.

Price controls

There are no legal price controls in Ireland. Competition law is now based on EU legislation.

Use of land

Building development requires the approval of the relevant Local Authority. Legislation to protect and maintain the environment is closely modelled on EU Directives and covers matters such as planning and building regulations, public safety and the issue of pollution control licences. This legislation is implemented primarily by local authorities and by the Environmental Protection Agency. This agency is a government body responsible for monitoring and licensing those industrial activities that are considered to carry a significant risk of environmental pollution.

Exchange control

There are no restrictions on the repatriation of earnings, capital, royalties or interest and repatriation payments can be made in any currency. Similarly, there are no restrictions on the import of capital to Ireland. Residents and non-residents can operate bank accounts in any currency and Irish businesses are free to open bank accounts in any location outside Ireland. Inward investors must, of course, have regard to exchange control regulations in their home countries.

Finance

Ireland has a well-developed domestic financial services industry. In general, the banking sector is dominated by a number of domestic banks, particularly in the retail sector. However, a large number of foreign banks also have operations in Ireland concentrating principally, though not exclusively, on the corporate sector. The Financial Regulator is the regulator for banks established in Ireland. It is also the regulatory authority for investment funds domiciled here.

The insurance industry is well developed in Ireland. A number of foreign insurers have a significant market share, mainly through Irish subsidiaries or branches.

The euro is the currency of Ireland and of the 12 other euro-zone countries. The countries participating in Economic and Monetary Union (EMU) are Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovenia and Spain.

Banking system

Irish licensed banks can be classified into three main categories:

- clearing banks;
- merchant and commercial banks; and
- industrial banks.

The main clearing banks are Allied Irish Bank, Bank of Ireland, National Irish Bank and Ulster Bank. These provide a full range of banking services, including foreign exchange dealing and edging activities. Many international banks are represented in Ireland for commercial lending and foreign exchange facilities.

Capital markets

The Irish Stock Exchange plays a key role in Ireland's financial infrastructure with roots that stretch back to 1793 when the Stock Exchange first began in Dublin. Since that time, the Exchange has brought together those wishing to raise finance (whether business or Government) with those who wish to invest.

The Exchange provides a market place where listed securities can be traded efficiently. This includes maintaining market rules and providing services for market users. While the Exchange lists hundreds of securities, including investment funds, the main markets, from a trading point of view, are in the shares of Irish listed companies and Irish Government bonds.

Imports

International and internal transport services are well developed. EU structural funds have been used to upgrade the network of main secondary roads linking the major population centres. The rail network includes a cross-border rail link with Northern Ireland. Six international airports provide connections to the UK, the rest of Europe and the US. Imports and exports are transported mostly by sea. Dublin is the main port but there are a number of other large ports. Passenger car ferry services provide direct sailing to the UK and France.

Ireland has one of the most advanced telephone systems in Europe. It is the Government's intention to make Ireland the e-commerce hub of Europe.

Import restrictions

The Licensing Unit of the Department of Enterprise, Trade and Employment administers European Union (EU) restrictions on the importation into the Union of certain non-EU products. In some instances, it may be necessary to apply to the Licensing Unit for a licence to import such products.

The three types of import restrictions which are applied are:

- Quantitative restrictions - a limit or "quota" is imposed on the volume of goods that may be imported from non-EU countries ("third countries"). Quotas may be managed in different ways but the most commonly used method is that of "first come, first served basis".
- Single surveillance - a statistical tool which enables the EU to monitor the level of imports of certain goods from third countries. There is no limit on the volume that may be imported.
- Double surveillance - the EU monitors the level of imports of a particular product while the supplier country monitors the level of exports to the EU. There is no limit on the volume of goods that may be imported.

In most cases, the decision to issue an individual licence is subject to explicit approval from the European Commission. The system does not allow any margin of indiscretion to the Department.

Customs duties

Ireland is a member of the European Union (EU) and all border controls between member countries have been eliminated. This created the Single European Market, which allows duty-free importation of goods from other EU countries.

Goods imported from outside the EU are subject to customs duty at the appropriate rate specified by the EU's Common Customs Tariff. The rate of duty is based on the International Harmonised System (HS). The EU has preferential tariff agreements with certain countries and country groupings which will result in the rates being reduced or eliminated.

Excise duty is chargeable on a limited number of goods including petrol, diesel, LPG, beer, spirits, wine, tobacco products and motor vehicles. Excise tax rates vary depending on the goods and are payable in addition to any customs duties payable.

Duty relief

Customs and Excise Duties are collected at point of importation. There are, however, some arrangements in operation under which goods may be imported without payment of duty.

- Inward processing – approval may be obtained to import goods duty-free from outside the EU for processing and re-exportation to non-EU countries.
- Warehousing – businesses can obtain approval to store goods duty-free on their premises until required. If the goods are for processing, the above relief will apply. Where it is finished product for sale, no duties are payable if the goods are re-exported outside the EU. Where the goods are released into the EU, the appropriate duties are payable
- Special arrangements operate to allow movement of dutiable goods within the EU, with the duty being eventually paid in the country of consumption.

Financial reporting and audit

- Financial statements must be prepared in accordance with Irish GAAP
- These financial statements must be in the format set out in the Companies Acts
- Irish incorporated companies are required to have their financial accounts audited by a registered auditor.
- Companies with subsidiaries must generally prepare group accounts
- A foreign company trading through a branch in Ireland must register certain details with the Registrar of Companies.

Accounting standards

Irish Generally Accepted Accounting Principles (GAAP) take the form of Financial Reporting Standards (FRS). There are certain differences between these principles and International or US Generally Accepted Accounting Principles (GAAP).

Irish GAAP is governed by guidelines issued by the Accounting Standards Board as promulgated by the Institute of Chartered Accountants in Ireland. As and from 1 January 2005 listed companies must adopt International Financial Reporting Standards (IFRS) under EU directives.

There has been a significant amount of work carried out to align FRS with IFRS (the Convergence project) and several Irish standards have been amended to mirror IFRS principles during 2006.

Domestic corporations

Filing/publication requirements

Irish companies are required to keep proper financial records. The directors are also required to prepare accounts on a periodical basis, which give a true and fair view of the state of affairs and results of the company for its financial period, a copy which must be filed with the Registrar of Companies. An abridged form of financial statements can be filed by small or medium sized companies (as defined in company legislation).

Audit requirements

Irish incorporated companies are required to have their financial statements audited by a registered auditor, subject to the exemptions listed below. The audit includes an examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed. If the auditor is satisfied with the above, a formal (unqualified) audit report will be issued.

Certain companies are exempt from having their financial statements audited. To qualify for the exemption in 2007 the company must have:

- turnover less than €7,300,000;
- balance sheet total less than €3,650,000; and
- average number of employees below 50.

This exemption does not apply to:

- parent or subsidiary companies;
- banks and financial institutions;
- insurance companies; and
- financial intermediaries.

This is an exemption from an audit only. It does not obviate the need to prepare financial statements. In the year concerned the annual return and accounts must be filed at the Companies Office within the time limit specified in the Companies Acts.

Branches of foreign companies

Filing/publication requirements

A foreign company trading through a branch in Ireland must register certain details with the Registrar of Companies, including:

- names, addresses and nationalities of directors;
- name and address of secretary
- a certified copy of its Charter, Statutes of Memorandum and Articles of Association and its number and place of registration;
- address and activities of the branch;
- names and addresses of person(s) in the State authorised to accept notice on behalf of the company;
- names and addresses of person(s) in the State authorised by the company to ensure compliance with the regulations; and
- copy of the financial statements of the company.

Audit requirements

Branches of foreign companies operating in Ireland are not required to have accounts audited independent of the group accounts to which they relate.

Useful contacts

IDA Ireland

www.idaireland.com

daireland@ida.ie

+353 (0)1 603 4000

Shannon Development

www.shannonireland.com

marketing@shannonireland.com

+353 (0)61 361555

Department of Enterprise Trade and Employment

www.entemp.ie

info@entemp.ie

+353 (0)1 631 2121

Business Access to State Information & Services (BASIS)

www.basis.ie

basis@entemp.ie

+353 (0)1 631 2787

Enterprise Ireland

www.enterprise-ireland.com

client.service@enterprise-ireland.com

+353 (0)1 808 2000

Companies Registration Office (CRO)

www.cro.ie

info@cro.ie

+353 (0)1 804 5200

Irish Patents Office

www.patentoffice.ie

patlib@entemp.ie

+353 (0)1 631 2603

Department of Foreign Affairs

<http://www.gov.ie/iveagh/>

+353 (0)1 478 0822

Irish Revenue Commissioners

www.revenue.ie

Business Directory

www.goldenpages.ie

Estate Agents:

www.myhome.ie

www.propertypartners.ie

www.lisney.ie

www.daft.ie

www.wyse.ie