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24 September 2026

Consultation on the development of *Enterprise 2035* - Ireland's new enterprise strategy

Dear Minister Burke

The Irish Tax Institute welcomes the opportunity to participate in your Department's consultation on a new enterprise strategy, *Enterprise 2035*. In the Programme for Government, *Securing Ireland's Future*, it is acknowledged that "*if we are to sustain economic prosperity and continue to grow jobs, we must keep a laser focus on competitiveness and innovation*". This is something which the Institute wholeheartedly agrees with, and it is this shared objective which forms the basis of our submission.

We note the recent publication of the Cost of Business Advisory Forum (CoBAF) Report and were pleased to see it included many of the recommendations made by the

Directors: Brian Brennan, President, Oonagh Carney, Ian Collins, Maura Dineen, Aidan Fahy, Nancy Fallon, Stephen Gahan, Aileen Keogan, Sheila Lawlor, Aidan Lucey, Sarah Meredith, Dr. Patrick Mulcahy, Marty Murphy, Colm O'Callaghan, Kelly Payne, Neil Phair, Tom Power, Maura Quinn, James Quirke, Martin Lambe (Chief Executive)

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Institute. We agree that it provides a foundation for a competitive, resilient and productive environment for businesses to grow and urge that work continues in earnest to implement the recommendations.

Despite global economic headwinds, the Irish economy is continuing to experience faster growth than most of its European neighbours. The country remains a leading destination for foreign direct investment (FDI) and public finances are healthy as the State continues to benefit from a robust corporation tax take from a small number of multinational companies.

However, this headline strength masks deep structural risks, repeatedly highlighted at international level by the OECD, the European Commission and the IMF, as well as nationally by the ESRI and IFAC. Each has identified the persistent productivity gap between Ireland's domestic and FDI sectors as a key weakness in the economy.

While we acknowledge the measures which have been introduced to support indigenous SMEs and entrepreneurs, that gap has yet to narrow to any meaningful extent. It is against this backdrop - of needing to retain and attract future FDI while growing a more robust SME sector - that the Institute makes these recommendations to you as you develop *Enterprise 2035*.

Ireland is entering a new phase in enterprise policy, one where the scale, speed and interaction of change are unlike anything the country has experienced before. The so-called "4 Ds" of demographic change, digitalisation, decarbonisation and deglobalisation are already reshaping the Irish economy and will transform it over the next decade.

While these forces may be outside of the Government's direct control, tax policy remains one of the key levers firmly within the Government's hands. Through tax measures we can drive forward this new enterprise policy and Ireland can build a more innovative, sustainable, resilient and balanced economy.

Research and Development (R&D) Tax Credit

We are encouraged by the publication of the R&D Tax Credit and Innovation Compass and the establishment of an R&D Subgroup of the Business Taxes Stakeholder Forum, on which the Institute has actively participated.

We would caution that the Compass, which outlines a strategic roadmap for Ireland's R&D framework while acknowledging the Credit's current limitations, has raised expectations that significant reform will be delivered. As reported in the Department of Finance's monthly Exchequer returns for July and August, approximately €1.2bn in 'top-up' payments arising from the new global minimum rate of 15% was collected. It is reasonable to assume that where multi-national enterprises are paying significantly more tax there will also be an expectation that reliefs will be enhanced. Ireland has built a strong reputation as an R&D hub, but, in a global environment where many jurisdictions are actively competing to attract high-value investment, it is essential that Ireland's offering evolves to remain best in class into the future.

Enhancing the R&D Tax Credit - through improvements to its subcontracting provisions - would send a clear signal that Ireland is committed to maintaining its competitive edge. The rules which apply for subcontracting to related parties, universities/institutes of higher education, third parties and agency/temporary staff should be broadened.

Consideration should also be given to permitting subcontracting of R&D to a related party, in circumstances where Ireland is the owner and has played an active role in managing and developing internally generated intellectual property arising from R&D activities. This would ensure that the value of the outputs and associated returns would accrue to the Irish entity. A cap on the amount of related spend which qualifies could also be set by reference to the Irish company's own internal spend on R&D. The restriction on qualifying R&D expenditure subcontracted to universities/institutes of higher education should be removed to encourage the development of STEM skillsets and foster greater collaboration between academia and private businesses.

Incentivising Innovation

Decarbonisation and digitalisation are high value growth areas that depend on sustained innovation investment. Competition in this area is fierce, and it is vital that the Government specifically recognises and rewards innovation using the tax levers which are available to it. At the R&D Subgroup meeting it was widely accepted that any innovation incentive must be compliant with the Pillar Two GloBE Rules and the US Foreign Tax Credit Regulations, and that it should not in any way impact on the existing R&D Tax Credit. We believe work must continue at pace in developing such an incentive so that Ireland does not fall behind competitively.

Key Employee Engagement Programme (KEEP) - Share-based Remuneration

The KEEP was introduced in 2018 with the aim of helping SMEs recruit and retain talented employees through tax efficient share options. The reality, however, is that the scheme is so complex and restrictive that uptake has been negligible. Revenue recently confirmed that just 48 taxpayers benefited from KEEP in 2024 while in July a senior Department of Enterprise official while appearing before the Oireachtas Committee on Budgetary Oversight acknowledged that “...*hardly anyone is using it. The take-up is very low. We say that is because the scheme is too complicated*”. We share these same frustrations and have consistently put forward solutions which would better achieve the original objective.

Despite Revenue’s repeated position that it cannot provide further guidance on share valuation methodologies (apart from confirming that a method which complies with relevant accounting standards should be used) we are still urging policymakers to legislate for a safe harbour approach to share valuation which would provide both employers and employees with certainty and minimise some of the risk associated with the scheme. We also believe a more appropriate sanction should apply where any undervaluation arises instead of a full denial of the relief available under KEEP.

More broadly, the obstacles to share-based remuneration for SMEs and startups must

be addressed, particularly the upfront tax cost. Consistent with Indecon's recommendation¹, the 13.5% interest rate on employer loans used to fund the purchase of shares should be reduced to a more commercial rate or alternatively, the tax arising on a share option exercise should be deferred until the employee can dispose of the shares so that the employee can fund the tax liability.

Capital Gains Tax (CGT)

Ireland's 33% CGT rate remains among the highest in Europe and restricts external investment in Irish businesses, discourages owners from scaling or exiting firms, and limits SME productivity and export growth. Reducing the CGT rate to 25% for active business assets would support innovation, enhance productivity, attract investment and may increase Exchequer returns, as evidenced by previous rate reductions.

Personal Tax

Ireland's marginal tax rate of 52.2% (including PAYE, USC and PRSI) is undoubtedly viewed as a drag on the country's competitiveness. Setting the rate at 50% would not only make Ireland more attractive for internationally mobile workers but would also somewhat ease the cost-of-living pressures and support household consumption. To ensure that taxpayers are not subjected to increased tax because of rising inflation, credits and bands should be automatically adjusted annually.

Enhanced Reporting Requirements (ERR)

As a member of the Department's CoBAF the Institute has consistently raised the burden of ERR on SMEs. The increasing number of forms to be completed and new processes to be implemented by businesses, in particular the 'real-time' reporting requirement, is placing a significant strain on the scarce resources available to many SMEs. Recognising policymakers' need for timely data, we believe that permitting reporting after month-end would reduce the compliance burden while at the same time ensuring Revenue continues to receive the required information and the policy

objective remains intact.

Disproportionate Sanctions for Administrative Errors

There are instances in the Irish tax code where the penalties that apply for non-compliance have a disproportionate impact on certain cohorts of taxpayers. While the Institute recognises the role of penalties in encouraging compliant behaviour, it is essential that the penalties which apply are proportionate.

By way of example and in reference to ERR, an employer who inadvertently omits to report any small benefit or payment made to an employee of the remote working daily allowance and business travel and subsistence expenses, all of which are non-taxable, faces a €4,000 penalty even though there may be no risk of an underpayment of tax. What's more, as the payments/benefits must be reported in real-time, a penalty could apply even if an omission is discovered by an employer and subsequently reported to Revenue at the earliest opportunity. These kinds of excessive penalties not only increase risk aversion but can add substantially to the financial burden on SMEs.

eWithholding Taxes (eWHT)

In February a major reform of withholding taxes was proposed by the Department of Finance and Revenue. The proposals included abolishing the current Relevant Contracts Tax (RCT) and Professional Services Withholding Tax (PSWT) rates including the 0% RCT rate; extending withholding tax to the platform economy; and replacing existing rates with an undisclosed single flat rate for corporates and Personalised Deduction Rates for self-employed individuals.

In our response to the proposals the Institute raised serious concerns that they risked damaging Ireland's competitiveness, and we urged that further consideration be given to the scope, design, cost and economic impact before proceeding any further.

We engaged further on the policy proposals in the interim, and we are heartened to see

that the recent publication of the Tax Strategy Group (TSG) Papers does take into account some of the valid concerns raised by stakeholders. The TSG paper sets out an option for reform of the PSWT which “...appears to provide the best opportunity to proceed without causing significant disruption to business”. We would agree that Option 4 is the preferred approach but would urge that early and detailed engagement with stakeholders on operational aspects of any proposed amendments takes place, with a focus on minimising additional compliance costs for businesses.

Simplification of the Corporation Tax Code

Simplification of Ireland’s corporation tax code would reduce compliance costs, improve certainty for businesses and enhance the overall efficiency of the tax system. Through numerous submissions, engagements and consultations over many years the Institute has set out recommendations which we believe should be urgently implemented to ensure we maintain a competitive edge.

Chief among them is the urgent need for reform of Ireland’s taxation regime for interest which is currently posing a reputational risk. This has been acknowledged by the Department of Finance in its own Feedback Statement which states, “*reform of the taxation regime for interest is needed to help safeguard Ireland’s competitiveness, to provide administrative simplification and give greater certainty to Irish businesses, while continuing to ensure that Ireland’s tax system for interest is fair and sustainable*”.²

A review of Ireland’s interest regime was first announced in 2024 and frustration at the length of time it is taking for any meaningful reform to take place has grown significantly since then. As recently reported in the media, there are also grave concern among some of Ireland’s biggest MNE’s that the reforms that have been mooted will only serve to increase administrative burdens without addressing the complexity of the current regime. While the Institute is satisfied with the level of consultation which has taken place to date, we believe it is clearly time for purposeful action which will actually deliver on simplification.

Conclusion

As you work to prepare *Enterprise 2035*, Ireland's new enterprise strategy, we would appreciate you taking these matters into consideration. Should you have any questions or wish to discuss the Institute's submission further please do not hesitate to contact Anne Gunnell, Director of Policy and Representations at the Irish Tax Institute – agunnell@taxinstitute.ie/0863890722.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Brian Brennan'.

Brian Brennan
Institute President