24 September 2026

Phase One of Reform of Ireland's Taxation Regime for Interest

Draft Legislation for Potential Discrete Amendments in Finance (No. 2) Bill 2026

We refer to our meeting with the Department of Finance on 15 September to discuss the ongoing Reform of Ireland's Taxation Regime for Interest. We very much welcome the detailed update from the Department outlining the policy consideration informing proposed amendments to section 247 and section 249 Taxes Consolidation Act (TCA) 1997 in Finance (No.2) Bill 2026.

We recognise that section 247 relief has a broad application which applies to interest on borrowings to fund share acquisitions as well as loans to group companies. Of course, this can mean what might be considered good tax policy for one aspect, such as downstream loans, may make less sense or might be disproportionate for other aspects such as share acquisitions.

Recovery of capital provisions

On foot of the discussion, we understand the Department's policy position is that the purpose of the recovery of capital provisions under section 249 TCA 1997 is to ensure that where tax relief is given for an original purpose (e.g. a loan provided to a holding company to finance directly or indirectly trading companies) that this remains the use of the loan. However, what is less clear to us is how that policy rationale applies to share acquisitions from third parties.

For example, where an Irish plc expands by acquiring another group, the qualifying purpose is the acquisition of ordinary share capital of a company whose business consists wholly or mainly of the holding of trading company shares directly, or indirectly. If there is a recovery of capital at the target (company concerned) level, it remains

internal to the acquired group. Provided that the target company remains wholly or mainly a holding company of trading companies, we do not understand why internal shuffling of resources in that acquired group is of a concern vis-à-vis the policy intention, as described by the Department.

We understand that the Department is considering introducing an amendment which would turn off the deemed recovery of capital provisions in such circumstances (which we discuss further below). If properly implemented, such a change could be very beneficial, but we would point out that there may be simpler alternatives. For example, would it not be possible to disapply the deemed recovery of capital rules in such instances so long as the acquired company remains within the categories of companies identified in section 247(2)(a) and section 247(2)(a)(iv) TCA 1997, while at the same time continuing to meet the policy objectives, as outlined by the Department? We would very much welcome further discussion on this point.

Potential reinvestment amendment

It was also welcome to hear that the Department is contemplating a proposed new reinvestment provision in section 249 TCA 1997. As we have not seen the detail of the draft amendment, it is not possible at this stage to assess whether it will resolve the practical difficulties created by the recovery of capital provisions for large groups wishing to reorganise their structures, but it could be a positive step.

However, it was mentioned at the meeting that one of the conditions to obtain a deferral under the new reinvestment provision would be that the intermediary holding company or the company concerned must have been entitled to claim relief if they made the relevant investment and this would only be possible where such a company was within the charge to Irish corporation tax. Imposing such a territorial condition could result in very limited application of the provision and so, we would welcome further consideration of the policy rationale for this measure. Indeed, some of the existing exceptions to the deemed recovery of capital rules, in particular those relating to qualifying internal reorganisations, do not have such territorial limitations.

We consider the appropriateness of discriminating between the treatment applied with respect to intermediate holding companies and relevant companies which are tax resident in Ireland and those that are tax resident in other EU Member States needs to be considered from a tax policy perspective and at a minimum, Ireland should not discriminate against treaty partner countries.

We would welcome any amendment that provides there would be no deemed recovery of capital if there is a repayment of a loan to a company concerned or intermediary holding company, where the loan is used within a certain period of time in accordance with the purposes specified in section 247(2) (i.e. akin to what is proposed in the drafted revisions to section 249(1)(a)(iii)). We believe this would remain within the policy objectives of the clawback rules instead of effectively creating a new Irish residence requirement that does not exist when an original loan is put to use.

In our view, it would seem reasonable that if loan monies repaid are re-used for an allowable purpose(s) within [x] period that should be sufficient to meet the policy objectives outlined at the meeting. Also, we would need to give consideration as to how any proposed relief would interact with the existing reinvestment provisions in section 249(2)(aa)(i)(III) and (ac)(iii)(III) TCA 1997.

Conclusion

The Institute welcomes the ongoing engagement with the Department as it progresses its Reform of Ireland's Taxation Regime for Interest. We look forward to the publication of the amendments to section 247 and 249 TCA 1997 in the forthcoming Finance Bill and we would welcome the opportunity to discuss further the matters raised in this submission to help further clarify the policy intention of the proposed amendments for our members. Please contact Anne Gunnell of this office at agunnell@taxinstitute.ie if you require any further information in this regard.