



# Update on EU tax developments

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# Agenda

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1. Ireland update
2. Update on EU provisions
3. EU Reaction to Tariffs

# **Ireland Update**

# Ireland Update –Dividends “old regime”

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- Dividend from Irish subsidiary – exempt
- Dividend from foreign subsidiary – tax and credit
  - Foreign WHT
  - Underlying tax
  - Top up (for EU subs)
- Generally no further tax is payable in Ireland
- Complex and confusing

# Ireland Update – Foreign Dividends “New regime”

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- Participation exemption for foreign dividends from 1 January 2025
- Number of Conditions, including:
  - Resident in an EU/EEA state/treaty territory
  - Must not be generally exempt from foreign tax (conditions)
  - 5% ownership - uninterrupted period of at least 12 months that includes the date of the distribution
- New regime is Opt-in - Existing tax credit system for foreign distributions continues to apply for any accounting period for which a company does not opt into the exemption – flexibility
- Further improve Ireland’s competitiveness on the global stage.

# EU Provisions

# EU Developments - Overview

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- European elections in June 2024 resulted in a very fragmented European Parliament
- EU's political priorities have shifted towards improving competitiveness and securing Europe's relevance on the global stage.
- No material developments in 2024 regarding many of the tax proposals released in previous years, such as shell company directive, Business in Europe: Framework for Income Taxation ("BEFIT") and Head Office Taxation ("HOT") Transfer Pricing.
- View is that the new world order will take priority- protect trade

# Pillar Two

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- Pillar Two aims to ensure a global minimum effective tax rate of 15%
- Targets large groups with a turnover of at least 750 million euro, in at least two of the four preceding years
- 138 countries worldwide have agreed to implement Pillar 2 rules in their national legislation, with a significant number having introduced domestic legislation enacting Pillar 2
- January 2025, the United States White House published a memorandum stating that the Global Tax Deal has no force or effect in the United States. **US are out**



# Pillar Two

- Three main rules to achieve effective minimum 15%

Domestic Top-Up Tax (DTT)	Income Inclusion Rule (IIR)	Undertaxed Payments Rule (UTPR)
With the domestic top-up tax, Pillar 2 countries levy an additional tax if group entities in this country are subject to an effective tax rate lower than 15%.	The Income inclusion rule means an additional tax will be imposed on the ultimate parent company of the group in case a foreign subsidiary of the group is effectively taxed at a rate lower than 15%.	<ul style="list-style-type: none"><li>• This rule allocates the right to impose a top-up tax to the different jurisdictions in which subsidiaries are located and that have implemented Pillar two.</li><li>• This occurs if the ultimate parent company is located in a jurisdiction that has not implemented pillar two.</li></ul>

## Pillar Two- Caselaw

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- 27 June 2024, a petition was filed by a US organisation with the Belgian Constitutional Court seeking annulment of UTPR
- Other US organisations joined the lawsuit as interveners
- Issue under consideration:
  - Belgian entity can become liable for a Top-up Tax on profits realised by another entity located outside of Belgium over which it does not exercise any direct or indirect control and it may never receive these profits.
  - As the profits have no real nor reasonable connection with the Belgian entity, the UTPR violates the principle of territoriality.

## Pillar Two - Caselaw

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- Decision of the Belgian Constitutional Court expected in 2025.
- If the case is referred to the CJEU, a decision will take longer but will impact all Member States.
- Watch this space

# DAC 9 - Directive on Administrative Co-operation

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- 11 March 2025- EU Council agreed on a new EU directive (DAC9)
- Purpose - Improve administrative cooperation & facilitate the filing and exchanging of Pillar Two-related information in the EU
- Key components
  1. Centralized filing – file one TTIR at a central level
  2. Standardised form
  3. Information exchange
- from the TTIR with each other by 31 December 2026 at the latest

# DAC 9 - Directive on Administrative Co-operation

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- Member states have to implement DAC 9 by **31 December 2025**

*“single format for filing relevant information, and member states’ tax authorities will closely cooperate on exchanging relevant information...will significantly simplify the filing process and reduce the administrative burden”.*

Andrzej Domanski Minister for Finance Poland

- 30 June 2026 - In-scope groups to file their first TTIR
- 31 December 2026 - Tax authorities have to exchange appropriate information

## DAC 6 – Mandatory reporting of cross border transactions

- 29 July 2024, the Court of Justice of the European Union (“**CJEU**”) delivered its judgment in the case *Belgian Association of Tax Lawyers and Others v Premier ministre/Eerste Minister* (Case C-623/22).
- Court upheld validity of DAC 6
- C694/20 Legal privilege- Lawyers only
- Commission review of the functioning of DAC 6:
  - Commission has acknowledged excessive reporting obligations for businesses operating in the EU
  - Potential to impact the functioning of the Single Market

# VIDA- Vat in the Digital Age

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- 11 March 2025 EU Council approved a reform package
- Significant changes - aimed at modernizing and digitalizing the Value Added Tax (VAT) system within the European Union
- Primary objectives are to enhance tax collection, reduce fraud, and simplify VAT compliance for businesses and tax administrations through the use of technology
- Built on three pillars

# VIDA- Vat in the Digital Age

Pillar	Digital Reporting Requirements (DRS)	Platforms as Deemed Suppliers (PDS)	Single VAT registration (SVR)
What is it?	Real-time, transaction-by-transaction reporting based on the European Standard, with electronic invoicing (e-invoicing) as the default method	Platforms to be responsible for collecting and remitting VAT on behalf of non-VAT registered suppliers.	Build on the existing VAT One Stop Shop (OSS) model, and allow businesses selling to consumers in another EU country to fulfill their VAT obligations via an online portal in one EU country
When?	July 2030	January 2030	1 July 2028



# EU Reaction to tariffs

## Tariffs – EU reaction



# US Tariffs

	Rate	Effective from
Steel & Aluminium	25%	12 March 2025
Baseline tariff	10%	5 April 2025
EU Tariffs	20%	9 April 2025
Pharma	0%??	
Tech & Services	NA	

# Tariffs- EU Response

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- 27 Member States, 450m consumers
- EU – Unity required
- *“Firm, but proportionate response while working towards a negotiated solution”*  
Simon Harris Irish Minister for Trade
- Wed 9 April – EU Government to vote on first set of tariffs on US imports

# Tariffs- EU Response

- Options:
  - Retaliate
  - Negotiate – US intentions?
  - Diversify
  - Avoid escalation
- Other considerations
  - Impact of flood of cheap imports from jurisdictions
  - Political (Northern Ireland)
  - Divergence UK (10%) v EU (20%)
  - Trust- long term relationship
  - EU is a net US exporter for goods, net US importer for services

## Tariffs- EU Response



# Summary of EU Provisions

# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>DAC 7</b>	EU Digital platform operators.	Ensure that sellers who generate income from goods or services via online platforms pay their fair share of taxes	<ul style="list-style-type: none"> <li>• First reporting obligation was due on 31<sup>st</sup> January 2024.</li> <li>• Certain Member States have opted to provide short extensions to the reporting deadline under the domestic transposition of DAC 7 (Including Ireland).</li> </ul>
<b>DAC 8</b>	Crypto-asset services providers and issuers, as well as for e-money institutions	<ul style="list-style-type: none"> <li>• Implements new rules on reporting and exchange of information for tax purposes on e-money and crypto-assets and on the exchange of information on cross-border rulings concerning high-net-worth individuals.</li> <li>• It also introduces penalties and compliance measures for the various reporting obligations under the DAC framework.</li> </ul>	<ul style="list-style-type: none"> <li>• The Council opposed the Commission's proposal to establish a standardized minimum financial penalty for late or incorrect filings under the DAC.</li> <li>• DAC8 will come into effect for all EU Member States from 1 January 2026. Member States have until 31 December 2025 to transpose DAC8 into national domestic law.</li> </ul>



# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>Securing the Activity Framework of Enablers (SAFE)</b>	The Policy options considered are: <ol style="list-style-type: none"><li>1. Due diligence to be undertaken by all enablers;</li><li>2. Prohibition on facilitation of tax evasion and aggressive tax planning plus due diligence to be undertaken and a requirement for EU registration;</li><li>3. Code of conduct for all enablers.</li></ol>	The SAFE proposal aims to combat the role that enablers can play in facilitating schemes that can lead to tax evasion or aggressive tax planning within the EU.	<ul style="list-style-type: none"><li>• The Commission has stated that an agreement needs to be reached on the Unshell Directive before progressing with a proposal on the SAFE initiative.</li><li>• The timeline therefore remains unclear as the Commission has not announced when the SAFE initiative will be tabled for further discussion.</li></ul>
<b>EU Directive on Pillar 2</b>	Corporates with revenues in excess of €750 million.	Avoid race to the bottom (minimum effective tax rate).	<ul style="list-style-type: none"><li>• EU rules came into effect on 1 January 2024.</li><li>• The US has yet to implement Pillar 2 legislation.</li><li>• Several countries have introduced registration and notification requirements. (e.g. Belgium.)</li></ul>

# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>ATAD III – misuse of shell entities</b>	Corporates with minimal or no substance in their country of residence.	To ensure that legal entities and legal structures in the EU without a substantial business presence will not benefit from tax advantages.	The ECOFIN Report to the European Council on Tax Issues published on 24 June 2024 includes a section on Unshell stating that whilst most delegations supported the proposal, further technical work was required before an agreement could be feasible.
<b>Faster and Safer Tax Excess Refund for Withholding Taxes (FASTER).</b>	All EU Jurisdictions	The withholding tax initiative aims to provide Member States with the information to prevent tax abuse in the field of withholding taxes and, at the same time, accommodate a swift and efficient processing of the requests for a refund and/or a relief at source procedures of the excess taxes withheld.	<ul style="list-style-type: none"><li>• Member States are required to transpose the directive into national law by 31 December 2028.</li><li>• Rules are to take effect on 1 January 1 2030, pushing back the original start date of 1 January 2027.</li></ul>

# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>BEFIT</b>	Mandatory for groups operating in EU with annual combined revenue of at least €750 million and the ultimate parent holding at least 75% of ownership rights.	The proposal introduces a single set of rules to determine the tax base for large businesses that operate out of more than one Member State.	<ul style="list-style-type: none"> <li>The broad aims of the proposal are supported by Member States.</li> <li>Concerns have been raised that the proposal in its current form will not achieve these desired outcomes</li> <li>An implementation date of 1 July 2028 has been proposed.</li> </ul>
<b>Head Office Tax (HOT) System</b>	SMEs operating in the EU who wish to operate cross-border during their early stages of expansion.	<ul style="list-style-type: none"> <li>This would allow certain SMEs to calculate their tax liability based on the tax rules of the Member State where their head office is located.</li> <li>They can then file a single tax return in that Member State instead of having to comply with multiple tax systems.</li> </ul>	<ul style="list-style-type: none"> <li>It was adopted by ECOFIN on 22 February 2024, strongly supporting the overall proposal.</li> <li>The Commission proposed that Member States would implement the directive by 31 December 2025 with the provisions applying from 1 January 2026.</li> </ul>

# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>Markets in Crypto-Assets Regulation (MiCA)</b>	Crypto Asset Service Providers (CASP) that wish to operate within the EU.	<ul style="list-style-type: none"><li>Will introduce a new regulatory framework for European crypto-assets and will cover crypto-assets not already regulated by existing financial services legislation.</li><li>The aim is to ensure that consumers are informed of the risks, costs, and charges linked to crypto assets</li></ul>	The new reporting requirements were published in the Official Journal of the European Union on 9 June 2023 and entered into force on 29 June 2023. The regulation apply from 30 December 2024.
<b>Transfer of Funds Regulation (TFR)</b>	Originators and beneficiaries on transfers of crypto assets.	The new rules are to prevent, detect, and investigate money laundering and terrorist financing where at least one of the crypto-asset service providers involved in the transfer of crypto-assets is established in the EU.	Transfer of Funds Regulation (TFR) was adopted on 16 May 2024 and applies from 30 December 2024.

# Updates – EU Tax Provisions

Measure	Applicable to:	Aim	Expected Timing
<b>Digital Services (Levy) Act 2024</b>	large multinational tech companies operating in Ireland.	<ul style="list-style-type: none"><li>Will introduce a levy to ensure that large multinational tech companies contribute fairly to Irish tax revenues.</li></ul>	The act was enacted in Ireland on 17 July 2024.



# Thank you



**We're by your side**

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