Clark Hill

Briefing

Establishing a Business in the Republic of Ireland 2022

An Introduction to the Irish Legal, Taxation and Regulatory Issues

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1. Ireland: A Global Business Destination

The Republic of Ireland is consistently ranked within the top twenty global jurisdictions in which corporations choose to establish their business. In 2021 Ireland was recognised in the Global Innovation Index as being one of the twenty top ranked global countries for start-ups and innovations. The Global Innovation Index, which is published by Cornell University and WIPO looks at various factors, such as how countries rank in their digital infrastructures and educational institutions. The Index sought out and ranked cities across the globe that share the same mix of creativity and capital as in Silicon Valley. The IMD Index on Global Competitiveness 2021 places Ireland at number 4 out of 64 countries based on economic performance, government efficiency, business efficiency and infrastructure. Investors emphasise Ireland's low corporate tax rate and that Ireland is home to many of the world's high-tech giants such as Google, Zynga, Facebook, LinkedIn and Twitter.

The encouragement of overseas direct investment by making Ireland an attractive place to do business has been at the centre of Irish Governmental policy for over 50 years. Naturally, when evaluating the various jurisdictions in which to establish a business, companies have regard to many different factors. Factors which favour Ireland as a preferred option include the fact that it offers long-term Governmental and economic stability, its Common Law legal system which offers an established body of law and regulation with clear and effective rules whereby legal rights can be enforced, the existence of a highly competitive taxation environment, access to the European Community and an indigenous talented and well educated pool of labour. This is underpinned by the fact that the Irish Government has consistently listened to and adapted in a timely and pro-business manner its policies to meet the requirements of new and already established multi-nationals. Accordingly, Ireland continues to be a location of choice for many of the world's top performing businesses.

2. Ireland: A Pro-Business Agenda

The following are frequently cited by those establishing a business in Ireland as being influential factors:

- Access to a highly-skilled and educated workforce
- A taxation system that is pro-business with specific tax benefits for business
- An economy which has, despite Covid-19, a growth rate of 5% predicted by the OECD for 2022.
- A steady and democratic political system that is pro-business
- A stable and well-developed common law legal system that recognises the sanctity of contract and adjudicates on commercial cases through a dedicated Commercial Court.
- Economic and taxation incentives, specifically geared toward foreign direct investment.

3. Post-Brexit: Business Opportunities in Ireland

Britain's exit from the European Union **("EU")** has created opportunities for Ireland as a global business destination. A recent report by *New Financial* found that of the 443 companies that had relocated their headquarters out of the UK, 135 (including Goldman Sachs, JP Morgan and Bank of America) had moved to Ireland, representing the highest number. Reasons for Ireland being a choice location include:

- Ireland is well-located as a business location for trade between the United States, Europe and Asia
- Ireland is the only remaining English-speaking Member State of the EU
- EU membership can offer businesses located in Ireland entry to the EU Single Market with access to over 500 million consumers
- Ireland is the only common law jurisdiction within the EU and offers an alternative law of choice and forum to English law in international contracts and dispute resolution

4. Ireland: Country Facts

Population

5.035 million people live in Ireland, 33% of which are under the age of 25 years.

Geography

The island of Ireland is located in the extreme north-west of the European continent. Dublin is the capital city, and it along with other Irish cities is approximately 1 hour flight time to London and 1hr 30 minutes flight time to most cities in mainland Europe.

Language

Irish/Gaeilge is the official national language, but English is the spoken language both generally and in business.

Education

There are currently seven Universities and fourteen Institutes of Technology providing high quality education in Ireland. In 2020, over 245,000 people were enrolled in third level education. According to the OECD, over 52% of 25-34 year olds, in Ireland, possess a third level qualification, which thereby provides a highly skilled labour pool at the disposal of businesses with operations in Ireland.

Employment & Immigration Issues

The national working age is 18 and the minimum wage is currently set at €10.50 per hour. The Central Statistics Office estimates that the overall cost of labour in Ireland is €29.48 per hour, which ranks Ireland at 13 within Europe in terms of average labour costs. Until recently, an employer was not required by law to pay an employee when absent due to illness. However, when enacted, the Sick Leave Bill 2022 will introduce:

- Paid sick leave for up to three sick days per year. This is planned to increase to five days in 2024, seven days in 2025 and ten days in 2026; and
- A rate of payment for statutory sick leave of 70% of normal wages to be paid by employers (up to a maximum of €110 per day).

To be entitled to paid sick leave under the new scheme, an employee must have worked for his or her employer for at least 13 weeks. The employee will also need to be certified by a GP as unfit to work.

Employees' Sick Pay entitlement starts as soon as the law is enacted, which is expected soon.

Until recently, an employer was not required to contribute to a pension scheme for its employees. However, in March 2022, the Government announced that legislation will be enacted to provide for the creation of a system of automatic enrolment into a workplace pension scheme. Under the proposals:

- All employees not already in a workplace pension scheme, aged between 23 and 60 and earning over €20,000 across all of their employments will be automatically enrolled;
- With the system set up by 2023 for employee enrolments in 2021, the introduction of Auto Enrolment will be gradually phased in over a decade, with both employer and employee contributions starting at 1.5% and increasing every three years by 1.5% until they eventually reach 6% by Year 10 (2034). This steady phasing allows time for both employers and employees to adjust to the new system.

Employers are obliged to provide a working environment that provides for the safety, health and welfare of employees.

Generally, EEA, UK and Swiss nationals are permitted to work in Ireland without an employment permit. Non-EEA nationals will need an employment permit. The most relevant permit for businesses whose staff are Non-EEA nationals is the Intra-Company Transfer Employment Permit which can be used to facilitate the transfer of senior management, key personnel or trainees who are non-EEA nationals to the subsidiary or Irish branch of a multi-national corporation. For further information, see Section 13.

Transport Network

Ireland has 10 airports providing passenger and freight services to most European and international destinations, as well as five main sea ports, which provide links to all major European and international Seaports. There is also a wide national rail and road network providing links across the country. Rail and driving time from Dublin to Cork is approximately 2hrs 30mins.

Banking Environment

Ireland's national currency is the Euro. The domestic banking industry is regulated by the Central Bank of Ireland. The banking sector in Ireland is well developed and is dominated by indigenous banks (e.g. Bank of Ireland, Allied Irish Bank and TSB) with some foreign entrants also holding a market share.

Practically, any form of corporate finance and other transactional work that may be required can be facilitated from within the Irish domestic banking infrastructure. Access to financial infrastructure was difficult during the recession but corporate finance has now become easier to obtain.

5. Types of business entity, ongoing obligations & restructurings

5.1 The Various Corporate Bodies Available for Carrying on Business in Ireland

Ireland offers a wide range of business structures through which a business can be carried on in Ireland. The most relevant corporate structures are considered below.

Private Company Limited by Shares[1]

A private company limited by shares remains the most popular structure through which a business can be carried on in Ireland. The principal advantages of such a company is that the shareholders' liability for the debts and obligations of the company is limited to the amount (if any) outstanding on their shares. Where the shares are fully paid up, which is the norm in Ireland, the shareholders have no further liability for the debts and obligations of the company. A company is a separate legal entity and is therefore separate and distinct from those that run and own it. Only the company can be sued for its obligations and can sue to enforce its rights. (Directors may incur personal liability in only very limited circumstances). A private company is not subject to a minimum issued share capital requirement and accordingly such a company may be incorporated with a share capital of as little as €2. The procedure for incorporation is straightforward and essentially requires the filing at the Irish Companies Registration Office of: -

- the name of the company, which must not be the same name as an existing company or confusingly similar with such a name. (Incorporation, of itself, does not confer an exclusive proprietorial right in the name and therefore the name must not infringe the proprietorial rights of third parties and trade mark owners);
- its signed Constitution.
- particulars of its director or directors, one of whom must be resident in the EEA unless the promoters furnish a prescribed insurance bond;
- particulars of its secretary (if the company has a single director that person cannot also act as the secretary);
- a description of its proposed activity in Ireland; and
- particulars of its registered office in Ireland.

The above information is submitted to the Registrar of Companies on the Companies Registration Office Form A1 which is required to be sworn by the promoters or their solicitor by way of formal declaration. The company's Constitution's principal function is to regulate the relationship between the Company and its shareholder or shareholders. If the Registrar

[1] Parts 1 to 16, Companies Act 2014

of Companies is satisfied that the above requirements of the Companies Act 2014 have been complied with he will issue a Certificate of Incorporation usually within 5 business days of receipt of the required documentation. The requirements to publicise the company's existence include the following:

- every company is required to clearly and legibly display its name on the outside of any office or place in which its business is carried on;
- the company name must also be shown in all notices and other official publications of the company and in all bills of exchange, promissory notes, endorsements, cheques and orders purporting to be signed by or on behalf of the company and in all invoices, receipts and letters of credit of the company; and
- the company name must also be displayed on the website homepage of every limited liability company.

Public Limited Company[2]

As a private limited liability company is not permitted to have more than 149 shareholders, the fact that it may not make an offer of its shares to the public, where it is envisaged that such restrictions are inappropriate, a public limited company may be a suitable vehicle which can be incorporated *de novo* or upon the conversion from a private limited company. Such a company must have a minimum of seven members and the nominal value of the company's allotted share capital must not be less than €25,000, before the company commences business or exercises any of its borrowing powers.

Company Limited by Guarantee not having a Share Capital[3]

A company limited by guarantee (CLG) can only be incorporated without a share capital. The members' liability is limited to the amount they have undertaken to contribute to the assets of the company, in the event it is wound up. This is typically a nominal amount. Many charitable and professional bodies find this form of company to be a suitable vehicle where they wish to secure the benefits of separate legal personality and limited liability but do not require a facility whereby shares may be transferred.

Designated Activity Company[4]

A Designated Activity Company (DAC) can be incorporated with a share capital. The members' liability, if the company is wound up, is limited to the amount, if any, unpaid on the shares they hold. The maximum number of members is 149. A DAC must have at least 2 directors and its Constitution must include a memorandum and articles of association. The memorandum will include, and thereby circumscribe, its objects.

A Designated Activity Company Limited by Guarantee (DAC) can also be incorporated under which the members' liability is limited by guarantee. The members have liability under two headings; firstly, the amount, if any, that is unpaid on the shares they hold, and secondly, the amount they have undertaken to contribute to the assets of the company, in the event

[2] Part 17, Companies Act 2014
[3] Part 18, Companies Act 2014
[4] Part 16, Companies Act 2014

that it is wound up. The maximum number of members is 149. A DAC company must have at least 2 directors and its Constitution must include a memorandum and articles of association. The memorandum will include, and thereby circumscribe, its objects.

Unlimited Company[5]

An unlimited company is distinguished from a limited liability company by the fact that there is no limit placed on the liability of the members. There are three forms of unlimited company namely: a private unlimited company, a public unlimited company and a public unlimited company that has no share capital. As the members of such a company have unlimited liability, recourse may be had by creditors to the shareholders (past and present) in respect of any liabilities owed by the company which the company has failed to discharge. Some unlimited liability companies are exempt from the obligation to file their accounts at the Companies Registration Office. This is the principal advantage of opting for unlimited liability. However under the Companies (Accounting) Act 2017, this exemption was removed for the majority of such companies.

Undertakings for Collective Investment in Transferable Securities (UCITS)[6]

UCITS are public limited companies formed under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 & 1999 and the Companies Act 2014. The sole object of a UCITS is the collective investment in transferable securities of capital raised from the public that operates on the principle of risk-spreading. The competent authority, which must approve all registrations of UCITS that wish to carry on activities within Ireland is the Central Bank of Ireland.

European Economic Interest Groupings (EEIG)

EEIGs are regulated under the European Communities (European Economic Interest Groupings) Regulations 1989, and the European Communities (European Economic Interest Groupings) (Amendment) Regulations 2010. An EEIG is a mechanism through which a business within the EU can engage in cross-border commerce. The purpose of an EEIG is to facilitate or develop the economic activities of its members. An EEIG must have a minimum of two members, who may be companies or natural persons, from different Member States. The manager of an EEIG may be a natural person or a body corporate.

Societas Europaea (SE)

A Societas Europaea or SE is a European public limited liability company formed under EU Regulation (Council Regulation 2157/2001) and the European Communities (European Public Limited Liability Company) Regulations 2007. An SE can be formed by merger or as a holding or subsidiary SE or by conversion. An SE must have members from different Member States unless an SE itself is setting up a subsidiary SE. For the purposes of Irish company law an SE is regarded as a PLC.

[5] Part 19, Companies Act 2014
[6] Part 24, Companies Act 2014

5.2 Partnerships

Two or more persons may carry on business through a general partnership established under the Partnership Act 1890. A general partnership is not a separate legal entity and does not confer limited liability on the partners. Accordingly, partnerships tend to be confined to certain regulated activities within the professional services sector where restrictions exist by law on the ability of certain professions to carry on business through a limited liability company. A facility exists under the Limited Partnership Act 1907 to limit the liability of a partner for the debts of the partnership. However limited partnerships are rarely used due to the requirement that such a partner may not participate in the management of the limited partnership.

5.3 Limited Liability Partnerships (LLPs)[7]

Limited liability general partnerships are permitted for certain professional partnerships, such as solicitors.

5.4 Sole Traders

It is possible to carry on business in Ireland without the benefit of incorporation. Such a legal structure is subject to minimal regulation other than the requirement to register for taxation purposes, for which see section 6. However, given the fact that a sole trader remains liable for the entirety of the obligations of the business, such a vehicle tends to be confined to artistic and other low risk ventures.

5.5 Carrying on Business through a Branch Presence

An external company or other body corporate incorporated outside of Ireland may carry on business in Ireland though establishing a **branch** in Ireland, in which case the branch must be registered with the Irish Companies Registration Office under Part 21 of the Companies Act 2014.

The Meaning of the Term "Branch"

Part 21 of the Companies Act 2014 provides that the term ***"branch***" shall have the same meaning as in Council Directive 89/666 of 21 December 1989. It is a concept of EC law whose meaning is ultimately to be determined by the European Court of Justice. European case law supports the view that a branch is a place of business, which has the appearance of permanency, such as an extension of the parent body, has a management structure and is materially equipped to negotiate business with third parties, without recourse to the parent body, the head office of which is abroad. It is likely that most places of business established in Ireland are in fact branches and in those cases Part 21 of the Companies Act 2014 will apply.

[7] Legal Services Regulation Act 2015

The Procedure for the Registration of a Branch

A company which is incorporated outside Ireland in an EEA State and establishes a branch in Ireland must be registered within 30 days of the establishment of the branch. Form F12 (for an EU company) or Form F13 (for a non-EU company) must be completed for the registration of all branches. The Form should be accompanied by particulars of the name of the company and the name of the branch (if different); its place of registration and number, particulars of its directors, secretary and persons having authority to represent it and those authorised to ensure compliance with Part 21 and to accept service of documents and details of its activity in Ireland. In addition the following copy documentation is required to be filed:

- The Charter, Statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company.
- The certificate of incorporation of the company.
- Any certificates of incorporation on any change of name of the company.
- The latest accounting documents as required by Section 1303 (essentially those prepared in accordance with the requirements of the home EEA State).
- Certified English translation, if necessary
- Filing Fee.

The Information Which a Branch is Required to Disclose in Ireland[8]

Every letter and order form used by a branch of a Company is required to bear the following particulars:

- The place of registration of the Company.
- The number with which it is registered.
- The legal form of the Company.
- The address of its registered office.
- The fact that the branch is registered in Ireland and the number with which it is registered.

If on any letter or order forms there is reference to the share capital of the company, the reference shall be to the paid-up share capital. If the company commences to trade under a name other than its incorporated name, the business name must be registered with the Companies Registration Office under the Registration of Business Names Act 1963 on Form RBN1B.

[8] Chapter 3, Part 21, Companies Act 2014

The Requirement for a Branch to File Accounting Documents with the Companies Registration Office[9]

All companies operating a branch in Ireland are required to file with Form F12 or Form F13 on the initial registration and in subsequent years the following:

- The accounts of the Company for the period, including if it has one or more subsidiaries, any consolidated accounts of the group.
- Any annual report of the directors for the period.
- The report of the auditors on the Company accounts.
- Any report of the auditors on the directors' report.

The accounting documents should be accompanied by Form F7.

If the law of the State of incorporation of the Company does not require a directors' report then none is required. However, if accounts are drawn up in accordance with the 4th (individual accounts) or the 7th (group accounts) EU Directives then the directors' report is required.

The Companies Act 2014 obliges an EU company to comply with the 4th, 7th and 8th EU Directives. An EU company has options under the Directives which may have been availed of by its Member State's implementing legislation i.e. options to file abridged accounts and consolidated accounts.

If an EU company is not required by its own law to have accounts audited then there is no obligation to have the accounts audited for filing in respect of the Irish branch.

5.6 Corporate Transactions[10]

Irish law provides a flexible regime whereby the majority of corporate transactions which would otherwise contravene the rule of capital maintenance can be approved by the members without the necessity for approval by the Courts. Strict conditions must be followed, including, in certain cases, a supporting accountant's report. The procedure is known as the Summary Approval Procedure ("SAP") which is contained in Part 4 of the Companies Act 2014. SAP allows for the carrying out of what were restricted activities (i.e. they required a court order) by way of special resolution(75%) of the company's members. The following require a SAP:

Section 82 – Financial assistance for acquisition of own shares

Section 84 – Reduction of company capital

Section 91 – Variation of capital in reorganisations

Section 118 – Treatment of pre-acquisition profits or losses

Section 239 – Loans etc. to directors and others

[9] Chapter 2, Part 21, Companies Act 2014
[10] Chapter 7, Part 4, Companies Act 2014

Section 464 – Domestic mergers

Section 579 – Members' voluntary winding up

5.7 Ongoing Obligations of Corporate Entities to File Financial Statements and Annual Returns[11]

- Directors of the company must ensure that financial statements for the company are prepared in line with Irish accepted accounting standards or with International Financial Reporting Standards, for each financial year;
- Financial statements must also be appended to an Annual Return, which must be delivered to the CRO for filing before the company's annual return date. For a newly formed company, the date for filing the first annual return is six months after incorporation, and within every twelve months thereafter;
- The financial statements attached to the Annual Return must be audited by a registered auditor unless the company falls within a specified exemption[12].

5.8 The Requirement to Maintain Company Registers[13]

Company Directors are under a duty to ensure the maintenance of a number of statutory registers. Such registers include separate registers including particulars of:

- members of the company;
- directors of the company;
- Secretaries of the company;
- Debenture holders of the company; and
- Directors' interests in shares

Pursuant to the **European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019**, all corporate entities registered in Ireland are required to collate and maintain an internal register of natural persons who hold the status of a **'beneficial owner'** of 25%+ of the shares/voting rights in the company. This information must also be provided to the Registrar of Beneficial Ownership, which maintains the public register.

[11] Part 6, Companies Act 2014

[12] Company may be exempt if it meets two of the small co/small group criteria: (1) annual turnover does not exceed €12m; (2) annual balance sheet total does not exceed €6m;or (3) average number of employees is not above 50.

[13] Chapter 9, Companies Act 2014

5.9 Corporate Governance

The management of the company's affairs is entrusted to the board of directors. Although there is no specific corporate governance code in place in Ireland, good governance is promoted in Ireland through the Companies Act 2014 which imposes a number of duties on directors e.g., to act in good faith/with honestly and responsibly/exercise due care, skill and diligence / and avoid conflicts of interest.

5.10 Corporate Restructurings and Reorganisations

Formal and informal business restructuring processes are available to businesses under Irish law. Businesses can agree informal contractual workouts with trading partners and/or creditors, Alternatively, Parts 9 and 10 of the Companies Act 2014 provide for two formal corporate restructuring processes entitled **"Examinership"** and **"Schemes of Arrangement",** which can allow for a court ordered stay of enforcement actions from creditors' in order for a restructuring plan to be formulated, and implemented, including the possible cramdown[14] of historical debts.

Part 9 of the Companies Acts 2014 provides for the domestic division, merger and reorganisation of companies. Cross-border mergers are governed by the European Communities (Cross Border Mergers) Regulations 2008.

[14] Cramdown is the legal authority for courts to impose a restructuring of debt in a corporate insolvency arrangement despite objections from creditors.

6. Taxation

Ireland's taxation regime is business friendly and aimed at attracting inward investment. This business friendly approach towards taxation is reflected in:

- Ireland's low corporate tax rate
- Ireland is already a base for many foreign companies
- Ireland has agreed double taxation treaties with over 74 countries
- Ireland has an advantageous tax regime for Irish resident holding companies

Over 1,000 foreign direct investment giants in industries such as Information & Communications Technology, Social Media, E-commerce, and Pharmaceuticals have adopted Ireland as the hub for their European operations. These include, multinationals like Google, HP, Apple, IBM, Amazon, Facebook, Twitter, Pfizer, GSK and PepsiCo all have operations located in Ireland.

As noted above, Ireland has developed a broad network of Double Taxation Treaties with over 74 countries and it operates a favourable taxation regime applicable to the receipt of foreign dividends received by Irish resident companies.

Ireland's business tax system was ranked fourth for its efficiency and first in the EU in a 2019 study by PWC and the World Bank Organisation based on the level bureaucracy involved in filing and paying taxes and the amount of tax levied upon companies.

6.1 Business Taxation

Corporation Tax

- Scope -

All companies incorporated in Ireland are considered as a resident company in Ireland for tax purposes unless their residence is otherwise determined under a Tax Treaty.

- General -

Ireland's standard corporate tax rate of 12.5%, which is applicable to most companies, is one of the most competitive in the world. In consequence of Ireland's accession to the OECD's Framework on Base Erosion and Profit Shifting (BEPS) in 2021, Ireland, together with 136 signatory states (representing 90% of global GDP) is committed to increasing the 12.5% corporation tax rate to 15% from 2023 for multinational enterprises with a turnover of more than $750 million. Companies with a turnover below that threshold will continue to benefit from the 12.5% rate. It is considered that Ireland's accession to BEPS will effectively secure the preservation of its 12.5% rate for non-multinational enterprises whose turnover does not exceed €750 million.

The corporation tax system operates on a self-assessment basis and is levied on **'all profits'** of Irish tax resident companies and profits of the Irish branch of a non-resident company, in the same way as they apply to Irish resident companies. Profits are defined as **'income** and certain capital gains.

All non-trading income and non-qualifying foreign dividends are taxed at a rate of **25%.**

Trading losses incurred in an accountancy period, or an immediately preceding accountancy period, or a subsequent accountancy period can be offset against trading income. Losses incurred within a group structure of EU resident companies can also be offset against profits made within the group.

- Tax Relief for Expenditure on Tangible Assets -

Capital allowances can be claimed on capital expenditure incurred by companies on the provision of certain "tangible assets" - e.g. plant / machinery & motor cars at 12.5% - which are used by the company.

- Tax Relief for Expenditure in Intangible Assets -

Capital allowances can be claimed on capital expenditure incurred by companies on the provision of certain "specified intangible assets".

The definition of intangible assets includes the acquisition or development of, or the licence to use:

- Patents & Registered designs;
- Copyrights & similar rights;
- Goodwill applicable to qualifying intangible assets, and
- Brand names & Domain names.

The capital allowance is calculated by either deducting for tax purposes the amortisation or depreciation charge included in the company’s accounts, or the company can choose to claim the tax deduction over 15 years, specifically 7% in the first 14 years and 2% in the final year. Qualifying assets are subject to a claw back if they are not used for a period of five years.

The aggregate amount of tax relief a company can claim is up to 100% of the trading income of the company in any one year but can carry forward deductions.

-Research and Development Tax Credits-

A 25% tax credit for Research and Development (R&D) expenditure exists for companies engaged in in-house qualifying research and development undertaken within the European Economic Area. This credit may be set against a company's, or group of companies' corporation tax liability for the relevant accounting period, and can also be carried forward into subsequent accounting periods. There is also a provision allowing for the surrender of

R&D Tax credits to key employees who can demonstrate that they spend at least 50% of their time working on qualifying R & D work.

A tax credit may also be claimed for capital expenditure on buildings or structures used for R&D activity. The tax credit amounts to 25% of the fee for construction, reconstruction, repair or renewal and is available on a proportionate basis provided at least 35% of the building is used for R&D activities.

A recently introduced incentive entitled the 'Knowledge Development Box' ("KDB") creates a 6.25% rate of tax for profits derived from patented or similarly protected inventions and copyrighted software, which are the result of qualifying R&D activity carried out in Ireland.

- Withholding Taxes -

There is a general corporate withholding tax rate of 25% on dividend, interest and royalty payments paid by Irish resident companies. However, this levy will be exempt where the payment qualifies under the EU Parent / Subsidiary Directive, or the payment is made to a company or person who is resident in an EU or Tax Treaty country and the company is not controlled by Irish residents.

- Credit Relief on Foreign Royalty Income -

Unilateral credit relief in respect of foreign withholding taxes on royalty income from non-treaty countries is available to companies in respect of royalties, which are taxable as trading income.

- Holding Company Taxation Incentives -

Establishing a holding company in Ireland is advantageous from a tax perspective for a number of reasons:

1. The 12.5% standard corporation tax rate applies to trading profits, while a 25% rate applies to passive investment income.
2. Dividends received by an Irish resident holding company from another Irish resident company are typically exempt from Irish tax, including dividend withholding tax.
3. Dividends received from a company in a EU or tax treaty country are liable to corporation tax at 12.5% provided the dividend is paid out of trading profits.
4. Also, the 12.5% tax rate applicable to foreign dividends will include dividends from non-treaty / non-EU locations where the company paying the dividend is quoted on a recognised stock exchange in another EU Member State or a tax treaty country or is owned directly or indirectly by such a company, and
5. Lastly, a capital gains tax participation exemption is available on disposal of shares in subsidiaries where certain conditions are met.[15]

[15] For more information on the conditions pertaining to qualifying for the capital gains tax participation exemption under section 626B of the Tax Consolidation Act (TCA) 1997, please follow the link: http://www.

6.2 Personal and Employment Taxes

Every Irish employer is required to deduct income and other related taxes from the gross earnings of each Irish resident, ordinarily resident and / or domiciled employee.

These taxes include: — Pay as You Earn ("PAYE") — the Universal Social Charge ("USC"), and Pay Related Social Insurance ("PRSI"). Generally, an employee will be resident in Ireland for tax purposes if he or she spends 183 days or more in the State.

- PAYE -

PAYE is the name given to the income tax withholding system in Ireland. The table below illustrates the PAYE tax rates and bands applicable to single persons and married couples for 2022:

Single, Widowed or a Surviving Civil Partner without qualifying children	First €36,800 @ 20%, Balance @ 40%
Married or in a Civil Partnership - one Spouse or Civil	First €40,800 @ 20%, Balance @ 40%

Certain reliefs and exemptions are available to reduce the rate of an individual's PAYE.

- PAYE RELIEF -

Special Assignee Relief Programme ("SARP")

The SARP provides individuals arriving to work in Ireland for 6 months, or more, with the option to apply for a PAYE reduction. The amount of the reduction allowed is determined as 30% of an employee's income over €75,000 up to a limit of €1,000,000.

To be SARP eligible:

- An Assignee must have immediately before being assigned to work in Ireland, worked outside of Ireland for a minimum period of 6 months for the relevant employer who has assigned him or her to work in the State;
- An Assignee must have been tax resident outside of Ireland for the 5 tax years immediately preceding the year of his or her arrival in the Ireland; and
- An Assignee must earn a minimum basic salary of €75,000 per annum excluding all bonuses, commissions or other similar payments, benefits, or share based remuneration.

The relief can be claimed for a maximum period of five years. It does not apply to USC or PRSI.

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cpaireland.ie/docs/default-source/Students/ireland-s-holding-company-regime-relief-for-the-disposal-of-shares-in-a-subsidiary.pdf?sfyrsn=0

- USC-

The Standard Rates of USC applicable to regular employees (i.e. those who are not self-employed) for 2022 are:

Income	Rate
Income up to €12,012	0.5%
Next €9,283	2%
Next €48,749	4.5%
Balance	8%

The USC is subject to certain specified reliefs and exemptions.

- PRSI -

Unlike PAYE and USC, which involve a percentage contribution from the employer only. PRSI requires a percentage contribution from the employee, and also a percentage contribution from the employer calculated from the gross income of each employee.

PRSI rates payable 2022

PRSI Class A from 1 January 2022

Weekly Income Band	PRSI Subclass	Employee % (*)	Employer %
€38-€352	AO	Nil	8.80
€352.01-€410	AX	4.00	8.80
€410-€424	AL	4.00	11.05
More than €424	A1	4.00	11.05

Certain credits are also available to reduce PRSI contributions.

6.3 Other Taxes

Capital Taxes

- Capital Gains Tax ("CGT") -

CGT arises on gains made from the disposal of assets.

CGT for individuals applies to:

- All worldwide disposals of assets by individuals who are resident or ordinarily resident in Ireland;

- Gains arising from the disposal of assets situated in Ireland, and all other gains arising from the disposal of foreign assets where remitted to Ireland by individuals who are resident or ordinarily resident, but not domiciled in Ireland; and
- Disposals of certain specified assets by individuals who are not resident or ordinarily resident in Ireland.

CGT for companies:

'Chargeable gains' made from the disposal of worldwide assets by Irish resident companies are chargeable as corporation tax, whereas non-resident companies operating in Ireland are subject to CGT on the disposal of certain specified assets (e.g. Irish real property).

CGT Rates 2022

Standard rate	**33%**
Individual Entrepreneurs Relief	10%
Annual Exemption (individuals only)	€1,270
Foreign Life Policies	40%
Venture Capital Funds	15%

The Entrepreneur's Relief allows individual entrepreneurs to apply a CGT rate of 10% on chargeable gains arising on the disposal of certain business assets up to a lifetime limit of €1 million. Other CGT exemptions include transfers of certain chargeable assets between members of a group of companies.

- Capital Acquisitions Tax ("CAT") -

CAT is payable by the recipient of gifts and inheritances at a standard rate of 33% of the taxable value of the benefit received. If the donor or recipient is resident or ordinarily resident in Ireland or the asset is located in Ireland, CAT may apply. Reliefs and exemptions are available from CAT for gifts / inheritance of certain assets, including the gift of a private dwelling house and gifts of a business or agricultural property.

Value Added Tax ("VAT")

VAT is chargeable on the supply of most goods and services provided in Ireland and throughout the EU. VAT is generally levied at each point in the supply chain, i.e. from a manufacturer suppling goods, right up to retailer selling them.

There are currently four different rates of VAT in Ireland:

- **0%** (the zero rate).
- **4.8%** (the agricultural rate). This applies to supplies of live cattle, deer, goats, greyhounds, horses, pigs and sheep.

- **13.5%** (the low rate). This applies to fuel, building services, catering and short-term accommodation. This is reduced to 9% for certain goods and services, including gas and electricity for a temporary period between May and October 2022, and the hospitality sector.
- **23%** (the standard rate). This rate applies to goods and services that are not exempt, or specifically liable at 0%, 4.8%, or 13.5%.

Stamp Duty

Stamp duty is a tax charged on the execution of certain written legal instruments in Ireland, or, if executed outside Ireland, the instrument must relate to property situated within Ireland or something done or to be done in Ireland.

Written instruments used to execute transfers of **`property'** such as shares, stocks or marketable securities attract a stamp duty rate of 1%, while written instruments executed in relation to **'other property'** such as land and buildings will attract a stamp duty rate of 1% to 7.5% depending on the whether the property is residential or non-residential.

7. Real Estate and Related Services / Charges

Introduction

Whether it is a foreign company incorporating a subsidiary or setting-up a branch office in Ireland, or it is a new start-up entity that is being incorporated, a limited leasehold interest, or the outright purchase of full ownership of a commercial building will most likely be required in order to make the business operational. Having said that, due to the increased popularity of homeworking during COVID 2020-2022, temporary licences in serviced offices provide an alternative to the traditional leasehold and outright purchase models. It is important for investors to note that the Irish legal system has in place procedures that protect and facilitate the acquisition and disposition of all traditional property rights, with lesser protection for service office licence arrangements.

Market Snapshot

Against that background, there is a large quantity of quality new and used office, industrial, and commercial real estate available on the Irish market for leasehold and freehold purposes. For example, in a recent property market review by JLL Estate Agents it was estimated that as of 2021, the total size of the Dublin office market stood at 46.3m sq. ft, with 4.8m sq. ft under construction and refurbishment.

Prime Rent and Lease Terms

- Prime Dublin City Centre quoting rents range from €55.00-€65.00 per sq. ft for new Grade A Buildings
- Prime suburban quoting rents range from €25.00-€35.00 per sq. ft.
- Landlords continue to seek long-term 20-year lease terms with tenant-only break options from 10-12 years, depending on the building.
- Tenants generally looking for greater lease flexibility, with 10-year lease terms incorporating a tenant only break option in year 5.

Steps for Leasing Commercial Real Estate in Ireland

The steps involved in acquiring a leasehold interest in commercial property in Ireland are quite simple and straightforward. A lease agreement is made between the prospective landlord and tenant. The lease agreement is then formally executed by deed for a specific term and principal rental sum. Like any contract there will be room for negotiation on the terms and covenants of the lease. For longer leases, the rent is typically reviewed at five year intervals, with service charges and repair clauses also quite commonly required.

Steps for Purchasing Commercial Real Estate in Ireland

If liquidity is not an issue then the outright purchase of commercial property may suit a foreign entity. This is done by purchasing the freehold title to the property. A solicitor will

be required to carry out the necessary due diligence/enquiries into the title to ensure that it is not encumbered by any pre-existing third party interests. The purchase transaction will be carried out under a contract for sale, and once the terms are agreed a deposit of 10% of the purchase price is normally required.

Thereafter, it may take a number of weeks for the sale to be completed. The execution of a deed of transfer, and payment of the remainder of the purchase price are the final elements of the transaction. Stamp duty tax of 7.5% on the purchase price will also payable by purchasers of Irish commercial property. Different rates apply to the grant of a lease. VAT must also be charged on the sale of commercial property at the 13.5% rate where the property is considered "new".

Once the sale is complete, the new freehold or leasehold owner is required to register their interest with the Property Registration Authority ("PRA").

Planning & Development

The Planning and Development Acts, 2000 to 2021 and Planning and Development Regulations 2001 to 2021 establish that planning permission is required for any development of land or property, unless the development is specifically exempted from this requirement. The term development includes the carrying out of any works (i.e. building, demolition or alteration) on any land or buildings, and the making of a material (i.e. significant) change of use of land or buildings. An application for planning permission is submitted to the local planning authority, in which the property is situated.

8. Investment Grants and Other Incentives

The three state bodies listed below offer a range of services and financial assistance grants to foreign investors which establish a business in Ireland, particularly as an incentive to locate outside of Dublin.

The Industrial Development Authority Ireland[16]

The Industrial Development Authority Ireland **("IDA")** is the government body tasked with providing information, funding and other services to businesses considering or looking to establish operations in Ireland. The IDA provides information on tax, skills, education and research programmes, labour law, investment opportunities, operating costs, infrastructure, and support services. They also have a property team that offers business location services. Grants and funding are available to those providing foreign direct investment in Ireland subject to certain criteria and thresholds being met.

Enterprise Ireland[17]

Enterprise Ireland is the state agency responsible for supporting the development of manufacturing and internationally traded services companies. It provides funding and supports for companies - from entrepreneurs with business propositions for a high potential start-up through to large companies expanding their activities, improving efficiency and growing international sales. Enterprise Ireland promotes joint ventures and strategic alliances between indigenous and foreign companies. The agency also assists foreign firms that wish to establish food and drink manufacturing operations in Ireland.

Údarás na Gaeltachta[18]

Údarás na Gaeltachta offers qualifying businesses and companies from various sectors a range of incentives and supports to start up, develop, expand or locate in a Gaeltacht region/Irish speaking regions of Ireland, primarily in the West of Ireland. These supports/incentives include a range of financial grants, and business property provision services.

[16] Industrial Development Acts 1986-2019
[17] Industrial Development (Enterprise Ireland) Act 1998
[18] Údarás na Gaeltachta Acts 1979-2010

9. Financial Services

Ireland is a recognised centre for global financial services and fund management. Over 430 financial institutions, including 20 of the top 25 global institutions employing over 52,800 people provide financial services to every major economy in the world from Ireland. A total of 64 banks operate from Ireland.

Dublin is placed at number 43 out of 119 global financial centres (March 2022 publication of the highly regarded *ZI Yen Group Global Financial Centres Index*)

The Irish Stock Exchange ("ISE") is an internationally recognised stock exchange and offers many listing services e.g., company listings, listing of debt, funds and ETFs.

Ireland is ranked 13th in the world for financial skills and flexibility/adaptability of people (IMD Global Competitiveness Yearbook 2021)

14 of the top 15 Global Aviation Lessors are based in Ireland with 65% of the world's leased commercial aircraft owned or managed from Ireland.

Ireland has a designated Minister of State for Financial Services, Sean Fleming. Financial Services are promoted under the IFS Ireland banner, which is the brand for Ireland's international financial services industry. IFS Ireland is at the centre of the approach to promoting Ireland as a leading location for international financial services under the Government's wider IFS 2022 Action Plan. IFS Ireland promotes Ireland's strong expertise in areas of:

- Sustainable Finance
- Fintech and digital finance
- Diversity and talent
- Regionalisation and promotion

Ireland as a Centre for Investment Funds

Ireland is a market leader in bringing innovative products to market efficiently and is a committed E.U. member providing full E.U. market access to the 1000+ fund managers from 50+ counties who have assets administrated in Ireland.

- Ireland has €5.4 trillion assets under administration
- There are €3.3 trillion net assets in Irish domiciled funds
- Irish funds are distributed to 90+ counties in Americas, Asia. Pacific, Middle East and Africa
- Ireland is the 3rd largest global centre and the 2nd largest in Europe
- Ireland is the fastest growing major cross border UCITS[19] domicile

[19] The Undertakings for the Collective Investment in Transferable Securities

- 17 of the top 20 global asset managers have Irish domiciled funds.[20]

Funds in Ireland can be established as either UCITS funds or non-UCITS funds (AIFs[21]):

- UCITS are designed for the retail investor as they safeguard investor protection and can be used for a wide range of strategies and asset classes, examples being exchange traded funds and money market funds;
- AIFs are governed by AIFMD[22] and Ireland was one of the pioneers in introducing a regulated framework for AIFs and these funds normally take two types namely QIAIFs[23] or RIAIFs[24].
- Ireland offers managers access to the E.U. wide marketing passport for UCITS and AIFs.

Ireland is an internationally recognised open and tax efficient domicile having the lowest headline corporate tax rate in the OCED[25] and Ireland has tax treaties with over 74 countries.

Ireland has 17,000+ professionals providing fund administration services, transfer agency services, depositary services, legal services, management company services, auditing services, company secretarial services and listing services.

Ireland is an English-speaking member of the E.U. and Eurozone and is known for its clear and practical regulatory framework and support for the funds industry.

The Irish funds industry is regulated by the Central Bank of Ireland.

[20] SOURCE: Central Bank of Ireland, Monterey Insight Ireland Survey 2020 and Irish Funds (Net assets and number of funds valid as of December 2020)
[21] Alternative Investment Funds
[22] Alternative Investment Fund Managers Directive
[23] Qualifying Investor Alternative Investment Fund
[24] Retail Investor Alternative Investment Fund
[25] Organisation for Economic Co-operation and Development

10. Business Regulatory Environment

There is no formal screening process for foreign investment in Ireland. The current business regulatory environment does not seek to impede foreign investment, limit competition, or protect domestic interests. Nevertheless, foreign entrants will be expected to comply with the laws applicable to locally-owned business.

The main regulatory authorities affecting business operations in Ireland include:

The Revenue Commissioners

The Irish Revenue Commissioners are the competent authority responsible for the collection of taxation. To facilitate compliance, Revenue provide a number of online services to businesses.

The Revenue service is equipped with a multitude of statutory powers to ensure compliance with Irish tax legislation. For example, the Revenue can require a tax payer to produce tax records and related documents within a twenty one day period. Revenue officers can enter a premises to carry out inspections and remove documents as evidence. The Revenue can apply to the court for freezing orders where taxes are in significant arrears.

Competition Law and Consumer Protection Commission[26]

The Competition and Consumer Protection Commission ("CCPC") is the statutory body responsible for enforcing Irish and European consumer protection and competition law in Ireland. The CCPC actively investigates and regulates anti-competitive behaviour (e.g. cartels, monopolies, abuse of a position of dominance) and unfair business practices affecting both businesses and consumers. In Ireland, businesses or individuals that breach competition law may be subject to civil and criminal sanctions.

The CCPC is also the body responsible for enforcement of merger control law in Ireland. Mergers and acquisitions which meet certain financial thresholds and other conditions must be notified to the CCPC, and those which involve a European dimension will be referred to the European Commission for further review.

Company Law and the Promotion of Corporate Governance

The main regulatory function of the Companies Registration Office ("CRO") is the enforcement of the Companies Act 2014 in relation to the filing obligations of companies. The CRO can take a number of measures to deal with companies who fail to file their annual returns, including prosecution of the company or directors, or striking the company off the register.

The Corporate Enforcement Authority[27] (the "Authority") is the statutory body responsible for promoting and ensuring compliance with company law in Ireland through enforcement

[26] Competition Law and Consumer Protection Act 2014
[27] Companies (Corporate Enforcement Authority) Act 2021

measures. In order to discharge its role, the Authority possesses various legal powers of investigation and enforcement.

These powers include:

- The initiation of fact-finding company investigations;
- The prosecution of persons for suspected breaches of the Companies Act 2014;
- The supervision of companies in official and voluntary liquidation and of unliquidated insolvent companies;
- The restriction and disqualification of directors and other company officers;
- The supervision of liquidators and receivers; and
- The regulation of undischarged bankrupts acting as company officers.

Banking & Financial[28]

The Central Bank of Ireland is the national competent authority responsible for the supervision and regulation of the Irish banking and financial services industry. Its functions include:

- Processing applications from financial services providers for authorisation in Ireland
- Monitoring compliance with prudential standards, primarily through examining prudential returns (weekly, monthly and annual), financial statements and annual reports, conducting regular review meetings and on-site inspections
- Developing systems and procedures to monitor activities and detect non-compliance by financial service providers
- Issuing guidance notes to enhance supervisory oversight due to continued growth and changes in financial markets
- Supporting the development of domestic legislation and implementing EU regulations and international standard.

Health & Safety[29]

The Health and Safety Authority ("HSA") is the national competent authority responsible for ensuring that health and safety law and regulations are applied and maintained in the workplace. In this respect, the HSA publishes guides with practical advice and recommendations on the development of occupational safety, health and welfare management systems for the workplace. It also has a wide range of inspection and enforcement powers.

[28] Central Bank Acts 1942 to 2018
[29] Safety, Health and Welfare at Work Act 2005

11. Intellectual Property and Data Protection

Ireland has a comprehensive legal framework of protections for the registration and safeguarding of intellectual property ("IP") as well as the safeguarding of data protection rights.

Ireland is a member of the World Intellectual Property Organisation ("WIPO"). WIPO is the global forum for intellectual property services, policy, information and cooperation. IP protection in Ireland is provided for in three principal enactments which are supplemented by regulations:

- The Trade Marks Act 1996;
- The Patents Act 1992;
- The Copyright and Related Rights Act 2000

The Irish IP framework is in line with international and European standards. For example, Irish IP law is fully compliant with the Paris Convention on Industrial Property and the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement.

Patents[30]

Companies can apply to register their patents for protection in three ways:

- For protection within Ireland only, a patent can be registered with the Irish Patents Office.
- For protection in Europe, a patent can be registered with the European Patents Office, thereby enabling the patent to be recognised in countries that are signatories to the European Patents Convention.
- For international protection, a patent can be registered with WIPO under the International Patent System, which will give the patent recognition in countries that are signatories to the Patent Cooperation Treaty.

Trademarks[31]

Trademark registration is one of the most effective ways to build and defend a brand. Companies can register their trademarks for protection in three ways:

- Trademarks can be registered at a national level with the Irish Patents Office, and entered as a national trademark in the Irish Trade Mark Register.
- At EU-level, a trademark can be registered with the European Union Intellectual Property Office, as a European Union trademark pursuant to the EU Trade Mark Regulation.

[30] Patents Act 1992
[31] Trade Marks Act 1996

- For international trademark protection, a company can apply to WIPO for registration of a trademark under the Madrid Protocol — International Trademark System. Once registered under the Madrid Protocol the trademark will have protection in the territories of up to 128 members.

Registered Designs[32]

A registered design is a form of 'industrial property', which can be assigned, transferred, licensed or used by the owner. Companies can register their designs for protection in three ways:

- For protection within Ireland only, designs can be registered with the Irish Patents Office. Some aspects of the "design" may be protected by copyright also.
- For protection, at EU level, a design can be registered with the European Union Intellectual Property Office as a Registered Community Design ("RCD"). Alternatively, a design creator can commercialise it directly without registration by relying on what is known as the Unregistered Community Design ("UCD") right, which is effective for up to three years.
- For international protection, a company can apply to WIPO under the Hague System for the International Registration of Industrial Designs, which allows a company to for register up to 100 designs in over 69 territories through filing one single international application.

Copyright[33]

In Ireland, there are no formalities or registration procedure for owners of a copyright work. Under Irish law it is the intellectual act of creating a work that creates the copyright, which then subsists in the physical expression of the work. Copyright is protected under the Copyright and Related Rights Act 2000, and infringements of same can be enforced in the Courts.

However, it is most important that the originator of a work can establish subsequently when the work and the consequential copyright were created as it may be necessary to commence or defend infringement proceedings, at some later stage. A copy of the work should possibly be deposited with the owner's solicitor and be notarised.

Copyright protection in Ireland includes:

- original literary, dramatic, musical or artistic works, (70 years)
- sound recordings, films, (70 years)
- broadcasts, cable programmes, (50 years)
- the typographical arrangement of published editions, (50 years)
- computer programmes, (70 years)

[32] Industrial Designs Act 2001
[33] Copyright and Related Rights Act 2000

- original databases (70 years)

Additionally, Ireland is also a signatory to the Berne Convention for the Protection of Literary and Artistic Works. The essence of the Berne Convention is that works that were created / originated in one signatory country will be recognised as copyright in another signatory country. Some 179 countries have contracted under the Berne Convention.

Domain Names[34]

The creation and registration of a www.ie Domain Name is a straightforward process and is completed by: (1) selecting a name; (2) forwarding the applicant's Registered Business Number and VAT Number to the Irish Domain Registry; (3) selecting an Accredited, i.e., Registrar to prioritise domain hosting, and (4) submitting a completed application to the Accredited, i.e., Registrar including documentation proving a connection to Ireland.

Once registered, the domain name will be protected and searchable on the Irish Domain Registry.

Ireland's Data Protection Regime

Data protection concerns the fundamental right to privacy of individuals. The office of the Data Protection Commissioner was established under the 1988 to 2018 Data Protection Acts, which implement the provisions of various EU Directives and the GDPR Regulation.

The Data Protection Commissioner is responsible for upholding the rights of individuals as set out in the Data Protection Acts 1998-2018 and GDPR, and enforcing the obligations upon data controllers. Given that the majority of social media enterprises have located their European head offices in Ireland, many issues relating to the rights of data subjects under the data protection legislation have been addressed in the Irish Courts. Organisations/businesses holding information on their employees are deemed to be data controllers and are required to follow the Eight Rules of data protection:

- Obtain and process information fairly;
- Keep it only for one or more specified, explicit and lawful purposes; Use and disclose it only in ways compatible with these purposes;
- Keep it safe and secure;
- Keep it accurate, complete and up-to-date;
- Ensure that it is adequate, relevant and not excessive;
- Retain it for no longer than is necessary for the purpose or purposes;
- Give a copy of his/her personal data to an individual, on request.

[34] The Communications Regulation (Amendment) Act 2007

12. Investor and Entrepreneur Programmes[35]

12.1 Introduction

There are no restrictions on the nationality of shareholders in an Irish Company. However the ability to come and work in Ireland either as an employed or self-employed person is controlled. Nationals of the European Economic Area ("EEA"), UK or Switzerland are entitled to come and work in Ireland without the requirement to obtain a visa or work permit. The Programmes below are of relevance of other persons who wish to live and work in Ireland.

12.2 The Immigrant Investor Programme

Approved participants in the Immigrant Investor Programme and their immediate family members will be allowed enter Ireland on multi-entry visas and to remain in Ireland for a defined period. Ordinarily this will be for a period of 5 years - reviewable after 2 years. After 5 years of residence participants under the Programme will be entitled to apply for long term residence in Ireland. The sort of investments envisaged include Enterprise Investment, the Investment Fund, Real Estate Investment and Fund (REIT). Endowments in the cultural, sporting educational or health areas also qualify under the Programme. Applicants must be of good character and have a minimum net worth of €2m. An applicant must be in a position to fund an investment without third-party financing.

The level and duration of financial commitment required from the Investor will depend on the nature of the investment but generally ranges from €500,000 for endowment-related investments to €2 million.

The Department of Justice and Equality is guided by and reliant upon the advice and expertise of the Irish State Agencies, IDA Ireland and Enterprise Ireland, in assessing individual proposals.

The Immigrant Investor Programme is designed to attract individuals with a successful background in business to invest in and relocate to Ireland. A range of investment options are provided for with different thresholds applied depending on the nature of the investment:

- A once off philanthropic endowment of a minimum of €500,000 to a public project benefiting the arts, sports, health or education in Ireland. Investors may not receive a financial return or recoupment of the endowment.
- A minimum of €1,000,000 investment in an Approved Investment Fund, which is regulated by the Central Bank. The investment is to be held for a minimum of three years.

[35] These are extra statutory in nature

- An enterprise investment of a minimum of €1,000,000 into an Irish business for a minimum of three years. The enterprise may be a start-up established by the investor or an existing business registered in Ireland.
- A minimum investment of €2,000,000 in any one or more REITS listed on the Irish Stock Exchange for a minimum period of three years.

The Irish Government has no responsibility for the performance of an investment. Investments are a private matter between the investor and the invester and legal advice should be obtained prior to any investment being made.

12.3 The Start-up Entrepreneur Programme

Successful applicants under the Start-up Entrepreneur Programme and their nominated family members will be granted residence in Ireland for two years which will be renewable for a further three years. After 5 years of residence, participants under the Programme will be eligible for long term residence in the State. Where required the applicant will be granted a multiple entry visa for Ireland for the same duration. This will allow successful candidates to reside in Ireland and to travel freely to Ireland for the duration of the permission. The conditions of residence and the conditions for renewal are detailed below.

The Programme provides that migrants with a proposal for a high potential start-up in the innovation economy and funding of €50,000 can be given residency in Ireland for the purposes of developing their business. No initial job creation targets are set as it is recognised that such businesses can take some time to become established. The intention of the Programme is to support High Potential Start-ups.

The Programme recognises the need to foster start-up enterprises in priority innovation sectors of the economy. A "High Potential Start-up" is defined as a start-up venture that is:

- Introducing a new or innovative product or service to international markets;
- Capable of creating 10 jobs in Ireland and realising €1 million in sales within three to four years of starting up;
- Led by an experienced management team;
- Headquartered and controlled in Ireland;
- Less than six years old; and
- Has financial backing of not less than €50,000 (of which more detail is offered below).

Applicants are required to have secured funding of a minimum of €50,000 for their business proposal from one or a combination of the following sources-

- Their own resources;
- A business loan;
- Business Angel/Venture Capital funding; or
- Grant from an Irish State Agency.

12.4 Evaluation of Applications Under the Immigrant Investor Programme and the Start-up Entrepreneur Programme

Applications are submitted on a prescribed form and must be accompanied by the prescribed fee and supported by all documentation as required under the relevant Programme. Admission to both Programmes is subject to the approval of an Evaluation Committee composed of suitably qualified and experienced people from relevant State Agencies and elsewhere.

All communications between the Committee and applicants under the Programmes are directed to the applicant or their nominated legal or financial representative. No other third party or agency communications are accepted or considered.

12.5 Naturalisation Options

The above two Programmes offer interested parties the potential for residence in the State, but not Irish Citizenship. Successful applicants are only be able to apply for citizenship through naturalisation or one of the other means under the terms of the Irish Nationality and Citizenship Acts 1956-2004 in the same way and under the same conditions as all other non-Irish nationals.

12.6 Residence

Successful applicants for the Immigrant Investor Programme and the Start-up Entrepreneur Programme and their immediate families will be granted residence permission for two years initially. Their immediate family means their spouse, civil partner or partner and dependent children aged under 18. If required they will be granted multiple entry visas for the same duration. A permission can be renewed for a further three years. After these first five years, the applicant can apply for long-term residence. They will need to ascertain if they require a visa to enter Ireland.

13. Employment Work Permits

EEA, UK and Swiss nationals are not required to have an employment permit to work in Ireland. Unless the applicant qualifies under the Immigrant Investor Programme or the Start-up Entrepeneur Programme, non-EEA, non-UK and non-Swiss nationals are required to obtain an employment permit from the Department of Jobs, Enterprise and Innovation under the Employment Permits Acts 2003-2014. Although there are nine types of employment permit available, the Intra Company Transfer Employment Permit is likely to be of interest to most overseas businesses. Such Permits are available for foreign nationals who are members of senior management, key personnel and trainees who are seconded from an overseas branch of a multinational corporation to its Irish branch. In order to qualify the employee must earn at least €40,000 p.a. and must have been working in the overseas company for at least 6 months prior to transfer. The permit may be granted for a defined period up to 24 months in the first instance and may be extended upon application to a maximum stay of 5 years. For further information on such permits, please see the *Clark Hill Briefing on Work Permits*.

14. Useful Contacts

Department of Jobs, Enterprise and Innovation

Address: 23 Kildare Street, Dublin

Phone: +353 (1) 727 2000

Web: www.diei.ie

Enterprise Ireland

Address: East Point Business Park, Dublin 3

Phone: +353 (1) 727 2000

Web: www.enterprise-ireland.com

IDA Ireland

Address: Three Park Place, Hatch Street Upper, St. Kevin's, Dublin 2

Web: www.idaireland.com

Phone: +353 (1) 603 4000

IFS Ireland

Web: www.ifsireland.com

Údarás na Gaeltachta

Address: Na Forbacha, Co. Galway

Phone: +353 (91) 503 100

Web: www.udaras.ie

Companies Registration Office

Address: Parnell House, 14 Parnell Square E, Rotunda, Dublin 1

Phone: +353 (1) 804 5200

Web: www.cro.ie

Irish Patents Office

Address: Hebron Rd, Kilkenny

Phone: +353 (56) 772 0111

Web: www.patentsoffice.ie

Revenue Commissioners of Ireland

Web: www.revenue.ie

Phone: +353 (1) 702 3011

Department of Foreign Affairs & Trade

Address: 80 St Stephen's Green, Dublin 2

Phone: +353 (1) 408 2000

Web: www.dfa.ie

15. Additional Information

Clark Hill has a full-service Irish law practice and experience advising European and US clients doing business in or through Ireland. Our practice includes corporate/transactional, litigation & dispute resolution, insolvency, property, employment, investment funds, and cybersecurity. Our team serves a range of industries, from real estate developers and financial institutions to logistics firms, wind farms and home health providers.

Clark Hill Solicitors LLP is the only Irish member of the Commercial Law Group ("CLG"). The CLG is a network of commercial law firms throughout Europe, the USA and South Africa.

For additional information and / or advice on starting a business in Ireland please do not hesitate to contact us on the details set out below.

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