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GUIDE TO TAX IN  
IRELAND 2008



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# INTRODUCTION

The primary focus of Ireland's strategy to attract foreign direct investment is to create a favourable economic and fiscal environment which is supportive of industry. This is illustrated by the fact that almost 1,000 multinational corporations have chosen Ireland as their strategic European base. Over the past two decades, Ireland has secured investment from a wide range of internationally focused business sectors including Information and Communications Technology, Life Sciences, Engineering & Consumer Products, Internationally Traded Services and International Financial Services.

Large numbers of leading edge and technologically advanced companies, increasingly reliant on an educated and highly skilled workforce, have located across Ireland. These investments are inherently dynamic, market and innovation-driven, and span all areas of the business value chain.

Ireland presents an opportunity to the international business investor to be part of a leading global business location offering world-class innovation and development, superior performance and efficiency, and cutting edge business integration and support solutions.

## Education System meets the needs of a competitive economy (country score out of 10)



Source: IMD World Competitiveness Yearbook 2008

# CORPORATION TAX

## Corporate Tax Rates

Since 1 January 2003, Ireland's corporate tax rate is 12.5% on all trading profits. The previous 10% "manufacturing" rate is still available to existing eligible trades until 2010, as long as the trade qualified for the 10% rate before 30 July 1998. This change broadens the type of commercial activities that can qualify for Ireland's low corporate tax rate. It also opens up new opportunities for activities such as Intellectual Property Management and Supply Chain Management.

A tax rate of 25% applies to non-trading income.

(A guide prepared by the Irish Revenue Authority to explain what is classified as "trading" is available on the Revenue website at [www.revenue.ie/doc/trade.doc](http://www.revenue.ie/doc/trade.doc))

## Corporate Tax System

In Ireland, companies are liable to Corporation Tax on their total profits, i.e. trading income, passive income and capital gains. In order to calculate the amount of profit that is subject to tax, it is necessary to understand some basic tax rules.

- **Interest**

Interest on borrowings used for the purposes of a trade or business is tax-deductible on an accruals' basis, subject to some exceptions. Interest on borrowings used for non-trading purposes, for example, for the acquisition of shares in another company, may be deductible on a paid basis subject to certain conditions.

- **Capital Allowances**

Accounting depreciation is not deductible in computing business profits for tax purposes. Capital allowances are, however, available in respect of expenditure on industrial buildings (i.e. buildings in use for the purpose of industrial manufacturing), and on plant and machinery.

The allowances are calculated on a straight-line basis at the following rates:

- Industrial Buildings – 4.0% per annum.
- Plant & Machinery – 12.5% per annum.

The purchase of computer software is considered an expenditure on plant and machinery.

- **Tax Losses**

Losses are computed for tax purposes in the same way as business profits. Trading losses can be offset against any other income, either in the current or preceding accounting period (of equal length). Given the difference in tax rates, i.e. 10%, 12.5% or 25%, the amount of losses required to shelter the income is dependent on the tax rate which would have been applied to the income in the absence of the loss relief.

Any excess losses can be carried forward indefinitely against future trading income.

- **Group Relief**

The concept of "Fiscal Unity" or consolidated group tax does not exist in Ireland. However, trading losses as computed for tax purposes may be offset on a current period basis against taxable trading profits of another group company. Certain foreign losses may be included where there is no other manner of giving relief for these losses.

A group consists of a parent company and all of its 75% subsidiaries, with all group members being tax resident in Ireland or in another Member State of the European Economic Area (EEA). Non-Irish group members may only surrender losses from activities which would, if profitable, be subject to Irish tax.

Capital losses cannot be surrendered within a group.

- **International Financial Reporting Standards**

Where financial statements are drawn up in accordance with International Financial Reporting Standards, they will be used as the basis for company profits. There are detailed provisions covering the transition to the standards.

- **Pre-Trading Expenses**

In computing Irish trading profits, non-capital expenditure incurred in the 3 years prior to the commencement of a trade is allowable as a deduction in calculating taxable profits. Capital allowances may be available on capital expenditure incurred prior to commencement.

## Tax Administration

The Irish tax system incorporates a self-assessment regime under which companies are obliged to determine whether or not they incur corporation tax and, if so, to file a tax return and make an appropriate tax payment.

When activities in Ireland become subject to Irish tax, the company is required to file a form (TR2) with the Irish Revenue Commissioners, which handles tax registration for Corporation Tax, PAYE/PRSI and VAT, where appropriate.

It is now possible to file tax returns online by using the Revenue On-Line Service (ROS). It also enables taxpayers to view details of their tax balances ([www.ros.ie](http://www.ros.ie)).

- **Transfer Pricing Rules in Ireland**

Transfer Pricing in Ireland is confined to transactions involving Irish tax incentives. For example, transactions between a company that qualifies for the 10% tax rate and an associate non-10% company are subject to transfer pricing rules, which generally require that these transactions must be at arm's length.

- **Foreign Tax Credits**

Foreign taxes paid by an Irish tax resident company, whether imposed directly or by way of withholding, may be creditable in Ireland. The calculation of the credit depends on the nature of the income item, but in all cases the credit is limited to the Irish tax referable to the particular item of income. This is now extended to foreign trading branches and the foreign tax credit for branch income is limited to the Irish tax referable to the pool of foreign branch income. This pooling provision allows for the fact that foreign branch profits may be taxed at a variety of tax rates and looks at the overall rate, not at the rates country by country.

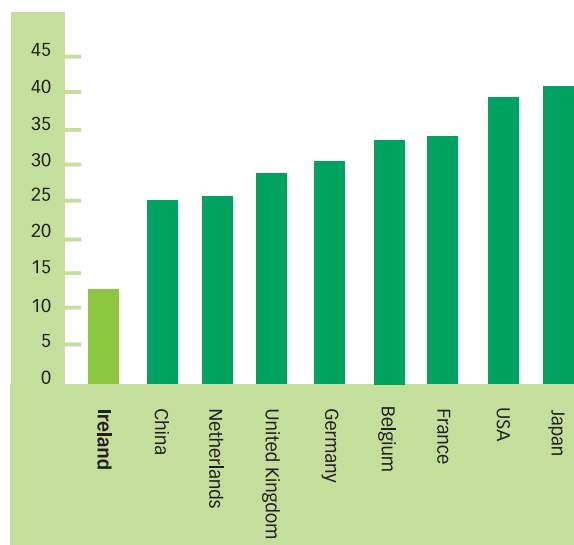
- **Shipping and Tonnage Tax**

Tonnage Tax is a scheme where, as an alternative to calculating the actual profits of a qualifying shipping company, the tax charge is levied each year based on the tonnage of the ships operated by the company.

- **Tax Exempt Government Securities**

Foreign companies in Ireland are exempt from corporation tax in respect of interest received from certain Irish Government Securities issued to them. Such securities can be issued in a number of major currencies.

## Corporate Tax Rates %



Source: Deloitte & Touche 2008

# REPATRIATION OF PROFITS AND IRISH WITHHOLDING TAX

Although a withholding tax of 20% applies to dividends and other profit distributions made by an Irish tax resident company, extensive exemptions are available in cases of certain payments to certain shareholders, including:

- Irish tax resident companies.
- Charities and pension funds.
- Certain collective investment funds.
- Certain employee share ownership trusts.
- Certain companies and individual residents in other EU Member States, or tax treaty countries.

Dividends and other profit transfers from Ireland do not have to be in euro. Any currency can be used.

### • Double Taxation Agreements

To facilitate international business, Ireland has generated a comprehensive network of double taxation agreements. To date, Ireland has 44 such agreements which provide for the elimination or mitigation of double taxation with the following countries:

Australia, Austria, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Israel, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Romania, Russia, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America and Zambia.

Ireland continues to expand this agreement network. Agreements are currently under negotiation, or awaiting ratification, with the following countries:

Argentina, Chile, Egypt, Georgia, Kuwait, Macedonia, Malta, Moldova, Morocco, Serbia, Singapore, Thailand, Tunisia, Turkey, Ukraine and Vietnam.

In the case of Chile, the agreement has been signed by both parties and ratified by Ireland. In the case of Vietnam, the agreement has been signed.

Other countries have also been identified by Ireland as having potential for double tax agreements. These countries include:

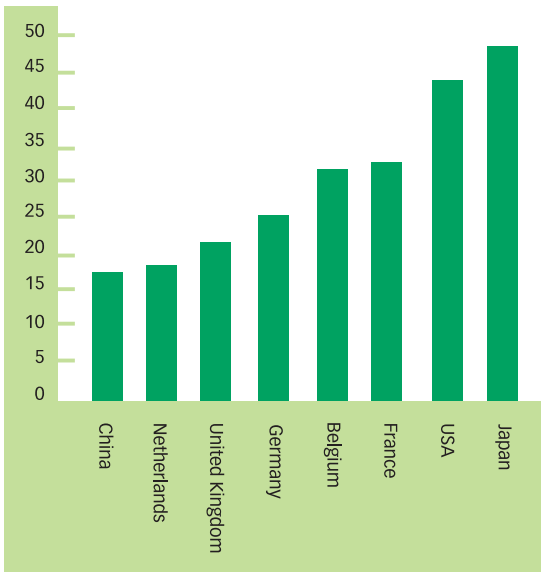
Belarus, Brazil, Hong Kong, Iran, and the Philippines.

There are negotiations for the revision of some existing treaties.

A tax cooperation agreement has been signed with the Isle of Man.

In addition, where a double tax agreement does not exist with a particular country, unilateral provisions within the Irish Taxes Acts allow credit relief against Irish tax for foreign tax paid in respect of certain types of income.

**% Increase in profit required to achieve the same distributable income available in Ireland**



Source: Deloitte & Touche 2008

## OTHER BUSINESS TAXES

### Local Taxation

There are no provincial, municipal or local taxes on the profits of companies. The only local tax is a property tax, referred to as "rates", levied by Local Authorities on commercial properties. An amount, or rate, is payable per €1 valuation of the property. The rate is set annually by each Local Authority, which also determines the valuation of the property.

### Value Added Tax (VAT)

Value Added Tax, which is a tax on consumption rather than production, is charged on goods and services supplied in the course of business. VAT at importation is also payable on imports from outside the European Union (EU). Credit is given for VAT paid to registered traders; thus it is ultimately borne by the final consumer. VAT rates range from zero to 21% depending on the product or service, most attracting a charge of 21%. There are detailed rules applying to VAT on property.

- **Export VAT Exemption**

Exports are zero rated for VAT, except those to unregistered persons in the EU. Companies that export 75% or more of their output can apply to the Revenue Commissioners for authorisation to receive almost all of their goods and services from Irish and foreign suppliers free from any VAT charge. This reduces administration and the need to get a refund of VAT.

### Customs and Excise Duties

Ireland is a member of the European Union (EU) and all border controls between EU Member States have been eliminated. This allows duty-free importation of goods from other EU countries. Goods imported from outside the EU are subject to customs duty at the appropriate rate specified by the EU's Common Customs Tariff. The rate of duty is based on the International Harmonised System (HS). The EU has preferential tariff agreements

with certain countries and country groupings, which result in the rates being reduced or eliminated.

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

- **Customs and Excise Relief**

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

**Inward processing** – approval may be obtained to import goods duty-free from outside the EU for processing and re-exportation to non-EU countries.

**Warehousing** – businesses can obtain approval to store goods duty-free on their premises until required. If the goods are for processing, relief will apply. Where a finished product for sale is involved, no duties are payable if the goods are re-exported outside the EU. Where the goods are released into the EU, the appropriate duties are payable. Special arrangements operate to allow movement of dutiable goods within the EU, with the duty being eventually paid in the country of consumption.

### Taxes on Capital

- **Capital Gains Tax (CGT)**

Profits arising from the disposal of assets, adjusted for inflation up to 31 December 2002, are subject to capital gains tax. The standard rate of such tax is 20%. Trading losses may be offset on a value basis against capital gains for the current or previous year.

Capital assets may be transferred between Irish resident group companies without liability for tax on the capital gain.

- **Stamp Duty**

Stamp duty is payable on the transfer of land and buildings, the lease of property and on certain legal instruments. Rates vary between 1% and 9%, except on leases of greater than 100 years where the rate is 12%. Transfers between companies with a 90% relationship are exempt from stamp duty.

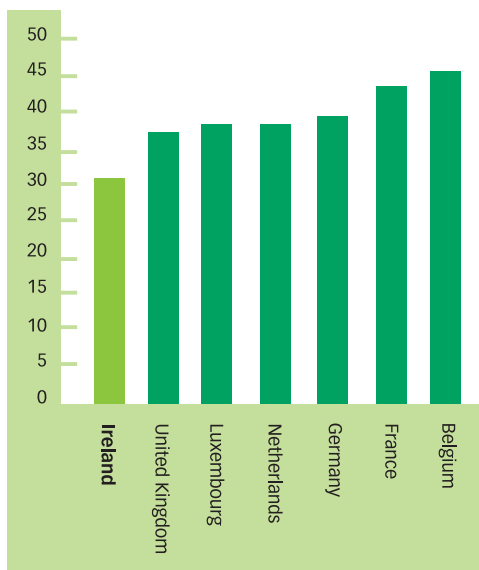
- **Capital Duty**

Capital duty in Ireland has been abolished.

- **Capital Acquisitions Tax (CAT)**

This tax is applied to gifts and inheritances. As it is a tax on acquisitions, the person in receipt of the gift or inheritance is liable for any tax payable. There are a number of exemptions and reliefs available.

Overall Tax Burden as % of GDP



Source: Eurostat 2007

## HOLDING COMPANIES

Until recently, investment in Ireland was likely to be routed through a holding company in another European location such as the Netherlands or Luxembourg. Recent legislation has put Ireland in a position to compete with these established European holding company locations. Thanks to these changes, an Irish company can now act as a European/Regional holding or Intermediate holding company. The changes relate to the treatment of capital gains and foreign dividends:

- **Capital Gains Tax (CGT) on Share Disposals**

Irish holding companies are allowed an exemption from capital gains tax on the disposal of shares in their subsidiaries. The exemption is subject to a number of conditions.

To be regarded as a holding company, the company must hold at least 5% of the shares of another company.

- **Foreign Dividend Income**

The Irish tax system is designed to tax the receipt of foreign dividends from trading at a rate of 12.5% and from other foreign income at a rate of 25%, but allows this liability to be reduced, in certain circumstances, by the foreign underlying tax already paid on this income. There is a unilateral tax credit for underlying foreign tax provided there is a 5% shareholding relationship between the companies. In addition, "Onshore Pooling," allows the foreign dividends to be pooled together, before they are offset against the Irish tax liability. However, excess tax on foreign dividends liable at a rate of 12.5% cannot be used against those liable at the 25% rate.

The tax credits do not need to be utilised in the year in which the dividend is received. They can be carried forward indefinitely or offset against Irish tax on future foreign dividends.

Ireland's business-friendly environment and low corporate tax rate has resulted in Ireland becoming a preferred location for holding and managing intellectual property rights. Therefore, it is not surprising that Ireland's tax

system encourages both the creation and management of intellectual property.

- **Research & Development (R&D) Tax Credit**

Ireland introduced the R&D Tax Credit scheme in 2004 which was designed to encourage both foreign and indigenous companies to undertake new and/or additional R&D activity in Ireland.

The tax credit is available to Irish tax-resident companies engaged in in-house qualifying R&D undertaken within the European Economic Area (EEA), provided such expenditure is not otherwise eligible for tax benefit elsewhere within the EEA.

Core definitions of qualifying R&D expenditure are contained in the 2004 Finance Act, which covers both revenue and capital expenditure. In practice, it covers wages, related overheads, plant and machinery, and buildings.

(Guidance on what activities constitute R&D is detailed in regulations issued by the Department of Enterprise, Trade and Employment, and is available at ([www.revenue.ie/pdf/research-dev.pdf](http://www.revenue.ie/pdf/research-dev.pdf))

The credit, as initially legislated, provided that up to 5% of R&D expenditure could be outsourced to European universities.

The R&D tax credit scheme was enhanced by both the 2007 and 2008 Finance Acts. The 2007 Finance Act fixed the base year, against which qualifying incremental expenditure on R&D is measured, at 2003 for a further three years to 2009. This provided an additional incentive for increased expenditure on R&D in 2007, 2008 and 2009. The 2003 base year had originally been fixed for the first three years of the scheme (2004-2006) and was due to roll forward to 2004 for the purpose of calculating the tax credit for 2007. The 2008 Finance Act has further improved the scheme by retaining the base year at 2003 until 2013. This measure provides additional incentive for any company performing R&D activities.

Companies that sub-contract R&D work to unconnected parties also qualify up to a maximum of 10% of the qualifying R&D expenditure in any one year.

In order to qualify for the tax credit, it is necessary to seek to achieve scientific or technical advancement and involve the resolution of scientific or technological uncertainty.

• **Patent Royalty Exemption**

In addition to the 10%, 12.5% and 25% tax rates, Ireland’s tax legislation contains an exemption for income derived from “qualifying patents”.

Prior to the 2007 Finance Act, a qualifying patent was defined as a patent in respect of which the research, planning, processing, experimenting, testing, devising, designing, developing or other similar activity leading to an invention was carried out in Ireland. The 2007 Finance Act widened the definition to include activity undertaken in the EEA (European Economic Area). It also introduced an upper cap of €5 million on the amount of qualifying patent income that can qualify for the exemption in any one year. The exempt income from a “qualifying patent” is any royalty, or other sum, paid by the user of the invention patented. As a company usually holds the patent, this income is firstly exempt from tax in the hands of the company. In addition, Irish tax legislation provides that the tax-free nature of such income can be passed through a company to the shareholders who receive dividends from a company that qualified for the patent income exemption.

Rules have also been introduced for individuals which limit the amount of tax exempt income that individuals can receive without incurring a tax charge. Patent royalties, or dividends from patent royalties, are examples. The rules are effective for the tax year 2007 and subsequent years and, broadly speaking, ensure that an individual pays an effective rate of tax of at least 20% on their total income. Any unused reliefs can be carried forward to future years. Individuals with taxable income of less than €250,000 are not affected. Companies are not affected by these restrictions.

• **Stamp Duty**

In order to make Ireland a more attractive location for Intellectual Property (IP), there is no stamp duty tax charge from the transfer of Intellectual Property to Ireland. This exemption also applies to the value of any goodwill attaching to the intellectual property.

Benchmarking European Tax and Legal Environments	
Country	Score
<b>Ireland</b>	<b>1.27</b>
France	1.36
UK	1.46
Belgium	1.51
Netherlands	1.61
Luxembourg	1.62
Germany	2.15

Source: EVCA, 2006

## PERSONAL TAXATION

### Tax Deductions for IP Costs

The Irish tax treatment of intellectual property is dependent on the nature of the IP rights and can be summarised as follows:

- **Scientific Research:** revenue and capital expenditure on activities in the field of natural or applied science for the extension of knowledge is allowable as a trading expense in the year in which the expenditure is incurred. The write-off is not available for mining or petroleum-related research.
- **Patents:** can be written-off by a tax deduction generally claimed over 17 years on a straight-line basis, or over the life of the patent if less than 17 years.
- **Know-how (industrial):** can be written-off fully as a trading expense in the year in which it is incurred. The write-off is not available where the know-how was part of an acquired business or purchased from a related party.
- **Software:** is written-off over 8 years on a straight-line basis, where the software is used for business purposes.
- **Trademarks:** no tax deduction is available for the cost of developing or acquiring trademarks, although a deduction is available for the cost of obtaining the registration of a trademark.
- **Copyright:** as per trademarks above.
- **Other (including brands):** no tax deduction is available for the purchase of other IP assets, although it may be possible to obtain a revenue deduction for costs incurred in building a brand, i.e. advertising, promotion etc.

### Income Tax

Income tax is payable by individuals and is charged on an annual basis. Tax rates for 2008 are as follows:

	Taxable Income	Rate
Single/Widowed Person	First €35,400	20%
	Balance	41%
Single/Widowed Person with Dependent Children	First €39,400	20%
	Balance	41%
Married Couple (One Income)	First €44,400	20%
	Balance	41%
Married Couple (Two incomes)	First €70,800	20%
	Balance	41%

### • Personal Tax Credits

Income tax due on taxable income is reduced by personal tax credits, which are available to each individual and married couple. The principal tax credits for 2008 are:

Single person	=	€1,830
Married couple	=	€3,660
PAYE	=	€1,830

The PAYE credit is for individuals paying tax under the Pay As You Earn system. Other deductions are also available, including rent and service charges, by way of tax credit at the standard (20%) rate of tax. Mortgage interest and health insurance relief are dealt with at source.

### • Taxation of Foreign Domiciled Persons in Ireland

Most foreign executives working for overseas companies in Ireland would be classified as being resident but not domiciled in Ireland, and thus are subject to Irish income tax on income earned in Ireland and the UK and previously were subject to tax on any income remitted from outside these jurisdictions.

The Finance Act 2006 restricted this relief, in that if an individual performs their duties of employment in Ireland, this employment income is now subject to Irish income tax, regardless of domicile or whether this income is remitted to Ireland. The exemption still applies to investment income and to employment income from duties performed outside Ireland.

- **Approved Profit-Sharing Scheme**

Contributions by an employer to an approved profit-sharing scheme are treated as an allowable trading expense. These contributions are used to purchase shares for employees up to a maximum of €12,700 per employee per annum. The employee is not charged income tax on the disposal of shares if they are held for at least three years. The first sale by the employee is also free from stamp duty.

- **New Share-Purchase Relief**

Employees who purchase new ordinary shares issued by their employer company can claim tax relief up to a lifetime limit of €6,349. The company must be incorporated and resident in Ireland.

- **Employee Share-Ownership Trusts**

Companies can obtain a tax deduction for the cost of setting up and maintaining a scheme to purchase company shares for the benefit of employees. Shares can be held in trust for up to 20 years. Where the trust is linked to an approved profit-sharing scheme, the transfer of shares to the employee will not be subject to income tax.

- **Approved Share-Option Scheme**

Under a share-option scheme approved by the Revenue Commissioners, an employee is only liable to Capital Gains Tax on any profits made on the disposal of the shares, and not on the value of the shares themselves. To qualify for approval, the scheme must be open to all employees. However, a maximum of 30% of these shares may be retained for “key” employees.

## National Social Insurance

Social security in Ireland is provided by means of social welfare insurance known as Pay Related Social Insurance (PRSI). It is compulsory for all employees aged 16 or over to be covered by social insurance. Both employers and employees contribute towards the scheme and the contributions are calculated as a percentage of earnings. A health contribution and training levy, collectively known as levies, are also payable.

All foreign employees working in Ireland for more than one year must make social insurance contributions, even if they are paid from abroad. The only exceptions are EU nationals who are contributing in another Member country, or persons from a country with which Ireland has a social security agreement.

Employers’ contribution to PRSI is 10.75% of gross salary.

Employee Contributions are as follows:	
<b>PRSI</b>	4% of all earnings except the first €352 per week, up to a ceiling of €50,700.
<b>Levies</b>	2% on all income, except those earning €500 per week or less. 2 1/2% on all income, except those earning €1,925 per week or less.

## Other Personal Taxes

Individuals are also liable to other taxes where appropriate including Capital Gains Tax, Capital Acquisitions Tax and Stamp Duty.

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