

Ireland's tax landscape in 2026: What's on the horizon

Hi, everyone, and welcome to the first episode of A&L Goodbody's in Conversation with our new partners podcast series. My name is Trevor Glavey. I'm a partner in the Tax practice here in A&L Goodbody, and I'm joined by my colleague Stephen Egan.

Stephen, do you want to introduce yourself? Yeah, sure. Hey, everyone. I'm Stephen Egan. I'm also a tax partner in ALG's Tax Department. Thanks, Trevor. So, you might have guessed, with two tax partners on the podcast, this is going to be a tax-focused couple of minutes.

We're going to bring you through some of the key items that should be on your agenda for 2026 from a tax perspective in Ireland if you're doing business here or indeed planning to do business here. So, Stephen, let's dive into it.

Stephen, let's start where many businesses will have a particular interest and the upcoming proposed changes to Ireland's interest regime. Thanks, Trevor. Yeah, I think it's a good place to start. For a lot of businesses and taxpayers in Ireland, you know, interest deductibility and managing and kind of ensuring that they get proper deductions is a key consideration when it comes to operating your business and ensuring that you have a tax-efficient structure.

For anyone listening who's not overly familiar with Ireland's rules regarding the taxation of interest, they've kind of evolved in a somewhat piecemeal or ad hoc fashion over the years. So, there are separate sections for trading, what are called 247 deductions, and certain provisions around interest deductions when you have renting or buying renting property.

What's kind of come into focus in the last while is that when you've had EU mandated and BEPS related changes, such as ATAD changes, for example, on the EU level, the kind of difficulties and limitations of the Irish rules and the lack of kind of joining up between them has kind of come into stark focus.

So, it's kind of shone a kind of a stark enough light in respect of maybe limitations and also that there's a kind of a data nature to them that they aren't necessarily fit for purpose at this point in time.

So, with that in mind, I think the Department of Finance has decided that, you know, after several previous consultations, that this year in the Finance Act, there will be, you know, fairly material updates in respect of Ireland's interest taxation regime.

And as part of that, you know, they put out a feedback statement in November and there was a straw man, you know, including that, which set out some of those proposed changes. And within that, probably three to four that are very notable.

One is a change to what's called a profit-motive test for interest deductibility. The commencement of transfer pricing provisions applying to medium-sized enterprises. So currently small and medium-sized enterprises are outside the scope of Ireland's transfer pricing rules.

Amendments to our interest limitation rules, so they're an ATAD EU-driven measure that's there, but they're proposing some amendments to those. And also an amendment to the basis of how you tax certain passive income that previously would have been taxed on a received basis and now is going to be taxed on an accrues basis.

So, moving similar to how it would be taxed in a trading context. Thanks, Stephen. Yeah, I think client feedback historically, and certainly in light of all the plethora of changes brought in by BEPS, ETAD, so on that you mentioned, has been our rules are just overly complex.

So, it's good to see the Department of Finance grasping the nettle, so to speak, when it comes to tackling these issues. The feedback by stakeholders on the strawman proposal, I think it's fair to say, has been somewhat mixed.

I know with the profit motive test, right, that some people have felt that actually a commercial business purpose test would have been a more flexible, better rule to bring in. Because I think the point there was you're just testing the purpose for which you're

incurring the borrowing at the point in time which you're incurring it and not testing it year by year.

So, there's potential constraints there. And I know that's been fed back to the Department of Finance and some others, if I'm not mistaken, have questioned the practicality of bringing in transfer pricing rules right for medium-sized enterprises.

I don't think that's the right time. I think that's fair to say. Yeah, I think, you know, again, I think the concern here is potentially base erosion that, you know, you'll have excessive deductions taken by medium-sized companies.

But the converse of that is it isn't necessarily clear that there is going to be this sort of abuse or tax risk there. And, you know, you get instead this sort of pressure and compliance costs that will be raised for medium enterprises that they don't currently have.

And it brings a huge scope of businesses that are successful businesses, very important for the Irish sort of business landscape. Additional costs, compliance and admin kind of headaches for them that they, you know, that they don't currently have.

So, in that kind of context, there is sort of a feel that while there's a conceptual risk, it isn't clear that it actually is a practical issue. And this will actually lead to some other kind of potentially, you know, costs, but also, you know, concerns for medium-sized taxpayers who currently won't have those particular issues.

Yeah, agreed. And I think another one as well is the point around the de minimis rules. So I think, again, they've kind of in the feedback statement talked about that there's a current opportunity to fragment groups.

But in practice, I don't think advisors or taxpayers would believe that necessarily people are actually exploiting or abusing that position. So while it's solving for a potential risk, it isn't clear that that is a risk, at least from what we'd see.

And it seems again like it could create practical and also other kinds of headaches and problems for taxpayers. No, agreed. So, in terms of next steps, the feedback consultation on that straw man closed on the 16th of January, right?

So what are the next steps from here? What can taxpayers expect throughout the rest of 2026 with this consultation, the proposed changes? Yeah, it's a good question. So, I think on the 16th of April, they're expected to publish to the Department of Finance an outline of draft legislation for further stakeholder input.

And then there'll be feedback on that due around the 15th of May. And then ultimately, again, as is often the case, it's expected that in the kind of budget slash finance bill, the actual legislation will be implemented.

But obviously, in this type of scenario, a key piece for taxpayers and any other practitioners is trying to get advisor groups is, you know, trying to get any changes and spotting issues early because when it comes to budget time and finance bill time, it'll be an incredibly limited window at all to make any changes at that point.

So it's very key for people to be engaged in this issue now. Yeah, experience definitely dictates on that one to get your observations in early. And we've certainly been helping clients with that. Okay, so next item on the agenda that taxpayers should be monitoring in terms of developments in Ireland on the tax side is the implementation of the OECD side-by-side package in respect of Pillar 2, Stephen.

So we definitely don't have time in this podcast to get into any detail on this. It is definitely more an executive focused summary we're looking for. So maybe from your perspective, what were the highlights before we delve into the relevance for Ireland in terms of next steps?

Yeah, no, I think taking a step back to kind of the middle of last year, there was the G7 announcement that, you know, the kind of will they, won't they US position with Pillar 2 that in actual fact the idea or the agreement was to be the side-by-side system that effectively brings in, you know, the US parented groups are excluded from certain aspects of pillar two.

And then, you know, in early January, we got effectively what that agreement and how it would work, how it looks. As part of that, there was that piece, which was kind of the side-by-side safe harbor.

So that set out effectively, if your ultimate parent is in a jurisdiction which has a qualifying side-by-side regime, you know, you'd be excluded from two aspects of pillar two. So the UTPR and the IIR are switched off.

You still have the QDMTT piece potentially applying to the group. That is only going to apply at this point in time to the US, which is the only confirmed jurisdiction that effectively has a qualifying side-by-side regime.

And that is going to come in for financial years starting on or after 1 January 2026. So that's one aspect to the kind of side-by-side agreement. One other highlight? There are a few, but I think one that is kind of interesting or very kind of relevant potentially for a group of taxpayers is the simplified ETOR safe harbour.

So at the moment there's a transitional country by country reporting safe harbour and this could be seen as being the successor of that. What it kind of deems or tries to simplify is that your calculation of whether you know your effective tax rate is going to be based on your financial accounting data rather than country by country reporting.

And once you clear 15% for your ETR under that, you shouldn't have a jurisdictional top-up tax. It should be treated as zero. It also has a useful feature that there isn't this once out, always out trap that's in the transitional provisions.

So again, for taxpayers, it could hopefully simplify the administrative burden where you know or you expect that you won't actually have a top-up tax, but it allows you to get there in a more simplified and streamlined way.

That changes from accounting or financial years beginning on or after 31st December 2026, though in some cases you can get there earlier. And there is a continuation of the transitional country-by-country safe harbour for another year with the rate at 17% for that piece.

So again, there's a little bit of optionality, potential flexibility for taxpayers, but it's a measure that I think could be very helpful and useful on a go-forward basis. No, absolutely. In terms of next steps in a European context, it's interesting that the European Commission is clearly proceeding on the basis that the side-by-side package constitutes a qualifying international agreement on safe harbours for the purposes of Article 32 of the EU Minimum Tax Directive.

So what that effectively means is it's over to Member States now to implement the package right in their domestic legislation. So from an Irish context, I think I'm right in saying, Stephen, that we're expecting implementing legislation towards the back end of this year as part of our ordinary budgetary process and the finance bill, which means there's a retrospective element to it, right?

So it's one for taxpayers to keep monitoring if they're within scope of pillar two. Yeah, exactly. I think we'll see the legislation or whatever needs to be introduced in the finance bill, as you say.

So you're kind of end of September, October, November time. So in the autumn, it'll be published. But taxpayers effectively are potentially subject to some of these rules with retrospective effect back to 1 Jan 2026.

And they're already subject to the current rules for 24 and 25. So there's a little bit of kind of legislative juggling and consideration needed for taxpayers to ensure that they are complying with the right rules when and that they're mindful when these rules or whatever changes are introduced from a domestic kind of perspective, that there are no issues or any other problems kind of being identified or things, challenges they need to kind of consider, considering that they will apply in certain cases, obviously from 1 Jan 2026, for example, this kind of the side-by-side safe harbour. No, absolutely. So I think it's very much still a watching brief because we are not totally out of the Pillar 2 woods yet.

Exactly. Thanks, Stephen. Okay, so the next item on the agenda that taxpayers should be aware of and monitoring in Ireland for 2026 are the potential changes to Ireland's tax appeals process. Stephen, do you want to maybe give us a little bit of background here before we dive into the detail?

Yeah, sure. So at the moment there's a draft bill that the government has published and it contains a number of technical amendments of how the Tax Appeals Commission or TAC, how it operates. A lot of what's there people would find uncontroversial and it's more technical but then there are some proposed changes that are going to have real significant sort of impacts and potential concerns for taxpayers in how, if you're taking a case to TAC, how that's going to operate and what the implications are. To take a step back, where like a driver for this or where it's coming from is actually a non-tax decision. So the Supreme Court had a judgment in what's the Zelensky case.

So this was a non-tax case, but as part of that case, they held that certain aspects of a different act were incompatible with the Constitution. And one of the reasons for that is that effectively there is this requirement or, you know, that justice is basically heard in public.

And that, you know, the scenarios where you have cases and determinations from a judicial or quasi-judicial body that are in camera should be limited. And then that in itself has then had this impact that with this new act, you know, the Department of Finance views that certain aspects of how the Tax Appeals Commission operates at the moment effectively need to change or there's an idea that it will change with these developments.

Yeah, and maybe just to pick up on that point in terms of how the Tax Appeals Commission currently operates, currently, effectively the legislation says by default hearings should be held in public, but if a taxpayer requests it that it be held in private, then that is effectively granted as a matter of course.

So that as it happens, my sleuthing before this podcast, I was trying to ascertain how many, if any, tax appeals cases before the appeal commissioners were held in public. And as far as I could discern, it's only been one.

So that gives you an indication of how frequent that taxpayers are requesting that their appeals be heard in private and for good reason in the sense that oftentimes very sensitive taxpayer information is being discussed.

Very often that is not necessarily germane to the general public. It's very taxpayer specific, but at the same time there's an interest in keeping it private. The other thing that currently happens and that the proposed changes will touch on is that the determination from TAC, TAC publishes a very detailed, reasoned determination and they're always a very good read if anyone gets the opportunity to delve into them.

But generally they're published in redacted format such that any identifying information in respect of the taxpayer is withheld from the public, but you're absolutely able to understand how the Appeal Commissioner arrived at their decision, etc.

The bill that the Department of Finance has published, or the heads at least, the general scheme I should say, effectively mandates now or will mandate that appeals be held in public by default, effectively flipping the practical situation that currently exists such that the hearing of appeals in private will very much be the exception rather than the rule.

It also will effectively mean that the determinations will be published unredacted, again, save in very limited circumstances. So this has generated quite a bit of discussion and indeed pushback by some of the industry bodies and some of the things that they've noted is the potential chilling effect that this will have on taxpayers, Stephen, right, in terms of their willingness to bring appeals before the Tax Appeals Commission.

Yeah, exactly. And I think, as is like a great benefit of TAC that we've seen, as practitioners and taxpayers have seen, is, you know, it's already jurisdictions are first kind of protocol to appeal, like an assessment or a decision of the revenue commissioners that you don't agree with.

You know, you can argue your case on technical grounds. The cost isn't overly prohibitive. And you have this protection to a certain degree of the fact that there is, you know, it is, you know, not in public in the context of saying, you know, the decision would be redacted.

There's a confidentiality to it and a certain privacy to it. That rather than having to factor in some of the other kind of reputational and issues that are outside necessarily a taxpayer's control that you do with, let's say, a high court decision, or, you know, if you go for a judicial review, you don't have some of the same concerns.

And it allows a bit of, you know, both flexibility, but also maybe an openness for taxpayers to really question a decision, the technical merits of it, and say, well, actually, I disagree with it and I do want to appeal it.

Whereas with the direction of travel here, there's a concern that even if you think technically you're correct in the decision, you may just not want it to be in public that you have this particular issue or that you want it to lose your control or control of the narrative around your tax decisions and what's happening and what the rationale is for you in the context of your reputation, your PR, and how people can run with it and even get this information that maybe you don't want to be out in the public sphere.

Yeah, thanks, Stephen. And just to pick up on that, I think there's two points, right? The first is this interesting question around the administration of justice and is the interests of justice better served by taxpayers being able to robustly put forward their position in a private forum and defend what they may see as a technically sound position against a potentially unprincipled position by revenue.

The second point is that the Supreme Court decision did not say that all quasi-judicial hearings must always be held in public. It absolutely acknowledged that there may well be instances that private hearings should still be held.

I think this is probably airing closer towards that, because the current legislation probably strikes the right balance, I would say, because when it was being introduced, this is something that was actually considered back in 2015 by the Oireachtas Committee at pre-legislative scrutiny stage as well.

And what we currently have is the position that the default is it's held in public, but if the taxpayer requests it can go into a private form, and that tends to serve almost all interests. So it's one that taxpayers need to keep tracking for 2026 in terms of developments.

But they are expected here, right, Stephen? Yeah, exactly. I think the thinking is while at the moment the bill is undergoing scrutiny and it's not entirely clear exactly the timing of it, it is prospective changes in the space.

And if this change does go through and most TAC appeals are going to be effectively in public with decisions on redacted, it will be something for taxpayers to really consider before they go forward with any sort of appeal, specifically both in the case of small and large taxpayers, because in all cases, you know, your reputation and the privacy element of it is going to be a key consideration.

I mean, a lot of disputes, people just won't want that element, or they'll have to really consider the benefit of that versus, you know, the exposure in effect. Thanks, Stephen. And the next item on the agenda is transfer pricing.

It wouldn't be a tax-related podcast unless we had a good old transfer pricing element to it, right, Stephen? Exactly, Trevor. So in terms of what may be expected for 2026, one of the items on the agenda, and we're expecting some form of consultation issued by the OECD in spring, is in the area of high-value intra-group services.

So given their nature, you know, especially in the IT sector and so on, they're typically the focus of a significant amount of controversy and dispute. So I think any guidance there from the OECD that would either give the principal basis in terms of having engagement when you're in dispute or indeed to align your transfer pricing closer to them would be very welcome.

I think we already have quite good guidance in the context of low-value integrate services. So that would be one to keep an eye on for 2026. The other one in the area of disputes generally, I think we can expect to see the trend continue with disputes in the transfer pricing space, including audits and so on.

I think the experience there, Stephen, will continue to remain the same, in my view at least. I think that's generally they'll focus on things like valuations, licensing arrangements, financial transactions.

I think that's the general consensus that folks should be aware of in that space, right? Yeah, I'd agree, Trevor. I mean, again, you see a lot of these, another area probably kind of restructuring transactions into groups and what's stemming out from them, an

area of concern, I think, or certainly of a lot of discussion in respect of competing jurisdictions and differing viewpoints in respect of valuations in that space.

So I think it's one that often with multinational clients is something that comes up on the agenda. And as you say, that there are areas that are kind of key hotspots, I think, for tax authorities in the space.

Yeah, I agreed. And like in our experience, I'm sure you'd agree, Stephen, what you're typically seeing is, you know, stress testing the reasonableness of projections in the context of valuations, stress testing functional characterizations, appropriateness of methods used and so on in licensing arrangements.

So I think those are going to remain in focus for the foreseeable future. Anything else on your agenda for transfer pricing? One that's slightly different is, I suppose there's been some developments in the area around VAT and transfer pricing adjustments.

There has, yeah. So last year there was a CJEU case, the Akrama case. Effectively it held that year-end transfer pricing adjustments between group companies could constitute consideration for supply services and be within the scope of VAT.

So you get to your year-end, you do your adjustments for TP purposes. But in this case, what was determined effectively was that that could be itself atable. So have an additional tax cost on top of it in effect.

There's another case expected this year, the Solantis case, around the same issue. There's been an AG opinion in the space around a potential approach in respect to VAT and TP. I mean, ultimately, I think we have to wait and see what comes out of the CJEU case, because while the AG's opinion actually was quite potentially positive, what we have found in the past sometimes is there can be a bit of a divergence between a view taken and then ultimately the ultimate decision.

So we'll have to wait to see if that is followed. I mean, ALG's opinion, I think, talked about, you know, a price adjustment rates to a variable sales price for a supply of goods and that it modifies a price rather than constituting a separate taxable supply, which I think is kind of a reasonable and common sense approach in respect of kind of how

you'd actually see it, not as a separate supply, but actually that there has been a supply and now there's been a modification or some other change to that additional supply. I think intuitively that would feel closer to the answer in those types of situations.

Obviously we have to wait for the judgment in *Stellantis* but in terms of the principal basis laid down by I think it was AG Kokott then yeah I think it would be generally broadly welcomed potentially.

So that brings us to the end of our first episode in this series. In terms of key takeaways Stephen do you want to give us two? I think with the interest consultation I think any taxpayers and companies in Ireland or in the scope of those rules claiming deductions or having kind of intergroup financing arrangements need to be very mindful and focused in on the impacts and be engaged with that legislation.

I think similarly the pillar two rules I think any taxpayers presuming in scope of that will be mindful of what's happening in the side-by-side regime and these other changes but it's still important to you know keep abreast of when legislation is coming in, what's in it, is there anything from a technical perspective that's going to pose a challenge?

Because again often the devil will be in the detail in that space. So while broadly would hope the changes are very positive, there might be things in there that people just need to assess and kind of figure out the implications for them, specifically moving from the current 2024-2025 system and legislation to this new changed one with effect from, let's say, for the most part from 1 Jan 2026 with the side by side, but obviously introduced later in the year, probably in the finance bill from an Irish perspective. Thanks, Stephen. And I guess on my side, certainly if taxpayers are contemplating a dispute with Irish revenue before the Tax Appeals Commission, they do need to be monitoring the potential changes to the TAC process because it could have direct implications for them.

And on the transfer pricing side, hopefully we will see some guidance coming forth on high-value intergroup services because I think for certain sectors, like I say in the IT, that'll be very welcome.

So all that's left to be said is thank you for tuning in. Stephen, if anybody needs to contact you, what's your email address? It's segan@algoodbody.com. So S-E-G-A-N at algoodbody.com. And if anyone wants to contact me, you will get me at TG-Lavey.

That's T-G-L-A-V-E-Y at algoodbody.com. So that's it for this podcast. Thank you all for listening. Thank you.