

Ireland announces changes to capital allowances for intangible assets

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Executive summary

On 10 October 2017, Ireland published [Budget 2018](#). The Budget included a change to Ireland's existing capital allowances regime for intangible assets (IA) (the Regime) acquired after midnight on 10 October 2017.

The change affects both domestic Irish companies and multinational companies who intend to avail of the Regime. Prior to the change, a cash tax rate of 0% was achievable on trading profits derived from the exploitation of IA within the Regime. The change re-introduces a restriction to the amount of capital allowances and interest deductions that can be claimed in each year to 80% of the relevant income arising from the IA. Excess allowances and interest are carried forward.

Detailed discussion

Background to the Regime

Capital allowance (tax depreciation) for capital expenditure incurred on qualifying IA (as defined) was introduced in Ireland's *Finance Act 2009*. Prior to 2009, Ireland provided capital allowances and similar relief on patents, computer software and certain other intellectual property but the Regime modernized and expanded its predecessors. The Regime was introduced to

further enhance Ireland's attractiveness as a location for the holding, development and commercialization of intellectual property. The Regime complements the 12.5% tax rate for trading income, the 25% research and development (R&D) credit and the 6.25% base erosion and profit shifting (BEPS) compliant Knowledge Development Box.

Operation of the Regime

The Regime provides relief in the form of capital allowances for qualifying capital expenditures on the acquisition of a broad range of qualifying IA acquired from both third parties and related parties on or after 8 May 2009.

The definition of qualifying IA is very broad and includes, among other items, patents, designs, trademarks, domains, copyright, computer software, secret information, know-how, licenses over qualifying IA and goodwill directly attributable to qualifying IA.

Change to the Regime

The key conditions to qualify for the relief under the Regime have not changed as a result of Budget 2018 and the restriction will not apply to qualifying IA acquired on or before 10 October 2017.

The reintroduction of the 80% cap was recommended in the recent independent review of the Irish Corporation Tax Code,¹ with a view to smoothing the corporation tax receipts from companies availing of the Regime.

Relief will still be granted in line with book depreciation or upon election over a 15-year write-off period and is claimed via the annual tax return of the Irish company. Any excess capital allowances (and any related interest expense) not deductible in an accounting period are available for carry forward indefinitely against profits of the IA trade.

Implications

The Regime, along with Ireland's R&D Tax Credit regime and Knowledge Development Box, presents a very competitive offering. The Regime is available for IA acquired for the purposes of an active trade and thus is a strong fit in a post-BEPS environment.

Endnote

1. See EY Global Tax Alert, [Ireland publishes Independent Review of Irish Corporate Tax Code](#), dated 14 September 2017.

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