



July 2016

## Establishing a Business in Ireland

Ireland is one of the best countries in the world for business. This is largely due to successive Irish governments and their agencies promoting inward investment, Ireland's membership of the EU, low corporation tax and a skilled and expanding work force in various growing sectors.

Over 1,000 international companies are set up in Ireland. These companies are involved in a wide range of business activities and sectors, including the following:

### Financial Services

Since its establishment in 1987, Dublin's International Financial Services Centre (IFSC) has emerged as a significant global financial centre. The IFSC is serviced by a range of international financial services companies that carry out activities such as banking, fund management and administration, corporate treasury, aircraft and equipment leasing and insurance services. Citigroup, JP Morgan, Morgan Stanley, Bank of America, Deutsche Bank, BNP Paribas, Wells Fargo, AXA Insurance and ORIX Aviation are just a few of many established international financial operations located in Ireland. In addition, over 350 fund promoters from 50 different countries have established regulated investment funds in Ireland.

### Electronics and Engineering

Leading multinationals have established operations in various geographical locations in Ireland, where they carry out a wide range of manufacturing and research related activities. Examples of such

For further information on any of the issues discussed in this article please contact:



**Lorcan Tiernan**

DD: + 353 (0)1 673 1736

[lorcan.tiernan@dilloneustace.ie](mailto:lorcan.tiernan@dilloneustace.ie)



**Adrian Benson**

DD: + 353 (0)1 673 1736

[adrian.benson@dilloneustace.ie](mailto:adrian.benson@dilloneustace.ie)

companies include Apple Inc., Liebherr, SR Technics, Siemens and Microsoft.

#### **Pharmaceuticals, healthcare and biosciences**

Many global leaders in the healthcare, pharmaceutical and bioscience sectors, including, Pfizer, Novartis, Elan, Sanofi, Abbott and GlaxoSmithKline, have a significant presence in Ireland. In fact, nine of the world's top ten pharmaceutical companies have substantial operations in Ireland.

#### **Research & Development**

Ireland's intellectual property laws combined with Government initiatives including tax credits, support from the Government funded Science Foundation Ireland and a focused approach to furthering the development of a sophisticated knowledge based economy, have resulted in the establishment of numerous research and development projects in Ireland.

#### **Sales & Marketing**

Strategic global business development and support activities have been implemented from Ireland by multinationals such as IBM, Apple Inc, Google and Amazon.

#### **Teleservices**

A variety of language skills amongst an available workforce have influenced the creation of a large number of call centre, telemarketing and shared services centres in Ireland. In recent years, American Airlines, Hertz, UPS, Oracle and AOL have chosen Ireland as a location for such centres.

#### **Holding Company Regime**

Ireland's capital gains tax exemption for certain shareholdings accompanied by reliefs for overseas tax on dividend income received by Irish resident companies has contributed to a significant increase in the establishment of international holding companies in Ireland. Such reliefs have facilitated the use of Irish registered companies as investment vehicles for foreign investors seeking the most tax efficient means of investing in international projects in a number of countries, including China, Japan and the USA.

## Incentives for Inward Investment in Ireland

#### **EU Membership**

Ireland is an established member of the European Union, offering investors ready access to the EU internal market. This will be particularly important after Britain's exit from the EU. It is likely that the freedom of movement, capital and goods from the UK to the EU will be restricted in light of the recent Brexit referendum. The EU imports and exports hundreds of millions of euros worth of goods each day. Ireland is an ideal location to set up a business and benefit from this internal market. In contrast with the UK, Ireland can offer a stable structure of secure EU membership and certainty of where it will be in the next 10/20 years.

### **Transport**

Ireland has a well-developed transport system, with strong domestic and international connections. There are a number of large seaports that directly connect Ireland with various European countries. There are five international as well as six domestic airports throughout the country. Ireland is a mere one hour flight from London and 90 minutes from Paris and Brussels. Ireland has a developed public transport system, including a sophisticated network of primary and secondary roads that link the major population zones within the country.

### **Financial Infrastructure**

Ireland's financial and banking sectors are regulated by the Central Bank of Ireland and over 50 of the world's top banks have operations in Ireland. The Irish financial sector is therefore very experienced in handling the business of international businesses.

### **Government Incentives**

The Irish government actively encourages international companies to choose Ireland as a European base by providing a package of incentives which consist of fiscal incentives and financial assistance. Such state financial assistance, usually in the form of grant assistance, can contribute to significant reductions of initial startup costs.

The availability of grant assistance is largely dependent on two factors; first, the intended geographical location of the project in Ireland and, secondly, the level and quality of the employment that is to be created. Projects in the regions outside of Ireland are more likely to obtain assistance.

The IDA is the primary government agency with responsibility for creation of employment and the promotion of foreign direct investment into Ireland and the development of those international companies that have an established Irish presence. The IDA remains committed to attracting high level foreign direct investment and can generally provide a wide range of grant aid for new industry.

## Organisation of Business in Ireland

### **Types of Corporations available under Irish law**

The most appropriate company type is a private company limited by shares. The shareholders of a private limited company have limited liability (i.e. their liability is limited to the amount, if any, unpaid on the shares they hold).

The liability of the shareholders of a private unlimited company is not limited. A private unlimited company is not required to file its annual accounts with the Irish Companies Registration Office and therefore the financial results of a private unlimited company are generally not available to the public. However we would not recommend this type of company to you.

### **How to set up a Company**

If you decide to establish a private company, certain documents need to be filed with the Irish Companies Registration Office (CRO). This includes details about the proposed shareholders, directors and company secretary of the company, and written consent of the directors and company secretary acknowledging their legal obligations.

The constitution of the company is the document that specifies the rules governing the relationship and activities of the company, its directors and shareholders. It also must be submitted to the CRO with a Form A1 which sets out information relating to the company and the fees for incorporation. Once a new company is incorporated, these documents become available for public inspection.

As soon as the paperwork is submitted to the CRO and the requirements for incorporation have been met, the constitution of the company is registered. The Registrar then issues a certificate of incorporation. It normally takes 15 days to incorporate a company however, it is possible to have a company formed within five to ten working days if needs be or to acquire a shelf company.

### **Board of Directors**

Generally speaking a company which is incorporated in Ireland shall be regarded as resident in Ireland for tax purposes. The incorporation test cannot be relied upon where the company is regarded as not tax resident in Ireland under a double taxation treaty between Ireland and another country. The residence of a company under a double taxation treaty normally depends on the location of central management and control. The management of the company is usually carried out by the board of directors of the company. One of the key factors for determining the location of central management and control is where the meetings of the board of directors are held.

Every Irish company must have at least one director resident in the European Economic Area (“EEA”). If not, the company must provide a bond to the value of €25,000 as surety in the event of the company failing to comply with certain company law and tax requirements (the cost of this bond is approximately €1,650 per year (payable bi-annually)).

Every Irish company is required to have a company secretary, who ensures that the company performs all of its regulatory and legislative requirements. A company secretary may also be a director of the company. Many companies use professional company secretarial services to assist with this function.

If you decide to go with this option, the Irish company must have a registered address in Ireland where all CRO correspondence and legal notices will be sent.

### **Branch operations in Ireland**

An alternative to setting up a company in Ireland is the establishment of a “branch”. This may be an option that you would look at, however it is not the most common form used by overseas companies establishing here.

A branch is a division of a foreign company trading in Ireland that appears permanent and has a separate management structure. It can negotiate contracts with third parties and has a reasonable degree of financial independence.

If you think that a branch structure may be of interest please let us know and we can provide further information to you.

### **Cross-Border Mergers**

Another option available is the establishment a cross-border merger by acquisition in Ireland. In order to do so, it would be necessary to establish an Irish company to acquire the existing foreign company and its business by way of cross-border merger.

Once the Irish company has been incorporated, a number of pre-merger requirements have to be carried out. This includes drawing up Common Draft Terms, a Director’s Explanatory Report and an Expert’s Explanatory Report.

### **General Scope of Irish Taxation**

The main advantages of setting up a business in Ireland from a taxation perspective are the low corporation tax rate of 12.5%, the capital gains tax participation exemption for holding companies and the general ability to pay and receive dividends free of withholding tax.

The key benefits of the Irish taxation regime include:

- No withholding tax on interest payments to EU/Double Tax Treaty countries;
- A low corporation tax environment which does not breach EU or OECD harmful tax competition criteria;
- No withholding tax on dividends to EU/treaty countries;

- A tax credit system (which includes onshore pooling) which can reduce or eliminate Irish tax on foreign dividends;
- No withholding tax on royalties to EU/Treaty Countries, and in certain cases to non-EU/non-Treaty Countries;
- No Controlled Foreign Corporation legislation;
- No capital duty;
- No thin capitalisation rules;
- Limited transfer pricing rules;
- Tax credit system for expenditure on research and development (with no base year restriction);
- A comprehensive unilateral foreign tax credit system;
- An exemption from capital gains tax in respect of the disposal of shareholdings in qualifying companies;
- No capital gains tax exit charge for EU/treaty countries.
- An extensive and ever expanding tax treaty network ([Ireland's Tax Treaty Network](#));

The above is a general overview of the benefits of the taxation system in Ireland.

If you are interested in receiving any further information on setting up in Ireland, please don't hesitate to contact us.

**July 2016**

**Dillon Eustace**

## CONTACT US

### Our Offices

#### Dublin

33 Sir John Rogerson's Quay

Dublin 2

Ireland

Tel: +353 1 667 0022

Fax: +353 1 667 0042

#### Cayman Islands

Landmark Square

West Bay Road, PO Box 775

Grand Cayman KY1-9006

Cayman Islands

Tel: +1 345 949 0022

Fax: +1 345 945 0042

#### New York

245 Park Avenue

39<sup>th</sup> Floor

New York, NY 10167

United States

Tel: +1 212 792 4166

Fax: +1 212 792 4167

#### Tokyo

12th Floor,

Yurakucho Itocia Building

2-7-1 Yurakucho, Chiyoda-ku

Tokyo 100-0006, Japan

Tel: +813 6860 4885

Fax: +813 6860 4501

e-mail: [enquiries@dilloneustace.ie](mailto:enquiries@dilloneustace.ie)

website: [www.dilloneustace.ie](http://www.dilloneustace.ie)

## Contact Points

*For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the Corporate team members below.*

#### **Lorcan Tiernan**

**E-mail: [lorcan.tiernan@dilloneustace.ie](mailto:lorcan.tiernan@dilloneustace.ie)**

**Tel: + 353 1 673 1736**

**Fax: + 353 1 667 0042**

#### **Adrian Benson**

**E-mail: [adrian.benson@dilloneustace.ie](mailto:adrian.benson@dilloneustace.ie)**

**Tel: + 353 1 673 1705**

**Fax: + 353 1 667 0042**

#### DISCLAIMER:

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

#### Copyright Notice:

© 2016 Dillon Eustace. All rights reserved.

#### Dillon Eustace

**This Corporate Bulletin is for information purposes only and does not constitute, or purport to represent, legal advice. It has been prepared as of 27 October 2015, and, accordingly, may not reflect changes that have occurred subsequently. If you have any queries or would like further information regarding any of the above matters, please refer to your usual contact in Dillon Eustace.**