

Irish Revenue guidance on Outbound Payments Defensive Measures

20 June 2024

Irish Revenue has now published its guidance on the application of the Outbound Payments Defensive Measures (the 'Measures'), which contains some helpful clarifications and examples of the application of the Measures for taxpayers.

The Measures were introduced as part of Finance (No. 2) Act 2023 and came into effect for royalties and interest from 19 October 2023 and distributions from 1 April 2024, with a limited deferral available for existing arrangements until 1 January 2025. The Measures apply to certain payments or distributions by Irish resident companies or payments by Irish branches of non-resident companies to associated entities who are resident or located in zero-tax jurisdictions or jurisdictions included on the EU's list of non-cooperative jurisdictions (together referred to as 'specified territories'). The Measures are aimed at preventing double non-taxation by removing certain exclusions from the obligation to deduct withholding taxes on outbound payments of interest, royalties and distributions to an associated entity who is resident, or situated, in certain territories.

Irish Revenue has now published its [guidance](#) on the application of the Measures in its Tax & Duty Manual Part 33-05-01 (the 'Guidance'). The Guidance contains helpful clarifications and examples on the application of the Measures for taxpayers, these include:

- Two entities will not be considered as associated entities for the purposes of the Measures solely by the fact that their shares are held on trust by the same nominee or trustee, where there is no other association.
- A jurisdiction should not be considered a zero-tax jurisdiction solely by reason of that jurisdiction applying:
 - a participation exemption regime to dividends
 - a remittance basis of taxation
 - a territorial basis of taxation
 - an exemption to certain types of activities as a feature of their tax code.
- Where a payment is made to an entity which is considered transparent for tax purposes, the payment will be treated for the purposes of the defensive measures as if it had been made directly to the owners. This will equally apply where there are multiple transparent entities in the ownership chain.
- Revenue can accept that the Measures will not apply to certain back-to-back interest arrangements whereby a payment is made to an entity which is considered transparent for tax purposes and is owned by a resident of a specified territory, but the transparent entity makes a corresponding payment to an associated entity which is not resident in a specified territory.
- For payments made by an Irish entity to a limited partnership which is a widely held Fund, Revenue is prepared to accept that the partners are not associated with the Irish entity.

If you are impacted by any of the Measures (or may be impacted), please contact a member of the Forvis Mazars corporate tax team to discuss further.

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