

# Tax Update

May 2023

Our Tax team is actively monitoring Irish and EU tax developments which may be of interest to your business. If you have any questions or would like to discuss any of the developments in further detail, please speak to your usual Matheson contact or to any of our [Tax Partners](#).



## Revenue Guidance on Digital Games Corporation Tax Credit

Revenue have published guidance on the digital games corporation tax credit (set out in Section 481A TCA) (the “**Guidance**”). The Credit provides relief for the digital gaming sector in the form of a corporation tax credit (the “**Credit**”), which can be claimed on certain costs incurred in the development of digital games and is available to digital games development companies.

The Guidance explains the operation of the Credit and the Digital Games Regulations 2022 (the “**Regulations**”), setting out some of the key terms and the relevant principles for determining the value of the Credit. The Guidance also covers eligibility criteria for the application of the relief, as well as the conditions for withdrawal, and details on record keeping, supporting documentation and publication requirements.

As the Credit is designed to incentivise digital games developers to promote and express Irish and European culture, details on the cultural certification is also provided in the Guidance. Effectively, this is a points-based test for the cultural content and creativity of the game. This certification must be applied for and received prior to the claim for the Credit being made.

The Credit itself is a relief at 32% on the lower of the (i) eligible expenditure, (ii) 80% of qualifying expenditure or (iii) €25,000,000, and can be claimed on an interim basis or on completion of the development, with a requirement that claims for the Credit be made within six months of the completed game. The Guidance provides a number of illustrative examples as to the timing of the claim of the Credit.

The Guidance notes that the relief is available from 22 November 2022 in respect of certain expenditure incurred by digital games development companies on the development of eligible digital games, provided the conditions as set out in statute and regulations are satisfied.

The Guidance can be accessed and downloaded [here](#).

## Update to Revenue Guidance on Section 79 TCA - Treatment of Certain Gains and Losses on Foreign Currencies for Corporation Tax Purposes

Revenue have updated their manual in respect of section 79 TCA in relation to the treatment of certain gains and losses on foreign currencies for corporation tax purposes (see [eBrief No 082/23](#)). The updates to the manual reflect amendments introduced by Finance Act 2022 and, in particular, provide guidance in relation to the scope of the “relevant monetary item” definition.

## Funds Sector 2023: A Framework for Open, Resilient & Developing Markets – Terms of Reference April 2023

Following a commitment by the Irish government, as announced in Budget 2023, to conduct a review into Ireland’s asset management and funds servicing sector, the Minister for Finance Michael McGrath has now issued the Terms of Reference for this review. The full publication is available [here](#).

The broad review will cover the taxation of funds (including real-estate funds), life assurance policies and other investment products. It will also incorporate a review of Irish securitisation companies to ensure that the regime is “fit for purpose” to meet policy objectives. The review of Irish securitisation companies stems from the recommendation by the Commission on Taxation and Welfare in its report issued in September 2022.

The working group will be made up of representatives from the Department of Finance, Revenue and the Central Bank of Ireland, with engagement from industry experts and stakeholders, both nationally and internationally. The review process will also include a public consultation. The working group are due to deliver a draft report to the Minister by summer 2024.

## Revenue Annual Report

Revenue recently published their [100<sup>th</sup> Annual Report](#) (the “**Report**”). From a tax controversy perspective, the Report highlights the continued demand from taxpayers for Advance Pricing Agreements (“**APA**”) and Mutual Agreement Procedures (“**MAPs**”). Some of the key takeaways from the Report in respect of APAs and MAPs for 2022 are as follows:

- Revenue resolved a total of 103 MAP disputes, 37 of which related to transfer pricing and 66 of which related to other (non-transfer pricing) disputes;
- a total of 28 MAP requests were initiated, which represents an increase of 5 from the 2021 figures;
- Revenue concluded 4 APAs and received 12 APA requests; and
- 6 APA requests were withdrawn by taxpayers.

The Report underlines the importance for taxpayers of being familiar with the requirements of both mechanisms as they consider their options when seeking to prevent or resolve disputes (particularly in a transfer pricing context). If a taxpayer does need to utilise either of the mechanisms, the Report also shows that they will be dealing with an Irish Competent Authority that has increased its resources in recent years and that works hard to resolve cases (as evidenced by Ireland recently receiving three MAP awards from the OECD in recognition of its work).

## Publications

### Irish Tax Appeals Commission Continues to Impress

The recently published [annual report](#) of the Tax Appeals Commission (“**TAC**”) for 2022 demonstrates the continued impressive performance of TAC as a forum for resolving Irish tax disputes, with TAC closing its highest number of appeals to date in 2022. Tax partner, Tomás Bailey and solicitors, Maeve McDonough and Clíodhna MacCabe outline some of the key statistics from 2022 in their article [here](#).

### The Future of Multilateral Tax Controversy

In this [article](#) Tax partner, Mark O’Sullivan and senior associate, Anna Crowley discuss the future of international tax controversy in Ireland amid the transposition of the EU’s joint audit framework and the recent OECD publication on multilateral MAPs and APAs.