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Is Ireland a tax
haven?
Aisling Donohue

What is a tax haven?

- Countries with a low headline rate?
- Countries which permit a narrow tax base?
- Secrecy jurisdictions?
- Lack of transparency?
- Failure to comply with binding international obligations
- Any country with a materially different approach to tax policy than yours?
- “Anyone but Sweden”?
- “Any country which has publicly denied being a tax haven”?

Is Ireland a tax haven?

- Ireland has offered low headline rates (nobody mention the 25% and 33% CT rates)
- Ireland has facilitated a narrow base/ low effective rates e.g. Apple
- Ireland is not a secrecy jurisdiction and has no issue with legal co-operation and data sharing with other Fiscs
- Ireland has always sought to be transparent e.g. commissioning spillover analysis in 2015
- Definitions are important – but understandings are also changing

Why does it matter?

- Pejorative phrase designed to shame countries into acting
- Almost universal consensus now that base erosion and profit shifting are bad and undermine public trust in the political system
- Greater understanding of cross border arbitrage within the historic tax system
- It takes two to tango (three - if you include the US)
- GE case in the UK - Australian, UK, Luxembourg and US tax codes all interacting
- Singling Luxembourg out of name calling achieves far less than data sharing, inter fisc co-operation, and developing international consensus on new rule design

Why does it matter?

- Different medicines for different ailments
- Absent a globalised harmonised corporate income tax countries will always pursue legitimate policy choices through their tax code
- Secrecy jurisdictions facilitate tax evasion and money laundering
- Conduit jurisdictions facilitate/ facilitated base erosion profit shifting
- Avoidance/ evasion distinction is still relevant in the context of willingness to comply with any new laws
 - Alternative approaches e.g. FATCA or CRS required
- Blacklisting doesn't always work

Holding yesterday's debate today

- “When was the last time you were asked to put a sexy financing structure in place?” “Do you ever expect to be asked to put one in place again?”
- TAARs, GAARs, ATAD/ ATAD II, DACs, BEPS, “BEPS II”
- CbCR

What has changed/ is changing?

- State aid tax cases – some set backs for the Commission but a space worth continuing to watch
- Inadvertent consequences e.g. impact of Ireland's arguments in Apple on other US headed MNEs operating in Ireland
- Fisc willingness to litigate – even in Ireland e.g. €1.6bn CGT dispute with Perrigo
- Country by Country Reporting data flowing through
- Unilateral measures e.g. Digital Sales Taxes
- Consensus at the EU and EU developments
- US tax reform e.g. GILTI and likely more to come

What is yet to come?

- All eyes on the US
- “BEPS II” at the OECD
- ATAD/ ATAD II will start flowing through into EU CT numbers
- Ireland should and will remain engaged in multilateral developments