Answer-to-Question-_1_

Part 1 How residence determined, how resident co.s taxed

Irish company residence rules are set out in section 23A of TCA 1997. A company is considered Irish resident if:

- It is incorporated in Ireland
- It is centrally managed & controlled in Ireland

However, where under a Double Tax Agreement a company is resident in another DTA country, then it will not be considered Irish resident.

If Taylor Telecoms ("TT")incorporates its subsidiary in Ireland, the company will be considered Irish resident. However if under the terms of a DTA e.g.US-Ireland, the company is considered resident of that country, it will not be Irish resident.

An Irish resident company is taxable in Ireland on worldwide income and gains.

Part 2 Transfer Pricing Context, laws & considerations

Irish transfer pricing rules apply where arrangements exist between associated parties and at least one of the parties is chargeable to tax in Ireland. The relevant rules are contained in Part 35A TCA 1997.

- Associated parties   TT and its Irish subsidiary

("Sub")will be associated as TT will control the subsidiary.

- Arrangements   There will be a supply of telecom services from TT to sub, and a loan from TT to sub so these qualify as arrangements subject to Part 35A.
- Chargeable to Irish tax   Assuming Sub is Irish resident, it will be within the charge to Irish tax.

<u>OECD guidelines</u>

Part 35A requires the 2022 OECD Transfer Pricing Guidelines to be used with effect from 01/01/2023. The Transfer Pricing guidelines require transactions between connected parties to be priced using the arm's length principle. This is the price that would be used if independent parties were agreeing the transaction.

<u>Relevant transactions</u>

1. The provision of Telecom services by TT to Sub for resale in Ireland.
2. The provision of a loan by TT to the Irish Sub.

<u>Application of Arm's length principle</u>

To apply the arm's length principle comparable arm's length transactions must be identified and used to confirm that the price used is consistent with arm's length. The Transfer Pricing Method
usd must be suitable for the transaction given the Functions Assets and Risks assumed by the parties.

In the case of telecom services, it may be difficult to use the CUP method as a very high degree of product comparability is required. The resale price method may be more suitable if similar external comparable can be found. Alternatively, the TNNM, with application of and appropriate PLI could be used. As the service is being sold on to 3rd parties, a sales margin PLI may be appropriate.

If it is found that the transactions are priced other than at arm's length, and this results in reporting of lower profits in Ireland, an adjustment must be made to profits by the Irish company in arriving at its taxable profits.

As the group has in excess of 250 employees and €250m turnover, it will be required to prepare a master files as well as an Irish local file. These must be prepared by the CT return filing deadline, although they do not need to be submitted.

The group turnover exceeds €750m so a CbyC report must also be submitted. Sub should notify Revenue of the Ultimate Parent entity. TT should submit the CbyC report by 12 months from the accounting year end.

Part 3 Loan from parent to Irish entity

Transfer Pricing rules require that the quantum and interest rate be at arm's length.

Payment of yearly interest is subject to withholding tax at 20% per s.246 when paid to a non resident. However, when the interest is paid for the purpose of a trade, to a resident of DTA country, and where the country of residence imposes a tax on that income, WHT need not be deducted.

Interest paid to a connected party can be treated as a distribution (DWT would apply) if it exceeds arm's length rates (s. 130), but an election can be made in the case of interest for the purpose of a trade to a DTA member to disapply this.

The group should be awatre that Interest limitation rules apply per Part 35D of TCA if the interest exceeds €3m per year and exceeds 30% of EBITDA.

In conclusion, it is likely that the interest can be paid without deduction of WHT.

Answer-to-Question-__2_

Dear Roberta,

Below will will find advice on the various points relavant for the proposed contract in Ireland.

Part 1 Taxes arising in Ireland

Charge to Income tax in Ireland

As an UK resident you are taxable in the UK on worldwide income. However you will be carrying out part of your trade in Ireland, profit earned in Ireland are taxable in Ireland. There is potential
for double taxation. The OECD model tax convention is therfore relevant. Article 7 provides that business profits may be taxable in the country of source if a PE exists.

Article 5 sets out the definition of a PE. It specifically mentions that building site will not be considered a PE if it lasts for no more than 12 months. The UK Ireland DTA may specify a shorter period (e.g. 6 months) so this should be consulted.If the contract is completed within 6 months, a PE will not exist, and profits will not be taxable in Ireland.

RCT

As you will be carrying out construction services in Ireland, Relevant Contracts Tax applies. Youe should register with the

Revenue Commissioners for RCT. A rate determination will be issued, and withholding tax at 20% or 35% may be applied. RCT withhelds can be used as a credit against any eventual income tax liability, or refunded if exceeding the liability.

Any subcontrcators you employ, including UKL subcontractors will also fall within RCT rules, and you may be required to deduct RCT from payment to them.

VAT

An RCT registered contractor should register for VAT to enable an input credit for purchases VAT. You shouyld do this before yiou begin to trade to reclaim VAT from the earliest date possible.

Invoices to pricipal contractors should include the statement "VAT to be accounted for by the Principal Contractor" and you should not charge VAT on your sales to them. Similarly, you should account for VAT on invoices recived from subcontractors on reverse charge basis.

PAYE

You may avoid a requirement to regoister for PAYE if employees are not Irish resident and will not work more than 60 days in Ireland. If they work longer than 60 days an Employer PAYE registtration will be required. However, for employees expected to spend less than 183 days in the state, a dispensation can be applied for and Irish PAYE need not be operated. PAYE must be applied for employees spending longer than 183 days in Ireland, and for local & Irish resident employees from their first day of employment.

PRSI

A1 certificates shou;d be sought for UK employees seconded to Ireland to avoid the requirement to pay Irish social security.

Customs

Vehicles brought into Ireland may be subject to customs duty, VAT and VRT. However an exemption may be sought for temporary importation or for own property

Part 2 Reliefs

s. 1032, as a UK resident, if 75% of your total income is subject to Irish income tax, personal tax credits will be available. If the percentage is below 75%, the proportion that yourIrish income forms of your worldwide income will be applied to allow you part of the personal tax credit.

Part 3 Extending contract/further contracts

If the contract extends beyond 6 months, under the terms of the Ireland-UK DTA a PE will exist. The profits of your trade in Ireland will then be taxable here. Income tax and USC will be payable. If a self employed person's A1 is in place PRSI will not apply.

As you are also likely to be UK resident under diometice rules, the profits will alkso be taxable in the UK. Under Article 7 of the DTA, the UK shouls give a credit for Irish tax paid.

Part 4 Changes to structure

As a self employed individual, you are taxable in the UK on worldwide income. As a result, double tax may arise when part of your trade is carried out overseas.

You could consider establihing a compahy in Ireland to carry on the trade here. Income of the irish company would be subject to corporation tax in Ireland. However, unless you distrbute the income by paying a dividend to yourself, the income will not be

Answer-to-Question-__4_

Part 1

A tax haven is a jurisdiction that permits very low or no tax on individuals or entities. Ireland has been accused of being a tax haven in respect of its corporate tax regime, due to the 12.5% CT rate available on trading profits.

However personal tax rates in Ireland are not low by international standards, and it would be unfair to describe Ireland as a tax haven in this context.

- Very few personal income tax exemptions are available, being confined to for example compensation for injuries, ex gratia termination payments, and winnings from lotteries and gambling.

- The standard rate of tax at 20% applies in individuals with very low incomes (PAYE workers with incomes exceeding €17,000 in 2024 will pay tax after tax credits have been applied).

- A marginal rate of 40% applies to income over €40,000 (single person).

- In addition to tax, USC applies at progressive rates, with a top rate of 8% payable by PAYE employees and 10% for self employed individuals earnjinbg morethan €100,000.

The marginal rate for most PAYE workers is 52% including PRSI.

Part 2 Individuals moving to Ireland

Special Assignee Relief Programme (SARP)

S 825C provides relief for employees meeting certain conditions:

- Not Irish resident in the 5 years prior to arriving into Ireland
- Employed by a foreign company resident in a DTA country and carryiong our durties overseas for at least 6 months.
- Sent ot work in Ieland for the foreign employer or an associated company.
- Will carry out duties inReland for at least 12 months.
- Earning at least €100,000 (€75,000 up to 2022)

Provided the employee becomes Irish resident, an application can be made under SARP. 30% of the employees income in excess of €100,000 and iup to €1,000,000 (after pension deduction) will be exmpted from the charge to Irish tax. Relief is not given for USC or PRSI.

Part 3 Individuals moving in and out of Ireland for tax purposes

Foreign Earnings Deduction (FED)

Section 823A provides a deuction for duties carried out by a n employee in certain countries. These include fior example Brazil, Russia, India and China.

A portion of the income is not charged to income tax, but USC and

PRSI will continue to apply. The non taxable portion is calculated as
days worked overseas / days that the employment is held x total employement income from that employment.

Part 4 Reliefs for both residents and non residents

Key Employee Engagement Programme (KEEP)

S 128F allows Irish incorporated unquoted SMEs offer tax efficient share options to their employees. The scheme is not available to large companies. The company must be a trading company, and certain sectors, such as construction and forestry are excluded. Director as well as employees who work at least 20 hours per week/spend 75% of their working time devoted to the company can be offered the scheme. A maximum value of €100,000 can be offered in a single year to any single employee, and a cumulative maximum of €300,000 for all years.

The options must be offered at market price and are exercisable at least 1 year from the date of grant. The lastest date for exercise is 10 years from date of grant. No tax applies on the grant or excercise of the options. CGT will apply on subsequent disposal of the shares.

R&D Key employee credit

S. 472D A company qualifying for an R&D tax credit can choose to surrender part/all of the credit to a key employee who spends at least 50% of their work time carrying out the R&D that was subject of the R&D credit. This excludes directors and employees with a material shareholding in the company or an associated companyu.

The costs included in the R&D credit claim must include the salary of the individual. The employees effective tax rate cannot fall below 23% as a result of the R&D credit.

Answer-to-Question-__7

Part 1 CAT

Irish CAT applies when any of the follwing are true:

- The donor is Irish resident or ordinary resident
- the property that is the subject of the gift or inheritance is irish situate.
- The recipient is Irish resident or ordinary resident

However, where the donor or donee is not Irish domiciled, s 6 and 11 of the CATCA 2003 states that they will be considered neither Irish resident or ordinary resident unless they have been reident for the 5 tax years preceeding the gift or inheritance.

Part 2 USC

USC applied to the worldwide income of an Irish resident or ordinary resident. However a person who is not resident, while still being Irish resident will not be subject to USC on employment income if all the duties are carried out overseas. They will also not be subject to USC on foreign investment income if it is no more than €3,810.

Notwithstanding this, where an indivual is not Irish domiciled, USC is payable on the remittance basis.

A non resident is charegeable to USC on Irish source income only.

Part 3 Customs

Customs duty applied to goods imported to Ireland from outside the EU. The liability rests with the importer, regardless of their residence.

Part 4 PRSI

Irish PRSI applies where the duties of an employment or self employment are carried out in Ireland.

PRSI is governed by EU social security rules. In general social security can only be paid in one country, and this is the country where the duties are carried out. However, there are some exceptions to the above for individuals connected with another EU country.

<u>Multistate workers</u>

If an employee carries out their duties in more than 1 EU country, and at least 25% are carried out in the country of residence of the employee, social security of that country will apply to the full employment income.

If less than 25% are carried out in the country of residence, social security is payable in the country of residence of the employer.

An A1 should be obtained from the country in which social scutrity is due.

Posted Workers

Where an employee has carried out their duties and paid social security in a country fro ome month, before being posted to another EU country, they can apply for an A1. This will retain them on their home social security system, and no payment will be die in the country where duties are performed.

Other then EU

For countries outside the EU, and limited number of social security agreeents apply, including with the UK, US, Australia and Japan. In general an employee sent to work in these countries is likely to find similar provisions as those in place in the EU.

For countries where no bilateral agreement is in place, an employee arriving into Ireland is subject to PRSI from day 1._

Answer-to-Question-_8__

Dear Jimmy & Julie,

Below I outline the tax implications of a move to the Republic of Ireland.

<u>Residence</u>

An Irish resident individual is taxable in Ireland on worldwide income and gains.You will be considered Irish resident in a tax year if you spend

- 183 or more days in the state
- 280 or more days in the state taking together the days spent in the current year and the preceeding tax year. At least 30 days must be soent in Ireland in each of the 2 years to be resident under this rule.

Depending on the date of your move to Ireland, you will be come resient in the year of arrival or he following year. If you become resident in the year or arrival Split Year Relief may be claimed to exclude your UK employment income from Irish tax up to the date of arrival.

If you are considering disposal of UK assets at a gain (e.g. property) it may be more tax efficient to complete the disposal before becoming Irish resident.

Joint taxation is available in Ireland, and may be advantageous where Julie continues to wotk part time. Unused standard rate band may be transferred to Jimmy to reduce your overall tax liability.

Domicile & Remittance basis

Unlike residence, domicile is alonger term concept akin to permanent home. A person acquires their domicile at birth from their father (or mother if the parents are unmarried). Domicile is difficult to change unless a person has a permanent intention to live in a different country, actually lives there, and severs all ties with the first country.

While it is likely that Jimmy has an Irish domicile,it may be that Julie is domiciled in England and Wales.
Special taxrules - the Remittance basis applies to non domiciled individuals. Foreign income and gains are not taxable in Ireland unless remitted to Ireland. They are taxed in the year of remitance. There may be potential for tax planing for Julie around this.

Employment income & Employer obligations

Employment duties carried out in Ireland are taxable in Ireland. Income tax and USC will arise.

Your employers should be consulted before making the move as Employer PAYE obligations will also arise. As you plan to spend more than 183 days in Ireland, your employer will be required to register for Employers's PAYE and deduct PAYE, USC and PRSI from your salary from day one. A submission must be made to Revenue on or before each pay date giving details of pay and tax deducted. Payment to Revenue should be made by 23rd of the month following the month of payment.

As Jimmy will also commute to work in London every week, part of his duties are being carried out in the UK. A UK payroll obligation will continue to exist. As an Irish resident, it will not be possible to exclude the income from UK duties from Irish PAYE. However, a real time credit may be available which would give double tax relief in Irish payroll for the UK tax suffered.

If you move to Northern Ireland instead of the Republic the Irish Employer obligations could be avoided.

<u>Double Tax</u>

Under OECD Model Tax convention article 15, as the source country, the UK can tax the employment income arising from duties carried out in the UK. However, as country of residence, Ireland will allow a credit for the UK tax paid.

<u>PRSI</u>

Because duties will be acrried out in Ireland, Irish PRSI will be payable. Your employer should deduct this from pay inaddition to PAYE & USC. As the move to Ireland will be permanent, there is no advantage to remaining on UK social security.