



19 Sandymount Avenue
Dublin 4

Tel: +353 1 6631700

Fax: +353 1 6688387

E-mail: info@TaxIreland.ie

Web site: www.taxireland.ie

Irish Taxation Institute Annual Dinner, Friday, 25 February 2005

Speech by President Frank Hussey

Minister, our distinguished guests and members of the Irish Taxation Institute,

It gives me great pleasure to welcome you here this evening to our annual dinner. Minister Cowen you are particularly welcome to your first Irish Taxation Institute annual dinner as Minister for Finance. We have already had one very constructive meeting in our respective capacities in relation to Finance Bill 2005. My Institute looks forward to future constructive cooperation with you and your Department over the coming years. On behalf of our members I would like to thank you for the kind words you said regarding the Institute's work in the public interest. I also would like to warmly welcome our other distinguished guests and I hope you enjoy the hospitality of the Institute this evening. Could I particularly welcome colleagues from our sister Institutes in the UK who travelled from England to be with us this evening. I hope you enjoy the evening and indeed the match in Lansdowne Road on Sunday... but not as much as we will!

In my speech I want to give a business perspective on issues facing Ireland Inc, where our tax strategy might fit in with this perspective and conclude with some observations on the constructive role the tax profession has played and has the potential to play in relation to our economy.

In his speech at the Business and Finance Person of the Year award last October the Minister stated that

“Successful business ventures are the building blocks of economic growth”.

I am sure everybody in the room would support that statement although it is disconcerting to see the number of spokespersons who seem to have lost sight of that basic reality in recent times. I believe that the key defining characteristic of a successful business is its ability to fully understand the competitive threats it faces and then devise a strategy to deal with them.

Over the past fifteen years we have increasingly thought of and described Ireland and its economy in business terms – the term “Ireland Inc” is now part of our everyday vocabulary. To paraphrase the Minister, if we are to continue to enjoy the benefits of economic growth, Ireland Inc must continue to be a successful business venture. So, what competitive threats does “our business” face? Well, in their latest Economic Review and Outlook Statement the Department of Finance identified four key potential risks – one of these was “increasing competition from abroad” which could give rise to job losses.

On paper, our vital statistics seem healthy – as the Minister has pointed out, unemployment is at a record low, government debt is under tight control and our GDP and GNP statistics beat most of our EU colleagues. How are we going to preserve our impressive vital statistics and remain competitive? By a bit of “nip and tuck” or is something a bit more radical needed?

One of the sobering realities underlying our prosperity over the past fifteen years is the poor performance of indigenous industry. Forfas has produced data showing exports from the foreign direct investment sector growing seven-fold from 1990 to 2002 from a high starting point. Over the same period, exports from the indigenous sector remained static from a very low starting point. The success story has been driven by Ireland Inc’s ability to attract foreign direct investment. As a speaker at a recent Institute conference so aptly put it, “the Celtic tiger is not a native to these shores but rather a visitor from abroad that has found an attractive habitat”. As the Department

of Finance has observed, there are an increasing number of countries queuing up to attract the tiger away from these shores with ever more enticing packages.

So, how do we keep the tiger here while also fostering growth within our indigenous business sectors? What is the key differentiator that will give us competitive advantage? Of course it is extremely important that we have a highly skilled workforce, a business friendly government and public service, improving infrastructure and telecommunications and access to markets. But what is that key differentiator that people in this room from the public and private sectors want to have in their kit bag when they travel the globe looking for greater investment in Ireland Inc? The answer was given last June in Leixlip by someone I think you will agree is an authority on the topic – Craig Barrett, Global Chief Executive of Intel. He said that the key to Ireland’s future success in attracting inward investment was its progressive approach to taxation.

If Ireland Inc is to “stay ahead of the curve” it is vital that we have an attractive tax regime that we can explain clearly to potential investors with certainty. The public debate on tax in recent months has been confused and confusing – in some cases people who should know better have deliberately sought to confuse. Let’s be clear about some business realities –

- As far as business is concerned tax is a cost – it is not a social responsibility, it is not a moral issue
- The market judges the performance of companies on an after tax basis

The desire to minimise tax cost is not just a business reality – it is a human reality and was acknowledged as such by the Chairman of the Revenue Commissioners, Frank Daly, in an appearance before the Joint Committee on Finance and the Public Service in November 2004. The business community were very heartened to note comments by the Minister in his Budget speech when he committed to Ireland’s low tax policy.

As many of us in the room will be aware the Revenue Commissioners are seeking to interact directly with business and in particular with larger corporates. I understand that part of the motivation for Revenue for this interaction is to encourage large corporates to agree to what Revenue are describing as a “cooperative compliance framework”. I am not quite clear on the exact terms of these frameworks but the Institute has asked the Revenue Commissioners for clarification on this point – however I am clear that any such discussions must be predicated by a realisation that, for business, tax is a cost but obviously a cost that must be managed in full compliance with the law.

Many in this room tonight from the public and private sector can take personal satisfaction in the work they have done in the past on shaping Ireland’s progressive taxation policy – for example, without the hard work of people in this room from the public and private sectors the International Financial Services Centre would not have been an extraordinary success story. However, fault lines are appearing and we need to do something about them. The Enterprise Strategy Group report pointed out that Ireland is losing its competitive advantage in the taxation arena – I am concerned at the number of members of the Institute who work in the foreign direct investment area who are telling me that over recent months and years a significant number of projects that previously would have fallen into our laps are moving to other shores. We need to urgently find out why this is and we need to act. The Department of Finance in its Economic Review and Outlook called for:

“Strong investment in the productive capacity of the economy to tackle the risk we face”.

As the Minister has reminded us tonight, investment is needed in infrastructure, education and telecommunications. But investment is also needed in our taxation policy. The budgetary position we now enjoy allows us to make such an investment. We can afford to implement some important measures that may have a short term cost but will unquestionably have long-term benefits including:

- Complete abolition of capital duty on shares
- Tax breaks for research and development not on an incremental basis but on an absolute spend basis
- Filling in the few remaining blanks to ensure we are an attractive location for holding companies

Another key element to a successful taxation strategy for Ireland Inc is certainty. Foreign direct investment demands certainty of tax treatment, as does indigenous business. I am sure many of you in the room tonight will agree with me that there are major areas of uncertainty in the administration of tax law at present. I have already had discussions with the Board of the Revenue Commissioners on the desirability of enhanced technical Revenue resources in some key areas. Value Added Tax, in particular, merits close attention. A 12.5% corporate tax rate quickly loses its attraction if a foreign direct investment project finds itself unwittingly ensnared in a VAT nightmare.

Considerable concern has been expressed about the potential risk to foreign direct investment projects because of the ever-increasing regulatory burden falling on corporate Ireland – in particular as a consequence of the directors’ compliance statement requirements. The proposal in this year’s Finance Bill to make directors and officers of corporates liable to criminal prosecution (with sanctions including five years in prison) because of their neglect as opposed to their intentional misconduct is deeply disturbing. We have, together with colleagues from other Institutes, led useful discussions with the Minister on this issue.

In his Business and Finance speech the Minister stated that

“The drive for excellence and quality service delivery in the public service must be at least equal to the leading service providers in the business sector”.

I am sure all of you here tonight from the private sector will loudly cheer that sentiment. It is a theme that has informed much of the discussions between this Institute and the Revenue Commissioners

over the past two years. A live example of the type of issue that arises in this area is the significant time currently being devoted by practitioners in trying to secure refunds of tax from Revenue on behalf of clients. Practitioners are correctly pointing out that our Pay and File system is also a File and Refund system – or should be! And of course the problem doesn't end there! When the refund arrives it will carry no interest – even though the tax may have been overpaid up to eighteen months previously. If the shoe was on the other foot and tax was underpaid the State imposes penal interest from the date of underpayment. Why the appalling discrepancy? We can thank a very subtle amendment in the 2003 Finance Act. Incredibly this amendment was heralded as improving the taxpayer's lot – any taxpayer with the stomach and ability to read a Finance Act realised it deprived them of their general right to interest on overpaid tax. In our pre-Budget submission the Institute appealed to the Minister to reverse this highly inequitable measure and I am repeating that appeal this evening.

To restore Ireland's competitive advantage by providing an attractive tax environment underpinned by certainty we require more than legislative amendment. It will also require a level of clarity and consistency from all stakeholders represented here tonight. Recently there are those who appear to have set themselves the objective of making Ireland Inc a cold place for wealth creators. An extraordinary manifestation of this was the attack on so called 'fat cats' who were, and I quote, "evading their fair share of the tax burden" by abusing incentives at a cost to the exchequer of €8.4bn. Conscious that we were getting in the way of a good headline by reporting the facts, the Institute pointed out that the greater part of this €8.4bn was availed of by the PAYE sector and was made up of reliefs such as mortgage interest relief. However, confusion has been sewn in the public mind about the nature of tax evasion and the true purpose of tax incentives. While welcoming the Minister's comprehensive review of tax incentives the Institute is concerned about the context within which this review was launched. We have consistently appealed for a balanced review of these incentives which focuses not just on their apparent cost to the Exchequer but also seeks to measure the overwhelming benefit they have brought to Ireland Inc. The question

of equity in relation to use of these incentives is not an easy one – by definition, tax incentive investments have an element of risk in them and therefore not all taxpayers have the capacity to avail of them.

Finally, where does the tax profession fit in to this picture? Our role, of course, continues to be central. The Institute will continue its work to ensure compliance with the requirements of our taxation system. We will shortly be announcing details of a new initiative in this regard, a “Do your tax return week” which will be aimed at the middle income individual taxpayer and encourage them to file the tax return well before the final deadline. Successive Revenue spokespersons have paid tribute to the central role tax practitioners play in ensuring the self assessment system works – in fact some of them have gone so far as to say the system would collapse without us! It is also a fact that the €1.6bn collected under various Revenue investigations over recent times would not have been collected without the work done by practitioners to assist taxpayers regularise their affairs. For this reason we (and colleagues in five other professional institutes) were deeply disturbed by what we believe are unintended side effects of the measure in this year’s Finance Bill seeking to widen the criminal offence of assisting evasion of tax. We have met the Minister on this issue and we noted that this measure was neither recommended by or proposed to the Revenue Powers Group. While we fully support any measure aimed at eliminating tax evasion, our legal advice, which we have shared with the Minister, confirmed our fears that the proposal as currently drafted could make it impossible for us to assist in regularising taxpayer’s affairs in the future. We have made constructive suggestions to deal with this issue while also ensuring the proposed power is effective - I welcome the Minister’s comments this evening on the constructive nature of our submissions and that he is carefully considering them – we eagerly await the Report stage amendments!

We will also continue our hard work on behalf of Ireland Inc. Many people here in the room tonight continue to work tirelessly to bring further investment from abroad to Ireland and to assist indigenous industry to grow their businesses in a tax efficient manner. Because tax is at the heart of almost every commercial transaction you care to

think of, the technical skill and commercial sense of the tax consultant continues to be essential.

I noted that in a recent interview the Small Firms Association said its members were experiencing a shortage of tax consultants in the market. It is up to our Institute to address that.

I would like to conclude my speech tonight by announcing a proposal to create a scholarship fund by the Institute to help second level students, who otherwise would not have the financial means, to obtain a relevant third level qualification that will start them on their career as a tax consultant.

The tax profession has a key role to play in maintaining Ireland Inc's competitive advantage – I want to assure everyone here this evening that the Irish Taxation Institute will play its part in ensuring the tax profession receives the highest quality service in the area of setting standards, education, information and representation.

Many thanks for your attention ladies and gentlemen, I do hope you enjoy the rest of your evening with us. I can end with a bit of good news – we will not have any after-dinner speaker this year so the formalities are about to conclude but I know the conversations will continue for much longer! Can I now invite all of you to join me in toasting Uachtarain na hEireann – the President!

End.

**NOT FOR PUBLICATION BEFORE 9.00PM
ON FRIDAY, 25 FEBRUARY 2005**