MASON HAYES & CURRAN

Ireland as a Business Location

Attracting Great Business

Dublin, London & New York

MHC.ie

What others say about us...

Commercial

"The team is great for big, complex transactions. The lawyers think strategically and build long-term partnerships. They understand us and maintain the 'DNA' of our business."

Chambers & Partners Europe,
Europe's Leading Lawyers, 2013

Litigation

Litigation is a key practice area for this forward-thinking, progressive firm and it has developed a large, heavyweight team dedicated to the area. It handles an enormously broad range of disputes.

"Our work gets the priority it needs. The lawyers have great respect for our people and we can challenge them and work easily with them."

Chambers & Partners Europe,
Europe's Leading Lawyers, 2013

Financial Services

*Mason Hayes & Curran's finance lawyers are **'top class and can hold their own with any of their peers'.***

Legal 500, 2013

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Managing Partner's Welcome

As Managing Partner of Mason Hayes & Curran, it gives me great pleasure to introduce this edition of 'Ireland As a Business Location'. As an award-winning Irish law firm working with market leading companies in Ireland, we understand the many and varied challenges that corporations face when locating in a foreign country. We have the necessary skills to assist you during your initial set-up and in your ongoing legal requirements. To this end, we have established offices in both New York and London, two of Ireland's most important conduits for inward investment.

Ireland has a lot to offer foreign organisations, from attractive and stable corporate tax rates to a flexible and skilled workforce. These factors, amongst others, have resulted in Ireland becoming one of the most successful locations for foreign investment in the last decade. The figures speak for themselves in terms of international confidence in the Irish market and underscore why major organisations choose to invest in Ireland.

- Forbes ranked Ireland as the 'Best Country for Business' in 2013
- 1,033 companies have chosen Ireland as their strategic location in Europe
- Ireland has a very competitive tax rate and also offers a 25% Research and Development tax credit
- Dublin is ranked as the best city in the world for human capital with over 50% of our population under the age of 35 and 60% of students going on to further education

Given the context, it is easy to understand why nine of the world's top ten ICT companies have chosen to base their EMEA operations in Ireland and we are delighted to advise a large number of these firms. Our specialised technology team operates at the top end of this market, advising on highly complex issues with international impact, particularly data privacy, outsourcing, strategic partnerships and IP.

Another major source of jobs and FDI in Ireland is financial services, which includes banking, investment funds, asset financing and insurance. Ireland is home to over 50% of the world's leading organisations in this sector. Our dedicated and internationally recognised asset finance team works closely with local and global finance houses.

In terms of future trends, we are confident that we will see continued growth of inward and direct investment, and this publication highlights some of the advantages of the local market and the Irish legal system.

If I can be of any further assistance or you require additional information, please feel free to contact me.

Yours sincerely,

Declan Black
Managing Partner

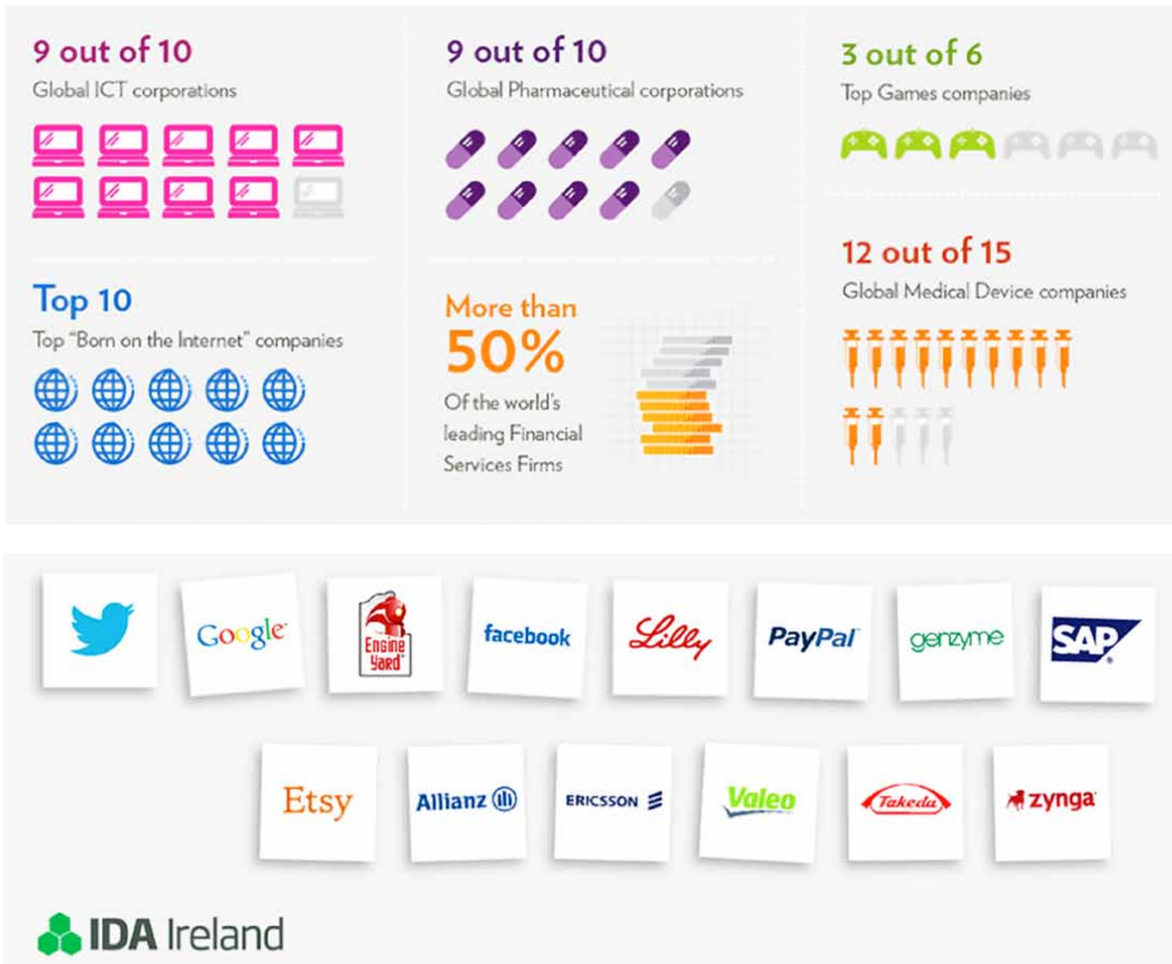


Image courtesy of IDA Ireland

"Multinational companies, either investing in Ireland for the first time or expanding existing operations here, cite our talented and highly-skilled workforce, our track record for hosting successful FDI operations across a variety of sectors, our attractive rate of corporation tax and our technology capabilities as the primary reasons why they chose Ireland. In addition to these key strengths on which Ireland's FDI reputation is built, there have been significant improvements in our cost environment with costs back to 2003 levels.

While competition for FDI remains very strong, foreign investors now have more reasons than ever to invest in Ireland."

Barry O'Leary, CEO, IDA Ireland

Advantages of Ireland as a Business Location

Forbes voted Ireland as the "Best Country for Business" in December 2013.

Reasons for our ranking include:

- a well-educated, flexible and English speaking workforce
- membership of the EU and Euro currency zone providing easy access to the EU internal market
- only English speaking Euro currency zone member
- our flexible tax system

It is for these reasons that Ireland continues to be attractive for FDI. For example, US companies have in excess of US$180 billion in FDI in Ireland which is more than the total invested by them in the BRIC economies put together.

There are many legal benefits for international operations to establish in Ireland. Some of the main ones are:

- Establishment: incorporating a new Irish corporation or registering a branch (of a non-Irish corporation) is a straightforward and quick procedure. The World Bank's recent "Doing Business" report rates Ireland as the easiest place in Europe to start a business. This is discussed further on page 5.
- Common Law System: Ireland is a common law jurisdiction. Its legal concepts will be recognised and understood by most foreign investors, including US multinationals. A common law system is regarded as more flexible and less prescriptive than most civil law jurisdictions.
- Employment: Irish employment law is regarded as providing a fair balance between a business friendly set of rules for employers while at the same time affording appropriate protection to employees. This is discussed further on page 17.
- Dispute Resolution: The Irish Commercial Court, a division of the High Court, is a specialist commercially focused court designed to facilitate the speedy resolution of business disputes - generally the value of the claim must be in excess of €1m or relate to intellectual property matters. Actions are case managed and are heard by experienced commercial judges. At present, approximately 90% of actions are resolved within one year. This helps to give confidence to international businesses that the systems are there to help resolve disputes in relatively short time periods. As regards arbitration, Ireland has, by way of the Arbitration Act 2010, enacted the UNCITRAL Model Law. Ireland is also a signatory to the 1958 New York Convention on recognition and enforcement of Awards.

- Real Estate: The legal process in Ireland for the acquisition or rental of property is relatively straightforward compared to other jurisdictions. This is discussed further on page 19.

In addition to continuing FDI activity, Ireland has become a destination of choice for "inversion transactions". These are transactions whereby multinational corporations migrate their top holding companies out of the US to another jurisdiction. While they do not have to be, they are generally structured as part of a strategic merger or acquisition undertaken by the US corporation. The following are recent examples of corporations which have re-domiciled to Ireland as part of a merger transaction:

- Endo Health Solutions (through the acquisition of Paladin Labs)
- Perrigo Company (through its acquisition of Elan Corporation)
- Actavis (through its acquisition of Warner Chilcott)
- Eaton Corporation (through its acquisition of Cooper Industries).

All of the above migrations involved mergers with Irish incorporated companies, with the exception of the Endo Health Solutions transaction which involved the acquisition of US and Canadian entities by a new Irish holding company. However, as evidenced by the Endo Health transaction, the target does not have to be Irish for the new top holding company to be located in Ireland.

There are many considerations for a US group contemplating a migration from the US. The reasons why Ireland is a natural choice include in addition to the factors which have attracted FDI to Ireland:

- Ireland's low tax rate (corporation tax on trading profits is 12.5%) and the ability to repatriate profits to Ireland without tax costs.
- Ireland's flexible tax credit system can reduce the tax liabilities otherwise paid on dividends received by Irish incorporated companies.
- Ireland has an extensive list of double tax treaties in place with other countries - 68 at present including one with US and all EU member states.
- The sale of shares by a non-Irish resident is usually exempt from capital gains tax. An exemption also exists for disposals of shareholdings, of 5% or more, held for at least 12 months in trading companies/groups that are EU/tax treaty resident.
- Irish law permits US GAAP to be used in the preparation of financial statements by multinationals migrating to Ireland and which are listed in the US, as opposed to having to prepare accounts using IFRS or Irish GAAP.

Government Policy has also played its part in making Ireland a location of choice for multinational businesses. The Irish Government has a number of law reform initiatives on-going at any given time and on which they engage in public consultation, including with international companies. At present it is working to finalise a new Companies Bill which is expected to be enacted by the end of 2014.

The Companies Bill will repeal more than two dozen statutes, effectively the entire of the Irish Companies Acts 1963 to 2013 with the exception of EU-derived securities law, and will consolidate them in a single statute.

For the most part, the Companies Bill simply restates the existing law without changes. However, the Companies Bill is also a reforming statute which contains streamlining reforms in areas such as governance, legal capacity and mergers. The intention is to allow companies carry out certain transactions, subject to conditions, which, up to now, have been prohibited and which have proven to be impediments to the completion of certain transactions by Irish corporates.

Business Structures in Ireland

- Incorporating a new Irish corporation or registering a branch of a non-Irish corporation is a straightforward and quick procedure.
- There are various corporate structures available in Ireland but, in the main, most enterprises establishing in Ireland choose an Irish tax resident private company with limited liability and which has a share capital. Such a new company can be established within 5 working days.
- Financing of Irish companies can be by way of debt, subscription for shares, and in some circumstances, contribution of capital without the issue of shares. Shares must be issued with a par value – usually €1, but the par value can be any amount in any currency. At present there are no thin capitalisation rules in Ireland and therefore an Irish corporation can be financed with a minimum amount of share capital.
- Once a company has been incorporated, any subsequent changes, such as changes in directors, the allotment of new shares or changes to constitutional documents, can be easily done and filed in the Companies Registration Office.
- There are no requirements for minimum payment of dividends or interest. A 20% withholding tax can apply to payments of dividends or interest, but there is a wide range of exemptions from such withholding taxes. Exemptions are generally available where the recipient is tax resident in an EU country or a country with which Ireland has a double tax treaty.
- The day-to-day management of an Irish company is normally carried out by its board of directors.
- Every Irish company must have at least two directors and a company secretary. A corporate entity may act as company secretary but the directors must be natural persons. Otherwise, there is a requirement to have at least one director who is resident in a member state of the European Economic Area (E.E.A.) or an insurance bond to the value of €25,395.
- The day-to-day management of a non-Irish corporation which has a registered branch in Ireland will be regulated by the law of where that corporation was incorporated with non-intrusive local branch filing requirements.

1st

Best Country for Business - Forbes 2013

Auditors

By law, every Irish company, except where specific exemptions apply for small companies, must appoint an auditor who will report to the shareholders on the accounts prepared by the directors. Auditors must generally be members of the major accounting bodies in Ireland, Scotland or England and Wales. All the major international accounting firms have member or affiliate firms in Ireland.

Companies incorporated in Ireland and branches registered in Ireland are obliged to publicly file accounts. Non-filing structures involving unlimited companies can be put in place to minimise or avoid such disclosures. Small and medium-sized limited companies may prepare short-form profit and loss accounts and are free from the obligation to disclose particulars of turnover in audited accounts.

Agencies

The Irish Government agencies, the Industrial Development Agency Ireland (IDA) and Enterprise Ireland, promote business development in Ireland. While Enterprise Ireland is mainly concerned with the promotion of local Irish industry, the IDA deals with attracting foreign investment projects to locate in Ireland.

There are particular areas in Ireland – the Shannon region South-West and the 'Gaeltacht' areas, where Gaelic, the Irish language, is spoken - which have extra specific incentives above and beyond the normal investment incentives provided by the IDA.

Grants

The grants available from the IDA provide financial assistance to businesses which become repayable only where the grant terms are broken within a five year period or where the business terminates.

Grants are given for both manufacturing activities and internationally traded services. These grants include capital grants, employment grants, research and development grants and training grants.

The IDA can make available specific grants or a combination of grants which will frequently be calculated as an overall amount of grant per job, based on the number of jobs to be created by the grant-aided project.

1033

Companies have chosen Ireland as their strategic location in Europe

Taxation Benefits of Structuring Business in or Through Ireland

Ireland is recognised in Europe and around the world as a major inward investment location. Ireland has a leading reputation as an onshore EU OECD white-listed location. It is a key EMEA hub for the financial services, information technology, e-commerce, gaming and pharmaceutical sectors. It has a growing profile as the holding company EU location of choice and a location from which to own intellectual property. In the financial sector, Ireland is a world-leading location for asset and structured finance, insurance and investment funds.

In common with all other EU Member States, Ireland uses a sophisticated toolkit of tax rates, exemptions, allowances, credits and reliefs to attract various activities to its shores. At the epicentre of this regime is a 12.5% corporation tax rate for almost any trading activity carried out in the State, an exemption from tax for certain investment funds and share portfolio income, and an ability to structure cross-border transactions, including big ticket leasing, through Irish corporate and other vehicles without Irish tax leakage so as to utilise Ireland's extensive double tax treaty network. In October 2013 the Irish Government published a statement on Ireland's international tax strategy highlighting the open, transparent and low corporate tax rate as a cornerstone for attracting foreign direct investment.

Ireland currently has signed comprehensive double taxation agreements with 70 countries, of which 68 are in effect. The countries outside the EU with which Ireland has a double taxation agreement are: Albania, Armenia, Australia, Bahrain, Belarus, Bosnia Herzegovina, Canada, Chile, China, Egypt, Georgia, Hong Kong, Iceland, India, Israel, Japan, Republic of Korea, Kuwait, Macedonia, Malaysia, Mexico, Moldova, Montenegro, Morocco, New Zealand, Norway, Pakistan, Panama, Qatar, Russia, Saudi Arabia, Serbia, Singapore, South Africa, Switzerland, Thailand, Turkey, the Ukraine, United Arab Emirates, United States of America, Uzbekistan, Vietnam and Zambia. Negotiations for new agreements with Azerbaijan, Jordan and Tunisia are ongoing. Ireland also has tax information exchange agreements with Montserrat and Dominica.

A company which is tax resident in Ireland is liable to tax at 12.5% on trading activities carried on in the State and in respect of dividends from certain foreign trading subsidiaries. A system of onshore pooling of foreign tax credits enables credit for foreign tax, including Municipal, State tax and withholding taxes on profits out of which dividends have been paid, to eliminate the incidence of Irish tax. A 25% corporate tax rate applies to passive income, certain land dealing and oil, gas and mineral exploitation. Non-trading activities subject to tax at 25% are typically outside the scope of the new Irish transfer pricing regime.

With increased globalisation, competition has intensified between jurisdictions to attract and maintain mobile investment projects. Managing a group's effective tax rate is a key tool in driving shareholder value. Although a wide range of non-tax factors inform taxpayers' investment decisions, straitened economic circumstances have led to renewed focus for multinationals on managing, and where possible reducing, the group's effective tax rate. Ireland's pro-business and low tax regime play a significant part in this. Set out in this document are various examples by which Ireland's tax regime may be used for differing businesses and activities.

Ireland as a Location for Financial Services

Regulated Industries, Activities and Regulatory Authorities

International Financial Services in Ireland

Ireland has developed into a significant global centre for a wide range of financial services activities which was incubated in the International Financial Services Centre (IFSC) on the North Quays in Dublin in the early 1990s. Since then, the financial services sector cluster has expanded geographically into the South Quays in Dublin and to other locations throughout Ireland to access the required youth, talent and skill base needed by this sector. Ireland is a very attractive location for international financial services conglomerates seeking a European presence and the appeal of establishing an international financial services operation in Ireland is based on a unique combination of the Irish legal and regulatory system, the specialists skills and expertise of its workforce, the country's pro-business approach, low taxation, infrastructure and government support.

The activity in the international sector has grown to an extent that over 250 global financial institutions now operate in Ireland, employing in excess of 25,000 people. Many of the world's leading financial institutions have established significant operations in Ireland and many have selected Ireland as the location of their European headquarters. The broad range of financial services available and accessible include the following areas:

- investment funds, administration and custody
- investment servicing, investment research and trading
- investment management
- banking and asset finance
- treasury management
- finance leasing
- insurance and reinsurance
- asset management services
- securities trading
- securitization
- debt capital markets.

The Central Bank of Ireland (Central Bank) is the regulator of financial services activities in Ireland and is responsible for both central banking and financial regulation. Some of the global treasury activities carried out in and through Ireland include treasury management services, cash pooling, netting, cash management, market pricing, exchange and interest rate risk management and cross-border leasing.

A large number of financial services companies are involved in insurance-related operations, particularly captive insurance and reinsurance.

Over 80 international banks are located in Ireland

41%

of the world's alternative investment funds are administered from Ireland

Funds

Ireland offers an attractive regime in which to domicile regulated investment funds and is a preferred location for fund administration, custody and management. An Irish fund can be established utilising a number of regulated and unregulated structures. The two regulated fund regimes in Ireland are:

- Undertakings for Collective Investment in Transferable Securities (UCITS)
- Non-UCITS.

A UCITS fund must be an open-ended fund and can avail of a "single passport" throughout the EU for the sale of its units/shares. This means that a UCITS fund, once established and regulated in Ireland, can be sold to the public in all of the EU Member States once the appropriate notifications have been made to the local authorities. The non-UCITS regime is an attractive investment vehicle for fund managers who wish to target sophisticated investors, namely institutional and high net worth individuals.

Certain funds which employ more complex investment strategies posing greater risk may not be permissible under the UCITS regime but can be set up as a non-UCITS fund. The term "non-UCITS" is generally used to describe all authorised Irish investment funds which are not UCITS.

The Qualifying Investor Alternative Investment Fund (QIAIF) has become one of Ireland's most successful non-UCITS as QIAIFs offer flexibility for alternative investments e.g. infrastructure funds, hedge funds, funds of hedge funds, private equity funds, real estate investment funds. QIAIFs are only open to certain investors. The minimum subscription per investor in a QIAIF is €100,000 and investment in a QIAIF is limited to certain classes of professional and sophisticated investors. In order to meet the requirements of existing fund providers and become a more attractive location for alternative investments, the Irish Central Bank can now authorise a QIAIF, on a filing basis only, within 24 hours of submission of the relevant documentation.

Insurance

In recent times, some of the leading players in insurance and reinsurance have re-domiciled their global headquarters to Ireland. A number of factors including the favourable tax regime in Ireland have been cited as the basis for this decision which includes a gross roll up system for life assurance companies. This allows policyholders' investments to grow tax-free throughout the term of the investment. A charge to tax is imposed at the time when payment is made to the policyholder, following the surrender or encashment of the policy. The investment return or growth is liable to tax at the current rate of 41%, depending on the nature of the payment, which the assurance company is required to deduct on payments to the policyholder. There are exemptions available from this tax charge where the policyholder is not resident for tax purposes in Ireland.

Asset Finance

Taxation

The Irish tax regime has been a key driver in the growth of the asset finance industry, particularly aircraft leasing, in Ireland. Highlights include:

- A low standard corporation tax rate of 12.5% on trading profits;
- No withholding tax on equipment lease rental payments paid to non-residents;
- Tax depreciation for equipment can be claimed over 8 years i.e. 12.5% per annum;
- Access to Ireland's extensive double taxation treaty network (68 signed treaties);
- No stamp duty or transfer taxes on the transfer of ownership of aircraft;
- No VAT on international aviation leasing as aircraft lessors typically enjoy full recovery of VAT on costs associated with the aircraft leasing business;
- Wide domestic law exemptions from withholding tax on interest and dividends.

Securitisation and Structured Finance SPCs

Irish tax law also includes favourable provisions for qualifying Special Purpose Companies (SPCs) who hold and/or manage, or have an interest in, a wide range of qualifying assets including, in the case of plant and machinery acquired by the SPC, a business of leasing that plant and machinery. This allows for the creation of an effectively tax neutral onshore, OECD and EU member SPC which can avail of Ireland's extensive double tax treaty network to minimise withholding tax leakage on payments received by the SPC and made to non-resident investors.

What Lies Ahead in 2014

The Irish Government has indicated its continued commitment to the development, growth and sustainability of the aviation industry sector in Ireland through a number of initiatives which are in progress for 2014:

- **A Dedicated Exchange for Aviation Finance**

  On 20 January 2014, the Irish Stock Exchange (ISE) announced plans to create a dedicated exchange for aviation related debt and other instruments. The ISE will offer a highly efficient, low cost platform delivering better visibility, greater investor reach and improved market intelligence for the aviation industry.

- **International Aviation Services Centre**

  Following a report on the General Scheme of the Shannon Group Bill 2013 (the Shannon Bill), the Irish Government has outlined its intention to create and develop a globally recognised and competitive International Aviation Services Centre in the Shannon region, with the creation of up to 3,000 jobs within 3-5 years.

- **Cape Town Convention Insolvency Declaration for Ireland**

  The intention in the Shannon Bill is to provide the necessary legal mechanism to allow Ireland to adopt the insolvency regime in relation to aircraft assets as set out in the Cape Town Convention and Aircraft Protocol. This will give international investors and participants security and comfort in relation to the application of the international insolvency process advocated in the Convention.

Technology & Intellectual Property

The Irish Government has promoted Ireland as a global digital hub and has strongly encouraged the development of ecommerce in Ireland. The electronic communications market has been fully liberalised for a number of years and the sector is regulated by the Commission for Communications Regulation (ComReg). 4G mobile broadband services are available to Irish businesses and consumers.

ComReg has placed the maintenance and facilitation of competition at the core of its agenda. To start a telecommunications business, you just need to notify ComReg. There is freedom of entry. ComReg also provides the framework for the introduction of new services. Wireless broadband access is common and ComReg continues to allocate spectrum for the delivery of value-added services. Numerous Fixed Wireless Access (FWA) licenses have been issued by ComReg to facilitate the roll-out of wireless broadband. During 2013, ComReg issued licences to four mobile phone companies for the provision of 4G services following a successful auction of the valuable 800 MHz, 900 MHz and 1800MHz bands in 2012 on which Mason Hayes & Curran was the principal legal adviser.

This significantly enhanced the range and quality of mobile broadband services available to Irish businesses and consumers, and has created valuable opportunity for innovation in the mobile communications space. Ireland is a world-leading centre for the technology industry and serves as a gateway for international technology businesses seeking to enter the EU market. Dublin's "Silicon Docks" has emerged as the EMEA location of choice for Google, Facebook, LinkedIn, Twitter and other major digital services and content providers. A combination of IP protection, the liberalised electronic communications industry, the dynamic labour market and access to EU markets are some of the benefits of locating headquarters in Dublin.

Top 10

'Born on the Internet' companies are based in Ireland

Intellectual Property Tax Advantages

In addition to the 12.5% rate of corporation tax on trading profits, the Irish tax regime also offers the following benefits to companies involved in the management of IP:

- Tax write off for the capital cost of acquiring IP which can result in an effective tax rate of 2.5% on related income
- Extensive treaty network limiting foreign withholding tax leakage on royalty payments to Ireland
- Exemption from Irish withholding tax on royalty payments from Ireland to both treaty and non-treaty jurisdictions
- Unilateral relief for foreign tax suffered on royalties received from abroad
- Exemption from Irish stamp duty on the sale or transfer of intellectual property
- Tax credit in the amount of 25% of qualifying expenditure incurred on research and development activities
- Ability to utilize research and development tax credit against current year tax liability with any excess allowed to be carried back against prior year tax liability, carried forward indefinitely for offset in future tax years, surrendered in a tax efficient manner to key employees or claimed as a refund.

50%

of the populaton in Ireland is under 35 years old

Intellectual Property

Ireland's commercially progressive IP laws govern five principal rights – copyright, patents, plant varieties, designs and trade marks.

Copyright

The Copyright and Related Rights Acts 2000 to 2007 govern copyright law in Ireland. Ireland's copyright law is technology neutral in its terminology to ensure that it does not become weakened or antiquated by emerging technologies. Under Irish law, copyright subsists in;

i) original literary, dramatic, musical or artistic works
ii) sound recordings, films, broadcasts or cable programmes
iii) the typographical arrangement of published editions and
iv) original databases.

Irish legislation specifically identifies computer programs as being capable of copyright protection. There is also a freestanding right in respect of databases that are insufficiently original to attract copyright protection but there has been substantial investment in the contents. This is known as the 'database right'. There is no requirement to register copyright in Ireland and the duration of protection depends on the type of copyright work. Ireland is a party to the Berne Convention.

Plant Varieties

Plant varieties may be protected under the Plant Varieties (Proprietary Rights) Acts 1980 and 1998. Ireland is a signatory of the International Union Convention for the Protection of New Varieties of Plants. The maximum period for protection ranges from 30–35 years depending on the plant variety.

Patents

Irish patent law is set out in the Patents Acts 1992 to 2012. The life of a patent is 20 years. However, in Ireland it is possible to apply for a short term patent which lasts for a 10 year period. There are special provisions for pharmaceutical and agrochemical patents which can extend the patent period for a maximum additional 5 years. Ireland is a party to the Paris Convention.

Designs

The Industrial Designs Act 2001 is the main substantive act in Ireland governing design rights. The Act provides that a design must be new and have individual character to be registrable and a registered design is capable of being protected for a maximum period of up to 25 years.

Trade Marks

Trade marks are protected under common law by way of action for passing off and also under statute by the Trade Marks Act 1996 (as amended), which implements European legislation aimed at harmonising trade mark law throughout the EU. It is possible to seek to register a trade mark which would only have effect in the Republic of Ireland. However, under EU trade mark law it is also possible to apply for Community Trade Mark (CTM) protection, which, if granted, gives protection in every EU country just by making a single application. Ireland has ratified the Madrid Protocol and it is also possible to file an 'International Registration' designating 'Ireland' or 'from Ireland'.

Trade marks which are granted are registered for 10 years and are renewable indefinitely for successive periods of 10 years subject to the applicable legislation.

Data protection

In contrast to the regime adopted in other EU member states, the Irish data protection rules focus on forward looking compliance, rather than the punishment of past errors. The Data Protection Acts place a focus on the amicable resolution of complaints.

The privacy of personal data is governed by the Data Protection Acts, which oblige persons or bodies who are in control of personal data to comply with basic data protection principles and where applicable, to register as a 'data controller' or a 'data processor' with the Data Protection Commissioner. The Data Protection Acts confer rights on individuals, as well as responsibilities on those who control and process personal data. Irish data protection legislation sets out detailed rules concerning the processing of personal data.

Processing of personal data means performing any operation or set of operations on data whether or not by automatic means.

The transfer of data from Ireland to outside the European Economic Area is also governed by the Data Protection Acts. They provide that personal data may not be transferred to a third country outside of the EEA unless that third country ensures an adequate level of protection in relation to the processing of data or unless certain other conditions are met.

The Electronic Privacy Regulations govern the use of cookies and the sending of unsolicited commercial communications via electronic media (often termed spam). Generally, the use of cookies, or the sending of commercial communications to consumers, requires consent.

In recent years the Irish Data Protection Commission has increased its scrutiny of the data processing activities of major multinationals with headquarters in Ireland.

Our Data Protection lawyers are the most experienced and practiced lawyers in Ireland in assisting multinationals in addressing the challenges of Data Protection regulation and compliance for their pan-European operations.

9/10

Global ICT Corporations are based in Ireland

1st for flexibility
& adaptability
of workforce

Employment Law

Statute, common law and the Irish Constitution all have a bearing on the employment relationship in Ireland. Most statute law is driven by our membership of the European Union (EU) and although there are differences between how many Member States of the EU have interpreted and implemented various pieces of employment law, what sets Ireland apart from most of our European counterparts is the distinct absence of works councils and, in particular, the lack of almost any obligation to inform and consult with employees.

The Right to Work in Ireland

Non-EEA nationals, other than Swiss nationals, require permission to work and reside in Ireland. Applications for permission to work for more senior employees with salaries in excess of €60,000 are relatively straight forward. In addition, the Department of Jobs, Enterprise and Innovation operates an intra-company transfer scheme whereby senior management and trainees earning in excess of €40,000 who have been working for the foreign entity for over a year can be transferred to work in the Irish operation for up to five years.

Regulation of the Employment Relationship

The employment relationship in Ireland is governed by the express and implied terms of the employment contract. Irish statute and common law also imply provisions into the employment contract for example, in relation to holiday entitlement, national minimum wage (currently €8.65 per hour), maternity, adoptive and parental leave and minimum notice. Employees in Ireland also have statutory protection from discrimination on certain grounds.

Under statute and subject to a few exceptions, employees must have over one year's service in order to come within the protections of the unfair dismissals legislation. In order to effect a dismissal fairly and avoid liability under the unfair dismissals legislation, an employer must have a fair reason to dismiss an employee and an employer must follow a process before dismissing an employee. Compensation for unfair dismissal can be up to two years' remuneration but capped at the employee's financial loss. Under common law, the employment relationship can be terminated for good reason or no reason so long as an employee is given notice in accordance with their contract of employment.

Union activity in Ireland is largely confined to the manufacturing and public sectors. There is no provision for mandatory recognition of Unions, and information and consultation with employee representatives is only necessary in very limited circumstances.

Our experienced Employment & Benefits team provides ongoing strategic and detailed guidance to many of the leading foreign companies operating in Ireland. In addition, we have a dedicated team that provides Irish business immigration advice to both employers and non-EEA national employees.

Best City

Dublin is ranked as the best city in the world for human capital

Non-Irish Domiciled Individuals

Ireland offers a favourable tax regime for non-Irish domiciled individuals as such individuals are subject to the remittance basis of taxation in Ireland (both for income and capital gains tax purposes). In brief this means that, with the exception of employments exercised in the State and Irish source income and gains, a non-Irish domiciled Irish tax resident individual is not subject to Irish income or capital gains tax on foreign source income or gains where the income or gains are not remitted into Ireland. This ensures that, with careful tax planning, the non-Irish domiciled individual can be largely outside the scope of Irish income and capital gains tax.

BRICS Foreign Earnings Deduction

The Finance Act 2012 introduced a further incentive for individuals who perform the duties of their office or employment in Brazil, Russia, India, China or South Africa for a total of at least 60 qualifying days in any continuous period of 12 months. Workers meeting the criteria are entitled to an income tax deduction proportionate to the number of days spent in these countries in the tax year up to a maximum of €35,000. A day spent in any of these countries will be a qualifying day for the purpose of reaching the 60 day threshold only if it is one of at least 4 consecutive days throughout the whole of which the individual is present in that country for the purposes of the performance of the duties of the office or employment and which are substantially devoted to the performance of such duties.

Special Assignee Relief Programme (SARP)

Ireland operates a SARP regime to attract non-Irish employees of multinationals to relocate to Ireland whilst being paid from abroad. The SARP is targeted at individuals employed with a foreign company for at least 12 months prior to coming to Ireland and who take up employment in Ireland with that company or an associated company. The employee must not have been resident in Ireland for tax purposes during the 5 years immediately preceding their arrival in Ireland.

The qualifying individual is entitled to take a tax deduction amounting to 30% of qualifying employment income liable to Irish tax (net of qualifying pension contributions relief) in excess of €75,000. The maximum income qualifying for relief is capped at €500,000 and the maximum permitted deduction from taxable income will be €127,500. The relief is available to individuals who come to Ireland in the tax year 2014 and is available for a maximum of 5 years. An application can be made to Irish Revenue to grant the relief through Irish payroll rather than under the existing arrangements whereby the employee would make an appropriate claim following the end of the tax year. Employers may also reimburse qualifying employees on a tax free basis in respect of the cost of one trip by the employee to their home country together with the cost of school fees for the employee's children up to a maximum of €5,000 per child.

Real Estate in Ireland

Irish land titles take two forms, perpetual or freehold, and a term of years or leasehold. Commercial occupiers often rent property instead of buying it outright. Traditionally these leases have been in the form of full repairing and insuring obligations for twenty five years and upward only rent reviews. However, due to a change in the law and a change in market conditions due to economic circumstances, upward only rent reviews are no longer possible in new leases and the length of a lease has reduced to ten years or even shorter.

Short term leases, five years or less, are becoming more frequent, particularly in the technology sector where landlords are learning that the property needs of technology companies can expand rapidly, thereby repaying the confidence of a landlord who is willing to give such a tenant options over more space in a large commercial development.

Overseas occupiers made up 64% of all lease activity in 2013. Companies such as Twitter took space and are looking for more. The need to provide top quality office accommodation for international companies will be a driver for the restart of commercial development in 2014. International investors also dominated major real estate acquisitions, with the likes of CAPREIT and Kennedy Wilson acquiring substantial amounts of real estate.

Real Estate Registers

Ireland has two types of property registries, Land Registry and Registry of Deeds. Land Registry gives confirmation of ownership but the Registry of Deeds is only a recording that documents exist. The Government is encouraging registration of titles in the Land Registry with a view to facilitating e-conveyancing in the future. All purchases for value now result in an obligation to register the title in the Land Registry.

Tax matters

To simulate activity in the property sector, the Government introduced a special Capital Gains Tax relief. If one acquires property on or before 31 December 2014 and holds the property for seven years then one will not pay Irish Capital Gains Tax on gains arising in those seven years. Stamp tax applies, usually at 2%, down from as high as 9% during the boom. There are taxes on commercial property, known as rates, and on residential property, known as local property tax.

REITs

Ireland introduced REIT legislation in 2013 and continues to develop innovative structures for real estate investment.

Development

Any works or changes of use require planning permission and compliance with building regulations. Therefore, when considering development potential in a potential purchase, planning risk is a major factor. Local planning authorities may formulate Strategic Development Zones (SDZ) which fast track the process by removing the possibility of an appeal and virtually guaranteeing the permission if one complies with the requirements of the SDZ. Dublin City Council, the local planning authority for central Dublin, is finalising an SDZ for the South Docks part of the city. This is referred to as Silicon Docks due to the multiplicity of technology companies operating in the area. Mason Hayes & Curran is based in the proposed SDZ area, near the EMEA Headquarters of Google.

Market Conditions

After a number of quiet years, market activity increased substantially in 2013. €1.8bn was spent on commercial investment properties, mainly as a result of interest from foreign investors. Rents increased for prime city centre offices by 16%, from a low starting point admittedly. Residential values and rents increased particularly in the Dublin area but largely due to lack of supply. Developers are back buying sites and we would expect to see a return to more normal house building activity during the coming year. Extra supply will moderate the chance of excessive price increases.

There has been a recovery in all parts of the market including retail and industrial, although it is slow to develop. 2013 was also the busiest year so far for loan sales. The continued disposal by foreign banks was dwarfed by the IBRC marketing of €22bn of loans in four portfolios, Projects Evergreen, Sand, Stone and Salt.

The entry into the Irish market of substantial international residential owners of multifamily units for rental is novel for Ireland. These investors will introduce professional management practices and we envisage that their accommodation could become the premium standard setter in the residential investment market.

64%

of all lease activity in 2013 was made up of overseas occupiers

The Winds of Change: Ireland's Growing Green Economy

Ireland is a prime location for investors in the dynamic and rapidly developing 'Green Technology' and 'Renewables' sectors.

Government Policy

Successive Governments have committed to developing Ireland's Green Technology sector and in 2012 the Minister for Jobs, Enterprise and Innovation announced the 'Delivering Our Green Potential' initiative. This policy document outlines the Government's ambition for growth and job creation in the sectors that make up the green economy focusing on our natural environment, our world-class renewable energy resources and our excellence in research, development and innovation capacity. Indeed, in-depth wind and marine energy R&D is currently being undertaken in various universities.

Governmental commitment is also evident from the number of defined policy targets that have been set in order to position Ireland as a world leader in this sector. For example, the Government aims to have 40% of all electricity generated from renewable resources by 2020, in addition to a 20% saving on current energy costs and a penetration rate of 10% for electric vehicles. In 2012 wind energy in Ireland accounted for 15.5% of Ireland's electricity needs and a total of 4000MW is planned to be connected by 2020. The average wind turbine in Ireland produces enough energy to power 1,300 homes per annum.

With wind energy resources in abundance, experts suggest that Ireland will not only meet these targets, but will have capacity to share our energy output with the UK. In January 2013, a Memorandum of Understanding was signed by the Irish and UK governments to explore the opportunities for the export and trading of renewable energy between the two countries. Detailed consideration of how Ireland's onshore and offshore wind resources might be developed for export to the UK is now underway, with a view to determining if it is beneficial for both countries to enter into an Inter-Governmental Agreement under the EU Renewable Energy Directive.

The UK currently has particular challenges in developing renewable energy projects, and so Ireland should be well-placed, provided it has met its own target, to exploit the opportunity to trade its excess renewable energy capacity with the UK and indeed, with other Member States who are not as well-positioned to meet their own targets. Under the EU Directive, it is permitted for a country to count renewable energy produced in another country towards its target, as long as the renewable energy target of the exporting country has already been met.

At present in Ireland, approximately 3,900MW of onshore and 2,700MW offshore wind energy projects with grid connection offers are proposed and at various stages of development. In addition, there is an estimated potential for another 5,000MW development, onshore and offshore, at sites which have not yet commenced the consenting process. To assist the process of bringing this electricity onto the grid, the transmission system operator has undertaken a significant grid enhancement programme. Energy from renewable sources gets priority of dispatch to the grid, subject to certain constraints.

Exporting our wind energy could potentially represent a significant economic opportunity for Ireland.

4000MW to be connected by 2020

Renewables Support

The latest Government support scheme for renewable energy production is the Renewable Energy Feed In Tariff scheme (REFIT). REFIT was announced in 2006 with state aid approval following in respect of the first scheme (REFIT 1) and two subsequent schemes (REFIT 2 and 3) in subsequent years.

REFIT 1 covered small and large scale onshore wind, biomass landfill gas, other biomass and small hydro (≤ 5MW). Under the terms of the state aid clearance, no new applications have been accepted since 31/12/2009.

REFIT 2 is now open for applications. It is intended to cover small and large scale onshore wind, biomass landfill gas and small hydro (≤ 5MW). To be eligible for REFIT 2, the various requirements that will be set out in the terms and conditions must be fulfilled including proof of planning permission and grid connection. Plants must be new plants neither fully commissioned nor operational before 2010.

The latest REFIT scheme known as REFIT 3 is for biomass technologies and it aims to cover 310MW of certain biomass related REFIT categories as follows:

- 50MW of AD sub technologies (AD CHP ≤500 kW; AD CHP >500 kW; AD (non CHP) ≤500kW; AD (non CHP) >500kW)
- 100MW of Biomass CHP (non AD) sub-technologies (biomass CHP ≤1500kW; Biomass CHP >1500kW) and
- 160MW of biomass combustion and co-firing.

The REFIT 2 and REFIT 3 competitions are separate schemes with separate terms and conditions in respect of each scheme. Separate state aid applications will be required for any additional new REFIT technology categories that the Government may decide to introduce.

A One-Stop Shop

As well as boasting some of the best renewable resources in the world, Ireland's Green International Financial Services Centre (GIFSC) promotes Ireland's abilities in the areas of green asset management and sustainable energy finance.

There are a number of different ways in which green asset managers can use the Irish investment management infrastructure such as, (a) establish the fund domicile in Ireland using multiple different types of regulated fund structures to meet different investor requirements; (b) Ireland can provide the holding structure which holds the various green investments on behalf of green funds wherever they are established; and (c) locate some or all of the investment management function in Ireland given the level of relevant global expertise in the country.

Firm Overview

Mason Hayes & Curran is an award winning full service business law firm with offices in Dublin, New York and London. We are a dynamic firm with a straight talking approach that focuses on meeting your needs.

Our solution-driven approach to business challenges, which combines commercial awareness with intellectual rigour, consistently exceeds expectations. Although we have deep skill sets in target industries ranging from technology to financial services, energy, healthcare and technology, the diversity of our practice means that we bring a fresh and dynamic approach to every organisation that we advise.

Our 335 staff, including 70 partners, consistently give clear and innovative legal advice to multinational, institutional and government clients. We also have lawyers with foreign language competence including French, German, Polish, Portuguese and Spanish.

Practice Areas

Commercial

Our commercial department has extensive experience and a wide practice in the areas of trade, competition, EU law, technology, electronic communications and regulated industries. We bring a realistic commercial approach to negotiating every type of business text, from standard terms and conditions of sale, to complex outsourcing agreements, to privatisation processes. We routinely advise on distribution contracts, agency contracts, procurement contracts, IT contracts and media contracts.

Corporate

Our corporate team provide partner-led specialised legal services to major multinational and global corporations that want to conduct business in Ireland as part of their global strategy. We work alongside international law firms and the global investment banking community to provide sophisticated and cutting edge legal solutions. We work seamlessly with our highly rated international tax department.

Our team is recognised for delivering the right results in a straight talking, business focused manner. We are active in M&A transactions, venture capital, cross border reorganisations, inward investment and equity capital markets.

Tax

Our tax department specialises in advising on cross-border transactions involving Ireland. We regularly structure corporate transactions to maximise the benefits of Ireland's low tax environment and double tax treaty network. We specialise particularly in developing and implementing business models that seek to maximise the benefits of Ireland's world-leading intellectual property tax regime.

The tax team works closely with our financial services colleagues in advising on the tax benefits of locating funds in Ireland, conducting lease in/lease out activities and using Ireland as a location from which to issue tax deductible profit participating bonds and other debt issuances.

Financial Services

We advise on all aspects of banking, financial regulation and investment funds advising lenders and borrowers on secured and unsecured loans, property finance, syndications, asset finance, acquisitions finance and regulatory aspects of the financial services industry in Ireland.

Our investment funds group advises on all aspects of investment fund law and regulation. In particular, we advise fund promoters on structuring, establishing and listing investment funds in Ireland and we advise and assist fund service providers in establishing operations in Ireland and provide ongoing legal advice as their business develops.

Litigation and dispute resolution

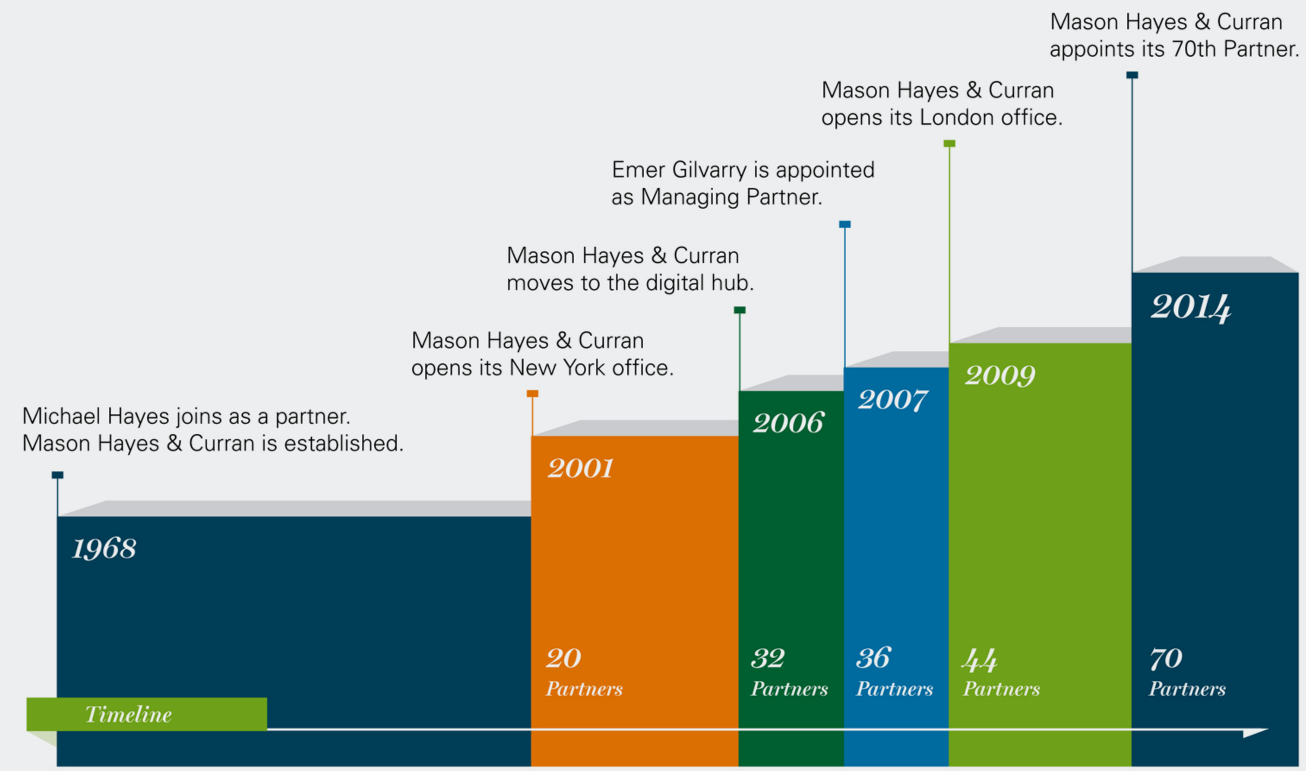
Our litigation department covers many areas, including shareholders' rights, intellectual property, tracing actions, competition (antitrust) litigation as well as general commercial litigation. We believe in discussing with clients their overall objectives in any dispute or litigious matter with a view to tailoring a strategy which will most efficiently and effectively secure the achievement of those objectives.

Real Estate

Our real estate practice spans a broad range of activities for clients in all sectors. This includes acting in the acquisition and disposal of residential and investment property and representing a large number of developers in a variety of residential, commercial and mixed developments. Our lawyers also act for a large state-sponsored, commercial and institutional client base in the acquisition, disposal and financing of investment properties, industrial sites and business premises.

We also advise an extensive client base on all aspects of landlord and tenant law, including the drafting and negotiation of commercial leases and also represent developers in site assemblies, leases and other dealings.

Our History



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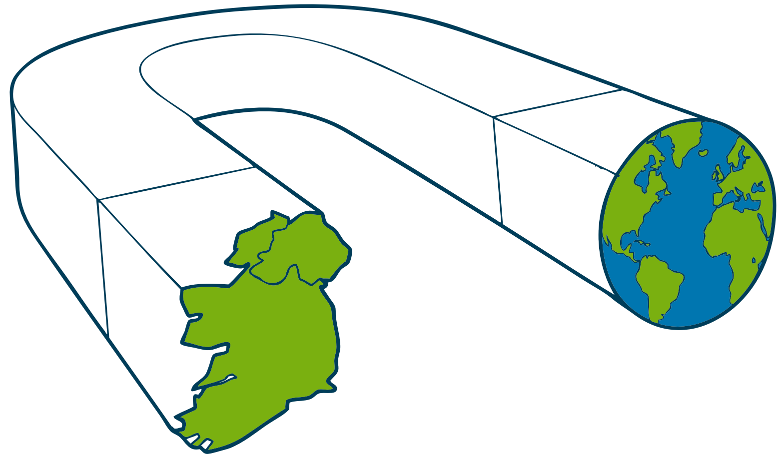

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