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Europe: Ireland’s New Participation Exemption – An Opportunity for Private Markets Asset Managers

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The Irish Finance Bill 2024 will, with effect from 1 January 2025, create a new participation exemption for foreign dividends. This exemption will bring Ireland into line with the rest of the EU which has a similar exemption. It is specifically designed to benefit Irish-resident companies that receive foreign-source dividends. The development has been broadly welcomed and is particularly noteworthy for the asset management industry and investment funds engaged in cross-border investments.

Under current rules, Irish tax applies to all profits of an Irish-resident company, including foreign dividends. The new exemption will allow dividends and other distributions received from companies in ‘relevant territories’ – including EEA countries, tax treaty partners and certain pending treaty territories – to be exempted from Irish tax. However, companies can still choose to use the existing tax-and-credit relief mechanism, if preferred.

The participation exemption will be subject to strict qualifying criteria. The parent company must be tax-resident in Ireland or in an EEA country and must not be generally exempt from tax in that jurisdiction. Additionally, it must hold at least 5% of the subsidiary’s ordinary share capital or be entitled to at least 5% of distributable profits, with an uninterrupted holding period of 12 months. The subsidiary must also be tax-resident in an EU/EEA country or a double-tax treaty jurisdiction and not be generally exempt from non-Irish tax. Lastly, the distribution must be from the subsidiary’s profit or assets and be treated as income by the recipient. The exemption will not apply to capital receipts.

The participation exemption is expected to enhance Ireland’s position as an attractive hub for multinational firms, encouraging them to establish or expand international structures in Ireland. Further engagement is expected with the Irish Government and that may in due course lead to amendments to, or an expansion of, the exemption.

Sneha Thomas also contributed to this article.

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