

**Consultation on the exemption at Section 279 of the Companies Act 2014**

Submission to the Department of Jobs, Enterprise and Innovation.

16 September 2016

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16/09/2016

Ref: **Consultation on the exemption at Section 279 of the Companies Act 2014**

I am pleased to communicate the views of Ibec and its members on this important consultation. Working through our Economics and Taxation Committee, which has representatives from a broad range of industry sectors, we have collated the feedback outlined below. Ibec represents the interests of Irish business including indigenous and multinational enterprises and SMEs, spanning all sectors of the Irish economy. Ibec and its sector associations work with government and policy makers at national and international level to shape business conditions and drive economic growth.

**Comments**

Section 279 of the Companies Act 2014 provides an important exemption for a significant number of Irish incorporated Securities and Exchange Commission (SEC) registered companies to use US GAAP in place of IFRS for reporting requirements in Ireland. This exemption was originally introduced in 2009 in order to avoid the duplication of reporting requirements and unnecessary regulatory cost on business.

The main difference between the financial reporting standards of the EU and the US is that the EU tends to be principles based whereas the US is rules based. While, given the demand for a globally accepted set of accounting standards, there have been on-going efforts at convergence between the two, it remains to be seen whether full convergence will be achieved. The time bound exemption, to 2020, which was given in 2012 was on the basis that this convergence would be achieved. The principle for the need for this exemption has clearly already been accepted but given the lack of progress in convergence in reporting standards it now needs to be extended further. It remains uncertain as to how convergence will progress over the coming years and it is currently impossible to put an indicative timeline on when it might be achieved. In light of such uncertainty, an open-ended exemption should therefore be provided.

Although the current exemption runs until end December 2020, the requirement for three previous years of comparator reporting means that the exemption effectively expires for affected companies at 31st December 2017. It is therefore essential that the Department takes an immediate decision on this and provides certainty to business as soon as possible.

Failure to renew the exemption will place significant and unnecessary additional reporting costs on business and would fly in the face of Government’s ‘Better Regulation’ agenda. A Regulatory Impact Assessment approach would also clearly demonstrate the rationale for extending the exemption. While removal of the exemption will clearly result in additional costs for a significant cohort of businesses in Ireland, we cannot see any offsetting benefits that would accrue to the wider Irish economy. The direct net impact of the exemption removal would therefore be a negative one.

The additional reporting costs involved will add to the cost of doing in business in Ireland, at a time when our competitiveness is already deteriorating. The resources allocated to these unnecessary reporting activities will impact on budgets available for other investments in Ireland including employment. In addition to the direct reporting costs, the removal would increase the perception of high regulatory burden in Ireland and would ultimately damage our overall attractiveness to FDI.

Retaining the current exemption is crucial in order to preserve Ireland’s international competitiveness as a number of other jurisdictions, which compete with Ireland for mobile investment, already provide such exemptions. It is also important to note that the SEC allows foreign registered companies to use IFRS. Therefore, if Ireland failed to renew the current Section 279 exemption it could result in reciprocal implications for a number of other Irish owned multinational companies. Given the wider context of US-EU trade and investment relationships, the extension of this exemption would also be seen as a welcome and positive signal from Ireland.

**Conclusion**

Ibec strongly supports the extension of the current financial reporting exemption for Irish incorporated SEC registered companies. Extending the exemption will:

* Confirm the principle already accepted by Government in granting the existing exemption
* Provide certainty to affected businesses on their reporting requirements
* Avoid wasting resources, which could support job creation or other economic investments in Ireland, in unnecessary reporting and administrative burdens
* Ensure that Ireland’s competitive position against other jurisdictions already providing such reporting exemptions does not deteriorate
* Support a positive investment and trading relationship between Ireland and the US which will benefit the wider enterprise base and the economy generally

Ibec would be happy to discuss further with the Department any of the issues raised in this submission.

Yours sincerely,

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