

## IRELAND

### SMALL AND MEDIUM ENTERPRISES AND TRANSFER PRICING

#### 1. Have you established a dedicated website/webpage as a single point of information for SMEs on transfer pricing matters? Alternatively, has information for SMEs on transfer pricing matters been made available electronically via an existing website/webpage? In which language(s) is the information available?

Ireland's comprehensive transfer pricing legislation, which was introduced by Section 42 of the Finance Act 2010 (No. 5 of 2010), is contained in Part 35A (i.e. Sections 835A to 835H) of the Taxes Consolidation Act 1997. SMEs are excluded from the scope of this legislation.

- 1.1 The Finance Act 2010 may be accessed on [www.irishstatutebook.ie](http://www.irishstatutebook.ie) - see under *Acts of the Oireachtas*.
- 1.2 [www.revenue.ie](http://www.revenue.ie) is the website of the Office of the Revenue Commissioners ("Revenue") i.e. Ireland's tax administration. Transfer pricing information on this website may be accessed using the *Site Search* facility.
- 1.3 The information available on the website includes *Notes for Guidance* to Part 35A of the Taxes Consolidation Act 1997. The *Notes for Guidance* summarise the provisions of Part 35A.
- 1.4 The information on [www.irishstatutebook.ie](http://www.irishstatutebook.ie) and [www.revenue.ie](http://www.revenue.ie) is in English.

#### 2. Do you have a single definition of SME that applies for most direct tax purposes?

We do not have a single definition of SME that applies 'for most direct tax purposes'.

#### 3. Do you apply a specific SME definition for transfer pricing purposes?

SMEs, which are excluded from the scope of Ireland's transfer pricing legislation, are defined for transfer pricing purposes in Section 835E(2) of the Taxes Consolidation Act 1997. The definition is, subject to certain qualifications, the same as that in Commission Recommendation 2003/361 EC of 6 May 2003.

The full text of Section 835E of the Taxes Consolidation Act 1997 is as follows:

"(1) This Part [35A] does not apply in computing for any chargeable period the profits or gains or losses of a person if that person is a small or medium-sized enterprise for that chargeable period.

(2) For the purposes of this section 'small or medium-sized enterprise' means an enterprise which would fall within the category of micro, small and medium-sized enterprises as defined in the [Annex](#) to the Commission Recommendation (in this section referred to as the 'Annex') if-

- (a) in the case of an enterprise which is in liquidation or administration, the rights of the liquidator or administrator (in that capacity) were left out of account when applying [Article 3\(3\)\(b\)](#) of the Annex in determining for the purposes of this Part whether-
  - (i) that enterprise, or
  - (ii) any other enterprise (including that of the liquidator or administrator), is a small or medium-sized enterprise,
- (b) [Article 3](#) of the Annex had effect with the omission of [paragraph 5](#) of that Article,

- (c) the first sentence of [Article 4\(1\)](#) of the Annex had effect as if the data to apply to-
  - (i) the headcount of staff, and
  - (ii) the financial amounts,were the data relating to the chargeable period referred to in subsection (1) (instead of the period described in the said first sentence of [Article 4\(1\)](#) of the Annex) and calculated on an annual basis, and
- (d) [Article 4](#) of the Annex had effect with the omission of the following provisions-
  - (i) the second sentence of paragraph 1 of that Article,
  - (ii) paragraph 2 of that Article, and
  - (iii) paragraph 3 of that Article.”.

**4. What specific services for SMEs are in place e.g. advanced pricing agreements, dispute resolution (pre- or post-audit), etc.? Is information on these services available electronically on the website(s) identified in question 1 or elsewhere? In which language(s) is the information available?**

Ireland’s transfer pricing legislation does not apply to SMEs.

**5. Are training materials made available to SMEs electronically via the website(s) identified in question 1 or elsewhere? In which language(s) is the information available?**

Ireland’s transfer pricing legislation does not apply to SMEs.

**6. Is information on procedures to provide SMEs with advance certainty on transfer pricing issues (e.g. advanced pricing agreements, rulings and clearances) available electronically via the website(s) identified in question 1 or it is only available from some other source? In which language(s) is the information available?**

Ireland’s transfer pricing legislation does not apply to SMEs. Ireland does not operate a system of unilateral advance pricing agreements, binding rulings or clearances. Applications for a bilateral advance pricing agreement may be made to the person indicated in the reply to Q8.

**7. Is there a dedicated contact point available to SMEs for transfer pricing compliance issues?**

As stated above transfer pricing legislation does not currently apply to SMEs. However, if there is a transfer pricing compliance issue the appropriate case manager should be contacted in first instance.

**8. Is there a dedicated contact point for advanced pricing agreements, clearances and rulings available to SMEs?**

As stated in Q6, Ireland does not operate a system of unilateral advance pricing agreements, binding rulings or clearances.

A SME wishing to enter into a bilateral advance pricing agreement should contact:

Director  
International Branch II  
Corporate Business and International Division  
Office of the Revenue Commissioners  
Stamping Building  
Dublin Castle  
Dublin 2  
Ireland

Tel.: +353 1 674 8020

**9. Is there a dedicated contact point available to SMEs who want to claim relief from double taxation as a result of a transfer pricing adjustment?**

Claims for relief from double taxation as a result of a transfer pricing adjustment should be made to:

Director  
International Branch II  
Corporate Business and International Division  
Office of the Revenue Commissioners  
Stamping Building  
Dublin Castle  
Dublin 2  
Ireland

Tel.: +353 1 674 8020