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BRIEFING NOTES
IRELAND AS GATEWAY TO EUROPE FOR CHINESE COMPANIES

One of the primary tax benefits of doing business in Ireland is Ireland's standard corporation tax rate of 12.5%. This low rate applies to all 'trading' income (broadly equivalent to active income). Non-trading income (broadly equivalent to passive income) is generally taxable at 25%. In addition, no Irish capital gains tax applies on the sale by a Chinese resident parent company of shares in an Irish resident company provided that the Irish company does not derive more than 50% of its value from Irish real estate.

Coupled with the broad Irish domestic exemptions from withholding tax on dividends and payments of interest and royalties, the net result is that a Chinese parent company should not suffer any additional tax leakage on its overseas investment at the Irish intermediate holding company level.

The Chinese investor can also benefit, through the use of an Irish holding company, from the broad range of holding company benefits (including IP benefits) offered by Ireland:

- Ireland has no specific 'thin capitalisation' rules. This means there is generally no restriction on wholly debt-funded Irish holding companies.
- Ireland has no 'controlled foreign company' rules.
- A tax deduction for funding costs is available to Irish holding companies for externally-sourced and certain internally sourced, debt capital. Any excess deduction can be used to offset other taxable profits of the holding company.
- Ireland has a wide tax treaty network which gives it a significant advantage over other 'low tax' jurisdictions. Currently, 69 tax treaties have been signed (with negotiations underway for an additional three treaties).
- Ireland has broad domestic exemptions from Irish withholding taxes on payments of dividends, interest and royalties to persons resident in tax treaty partner countries (and additionally, in the case of dividend payments, to companies controlled by persons resident in tax treaty partner countries). Pursuant to these exemptions, dividends and payments of interest and royalties made in the course of the Irish company's trade or business to a Chinese parent company should be exempt from Irish withholding taxes without requiring clearance under the DTA.
- Ireland allows for the onshore pooling of 'excess' foreign tax credits on foreign dividends. The excess credits can be set-off against any Irish tax due on other foreign dividends.

From an IP holding company perspective, Ireland offers substantial tax incentives to encourage and foster the growth of IP rights, including incentives for both the purchase and internal development of IP by Irish companies.

- A tax deduction is available in respect of capital expenditure incurred on most forms of IP. The deduction can be taken in line with the accounting depreciation on the IP or alternatively, over a maximum 15 year period, whichever is the lesser. The tax deduction can be used to achieve an effective tax rate of 2.5% on profits from exploitation of the IP purchased. Provided the IP is held for five years, a subsequent disposal of the IP will not result in a claw back.

- Ireland offers a 25% corporation tax credit to companies within the charge to Irish tax which carry out qualifying research and development ("R&D") expenditure. Where the credit is not exhausted by the offset against a company's corporation tax liability, a company may, within limits, reclaim the excess tax credit in instalments from the Irish tax authorities. The credit may also, within certain limits, be surrendered by a company to key R&D employees to reduce their income tax liability.
- Irish tax law exempts the sale, transfer or other dispositions of IP from stamp duty, with a broad definition of IP also applying for the purposes of this exemption. No other transfer taxes would apply on the sale of IP.

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