



STRENGTHENING SOCIETY, ENHANCING THE ECONOMY, EMPOWERING OUR PROFESSION

A submission from the Law Society
of Ireland for Budget 2026

ABOUT THE LAW SOCIETY

The Law Society of Ireland represents more than 12,000 solicitors and is the voice of the profession on law and justice. We work to shape a fair and just legal system that serves the needs of all. We deliver world-class solicitor training and legal education. Through effective regulation, we ensure the highest professional standards - protecting the public interest and sustaining trust in the profession. We provide extensive services that support solicitors in all areas of practice. Our work enables solicitors to deliver trusted legal services for communities across Ireland.

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INTRODUCTION

The justice system helps people address and resolve common legal issues we all face in our lives. Buying a home, family law, wills or setting up a new business may be the first experience of the justice and legal system for many.

A justice system that works well also boosts Ireland's reputation around the world, making Ireland more attractive for investment and international cooperation. Right now, though, the justice system is seriously underfunded, which is holding it back from realising its full potential.

This Submission focuses on the need for sustainable investment in the justice system to improve its accessibility and the experience for individuals and businesses. The delivery of improvements to the justice system contribute to business confidence, stronger communities, and a more resilient democracy.

KEY RECOMMENDATIONS

The Justice System and Society

- Invest in improved courts' infrastructure and greater numbers of judges and courts staff to meet the demands of a modern society
- Extend civil legal aid to cover a wider range of cases and extend eligibility thresholds to appropriate levels
- Establish the Mediation Council of Ireland
- Provide funding for the full implementation of the Family Courts Act 2024
- Invest in child-friendly courts infrastructure
- Increase criminal legal aid fees to pre-financial crises levels to ensure there is no further reductions in the pool of available legal practitioners for those who need them most
- Take steps to ensure future viability of the Garda Station Legal Advice Scheme
- Establish a solicitors' portal to allow legal professionals to assist those who need help establishing enduring powers of attorney
- Facilitate the delivery of a modern eConveyancing system

The Justice System and the Economy

- Support smaller practices around Ireland in gaining access to small business supports
- Sustain investment in the *Ireland for Law* campaign to promote Ireland as a destination for international dispute resolution
- Provide adequate resources that allow for timely transposition of EU law

The Justice System and our Profession

- Extend the SUSI grant to trainee solicitors on part time professional training programmes
- Establish a dedicated non-EEA visa scheme to allow more people complete their training as solicitors in Ireland
- Develop a dedicated public sector legal talent pipeline



THE JUSTICE SYSTEM AND SOCIETY

Investing in modern courts infrastructure enhances access to justice and improves the user experience.

Ireland's courts should be a leading public service. Yet, the physical infrastructure of the courts has repeatedly been identified as being inadequate to meet the evolving demands of Ireland's justice system. When court facilities lack the required level of privacy, particularly in sensitive cases such as family law proceedings, or are not accessible to people with accessibility needs, the infrastructure itself fails to support a quality justice experience. This shortfall compounds the challenges already faced by individuals and businesses engaging with the courts.

Further, the Courts Service must be appropriately resourced to respond to the increasing need for reliable digital court services, including virtual hearings and in-court e-portal facilities, case management systems, and the wider adoption of a paperless court system. The use of technology in court rooms will enhance accessibility, efficiency, and overall user experience within the justice system.

The persistent problems in the courts infrastructure are also reflected in its case management process. There is an ever-growing backlog of cases. Cases currently take at least 1.5 times longer than the European average. Too few judges, and court staff, are tasked with managing a disproportionately high caseload, further exacerbating delays and undermining the system's effectiveness.

The impact of an undersized judiciary on court efficiency is well documented. Investment in courts staff and additional judges will be key to improve caseload backlogs, improve case waiting times and the overall experience of court service users.

WE RECOMMEND THAT GOVERNMENT:

- Improves the existing court infrastructure and develops new court facilities where there is a clear need.
- Implements the digital transformation programme to underpin the operation of a modern, larger courts system to meet current and future needs.
- Provides additional funding for the appointment of more judges and courts staff in line with the recommendations of the OECD and the Report of the Judicial Planning Working Group.

Total proposed investment for The Courts Service in 2026: €210m (5% increase on 2025)

Investing in Civil Legal Aid to enhance access to justice

A well-functioning legal aid system helps ensure access to justice for all, fair legal outcomes and protection of rights. To reflect the changing needs of Irish society, the scope, financing, and administration of civil legal aid requires urgent reform.

The publication of the report by the Independent Review Group on Civil Legal Aid, led by former Chief Justice Frank Clarke SC, marks a pivotal step toward reforming the civil legal aid scheme.

The fundamental shortcomings inherent in the current civil legal system, include:

- **Limited scope of matters covered:** Many civil matters, such as housing issues and social welfare appeals, are not fully covered by the civil legal aid scheme, leaving individuals to navigate the legal system without assistance. This can result in unequal access to justice.
- **Very narrow financial eligibility:** Civil legal aid applicants must have an annual disposable income of less than €18,000, which is significantly lower than average earnings. Many people who are just above the poverty line might not qualify for help - and consequently, securing legal assistance is beyond the reach of far too many people. The eligibility criteria for civil legal aid needs to be reviewed, to avoid a 'justice gap' where middle-income families are getting priced-out of the justice system.
- **Lack of available practitioners:** The current fee structure available under the civil legal aid scheme is not economically viable for most solicitors. This is resulting in a lack of available practitioners for civil legal aid cases, leaving some people unable to secure legal assistance.

WE RECOMMEND THAT GOVERNMENT:

- Extends the scope, financing, and administration of the Civil Legal Aid scheme to cover additional categories of cases, including for example, Local Authority housing disputes, defamation, Adoption Authority hearings and social welfare appeals.
- Increases Civil Legal Aid eligibility thresholds to a more economically appropriate level.
- Increases investment in the Civil Legal Aid scheme and professional fees, particularly in Independent Law Centres, so that they can attract and retain highly-skilled legal professionals and help safeguard individuals' rights to access to legal representation.

Total proposed investment in the Civil Legal Aid budget in 2026: €71.5m (10% increase on 2025)

Investing in Alternative Dispute Resolution to resolve disputes and reduce delays

The option to resolve a dispute through an alternative dispute resolution (ADR) mechanism can represent a far more attractive option when compared with going to court.

ADR is often less costly, more flexible, more confidential, less stressful, and can reach a conclusion faster than going to court.

The Mediation Act 2017 creates a statutory framework to promote mediation as an alternative to court proceedings and provides for the establishment of the Mediation Council of Ireland. Yet, almost eight years on this has not happened.

We urge the Government to establish the Mediation Council without delay.

WE RECOMMEND THAT GOVERNMENT:

- Establishes and adequately resources the Mediation Council of Ireland.
- Actively promotes the adoption of ADR mechanisms as a more efficient, less costly and speedier alternative to court.

Total proposed investment in the Mediation Council in 2026: €5m

Supporting the implementation of the Family Courts Act 2024

Family courts can be daunting for users who are already in difficult circumstances. Despite the best efforts of practitioners, judges, and court staff, the system continues to face serious delays, resource constraints, and gaps in specialised training.

The Family Courts Act 2024 represents a significant advancement in Ireland's family law framework, establishing dedicated Family Court divisions and aligning with the aims of the Family Justice Strategy 2022–2025.

Successful implementation of the new Family Law Act depends on ensuring that court infrastructure, legal aid and judicial training are adequately resourced.

The Family Courts Act 2024 offers a transformative opportunity to deliver a family justice system that is more responsive, accessible, and child centred. This needs to be adequately funded.

WE RECOMMEND THAT GOVERNMENT:

- Allocates ring-fenced funding for the implementation of the Family Courts Act 2024 to support the necessary reforms to the Family Courts, including dedicated investment in legal aid for family law cases and court infrastructure.
- Provides specialist training to the judiciary, court staff and legal professionals in child-centred trauma informed lawyering.
- Conducts regular assessments of resource gaps, particularly in District Court family law proceedings, and adjust resource and funding allocations accordingly.

Proposed investment in Family Courts in 2026 to be determined following implementation plan in January 2026.

Vindicating the rights of children in the family law system

Children are among the most vulnerable users of the Irish courts system, yet recent reports highlight serious shortcomings in how their rights and voices are upheld in Family Law proceedings.

The *Falling Through the Cracks* report observed that childcare proceedings are often scheduled alongside adult cases, despite legislative requirements under the Child Care Act 1991 to separate them. Overloaded lists, limited coordination between state agencies, and delayed hearings all contribute to a system that fails to serve children in a timely, effective, or appropriate way.

To give real effect to the rights of the child, future family justice strategies must be backed by targeted investment and a commitment to full implementation of the relevant legislation.

WE RECOMMEND THAT GOVERNMENT:

- Supports structured youth consultations to inform the design of a Family Law system that better reflects the needs and experiences of children and young people.
- Expedites the commencement of section 5 of the Child Care (Amendment) Act 2022 to provide a clear statutory basis for considering the views of the child in family law proceedings.

The above proposals would come at no cost to the Exchequer.

Strengthening the Criminal Legal Aid system

Criminal legal aid is a key tool which can help increase access to justice.

Following the economic crisis in 2008, criminal legal aid fees were severely reduced. Prior to the partial reversal of cuts to fees in 2025, criminal legal aid fees remained almost 30% lower than their levels prior to the FEMPI-related cuts in 2009. Despite the increment in 2025, the fees are yet to be fully restored to their previous levels and have yet to take account of rising inflationary and business pressures.

In parallel, criminal law work has increased in volume and complexity. Coupled with rising business costs, the economic reality for criminal law practitioners is very challenging, primarily because the current remuneration is not commensurate with the demands and responsibilities of their work.

This challenging economic environment has driven many criminal law practitioners to cease practising or to focus on other areas of law.

As forensic evidence advances and criminal cases grow more complex, the use of expert witnesses has become increasingly common. There is an acute shortage of experts, including medical and technical experts, willing to provide their services at the flat rate offered under

under the current scheme. Fees should be increased to reflect both the growing demand for expert input and the true cost of delivering these services.

It is imperative that Budget 2026 deliver the full restoration of the criminal legal aid fee rates. There should be a clear commitment to ensuring that future increases are indexed to the prevailing rate of inflation to maintain the real value of funding over time.

WE RECOMMEND THAT GOVERNMENT:

- Fully restores criminal legal aid fees to protect the Criminal Legal Aid system to avoid the risk of deepening inequality in the justice system.
- Commits to regular fee reviews to ensure they accurately reflect the increasing demand and costs associated with criminal law practice, and are indexed linked.
- Increases the fee rate for expert reports in the criminal legal aid scheme.

Total proposed investment in the Criminal Legal Aid scheme in 2026: €100m (10% increase on 2025)

Garda Station Legal Advice Scheme

The Garda Station Legal Advice Scheme is a distinct scheme that allows for legal advice to be provided to people detained in garda stations.

While the assessment of entitlement to legal aid under the general criminal legal aid scheme is based on income and severity of the case, the assessment for the Garda Station Legal Advice Scheme is solely based on a cut-off monetary threshold. Since 2014, the income threshold for eligibility has been capped at €20,318 gross per annum, considerably lower than the minimum wage of €28,080.

In addition, the threshold does not account for significant financial responsibilities such as dependants. This low threshold excludes people who cannot afford legal assistance through their own means. The absence of legal assistance during garda interviews has direct consequences on procedural justice and the protection of rights.

WE RECOMMEND THAT GOVERNMENT:

- Raises the cut-off assessment threshold for entitlement to legal aid under the Garda Station Legal Advice Scheme.

Total proposed investment in the Garda Station Legal Advice Scheme in 2026: €5.5m (5% increase on 2025)

Supporting people to create an Enduring Power of Attorney

The Law Society is concerned about the significant barriers that continue to hinder the effective creation of Enduring Power of Attorney (EPA) under the Assisted Decision-Making (Capacity) Act 2015.

The current system is proving to be overly complex, inaccessible, and unfit for purpose, particularly for those who need it most. The digital-only approach adopted by the Decision Support Service (DSS) has created serious usability issues for members of the public. The system is not meeting the needs of older people, those with fluctuating capacity, or individuals with limited digital literacy.

We welcome the commitment in the Programme for Government to establish a dedicated solicitors' portal, which will enhance the ability of solicitors to support their clients efficiently and effectively. To ensure timely delivery, Budget 2026 should allocate the necessary resources to develop this portal.

There is a notable lack of clear guidance on how to create an Enduring Power of Attorney (EPA) in emergency situations, particularly for individuals with fluctuating capacity who may only have a brief window of opportunity to execute their intentions.

In addition to procedural issues, there are several problematic legislative requirements within the governing Act itself. These further restrict the ability of individuals to exercise their right to appoint a trusted decision-maker and express preferences in a timely and effective manner.

WE RECOMMEND THAT GOVERNMENT:

- Establishes a solicitors' portal to allow legal professionals to assist clients directly within the DSS system.
- Simplifies the current process for preparing and registering an EPA.
- Creates web-based application forms to enable individuals to consider the key elements of an EPA and engage legal advice if necessary.
- Provides guidance to create EPAs in urgent or time-sensitive situations.
- Amends Legislative Barriers in the 2015 Act to;
 - Remove the in-person presence requirement for Attorneys during EPA creation. This restriction disproportionately affects individuals whose chosen Attorneys reside outside Ireland.
 - Remove the six-month change restriction post-registration, and the limitation on revisions to once per year. These constraints prevent individuals from updating their EPAs in response to changing circumstances, undermining the principle of respecting their evolving will and preference.

Total proposed investment to deliver the EPA solicitors' portal in 2026: €5m

Create a shared vision for eConveyancing and speed up property transactions

eConveyancing involves the use of a digital solution to improve efficiency of key aspects of the conveyancing process for property owners, purchasers, solicitors and public agencies.

eConveyancing has the potential to significantly speed up property transactions while reducing unnecessary stress for consumers.

The Programme for Government and the Housing for All Expert Group on Conveyancing and Probate have recommended that eConveyancing should be fully implemented by the end of 2027.

Realising the benefits of eConveyancing will depend on the implementation of several key legislative reforms, many of which can be delivered at no cost to the State. These reforms include accepting digital statements of truth and recognising non-conforming residential developments, which are presently subject by a protracted planning search process.

WE RECOMMEND THAT GOVERNMENT:

- Prioritises legislative amendments to facilitate eConveyancing, such as the acceptance of digital Statements of Truth, recognition of non-conforming development.
- Increases collaboration and transparency on the government-led eConveyancing project to unlock structural inefficiencies and drive the streamlining and digitalisation of public agency processes to enable a fully integrated eConveyancing solution.
- Streamlines the process for engaging with Local Authorities, Tailte Éireann, and utilities organisations on required certification and documentation.

The above proposals would come at no cost to the Exchequer.



THE JUSTICE SYSTEM AND THE ECONOMY

Fostering Ireland's legal sector: A strategic asset for economic growth

Ireland's legal sector is a key strategic asset that underpins its economic success, global competitiveness, and international reputation. As a common-law, English-speaking EU jurisdiction, Ireland offers a stable legal environment for domestic and multinational businesses alike.

As a key enabler of high-value sectors of the economy, the legal profession plays an important role in supporting these sectors to grow, adapt and remain competitive in a fast-changing economic environment.

Continued investment in high-quality legal education, high professional standards and a commitment to access to justice will help secure Ireland's future economic success.

Supporting community-based legal services and solicitor practices

Sole practitioners and small practices are the backbone of the legal profession, providing expertise in diverse and wide-ranging areas of law in communities nationwide. In common with many other small businesses, smaller legal practices are evolving in response to a more demanding and rapidly changing business environment driven by digitalisation, business regulation, consumer expectation and rising costs.

Key challenges faced by smaller solicitor practices include low profitability, increased regulatory requirements, staff shortages, and limited options when planning for retirement.

Small practices are particularly exposed to the challenges of increased digitalisation, where limited financial and technical resources are available to support digital adoption. In addition, cybersecurity poses an increasingly significant risk to small practices. Business supports, tailored for the legal profession, are necessary to ensure continued cyber risk mitigation.

Recruitment into smaller practices remains a critical issue, particularly in small towns and villages. With 65% of sole practitioners aged 50 or older, a significant number will reach retirement age within the next decade, leading to succession and service continuity challenges.

Under the Legal Services Regulation Act 2015, a limited liability partnership ("LLP") may only be formed by two or more legal practitioners. Therefore, it is not possible for a sole practitioner to form an LLP partnership on his or her own. The Law Society strongly believes that sole practitioners should also be able to avail of the same type of limited liability protections that are already available to solicitors who operate as a partnership.

Sole practitioners are carrying much greater personal risk. Unresolved liability risks can significantly limit the ability to transfer or sell a successful practice. This results in many practices ceasing to operate and reduces the availability of legal services and assistance in communities.

Legal deserts are emerging in many parts of rural Ireland, as options for legal representation become more limited. As of December 2024, large counties including Waterford, Roscommon, Cavan, Wexford, and Longford have no trainee solicitors, placing more pressure on the sustainability of legal services in these communities.

Innovative solutions to attract and retain solicitors in rural areas are required to meet the needs of communities.

WE RECOMMEND THAT GOVERNMENT:

- Supports smaller practices to adapt to the challenging business environment by incentivising shared ownership of business overheads through a shared service business model.
- Introduces legislation to provide limited liability to sole practitioners so that their potential exposure is limited and enables improved business planning.
- Enables solicitor firms to gain access to small business supports that are already available to other SMEs.
- Provides technology funding grants to support small practices to enhance digitalisation and cybersecurity.

Total proposed investment in business supports for small legal practices in 2026: €2m

Sustain investment in the *Ireland for Law* campaign to promote Ireland as a destination for international dispute resolution

Ireland for Law is a collaboration between the Department of Justice, IDA Ireland, and the legal professions, that promotes Ireland as a global centre for international legal services. Its key objective is to position Ireland as a trusted, English-speaking common law jurisdiction within the European Union. In an increasingly competitive legal landscape, this initiative strengthens Ireland's offering to multinational businesses, particularly in sectors like financial services, data, technology, aviation, and life-sciences, who depend on high-quality legal infrastructure and legal certainty.

Continued support and funding for *Ireland for Law* ensures the sustained growth of legal services, enhances Ireland's international reputation for the rule of law, and helps attract inward investment by showcasing the breadth of legal talent available in Ireland. The initiative also champions Ireland as a key destination for international dispute resolution and legal services work.

WE RECOMMEND THAT GOVERNMENT:

- Sustains investment in *Ireland for Law* to promote Ireland as a destination for international dispute resolution and support multinational businesses to anchor legal functions in Ireland.

Total proposed investment in *Ireland for Law* network in 2026: €200,000

Ensuring business certainty through clear and effective regulatory frameworks

The 2024 Draghi Report highlights the excessive regulatory burden on EU companies as a significant barrier to innovation and competitiveness. A well designed and adequately supported regulatory framework can stimulate innovation, reduce legal uncertainty, and safeguard the interests of both consumers and businesses.

Conversely, poorly designed legislation can hinder growth by creating business uncertainty, leading to suboptimal investments and weakened strategic planning.

Often, EU directives are transposed without sufficient consultation with subject matter experts, resulting in unwarranted and overly complex or overly cautious provisions that further constrain business agility.

In recent years Ireland has experienced a number of challenges for the effective and timely implementation of European legislation. This includes the delay to transpose the EU Audiovisual Media Services Directive, Electronic Communications Code (Recast) Directive, and the implementation of the Corporate Sustainability Reporting Directive.

Failure to appropriately transpose EU legislation impacts on Ireland's economic reputation, weakens legal certainty and business planning and decision-making.

Additionally, the rapid evolution of European and national legislation is expanding the responsibilities of many industry regulators in Ireland. It is essential that all regulators are adequately resourced and staffed to meet these growing demands effectively and proactively.

By continuing to invest in regulatory capacity, skills and legal infrastructure, Ireland can enhance its reputation as a trusted jurisdiction for businesses and individuals.

WE RECOMMEND THAT GOVERNMENT:

- Engages in comprehensive consultation with subject matter experts during the drafting and design of legislation and its supporting regulatory framework.
- Standardises transposition and implementation timelines to facilitate effective business planning and readiness.
- Ensures adequate allocation of specialist personnel, technology, and resources to ensure regulatory support and enforcement.

Total proposed investment in skills and technology to enable the appropriate transposition of legislation in 2026: €500,000



THE JUSTICE SYSTEM AND OUR PROFESSION

Supporting part-time legal education with the SUSI Grant Scheme

As part of its commitment to broadening access to the solicitor profession, the Law Society continues to innovate and diversify pathways to qualification.

The highly successful Professional Practice Course Hybrid (PPC Hybrid) blends online and in-person learning to accommodate professional trainees who cannot attend full-time programmes. The student profile of PPC Hybrid trainees reflects a more diverse trainee cohort in terms of age, geographic location, and life experience to that of the traditional PPC programme.

However, the current eligibility framework for grants awarded by SUSI excludes those in part-time professional training, effectively preventing many capable and motivated individuals from pursuing a legal career. This gap must be addressed to ensure equitable access to the profession and to align with the evolving needs of legal education.

The Law Society has significantly invested in bursaries and financial supports to help students and small legal practices access training contracts, aligning with Government policy to improve diversity in the legal profession. However, trainee solicitors who receive Law Society support are excluded from receiving SUSI grants. By excluding trainee solicitors who receive modest support from the Law Society from also accessing SUSI grants, the system unintentionally penalises those from socio-economically disadvantaged backgrounds. If the goal is to open access and attract more talent, then financial support systems need to work together, not against each other.

WE RECOMMEND THAT GOVERNMENT:

- Extends the SUSI grant to trainees on part time professional training programmes.
- Increases income thresholds for SUSI grant eligibility to recognise Law Society financial supports.

Total proposed investment in SUSI supports for trainee solicitors in 2026: €2m

Supporting Non-EEA trainee solicitors with a dedicated Student Visa Scheme

Ireland benefits greatly from those who choose to study here. Without a student visa scheme, many international students and non-EEA graduates are struggling to secure a sponsored role as a trainee solicitor. A visa scheme is necessary to allow non-EEA graduates to train as a solicitor on graduation.

The lack of a dedicated visa pathway for these graduates not only limits access to the solicitor profession but also represents a missed opportunity for the Irish economy. These individuals, though relatively small in number, have already invested in the Irish education system and now seek to contribute further through professional development and employment with Irish legal firms.

A tailored visa scheme would ensure Ireland retains this valuable talent, supporting both the legal sector's growth and the broader national interest. It would also provide greater confidence in the international student recruitment process and enable greater workforce planning.

A comparable scheme is available to trainee accountants through the Stamp 1A visa, providing a clear precedent. Extending a similar arrangement to trainee solicitors would be an important step towards creating a more inclusive and diverse legal profession, while also enhancing Ireland's reputation as a destination for international talent.

WE RECOMMEND THAT GOVERNMENT:

- Establishes a dedicated visa scheme for non-EEA graduates to complete their professional training as a solicitor in Ireland with Irish based training solicitors, in line with the programme currently available for trainee accountants.

The above proposal can be implemented at no cost to the Exchequer.

Building public sector legal talent to ensure the government is future focused

By investing in its own legal workforce, the public sector can strengthen its ability to handle complex and recurring legal challenges in key areas such as housing, employment, environmental and procurement legislation.

To qualify as a solicitor, trainees must complete mandatory training periods with an employer to gain work-based learning experience. Increasing the number of solicitor training contracts within the public sector will establish a dedicated legal talent pipeline and further position the public sector as an employer of choice.

This approach to solicitor training supports the public sector to develop a skilled workforce that meets business and organisational needs, by developing and deepening institutional knowledge, while ensuring continuity in legal decision-making. It also positions government to proactively address emerging legal issues, such as climate change, digital governance, and AI regulation, by developing in-house expertise aligned with evolving public sector needs.

The provision of solicitor training contracts in the public sector is a key recommendation of the LSRA's *Breaking Down Barriers 2024* report to widen access to legal careers. The Law Society has commenced a programme of activity to facilitate public sector organisations in providing solicitor training contracts.

WE RECOMMEND THAT GOVERNMENT:

- Develops a dedicated public sector legal talent pipeline in collaboration with the Law Society of Ireland.

The Law Society is available to assist the public sector in developing a legal talent and solicitor training programme.



ENHANCING IRELAND'S TAX CODE

Many law firms and solicitors advise clients on their Irish tax obligations and, in doing so, gain extensive insight into the operation of the tax system across all tax heads. There are several areas where the Irish tax system does not function as effectively as it should, or where it fails to operate as originally intended. These shortcomings can contribute to a perception of unfairness within the system. A fair tax system builds public trust, which, in turn, plays a crucial role in encouraging voluntary tax compliance.

1. Rebalancing taxpayer rights and Revenue powers with respect to time limits for assessments

There is a general rule (section 959AA TCA) that precludes Revenue from raising an assessment more than four years after the end of the year that a tax return was filed by the taxpayer. However, that general rule is subject to a number of exclusions, which have been increased and expanded incrementally over time.

In one recent High Court case, Revenue successfully argued that they were entitled to issue an assessment outside the four-year time limit in a case that did not involve fraud or neglect on the part of the taxpayer and that an inadvertent inaccuracy in the return was sufficient to disapply the time limit (*Revenue Commissioners v Tobin* [2024] IEHC 196). The case related to a version of the four-year time limit that has since been replaced with a version that is subject to even more exclusions. The approach of Revenue and the decision of the High Court raise serious concerns about the effectiveness of safeguards for taxpayers in this area. It appears from the decision that the exclusions have entirely overridden the general rule.

The absence of a statutory time limit that taxpayers can rely on with any degree of certainty is problematic from a tax policy perspective. It also leaves the Irish rules out-of-step with the approaches taken by many other jurisdictions.

There is also an imbalance in terms of the reciprocal rights and time limits that apply to taxpayers' rights to reclaim overpaid tax.

WE RECOMMEND THAT GOVERNMENT:

- Ensure that the period to make enquiries and raise assessments remains at 4 years from the end of the accounting period in which a return was filed.

2. Participation Exemption for Irish resident companies

The Finance Act 2024 sought to simplify the taxation of distributions from non-Irish resident companies by applying an elective exemption system in place of a tax and credit system.

These are new provisions and reflect a welcome and fundamental change of policy (at least in Ireland). However, the final form of the legislation contains some provisions that operate to undermine the policy objective of exempting foreign distributions in a simple and clear manner. These provisions have no counterparts in other EU Member States or large countries. These over-engineered anti-avoidance provisions are mechanical (so apply where there is no avoidance) and exceed the areas of stated concern so have resulted in a system that is much less functional than comparable systems. Businesses based in Ireland have commented that they would prefer to use non-Irish participation exemptions as they see no logical rationale to use the overly complex and somewhat illogical current Irish system.

In principle, distributions from non-Irish companies to Irish companies should not be taxed in Ireland. This is the logic applied in most EU Member States and major countries to justify their distribution participation exemptions. This is also the logic behind the Pillar Two distribution participation exemption which is far simpler and wider ranging than its Irish counterpart.

WE RECOMMEND THAT GOVERNMENT:

- Removes the geographical limitations which are out of step with the approach in many EU Member States.
- Ensures the participation exemption applies to all Case III income arising from qualifying shareholdings.
- Develops a targeted anti-avoidance provision to replace the blunt and overbroad provisions that are currently in force.

3. Tax treatment of the provision of food and drink to employees and directors

The current treatment of the provision of food and drink to employees and directors is not appropriate for modern working practices.

We propose that section 118 of the Taxes Consolidation Act 1997 as amended (“TCA”) should be revised to clarify that expenses incurred in connection with the provision of food and drink to employees and directors in their role as such shall not be regarded as a taxable benefit for the purposes of section 118(1). In a modern working environment, where employers have different departments, groups and teams spread across multiple locations, it is generally not feasible or effective for events to be “available to all employees” of the business at the same time (as currently required in order for certain concessions to apply). In a hybrid working environment it is often necessary to meet on an individual basis or in smaller groups in different locations. This is an important part of the fabric of the modern working environment where employees are routinely obliged to meet with managers and teams to discuss business matters and should not be viewed as a benefit.

We are of the view that the existing treatment should be clarified and legislated for. Clearly, some guardrails will be required in relation to such a measure (e.g. the expenses incurred should be reasonable).

In addition, the Law Society is of the view that section 112B TCA should be amended to provide that (for the avoidance of any doubt), the expenses incurred in or in connection with the provision of food and drink to employees and directors in a restaurant, bar or other hospitality setting shall not be regarded as a tangible benefit for the purposes of this section. This change is proposed in order to avoid burdensome (and in some cases entirely unworkable) reporting requirements.

We recommend that Government:

- Amend the Taxes Consolidation Act 1997 to provide clarity on the tax treatment of food and drink to employees and directors.

For further information on any aspect of this submission, please contact the Policy Department of the Law Society of Ireland at: PolicyTeam@LawSociety.ie



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