Jurisdictional guide - Ireland

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Taxation regime

What factors determine tax liability in your jurisdiction (eg domicile, residence or citizenship)?

Liability to taxation in the Republic of Ireland (Ireland) is determined by reference to residence, ordinary residence and domicile. The tax year in Ireland is the calendar year 1 January to 31 December.

- Residence
  - An individual is resident in Ireland if he spends (a) 183 days in Ireland in that year, or (b) 280 days in aggregate in that tax year and the preceding tax year.
  - Notwithstanding (b) above, if an individual is present in Ireland for 30 days or less in a tax year, they will not be treated as resident for that year.
  - An individual is considered present in Ireland for a day if they are present in Ireland at any time during that day.
- Ordinary residence
  - An individual is ordinarily resident in Ireland from the commencement of the fourth tax year if he has been resident for each of the preceding three tax years. An individual leaving Ireland will not cease to be ordinarily resident until they have been non-Irish resident for three continuous tax years.
- Domicile
  - The concept of domicile is broadly based on the English concept of domicile, though the law of dependant domicile of a wife has been found to have never applied to Ireland. In broad terms, an individual's domicile is where they have a home and intend to live permanently and indefinitely. An individual acquires a domicile at birth being their domicile of origin, and this is normally that of the individual's father. This domicile can change if the child under age 18 moves with their parents to another country and they acquire a new domicile whereby the child's domicile is a domicile of dependency. A domicile of origin can also be displaced by a domicile of choice if the individual is over 18 and moves to another country with the intention of residing there permanently and indefinitely.

What taxes apply to an individual's income?

The worldwide income of an individual who is Irish resident, Irish ordinarily resident and Irish domiciled is taxable in Ireland.

The worldwide income of an individual who is not resident but is ordinarily resident in Ireland and is Irish domiciled is also taxable in Ireland except in the case of income from a trade/profession no part of which is carried on in Ireland or an office/employment the duties of which are performed outside Ireland.

Where an individual is not Irish domiciled but is resident/ordinarily resident in Ireland, they are liable to Irish income tax on only so much of their foreign income as is remitted to or deemed remitted to Ireland unless the income relates to income from the performance of duties of an office/employment carried out in Ireland.

Finally, an Irish domiciliary with substantial ties to Ireland is liable to a domicile levy of EUR 200,000 per annum with income tax paid in Ireland credited against this levy. Substantial ties are that the individual holds Irish property valued in excess of EUR 5m at 31 December of the tax year and also has worldwide income of more than EUR 1m and pays less than EUR 200,000 Irish income tax.

Income tax is chargeable at a standard rate of 20% and a higher rate of 40%. In addition, Universal Social Charge applies to gross income at rates between 1.5% and 8%. There is also PRSI (social insurance) payable by employees (0.5%-10.75%) and self-employed (4%). There are various credits available before these rates are applied.

What taxes apply to an individual's capital gains?

An individual who is Irish domiciled and resident or ordinarily resident in Ireland for a tax year is chargeable to capital gains tax (CGT) on chargeable gains made on the disposal of assets worldwide.

An individual who is not Irish domiciled but is resident or ordinarily resident in Ireland for a tax year is chargeable to CGT on chargeable gains made on the disposal of assets outside Ireland only to the extent the chargeable gains are remitted to Ireland.

An individual who is neither resident nor ordinarily resident in Ireland for a tax year (irrespective of their domicile) is chargeable to CGT on chargeable gains made on the disposal of:

- land or buildings in Ireland
- assets of a business carried on in Ireland
- minerals in Ireland
- exploration or exploitation rights in the continental shelf, or
- unquoted shares deriving the greater part of their value from such assets listed above

CGT is payable on chargeable gains at a rate of 33%. There are various reliefs and exemptions from this tax, such as for spouses/civil partners, for principal private residences, for farms on restructuring and for owners of businesses on retirement.

What taxes apply to lifetime gifts (outright or into trust) made by an individual?

Lifetime gifts outright or into a trust are subject to Irish tax on an acquisitions basis, ie when the benefit is taken by the individual beneficiary.

A gift into a fixed trust (eg a life interest trust or trust for a period certain) will attract a charge to gift tax on the beneficiary based on the value applied to the limited interest received. A gift into a discretionary trust will not attract a charge to gift tax on the beneficiary until an appointment is made from the trust.

With the exception of benefits taken from trusts created before 1 December 1999, Irish gift tax arises on a benefit taken:

- from a disponer who is resident or ordinarily resident in Ireland, at the date of the disposition making the gift, other than in the case of a gift taken from a discretionary trust
- in the case of gift taken from a discretionary trust, from a disponer who is resident or ordinarily resident in Ireland, at the date of the disposition or at the date of the gift or (if the gift is taken after the disponer has died) at the date of death of the disponer
- in the case where the donee (beneficiary) is resident or ordinarily resident in Ireland, at the date of the gift, or
- in respect of property situate in Ireland, at the date of the gift

However, an individual is treated for these purposes as not being resident or ordinarily resident in Ireland if that individual is not Irish domiciled and has not been resident in Ireland for five consecutive tax years preceding the year in which the date of the gift falls.

After the application of tax free thresholds, which thresholds depend on the relationship between the disponer and the beneficiary, gift tax (known as Capital Acquisitions Tax) is payable on gifts taken at a rate of 33%. The threshold is calculated after the aggregation of all gifts/inheritances taken by the beneficiary from persons in the same group threshold since 5 December 1991. For instance, generally a child can receive over his lifetime (since 1991) gifts/inheritances to the total value of EUR 225,000 from his parents (between them), EUR 30,150 from his siblings/aunts/uncles and EUR 15,075 from those not falling into the first two thresholds.

Various exemptions/reliefs are available such as provision for spouses/civil partners, provision for children under 18/25 in restricted circumstances, dwelling house relief in relation to a house lived in by the beneficiary and owned by the disponer, business property relief and agricultural property relief. There is also a small gifts exemption of EUR 3,000 per annum available.

There is a further charge to tax, known as discretionary trust tax/levy, in respect of benefits retained in discretionary trusts created by a settlor during their lifetime and continuing after the death of the settlor. The definition of a discretionary trust is broadly drafted and includes trusts which accumulate income, anstalts, stablissements, foundations, stiftungs, anlagestiftungs and familienstiftungs. This is a one-off charge of 6% of the assets under the trust (subject to a refund of half of this if the trust is completely wound up within five years) plus 1% per annum for every 31 December the trust remains discretionary. These levies will arise if there is no child of the settlor within the class of beneficiaries under the age of 21 after the death of the settlor. There are certain exemptions from this tax such as trusts exclusively made for charities and for persons with disabilities.

On the making of a gift of non-cash assets, capital gains tax could arise if the market value of the assets gifted stand at a gain. In addition, stamp duty may be payable.

What taxes apply to transfers on death and to an individual's estate following death?

Transfers on death direct to a beneficiary or into a trust are subject to Irish tax on an acquisitions basis, ie when the benefit is taken by the individual beneficiary.

Assets passing on death into a fixed trust (eg life interest trust or trust for a period certain) will attract a charge to inheritance tax on the beneficiary based on the value applied to the limited interest received. Assets passing on death into a discretionary trust will not attract a charge to inheritance tax on the beneficiary until an appointment is made from the trust.

With the exception of benefits taken from trusts created before 1 December 1999, Irish inheritance tax arises on a benefit taken:

- from a disponer who is resident or ordinarily resident in Ireland, at the date of the disposition under which the successor takes the inheritance
- in the case where the successor (beneficiary) is resident or ordinarily resident in Ireland, at the date of the inheritance, or
- in respect of property situate in Ireland, at the date of the inheritance

Similar to gift tax, an individual is treated for these purposes as not being resident or ordinarily resident in Ireland if that individual is not Irish domiciled and has not been resident in Ireland for five consecutive tax years preceding the year in which the date of the inheritance falls.

After the application of tax free thresholds depending on the relationship between the disponer and the beneficiary, inheritance tax, also known as Capital Acquisitions Tax, is payable on inheritances taken at a rate of 33%. Again, the thresholds apply before the rate is applied which thresholds depend on the relationship of the disponer to the beneficiary, calculated after the aggregation of all gifts/inheritances taken by the beneficiary from persons in the same group threshold.

As mentioned above in relation to gift tax, discretionary trust tax can arise in respect of discretionary trusts holding trust funds after the death of the disponer once there is no child of the settlor/testator in the class of beneficiaries under the age of 21 and exemptions apply similar to outlined above for gift tax. These levies also apply to discretionary trusts created on the death of the disponer under the Will of the disponer.

On death there is an uplift to market value of the deceased's assets passing through their estate, but there is no capital gains tax liability on this uplift on death. For trusts created prior to the death which trusts survive a deceased, capital gains tax may arise in limited circumstances (eg on the death of the life tenant and the trust remaining in existence).

CGT and income tax will be payable by the personal representatives of the deceased on any gains realised or income accruing during the administration of the estate, unless application is made to assess these gains and income on the beneficiary of the asset where that beneficiary is Irish tax resident.

What taxes apply to an individual's real property?

Local Property Tax (LPT) is an annually assessed tax on the market value of all residential properties in Ireland whether owner occupied or rented. Property values are organised into valuation bands and the tax liability is calculated by applying the tax rate to the mid-point of the band. The rate of LPT is 0.18% for properties up to a market value of EUR 1m and those properties over EUR 1m in value are assessed at the rate of 0.18% for the first EUR 1m and 0.25% on the portion of the value above EUR 1m. This standard rate of LPT can be reduced from year to year by a local authority of the place where the property is situate.

Non principal private residence (NPPR) is a local authority charge of EUR 200 arising annually on non-principal private residences. This charge is in addition to the LPT above.

Stamp Duty is payable by the purchaser of real property in Ireland on the instrument of purchase. Residential property is stampable at a rate of 1% for property valued up to EUR 1m and 2% for any excess above EUR 1m. The transfer of non-residential real property (land or buildings) is subject to stamp duty at a flat rate of 2%. Consanguinity relief is available for a limited period to half the rate on certain transfers of non-residential land between certain closely related persons. Leases are also taxable but there are reliefs for farming leases.

Capital gains tax may arise on the disposal of real property if a gain is realised or deemed to have been realised. However, principal private residence relief may be available against the gain.

Income tax will arise on rental income arising from an Irish property.

Are there any other direct or indirect taxes that apply to individuals in your jurisdiction?

There is no wealth tax in Ireland, but see the domicile levy mentioned above as a somewhat equivalent tax.

Value Added Tax (VAT) is payable on many goods and services at 23%. Reduced rates or exemptions may apply in certain circumstances.

Stamp Duty is payable at 2% on transfers of shares in Irish companies and on certain other transfers. It does not apply to transfers of non-Irish situate or deemed situate assets if transferred abroad.

Care should be taken in relation to the effect of the purchase of property by the individual through a corporate structure where there may not be a rebasing of values for capital gains tax purposes within the structure and in relation to the transfer of property that has been developed (as defined), as there are VAT implications to such a transfer.

How are charities taxed in your jurisdiction?

Charities are taxable in the same way as other entities such as companies, trusts or associations but are then exempt if recognised as a charity and registered as such with the Irish Revenue Commissioners.

Donations to certain eligible charities as defined can be used to relieve the donor from income tax to a limited extent.

Charities can be exempt from income/corporation tax, capital gains tax, deposit interest tax, capital acquisitions tax including discretionary trust levies, stamp duty and dividend withholding tax, depending on the conditions applicable to each tax head and with the general requirement that the monies are used for charitable purposes only and subject to specific and general provisions in relation to anti-avoidance. There is no general exemption from VAT for charities but there are specific reliefs from VAT that may apply to a charitable activity. Profits from trading activities are exempt only in limited circumstances.

Non-resident charities based in an EEA/EFTA country can apply to be determined to qualify for exemptions from tax as an eligible non-resident charity. A determination by the Irish Revenue Commissioners will issue after it has considered whether the charity is established for charitable purposes only and, were the body to have income in Ireland, it would qualify for the exemptions available.

Is there any general anti-avoidance or anti-abuse rule that applies in your jurisdiction?

Yes, apart from specific anti-avoidance legislation pertaining to specific taxes, reliefs and exemptions, there is a general anti-avoidance rule (GAAR) in Ireland which has been updated extensively from year to year.

This GAAR permits the Revenue to view a transaction as an anti-avoidance transaction (primarily undertaken to give rise to a tax advantage) based on both the form and the substance of the transaction itself and related (directly or indirectly) transactions and the final outcome of the transaction and any related transactions. The Revenue may at any time deny or withdraw the tax advantage by making or amending an assessment on the person. A 30% surcharge of the amount of the tax advantage is then chargeable on the person who enters into a tax avoidance transaction unless a protective notification had been filed, and any tax due on the withdrawal of the tax advantage must then be paid within a month of the assessment/amended assessment.

Also relevant are the various specific and general mandatory disclosure rules that can apply. In particular, any transaction that seeks to primarily obtain a tax advantage through the use of a discretionary trust is a disclosable transaction for the purposes of the mandatory disclosure regime.

Are there any taxes that apply to a non-resident individual purchasing real property or other assets in your jurisdiction?

None other than as outlined above. Dividend withholding tax and withholding tax on rental income payable to non-Irish residents should be considered. Investments through REITS may be relevant also (see below). The application of double tax treaty relief should also be considered.

Does your jurisdiction have any tax efficient structures in which non-resident individuals can hold real estate?

Investments through Real Estate Investment Trusts (REITS) may be relevant. A qualifying REIT is a listed company incorporated and tax resident in Ireland which is exempt from corporation tax on income and gains related to rental investment property, albeit there will be dividend withholding tax even if paid to non-Irish residents.

What taxes are there on the importation of assets into your jurisdiction for personal use and enjoyment?

Customs, Excise and VAT (import) duties may be payable on certain assets imported into Ireland from a country outside the European Union depending on their intended use (personal or commercial) and the type and value of goods purchased. There are reliefs for persons transferring their normal residence from outside the European Union to Ireland in respect of certain personal property.

Are there any tax rules in your jurisdiction affecting temporary residents?

As outlined above there are special rules for gift/inheritance tax purposes for individuals resident in Ireland for less than five consecutive tax years. There are also special income tax rules for cross border workers in relation to employment income from a country with which Ireland has a double tax treaty. There is further relief from income tax for certain employees in Ireland who are assigned to work in Ireland for a minimum period of 12 months by companies located in jurisdictions which hold a double tax treaty with Ireland. This special assignment relief programme has a number of conditions attached to ensure qualification.

Are there any tax anti-avoidance provisions that apply to the offshore arrangements of persons resident in your jurisdiction?

Ireland has a GAAR as outlined above. In addition, there are a number of specific anti- avoidance rules such as the transfer of assets abroad rules in relation to income tax, rules in relation to non-resident trusts for capital gains tax purposes, gains made by a non-resident spouses and temporary non-residents.

Has your jurisdiction entered into any tax treaties relating to the taxation of individuals and, if so, do these treaties generally follow the OECD model or another model?

Ireland is a signatory to many double tax treaties that include exchange of information provisions and generally follow the OECD model. As at year end 2014, Ireland has signed comprehensive double taxation agreements with 72 countries, of which 68 are in effect. Ireland is a member of the Financial Action Task Force with regard to anti-money laundering standards.

Trusts and foundations

Are trusts recognised in your jurisdiction?

Trusts are recognised in Ireland whether established under Irish law or the law of another jurisdiction.

Does your jurisdiction recognise any alternative structures such as foundations?

A foundation is not a legal entity in its own right under Irish law. A foundation entity established outside Ireland is recognised for Irish gift/inheritance tax purposes as if it is a discretionary trust. It is expected that the fiduciary nature of a foreign foundation would be recognised under equity principles in Irish law. Typically, a foundation supposedly created under Irish law is in fact a charitable trust or company with the word 'foundation' in its title.

Companies (private limited by shares, private unlimited or private limited by guarantee) are currently able to be established under Irish law but there will be significant reform to the law of the establishment of companies in Ireland under Companies Act 2014 due to take effect on 1 June 2015. A private limited company will be registered as a company limited by shares or a designated activity company. Investment companies (commonly referred to as non-UCITS funds) are also recognised in Ireland.

If trusts are recognised in your jurisdiction:

- what taxes apply to trusts in your jurisdiction?
  - Depending on the form of trust, taxes will arise within the trust payable on the trustees, on the beneficiary or, in limited cases, on the settlor.
- how are such taxes imposed?
  - Gift or inheritance tax arises for the beneficiary where a benefit is taken or deemed taken from a trust. Discretionary

trust tax arises for the trustees. Income earned by the trust and gains made by the trust are assessable generally on the trustees though can be in certain cases assessed on the beneficiary or the settlor.

- how is the trust affected by succession and any forced heirship rules that apply in your jurisdiction?
  - A trust can be considered for the purposes of the rights of a person to seek relief from the court to add back assets transferred by a settlor within three years of his death. If the assets in the trust have not vested in a beneficiary on the death of the settlor (such as in the case of a discretionary trust), then this relief can be claimed against the trust assets even if transferred into the trust more than three years prior to death. The clawback relief is available to the extent the settlor is proven to have made the transfer to the trust for the purposes of defeating or substantially diminishing the share of the settlor's spouse/civil partner or of leaving any of the settlor's children insufficiently provided for.
- does your jurisdiction's trust law provide for the creation of non-charitable purpose trusts?
  - The validity of non-charitable purpose trusts as a general principle is questionable under Irish law. Although in very limited cases there have been trusts of such a nature upheld, most trusts of this nature have failed for the want of an identifiable beneficiary, uncertainty or remoteness.
- are there any rules restricting the perpetuity period within which gifts in trusts must vest, or the period during which income may be accumulated?
  - The traditional rule against perpetuities has been abolished since 2009 in Ireland although many trusts still contain perpetuity clauses. The rule against remoteness still remains applicable for Irish trusts.
- does your jurisdiction's trust law allow the trust document to restrict the beneficiaries' rights to information about the trust?
  - Irish case law requires accounts of the trust to be furnished to the beneficiary. The matter of what other information must be made available has not been formally tested in the Irish courts and therefore the influence of non-Irish jurisprudence on this matter has not yet been tested. In general, Irish trust documents do not contain formal restriction clauses but letters of wishes generally contain confidentiality clauses.

Does your jurisdiction recognise trusts that are governed by another jurisdiction's laws and are created for foreign persons?

Yes, under general Irish trust law principles, although Ireland has not ratified the Hague Trusts Convention 1985.

What are the tax consequences of trustees of a trust becoming resident in/leaving your jurisdiction?

A trust resident in Ireland will be subject to Irish income tax and capital gains tax in respect of its income and gains. On the trust becoming non-resident, an exit charge for capital gains may arise and there may be attribution of gains and income on beneficiaries or settlors in respect of the non-resident trust's income and gains.

Does the law in your jurisdiction recognise claims against trust assets by the spouse or civil partner of a settlor or beneficiary on the dissolution of the marriage or civil partnership?

The Irish courts have wide power to make ancillary orders on the separation or divorce/dissolution of a marriage/civil partnership. The existence of a trust is likely to have an impact on a court in exercising its discretion to grant ancillary relief. Whether the spouse is a beneficiary or a potential beneficiary of a trust will be a significant factor in this. Where the trust is considered to be an ante-nuptial settlement or a post-nuptial settlement, then the trust itself is capable of being varied by a court adjustment order.

To what extent is it possible under the law of your jurisdiction for trusts to be used to shelter assets from the creditors of a settlor or beneficiary?

Irish law permits assets to be held on protective trusts subject to the bankruptcy legislation in relation to the proper transfer of the assets into the trust in the first place by solvent settlors. The test of solvency is carried out over various time periods. Furthermore Ireland has legislation that protects creditors from fraudulent transfers at any time.

Succession

What formalities are required for an individual to make a valid will in your jurisdiction?

A Will made by a person who dies domiciled in Ireland must comply with the following rules:

- the Will must be made in writing
- the Will must be signed by the testator at the foot of the Will or by some other person in their presence and at their direction
- the testator's signature must be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and each witness must either attest and sign the Will or acknowledge their signature in the presence of the testator, and
- the testator must have intended by their signature to give effect to the Will

Is it essential for an owner of assets in your jurisdiction to make a will in your jurisdiction? Does the will have to be governed by the laws of your jurisdiction?

No, it is not essential but it may be of advantage particularly when the assets consist of Irish real property.

To what extent is a will made in another jurisdiction recognised in your jurisdiction?

Ireland recognises Wills made in other jurisdictions in accordance with the Convention on the Conflict of Laws relating to the form of Testamentary Dispositions (the Hague Convention October 1961). A testamentary disposition shall be valid as regards form if its form complies with the internal law:

- of the place where testator made it
- of a nationality possessed by the testator either at the time when they made the disposition, or at the time of their death
- of a place in which the testator had their domicile either at the time when they made the disposition, or at the time of their death
- of the place in which the testator had their habitual residence either at the time when they made the disposition, or at the time of their death, or
- so far as immoveable assets are concerned, of the place where they are situated

If an individual dies in your jurisdiction without leaving a valid Will, to whom will the estate pass and in what shares?

- Where a deceased dies intestate leaving a spouse and no issue, the spouse will take the whole estate
- Where a deceased dies intestate leaving a spouse and issue, the spouse will take two thirds of the estate and the remainder is distributed between the issue and if all the issue are in equal degree of relationship to the deceased the distribution is in equal shares; if they are not, the distribution is made per stirpes
- Where a deceased dies intestate leaving a civil partner and no issue, the civil partner will take the whole estate
- Where a deceased dies intestate leaving a civil partner and issue, the civil partner will take two thirds of the estate (subject to any application for provision made in court by a child of the deceased) and the remainder is distributed between the issue and if all the issue are in equal degree of relationship to the deceased, the distribution is in equal shares; if they are not, the distribution is made per stirpes
- Where a deceased dies intestate leaving no spouse or civil partner, the estate is distributed between the issue and if all the issue are in equal degree of relationship to the deceased the distribution is in equal shares; if they are not, the distribution is made per stirpes
- Where a deceased dies intestate leaving neither spouse nor civil partner nor issue, their estate is distributed between their parents in equal shares if both survive the intestate, but, if only one parent survives, that parent takes the whole estate
- Where a deceased dies intestate leaving neither spouse nor civil partner nor issue nor parent, their estate is distributed between their siblings in equal shares, and, if any sibling does not survive the intestate, the surviving children of the deceased sibling, where any other sibling of the deceased survives them, takes in equal shares the share that their parent would have taken if he or she had survived the intestate
- Where a deceased dies intestate leaving neither spouse nor civil partner nor issue nor parent nor sibling, their estate is distributed in equal shares among the children of their siblings
- Where a deceased dies intestate leaving neither spouse/civil partner nor issue nor parent nor sibling nor children of any deceased sibling, their estate is distributed in equal shares among their next-of-kin as defined

Does your jurisdiction recognise a foreign grant of probate or equivalent document? If not, what additional formalities are required?

It is necessary to extract an Irish grant of representation to a deceased's Irish estate to release Irish situate assets.

What property constitutes an individual's estate for succession purposes?

The estate of an individual consists of assets moveable and immoveable beneficially owned by the deceased at the time of their death and any assets over which the deceased held a general power of appointment. Assets in the joint names of the deceased and another should be assessed to consider if the assets are held on resulting trust for the estate of the deceased or whether they pass by survivorship to the surviving joint owner.

Is there any forced heirship regime that affects an individual's ability to dispose of their estate during their lifetime or on death? If so, what are the main characteristics of the regime?

Irish law provides that a spouse/civil partner of the deceased has a right to a share of the estate of the deceased, known as a legal right share. Unless stated otherwise in the Will of the deceased, a provision for the spouse/civil partner in the Will of the deceased is deemed to replace the legal right share. However, the spouse/civil partner has the right to elect to take the legal right share instead of the provision under the Will. The legal right share comprises one half of the estate if the testator leaves a spouse/civil partner and no children. If the testator leaves a spouse and children, the spouse has the right to one third of the estate. If the testator leaves a civil partner and children, the civil partner has the right to one third of the estate subject to a right of claim by child against this right.

A child of a testator has the right to claim against the estate of their parent by applying to Court seeking proper provision for the child because the testator failed in their moral duty to make proper provision for the child in accordance with their means.

Are adopted or illegitimate children treated the same as natural legitimate children in respect of succession laws and entitlement under a Will?

Yes, although under Irish case law the definition of issue does not include adopted persons.

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To what extent are immovable and/or movable assets located in your jurisdiction but owned by a foreign national subject to your succession laws?

Immoveable property located in Ireland is exclusively governed by Irish law in respect of all matters, such as its formalities for purchase and disposition as real estate, the rights of the parties, the capacity to acquire or transfer such property, and in respect of the formalities of such deeds. The succession of immoveable property located in Ireland is in all cases subject to the laws of Ireland, irrespective of the owner's nationality, domicile or habitual residence. Ireland is not a signatory to the EU Regulation on Succession Law (No 650/2012, known as 'Brussels IV'). Moveable assets situate in Ireland are governed by Irish succession law where the deceased dies domiciled in Ireland.

Who has the right to administer an estate and in whom does the estate property initially vest?

Ireland does not recognise direct succession of either real or personal property situate in Ireland - the rights and liabilities of the deceased are vested in the personal representative of the deceased whose duty it is to collect all assets and pass them on to the rightful heirs. Nevertheless, the estate of the deceased vests in the personal representatives on death. On intestacy the estate vests in the President of the High Court pending the grant issuing whereby the doctrine of relating back then applies.

Is there a procedure for disappointed relatives or dependents to make a claim against an estate?

Legislation in Ireland provides a right for a spouse/civil partner to elect to take a share of the estate instead of what is provided for under the Will of the deceased. Disappointed children of the deceased can make a claim against the estate. These rights are detailed above. Furthermore, there are clawback provisions enabling the spouse/civil partner or child to bring a claim to seek the return of assets transferred by the deceased prior to their death.

What rules apply to the post-death redirection of beneficial entitlements?

Disclaimers are permitted under Irish law but a Will cannot be varied after the death of the testator. The rules of disclaimer on intestacy can be complicated.

Capacity and powers of attorney

What rules apply in your jurisdiction in respect of receiving, holding and managing property for minors?

An individual who has not reached the legal age of 18 years old and who is not or has not been married is a minor and so property for that individual is held by a parent or guardian on their behalf. This incapacity ends when the individual reaches the age of 18. If the child marries then the child is no longer a minor.

If a person loses capacity to manage their affairs in your jurisdiction, what procedures apply to enable someone else to manage them on their behalf?

Where a person loses capacity, an application may be made to make the person a ward of court and a committee may be appointed to manage their affairs pursuant to the wardship rules of the Irish Superior Courts. Usually this is only practically necessary when Irish situate property owned by the ward is to be sold.

Where the person had prior to losing capacity created an enduring power of attorney, it would not be necessary to make the person a ward. There are strict formalities in creating an Irish enduring power of attorney and the format of the power is set out in legislation, whereby a solicitor and doctor must sign the power and formal notices must be sent to certain relatives.

Does your jurisdiction recognise powers of attorney, deputyship orders (or their equivalent) made under the law of other jurisdictions?

Foreign powers that generally comply with the Irish powers may be recognised in Ireland. Similarly, if there is no Irish immoveable property, then guardians/trustees of the potential ward who are entitled to receive assets of the potential ward will be able to receive the moveable assets. It is a matter for individual institutions to decide if they will accept a foreign power or request that the foreign power be registered here if that is possible. To date, the Irish courts have registered UK enduring powers of attorney but not lasting powers of attorney.

Immigration issues

What restrictions or qualifications does your country impose for entry into the country?

Ireland is a member of the European Union. Nationals of countries of the European Economic Area (EEA) and Switzerland do not require a visa to come into Ireland and do not require a work permit to work on an employed or self-employed basis.

Certain non-EEA nationals require a visa prior to entering Ireland and must obtain permission to establish a business in Ireland.

All non-EEA nationals, whether they require a visa or not, are subject to immigration controls upon arrival in Ireland. These controls are applied on an occasional basis to persons arriving from within the common travel area between Ireland and the UK and systematically on persons arriving from outside the common travel area.

Non-EEA nationals seeking permission to enter in order to take up employment will generally require a work permit. Persons who wish to reside in Ireland for longer than 90 days must register with their local Garda Registration Officer and apply for further permission to remain before their initial leave to enter expires.

How long can a foreign national spend in your country on a visitors' visa?

Generally speaking, a person can be granted up to 90 days' permission to remain as a visitor upon arrival, provided they have sufficient funds to support themselves and they have a valid visa if one is required.

Does your country have an investor visa programme or any other visa programme targeted at high net worth individuals?

- Immigrant Investor Programme
  - The Immigrant Investor Programme allows approved non-EEA investors and their immediate family to enter Ireland on multi-entry visas and remain here for up to five years with the possibility of ongoing renewal. The investment must be 'good for Ireland, good for jobs and in the public interest'. The funds must be legally acquired and owned, not borrowed, by the investor. In order to be considered for the programme, the proposed investment must be in one of the following categories, which have changed since 15 July 2013:
  - a one-off endowment of at least EUR 500,000 to a public project benefiting the arts, sports, health, culture or education. The endowment can be EUR 400,000 if it is pooled by at least five individuals
  - a minimum EUR 500,000 aggregate investment into new or existing Irish businesses for a minimum of three years
  - a minimum EUR 1,000,000 investment in a special low interest five-year immigrant investor bond
  - a mixed investment consisting of a minimum EUR 450,000 in property and EUR 500,000 in immigrant investor bonds, or
  - a minimum of EUR 500,000 in a managed fund which would invest in Irish businesses and projects

- Start-up Entrepreneur Programme (STEP)
  - This programme allows a non-EEA national with an innovative business idea and minimum funding of EUR 50,000 to come and set up a business in Ireland. The aim of the programme is to support 'High Potential Start-Ups', which are defined as start-up ventures that are:
  - introducing a new or innovative product or service to international markets
  - capable of creating ten jobs in Ireland and realising EUR 1 million in sales within three to four years of starting up
  - led by an experienced management team
  - headquartered and controlled in Ireland, and
  - less than six years old
  - From 15 March 2014 a 12-month immigration permission will be available for foreign national entrepreneurs attending 'incubators or innovation bootcamps' in Ireland to allow them to prepare a STEP application. This 12-month permission will also be made available to non-EEA students who graduate with advanced STEM (science, technology, engineering and mathematics) degrees in Ireland and wish to work on preparing a STEP application.
  - The STEP scheme does not apply to retail, catering, personal services or similar businesses. No initial job creation targets will be set as it is recognised that such businesses can take some time to get off the ground.
  - Successful applicants for the Immigrant Investor Programme and the STEP scheme and their immediate families will be granted residence permission for an initial period of two years. Their immediate family means their spouse, civil partner or partner and dependent children aged under 18. This permission can be renewed for a further three years. After these first five years, the investor or entrepreneur can apply for long-term residence. If required they will be granted multiple entry visas for the same duration.
- Business permission
  - A non-EEA national who intends to come to Ireland in order to establish a business (in a capacity other than as an employed person for whom an employer would have to obtain a work permit) and who is not eligible for the above programmes must obtain a Business Permission. Non-EEA nationals applying for a business permission must among other things create employment (other than their own) of at least two EEA nationals or maintain employment in an existing business and show personal investment of EUR 300,000 or more. Usually, a business permission is granted for one year initially

If your country has such a programme, does this programme:

- entitle individuals to bring family members and/or domestic staff with them?
  - Yes, as outlined above for family members but not domestic staff.
- give the individual the right to reside permanently or indefinitely in your jurisdiction?
  - Yes, as outlined above. Also, generally, where an individual has held a valid employment permit for a consecutive period of five years or more and has been working lawfully during that time, they may no longer require an employment permit to work in Ireland.
- enable the individual and his family members, if applicable, to obtain citizenship or nationality in your jurisdiction?
  - Irish citizenship is available to all persons through naturalisation after five years of reckonable residence in Ireland, in addition to other conditions such as intending in good faith to continue to reside in Ireland after naturalisation. A spouse/civil partner and minor child of a naturalised person is also able to apply for citizenship.

What are the requirements in your country for obtaining nationality?

An individual can become an Irish citizen through birth or descent or through naturalisation, marriage or civil partnership. To become an Irish citizen through naturalisation, the individual must:

- be 18 years or older (or married if under the age of 18), or
- be a minor born in Ireland (from 1 January 2005), and
- be of good character (Ireland's national police will be asked to provide a report about the applicant's background). Any criminal record or ongoing proceedings will be taken into consideration in deciding whether or not to grant naturalisation, and
- have had a period of one year's continuous reckonable residence in Ireland immediately before the date of the application for naturalisation and, during the eight years preceding that, have had a total reckonable residence in Ireland amounting to 1,460 days (four years). Altogether the individual must have five years' reckonable residence out of the last nine years, and
- intend in good faith to continue to reside in Ireland after naturalisation, and
- make a declaration of fidelity to the nation and loyalty to Ireland, and undertake to observe the laws of Ireland and respect its democratic values

Are there any taxation implications in obtaining nationality in your country?

Irish tax is based on residency, ordinary residency and domicile as mentioned above rather than on citizenship. Therefore, there are no taxation implications of obtaining Irish citizenship.

The above is a summary of the legal and taxation position in Ireland as at 1 January 2015.