Submission FIN 00707-21: Future of the bank levy

TO:	Minister	AUTHOR:	Pat Leahy (DFIN)
STATUS:	Completed	OWNER:	Pat Leahy (DFIN)
PURPOSE:	For Decision	REVIEWERS:	Pat Leahy (DFIN) Emma Cunningham (DFIN) Elizabeth Hughes (DFIN)
DIVISION:	Banking Division		
DECISION BY:			

Final comment

[redacted]

Action required

To decide whether to extend bank levy for 2 years subject to a separate formal review process or a review as part of any evaluation of future of banking or signal an end to the levy in Budget 2022.

Executive summary

This submission seeks your decision on the bank levy. [redacted] The Department considers there are two options:

1) Continue stamp duty levy as now (or with some changes to take account of the departure of KBC and UB and impact on other banks) for 2022 and 2023 and [redacted]

2) Signal an end to the levy in Budget 2022

It is not possible to introduce and legislate for a new levy before end 2021. If the decision is to retain the levy, it should continue in its current format for two additional years pending a further review. This is due to a number of reasons:

- current levy methodology widely understood
- difficulty in agreeing size and scope of a new levy in time for Budget 2022 and the timing of introducing a new levy now in current difficult banking environment
- current levy capable of raising a fixed amount of €150m – though in the event of UB and KBC no longer carrying on a trade in the State, there is a question of whether the remaining three banks should pay the full €150m on a pro-rata basis. Alternatively, should their current contribution remains unchanged resulting in a reduction in the overall yield from the levy.
- allows time for consideration of alternative options.

There are also challenges to this approach - outlined below.

Officials from Tax and Banking are available to discuss.

Detailed information

Detail of the submission

Option 1 - Continue the levy in its current format for 2022 and 2023, or suitably adjusted to take account of departure of UB and KBC and impact on remaining banks, and examine potential replacements of the levy in the medium term separately or as part of any examination of the future of banking.

The Finance (No.2) Act 2013 introduced the Financial Institutions Levy for the three-year period 2014 to 2016 with the purpose of enabling the banking sector to contribute to economic recovery. The annual yield of this levy is approximately €150 million. Finance Act 2016 extended the levy to 2021. The due date for the last payment of the bank levy under the current legislation is no later than 20 October 2021.

This section evaluates the existing stamp duty based bank levy and provides an overview of some alternative approaches.

Existing Bank Levy

The Financial Institutions Levy ("Bank Levy") is a tax on certain financial institutions, introduced in Finance Act 2013, with the expressed objective of ensuring a contribution from the banking sector to economic recovery. The bank levy is calculated by reference to the total amount of Deposit Interest Retention Tax ("DIRT") payments made by the financial institution in a given base year. The total annual levy to be raised has been set to €150 million each year. Consequently, the percentage rate applied to DIRT receipts has been adjusted depending on the DIRT yield in the base year, as set out in table 1 below.

Table 1 Overview of Bank Levy as Percentage of DIRT

YEAR BANK LEVY DUE	BASE YEAR	TOTAL DIRT IN BASE YEAR	*LEVY AS % OF DIRT
2014-2016	2011	€435m	35% of DIRT
2017-2018	2015	€300m	59% of DIRT
2019-2020	2017	€118m	170% of DIRT
2021	2019	€64m	308% of DIRT

DIRT is a tax deducted by financial institutions on deposit interest paid to the accounts of Irish residents and receipts have fallen substantially over recent years.

In 2011, the first base year applied to the bank levy, DIRT receipts were €435 million. By contrast, in 2019, the current base year of the levy, DIRT receipts were €64 million. This amounts to a cumulative 85% decrease over the period. Receipts for 2020 further reduced to €37.6 million.

A review published by Revenue in December 2020 found that DIRT receipts have declined in both absolute and relative terms. In 2014, DIRT accounted for 1.1 per cent of overall total net tax receipts and in 2019, it accounted for 0.1 per cent. In 2014, DIRT receipts accounted for just over 2.5 per cent of taxes on income. In 2019, this had fallen to 0.27 per cent. The reduction in DIRT receipts can be tracked to

- reductions in interest rates
- negative rates for deposits across the banking sector as a result of negative rates charges by the ECB
- specific individual exemptions from DIRT

Maintaining current approach

While figures for the total annual DIRT yield are available from Revenue, information on the proportion of DIRT, which is subject to the bank levy, is not readily available [redacted]. However, based on information available, it is estimated that using a base year of 2020, a rate of 520% of the DIRT paid by the liable institutions would have to be applied in order to achieve a target yield of €150 million for the bank levy. This estimate is based on a number of assumptions, so should be taken as an indicative figure.

Table 2 Indicative % levy required

Base year	Total DIRT	DIRT subject to levy (approx.)*	% Levy required (to total €150million)
2017	€118m	€90.53m	170%
2019	€64m	€49m	308%
2020	€37.6m	€28.85m	520%

There are a number of issues, which may affect the viability of this model for collecting revenue.

Continuing to link bank-levy liabilities to DIRT receipts may further incentivise financial institutions to impose negative interest rates, particularly when considered in light of current high liquidity levels (largely driven by historically high levels of household deposits). Bank of Ireland and AIB have already implemented negative rates for some deposits [redacted] As it is now AIB charges negative rates on business and personal accounts with more than €3m in savings [redacted]. In September 2020, Bank of Ireland charged negative rates on deposit accounts over €2.5m [redacted] The EBS does not currently apply negative rates but has a cap of €500,000 on the level of savings with the Bank. Permanent TSB does not apply negative rates and has no cap on savings.

Given the current thresholds, it is likely that accounts subject to negative interest rates are, in the main, business rather than retail deposits. Any extension of negative rates of interest would further reduce the deposits subject to DIRT, so that it is likely that an increase to over 500% of DIRT would be required to maintain the yield of the bank levy.

Issues to address in maintaining current approach

The continuation of the levy needs to take account of two issues

- the timing of the departure of Ulster Bank and KBC
- the potential impact of this departure if the three retail banks have to fund the €150m levy

The legislation underpinning the levy provides that an institution is subject to the levy if

- it was the holder of a banking licence or was a building society in the base year
- was obliged to pay DIRT in the base year (currently 2019), and
- is carrying on a trade or business in the State, whether a business of taking and holding deposits or not, on the date the return and payment are due for the year

The timing of the departure of the exit of KBC and Ulster Bank is uncertain. It is possible that both banks will have a presence here and in particular will be carrying on a trade or business in the State, including holding deposits by the time of the collection of the levy October 2022. If this is the case then the existing levy structure can work.

It is also possible that these banks will have closed or transferred part or all of their business activity to other players (and in particular, their deposit accounts) by the time the levy is due in October 2022 and they may not fall into the definition of carrying on a trade.

If the 2019 base year continues as the means to determine the levy, then KBC and Ulster could have a stamp duty liability in 2022. This liability would apply due to the application of the 2019 base year even if with the allocation of UB and KBC deposits across the remaining three banks.

Therefore making a change in the base year would not resolve this issue. Consequently, legal advice on whether a levy can be collected from a bank where it is in wind down and whether this is deemed to be continuing a trade or business would be important in establishing if it is possible to collect the levy in 2022 from UB and KBC.

It would be possible to reconsider the status of the levy in Finance Bill 2022 based on better information as to the position of KBC and UB in the market. However, the problem remains for the 2021 Finance Bill as to how best to levy UB and KBC when there is uncertainty as to whether they will be in business in 2022 at the time of the collection of the levy. At best therefore, changes in the 2021 Finance Bill to the levy structure would be interim in nature.

There is a link between decisions on how to deal with the departure of UB and KBC and the expected yield from the bank levy. The broad options are –

(i) to maintain the yield of €150m irrespective of the number of banks or

(ii) maintain the individual yield from each bank based on 2019 base.

With the first option, the aim is to ensure maintenance of the yield– whether five or three banks fund the cost. This could mean raising the full €150m levy across five, four or three banks. The ability to recover from KBC and UB in 2022 would be contingent on the proposed legal advice mentioned above about whether it would be possible to raise a levy where a bank is in wind down and has no or few deposits.

In favour of this is the maintenance of the yield for one or two years. However, if three banks had to fund the full amount of the levy of €150m, there would be an increase in the cost for each bank. [redacted]

The second option is to maintain the yield from each bank as it is now – as opposed to seeking to maintain a total yield of €150m from the levy. Depending on whether it is possible to raise a levy on institutions in wind down this could maintain the full yield from the levy. In the event that this is not possible, it would maintain the current yield from each bank but could result in a reduction in the overall yield.

[redacted].

[redacted]

[redacted]

[redacted]

[redacted]

is possible to maintain the stamp duty model for at least two more years. However, with trends in rates of interest for deposits, increased negative rates and the need to increase the percentage of the levy to above 500% that is not a long-term solution to the maintenance of a bank levy.

The value of using the existing levy for a two-year period is that

- the retail banks understand their liabilities with a simpler mechanism than alternative measures;
- there is a clear established approach to collecting the levy
- an amount of €150m can be collected compared to other levies where the returns have been variable (e.g. UK banking levy)
- previous consultation exercise on the bank levy failed to come up with a suitable alternative to the stamp duty model
- introducing a new bank levy model now in a financial and banking environment in flux may not be the best approach
- there is the possibility of developing a levy suitable to domestic circumstances

However,

- account needs to be taken of the impact of the departure of KBC and UB
- legal advice on the extension of the levy to KBC and UB in 2022 and 2023 would be appropriate
- an alternative model which seeks to maintain the yield per institution with potentially lower total yield rather than seek to raise a levy of €150m may be appropriate

<u>Other levy options</u>

[redacted] However, it does not seem possible to examine, legislate for and introduce a new levy in 2021. Assuming the levy is to be retained, the only alternative option is to continue the levy in its current format for 2022 and 2023 and examine potential replacements of the levy in the medium term <u>separately</u> or as part of any examination of the Future of Banking.

This approach allows time to consider alternatives in more detail, which could effectively work in Ireland

Option 2 - Signal an end to the levy in Budget 2022

Alternatively, you could decide to allow the bank levy to lapse automatically at the end of 2021. A number of arguments support that approach.

(i) Profitability challenges

Irish banks face challenges in relation to making an acceptable level of return measured as Return on Equity (ROE) and calculated as: profit after tax/shareholders' funds. Profit generation is important for banks as it provides capital to support credit growth, invest in the business (e.g. in expensive IT programmes), and to reward shareholders in the form of dividends.

One of the main reasons for this is the longer for longer interest rate environment. Other profitability challenges for the Irish banks include income diversification (away from an over reliance on interest income), cost bases (excluding the bank levy), high NPLs ratios and the levels of capital they are required to hold relative to European peers.

Actions taken by the banks to address these challenges include M&A activity – i.e. the AIB/Goodbody transaction, cost management – the BOI branch closure programme – and the significant progress made by all the banks in reducing NPLs. Banks have also introduced negative interest rates for some deposits. Such activities are likely to continue to improve returns.

In short, banks need to improve their profitability in order to attract investors and invest in their business. The levy is not the only challenge and charge which affects profitability but it is a charge which affects profitability [redacted]

(ii) Increasing the cost for three retail banks

Due to the eventual withdrawal of Ulster Bank and KBC, the number of retail banks will decrease from five to three. Maintaining a levy of €150m increases the cost for the remaining retail banks which would be particularly onerous for the smallest of the three banks. A €150m levy on the remaining retail banks is likely to accentuate the need for further cost cutting and revenue generating exercises to maintain and improve profitability and to fund the additional component of the levy for each bank.

[redacted]

[redacted]

[redacted]

[redacted]

	[redacted]	[redacted]	[redacted]	[redacted]
	[redacted]	[redacted]		
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

(iii) Temporary nature of the levy

When the then Minister for Finance introduced the levy in 2014, it was explained as being temporary. The continuation of the levy to the end of 2021 and now possibly into 2022 and or 2023 means that it is likely to be seen as a permanent part of the taxation of banks. Extending the levy even for a temporary period will make it difficult to end the levy at any future stage.

(iv) Impact on consumers and business

While the banks pay the levy, it is ultimately borne by shareholders, customers, employees or suppliers in some combination. There is always some debate about the extent to which and the circumstances in which banks can or will pass the levy on to customers. There is always the argument made that banks should pay the levy and not their customers – but this is difficult to achieve in practice. Consumers and businesses are likely to bear the burden of the levy in the form of bank charges or elevated interest rates on mortgages and business loans.

(v) – Competition issues

With the expected exit of Ulster Bank [redacted], two of the remaining five retail banks will exit the Irish market. This follows a pattern of a significant number of retail banks that have left the Irish market since 2014. The banking market has also changed since 2014 with the arrival of technology-focused institutions e.g. N26 and Revolut, bespoke mortgage lenders, peer to peer lending, a shift to digital transactions and overall a banking market with less integration and fewer full service banks than was previously the case.

There are no signals currently that any full service banks will enter the Irish market. Potential new entrants are bound to consider the size of the market, as well as entry and operational costs, including the bank levy, in any decision to invest in the domestic banking market.

The relatively narrow base for the existing levy may also be a factor. The levy on retail banks, while not a decisive cost, is likely to impact on the decision of any banks to enter the market to provide full service retail banking in Ireland. Standalone mortgage providers, fintech companies, the credit unions and An Post are not subject to the levy. There is the possibility of a legal or competition based challenge given the narrow base (retail banks) on which the levy is collected.

(vi) - Purpose of the levy

Bank levies exist for a number of reasons

- raise revenues for the State
- recognise the implicit guarantee in place for financial institutions in the event of default
- contribute to the cost of the financial guarantees from the financial crisis

Certainly, it is the case that a levy on retail banks can raise revenues for the State. Up to the end of 2021, the bank levy has raised

€1.050bn for the Exchequer since its inception.

The bank levy in place now, even if it is renewed, is never going to offset the costs of the banking crisis. In any event, the levy is not being used to repay debt incurred through the support for different financial institutions, but is used for ongoing expenditure.

The issue of the changed regulatory environment and the contributions now made by banks is dealt with in (vii) below. Banks are now making significant financial contributions to ensuring a safer and better-regulated financial services sector. These contributions are in excess of any payments, which were being made when the levy was introduced in 2014.

The main reason then for maintaining or amending the bank levy is to contribute to the Exchequer.

(vi) European regulatory requirements and increased cost to banks

There is no harmonisation or regulation of bank levies, where introduced by individual Member States or outside the EU. (Table 4 above). There is also no requirement within the EU regulatory framework to have a bank levy.

There has been significant change in the evolution of the regulatory system for banks since 2014 at both national and EU level, with new laws, new institutions and structures to ensure the safety and security of the banking system.

Credit institutions, credit unions and other firms are subject to a range of levies and regulatory charges with the aim of ensuring the safety and stability of the banking system. If the argument in favour of the levy was to ensure the security and safety of the system, banks are now funding this at national and EU level and yet continue to have to contribute to the domestic bank levy.

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- Central Bank of Ireland industry levy (total levied on banks in 2020 was €174m)
- [redacted]

There are significant charges for banks to ensure the safety of the system in terms of DGS, Resolution and in terms of regulation, all of which have come into being since 2014.

Arguments in favour of letting the bank levy lapse at the end of 2021 therefore are

- While not being the only cost on the profitability of the banking system, which needs to improve in order to have a better functioning banking system it is a feature of the costs of retail banking in Ireland. Ensuring an appropriate cost structure is essential to maintaining a full service-banking network in Ireland.
- if the levy as now exists is extended beyond the exit of UB and KBC, the remaining retail banks will have to bear a higher share of the levy with a disproportionately negative impact for one bank
- Banks increasingly have to fund the cost of a number of DGS, resolution and regulatory charges.
- Consumers are ultimately likely to bear the cost of the levy through higher charges and lending rates
- The existence of a bank levy is one of the factors that a potential new entrant would take into account in considering entering the Irish retail banking system
- individual full service retail banks bear the levy while others e.g. payment services or mortgage providers (who compete in part of the market do not)
- The bank levy will never provide for the recovery of the costs of the financial crisis. In any event the levy is used for day to day expenditure and not for repayment of any debt
- The methodology underpinning the levy is becoming more unstable
- There is increasingly a disconnect between supporting the costs of full service banks, maintaining lower interest rates for loans and mortgages and maintaining the existing or advocating a higher bank levy.

Against

- As against that the levy makes a significant (€150m) annual contribution to the Exchequer
- The levy as now is relatively easy to understand and collect
- The larger financial institutions can cope with the cost of the levy

Officials from Tax and Banking Divisions are available to discuss.

-

[redacted].

[redacted].

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

-

[redacted]

[redacted]

[redacted]	[redacted]	[redacted]	[redacted]	
		[redacted]	[redacted]	[redacted]
	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]

[redacted]

- [redacted]

[redacted].

[redacted]

[redacted], [redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

User details

INVOLVED: Pat Leahy (DFIN)
Emma Cunningham (DFIN)
Sub_FIN Sec Gens Office
John Hogan (DFIN)
Sub_FIN Ministers Office
Paschal D (DFIN)

READ RECEIPT: Pat Leahy (DFIN)
Emma Cunningham (DFIN)
Elizabeth Hughes (DFIN)
Helena Quane (DFIN)
Mary Ryan (DFIN)
Fiona O'Connor (DFIN)
Christina Procter (DFIN)
Kieren Mee (DFIN)
Claire Harrington (DFIN)

Action log

ACTION	USER	DATE	DESCRIPTION
Create	Pat Leahy (DFIN)	30/06/2021 16:27	Submission FIN 00707-21 to Minister created.
Submit for review	Pat Leahy (DFIN)	01/07/2021 10:12	Submission sent for review to Emma Cunningham (DFIN).
Submission sent	Emma Cunningham (DFIN)	01/07/2021 11:05	Submission sent by email to Cathal Sheridan (DFIN).
Revert	Emma Cunningham (DFIN)	01/07/2021 11:43	Submission reverted to Pat Leahy (DFIN) by Emma Cunningham (DFIN).
Submit for review	Pat Leahy-(DFIN)	01/07/2021 12:16	Submission sent for review to Emma Cunningham (DFIN).
Comment removed	Emma Cunningham (DFIN)	01/07/2021 12:18	Comment created on 01/07/2021 11:43 removed by its author.
Submit for review	Emma Cunningham (DFIN)	01/07/2021 12:21	Submission sent for review to Secretary General.
Submit for review	Elizabeth Hughes (DFIN)	01/07/2021 12:24	Submission sent for review to Minister.
Submission sent	Helena Quane (DFIN)	01/07/2021 12:26	Submission sent by email to Helena Quane (DFIN).
Submission sent	Pat Leahy (DFIN)	17/08/2021 10:48	Submission sent by email to Pat McColgan (DFIN).
Submission sent	Emma Cunningham (DFIN)	25/08/2021 14:50	Submission sent by email to Fidelma Cotter (DFIN).
Complete	Helena Quane (DFIN)	07/09/2021 10:57	Submission completed by Helena Quane (DFIN).

Comments

Pat Leahy (DFIN) 01/07/2021

Emma - submission on bank levy which includes views from Banking, Tax and SFAD. Thanks Pat

Pat Leahy (DFIN) 01/07/2021

Tables updated and included.

Bud22#12: Extension of Bank Levy to 2022

REF #:	FIN 00991-21	AUTHOR:	Pat McColgan (DFIN)
TO:	Minister	OWNER:	Pat McColgan (DFIN)
STATUS:	Completed	REVIEWERS:	Pat McColgan (DFIN), Cathal Sheridan (DFIN), Emma Cunningham (DFIN), Elizabeth Hughes (DFIN)
PURPOSE:	For Decision	DECISION BY:	
DIVISION/OFFICE:	Tax Division		

Final comment

I agree to this recommendation. (Refer attached)

Action required

That you agree to the extension of the bank levy to 2022, subject to certain limitations.

Executive summary

The purpose of this submission is to get your formal sign-off on the approach to the bank levy for 2022 as discussed last week.

Below, we provide an outline of how the existing legislation works and the difficulties that this creates should we maintain the same approach to the coming years levy.

In summary, the current framework provides an incentive for UB and KBC to accelerate the sale process to dispose of their deposits in full by October 2022, as by doing this they will relieve themselves of the levy. This is likely to be detrimental for consumers. In addition, the three domestic banks who most of the deposits are likely to be transferred to (possible "successor" banks as per the legislation), will be required to pay the amount of levy that would have been previously paid by these other banks.

Consequently you indicated the following:

(i) the legislative change required should be for one year only with the question of a new levy to be considered by the banking review

(ii) that you wished AIB, BOI and PTSB to only pay in 2022, the amount of levy that they paid in 2021

and

(iii) that UB and KBC were to be removed completely from the scope of the levy for 2022.

In relation to point (ii) above we recommend maintaining 2019 as the base year as this will ensure the 3 remaining banks would pay the same amount as they paid in 2021.

Submitted for your decision

Comments

Cathal Sheridan (DFIN) - 20/09/2021 21:06
as discussed

Mary Ryan (DFIN) - 23/09/2021 13:48
I agree to this recommendation. (Refer attached)

Detailed information

Introduction

The purpose of this submission is to get your formal sign-off on the approach to the bank levy for 2022 as discussed last week.

As you are aware the bank levy which has collected €150m annually since 2014 is due to expire this year and as a consequence the Department has set out in a submission (00707-21 "Future of the bank levy") two broad options for your consideration. These were

1) Continue stamp duty levy as now (or with some changes to take account of the departure of KBC and UB and impact on other banks) for 2022 and 2023 and examine a possible replacement levy separately or as part of any examination of the future of banking;

2) Signal an end to the levy in Budget 2022

You indicated in your response as follows:

Let's go with option one. We should not levy additional cost on AIB, PTSB and BOI due the departure of KBC and UB.

My aim is to maintain the status quo for remaining banks or to be more specific whatever *the existing Levy structure requires of existing banks is what should be paid.*

If KBC/UB meet the requirement to pay, then they should pay. If their exit/change means they do not pay – then we consider the issues re this in future of banking review.

We do this for next year and use next year to re-assess.

Review of existing legislation

In response to your decision, a review of the existing legislation in conjunction with our legal unit was carried out as a starting point to considering how this matter could be taken forward.

An essential part of that analysis was confirming the role of the "base year" to the calculation of a Bank's contribution to the overall levy. In simple terms the bank levy is calculated by reference to the total amount of Deposit Interest Retention Tax ("DIRT") payments made by the financial institutions in a given base year. The current base year is 2019.

The following were the conclusions:

(i) Whether the base year is 2019 (currently) or if it is changed to 2020, then if KBC and UB still hold their full deposits and are paying DIRT in October 2022, then even if they are closed for new business, they are still subject to the levy based on either a 2019 or 2020 base year.

(ii) However, if UB and KBC have transferred all of their deposits to other Banks before the October 2022 payment date, they will have relieved themselves in full of the burden to pay it, even if the Banks are for operational reasons still in run off.

(iii) In situation (ii) above the Banks receiving the deposits before October 2022 (i.e. AIB, BOI and PTSB known as successor banks in the legislation) would be required to pay an additional levy to cover these new deposits.

(iv) If however only a partial transfer of deposits occurs from UB and KBC to the other Banks, then these banks would still be paying DIRT and therefore would be subject to the full levy on the base year assessable amount of 2019 or 2020.

In summary, therefore the legislation provides that where a Bank has fully departed the deposit market by October 2022, it will have relieved itself of the requirement to pay the levy. In order however to maintain the overall levy amount (€150m), those banks who have taken over these deposits from the departing banks are obliged to pay an additional levy to cover these newly acquired deposits.

The other key point to note is that if KBC and Ulster only make a partial transfer of deposits by October 2022, because they are still paying DIRT, under the current regime they will be required to pay their full portion of the levy whether it be calculated on the 2019 of 2020 base year.

What this means, is if we make no change to the legislation, there is an incentive for UB and KBC to accelerate the sale process to dispose of their deposits in full by October 2022 in order to avoid the levy. This is likely to be detrimental for consumers. In addition, the three domestic banks will be required to pay the amount of levy that would have been previously paid by these other banks, assuming they take over their deposits.

Recent oral update on Bank levy

As you will recall, an oral update was provided to you on the general position outlined above.

It was also pointed out that there is currently no certainty as to when either bank will have transferred their deposits in full. In this regard, you expressed a wish for an orderly and measured transfer of such business and that nothing should be done to endanger that process, as consumer protection is paramount. Consequently you indicated the following:

(i) the legislative change required should be for one year only with the question of a new levy to be considered by the banking review

(ii) that you wished AIB, BOI and PTSB to only pay in 2022, the amount of levy that they paid in 2021

and

(iii) that UB and KBC were to be removed completely from the scope of the levy for 2022.

The only other question of significance that we need direction on is whether we use the base year 2019 or 2020 for the calculation of the amounts of levy that BOI, AIB, and PTSB should pay in 2022.

If we wish to ensure that the 3 banks pay the same amount as they paid in 2021, then the base year should remain at 2019. If we change the base year to 2020, then if the overall level of deposits that the 3 banks hold has increased, then they will pay a higher levy than in 2021. We therefore recommend maintaining 2019 as the base year.

Finally in order for completeness, the only significant concern that the Department would have with this proposal is that it would run the risk of constituting an unlawful state aid, as it could be perceived that KBC and UB are being offered an advantage over the other participants in the market.

Decision sought: Confirmation that you wish to proceed as outlined in points (i) to (iii) above, and continue with 2019 as the base year.

Related submissions

There are no related submissions.

User details

INVOLVED:	Pat McColgan (DFIN) Cathal Sheridan (DFIN) Emma Cunningham (DFIN) Sub_FIN Sec Gens Office John Hogan (DFIN) Sub_FIN Ministers Office Paschal D (DFIN)	READ RECEIPT:	Pat McColgan (DFIN) Cathal Sheridan (DFIN) Emma Cunningham (DFIN) Elizabeth Hughes (DFIN) Emma Murphy (DFIN) Helena Quane (DFIN) Mary Ryan (DFIN) David Caffrey (DFIN) Danielle Carey (DFIN) Christina Procter (DFIN) Brian Fee (DFIN) Brian Meenan (DFIN)

Action log

ACTION	DESCRIPTION	USER	DATE
Create	Submission FIN 00991-21 to Minister created.	Pat McColgan (DFIN)	20/09/2021 15:52
Submit for review	Submission sent for review to Cathal Sheridan (DFIN).	Pat McColgan (DFIN)	20/09/2021 16:09
Submission sent	Submission sent by email to Patrick Wolohan (DFIN).	Pat McColgan (DFIN)	20/09/2021 16:10
Revert	Submission reverted to Pat McColgan (DFIN) by Cathal Sheridan (DFIN).	Cathal Sheridan (DFIN)	20/09/2021 21:06
Comment removed	Comment created on 20/09/2021 16:09 removed by its author.	Pat McColgan (DFIN)	21/09/2021 08:27

Submit for review	Submission sent for review to Cathal Sheridan (DFIN).	Pat McColgan (DFIN)	21/09/2021 08:28
Submit for review	Submission sent for review to Emma Cunningham (DFIN).	Cathal Sheridan (DFIN)	21/09/2021 08:46
Submission sent	Submission sent by email to [redacted].	Pat McColgan (DFIN)	21/09/2021 09:54
Submit for review	Submission sent for review to Secretary General.	Emma Cunningham (DFIN)	21/09/2021 15:32
Submit for review	Submission sent for review to Minister.	Elizabeth Hughes (DFIN)	21/09/2021 15:33
Submission sent	Submission sent by email to Helena Quane (DFIN).	Helena Quane (DFIN)	21/09/2021 16:49
Complete	Submission completed by Mary Ryan (DFIN).	Mary Ryan (DFIN)	23/09/2021 13:48
Submission sent	Submission sent by email to David Caffrey (DFIN), Danielle Carey (DFIN), [redacted] Message: Submission on bank levy extension as cleared by Minister.	Pat McColgan (DFIN)	23/09/2021 17:37

Submission sent	Submission sent by email to Antoine MacDonncha (DFIN), Cathal Sheridan (DFIN), Patrick Wolohan (DFIN). Message: [redacted]	Pat McColgan (DFIN)	24/09/2021 10:50