

## **Special Tax Committee of Members of the European Parliament (MEPs) – 28 May 2015**

### **Statement by Irish Tax Institute Chief Executive Martin Lambe**

Irish Tax Institute Chief Executive Martin Lambe said the Irish Tax Institute appreciated the opportunity to engage with the TAXE Special Committee during its visit to Ireland and acknowledged the extensive work that was being undertaken by the Committee members.

“We think it is important to continuously engage in the tax debate and to help bring clarity to a number of issues, in particular the issue of tax rulings where misperceptions can arise”, he said.

Mr. Lambe pointed out that: “On request, Irish Revenue may provide a non-binding opinion or confirmation on whether the taxpayer’s analysis of the tax consequences of a proposed course of action or transaction is acceptable. This is done on a case by case basis. Any opinion/confirmation in relation to a proposed transaction is appropriate only where there is genuine uncertainty in relation to the interpretation of the relevant tax rules”.

He said: “An Advance Opinion is not a ruling, nor is it a negotiated arrangement; it is strictly Revenue’s view of how the law applies to a particular taxpayer situation. Seeking a tax ruling is not about getting a special deal or discretionary treatment – it’s simply about getting certainty that Revenue agree with your understanding of how the law applies. In seeking an Advance Opinion the taxpayer must disclose all relevant information at the outset of the application. “

“Unlike the tax rulings which are issued by a number of other countries, Advance Opinions issued by the Irish Revenue authority are not legally binding. It is open to the Revenue authority to revise its position if the facts of the case change or the law changes after the opinion has been issued. Furthermore there is an onus on the taxpayer to notify the Revenue authority where there is a material change in the facts or circumstances related to a particular Advance Opinion. Opinions are case specific and cannot be relied upon for other similar transactions or events. Where Revenue forms the view that a particular opinion may have wider applicability they will publish a guidance note which would be available to all taxpayers.

Advance Opinions are available to all taxpayers and are not limited to larger taxpayers. Opinions will expire after 7 years in most cases after which a new application must be submitted if the taxpayer wants the opinion to continue in force”.

“Advance opinions are not a central feature of the Irish Tax system”, concluded Mr. Lambe.