

Opening Statement

Chairman, members of the committee, thank you very much for inviting us to appear before the Committee and for your time this afternoon.

Welcome dialogue on legislation process

Reform of the tax appeals system has been a priority for the Irish Tax Institute for many years. As far back as 2008 we published a comprehensive report on “The Rules and Procedures Governing Irish Tax Appeals”.

Our appeals system has been very outdated and in need of reform for a long time and so this consultative process is an important step in getting our system right.

We very much welcome the fact that major reform of the Appeals Process is now underway by way of new legislation and that attention is being given to the matter by the Government and by members of the Oireachtas, especially, the Finance Committee.

Importance of the appeals system

An appeals mechanism is an intrinsic part of any equitable tax administration system and should deliver equal treatment for all taxpayer groups at low compliance cost.

That is why this issue is so important and deserves attention.

There have been a number of positives changes proposed in the Heads of Bill

A number of measures in the new Heads of Bill are very welcome: including:

- the publication of determinations and an Annual Report;
- tighter and more transparent procedures generally governing the management of the appeals process for taxpayers; and
- a better regime for the appointment/tenure and removal of Appeal Commissioners.

Two fundamental issues remain of huge concern to taxpayers

However there are two fundamental changes proposed in the Heads of Bill that are of concern to the Irish Tax Institute:

1. The abolition of the “in-camera rule” so that all tax appeals will be heard in public; and
2. The removal of the taxpayer’s option for a Circuit Court re-hearing.

The abolition of the “in-camera rule” and taxpayer confidentiality

Taking the first of these issues, the new Bill proposes to remove confidentiality in the Appeals Process after 50 years, by way of abolishing the in-camera rule.

Taxpayer confidentiality has been at the heart of the Irish tax administration system for almost 50 years and it has been one of the pillars on which our system has been built. The 1967 Income Tax Acts introduced solemn declarations to be made by Appeal Commissioners and by Revenue officers which included reference to keeping taxpayer information confidential.

It has served the tax system well and we have tax compliance rates of up to 99% in this country.

The removal of this right to confidentiality is even more serious because the consultation carried out did **not** mention or propose this issue. Any proposed change to the in-camera rule goes to the heart of the system and this was not made clear to the public in the consultation.

Taxpayers may feel that they have a genuine case to take to appeal but they are going to be forced to reveal the most personal aspects of their finances in order to enter the appeals process.

Clearly all parties here want to have transparency of process. However, this can be done without naming taxpayers and putting under the spotlight their financial information; there is precedent for this in the Family Courts that is worth exploring.

The Irish model of publication (for tax defaulters) has been in existence for 20 years and the Irish public rightly or wrongly associate publication with wrongdoing. Publishing taxpayer names and details in appeal cases could easily

infer in their minds that the taxpayer has not behaved appropriately or has done something wrong.

It is not clear whether there will be any limitations on media access to the hearings. Media interest is likely to be high and the taxpayer could be (wrongly) portrayed as having problems with Revenue/being somehow non-compliant. Experience to date is that the reporting of taxpayers who have a Revenue issue can portray them as tax evaders, which is not the case here.

The new Bill will force taxpayers to appeal to the High Court if they don't agree with Appeal Commissioner

The second major issue is that taxpayers will be forced to appeal to the High Court should they not accept the Appeal Commissioner's decision. At the moment, a taxpayer has the option of having the facts of a case re-heard at the Circuit Court, if they lose their appeal. This is a very important option for taxpayers because few can afford to take the matter directly to the High Court.

It seems as though this option is removed in the Heads of Bill so that if taxpayers do not agree with the decision of the Appeals Commissioners they must appeal directly to the High Court.

This is a prohibitively expensive option for all but the biggest taxpayers. Losing at the High Court will cost the taxpayer in the region of €100,000 at a minimum. No average taxpayer could afford this process – it discriminates against the average taxpayer and will be a significant deterrent to average taxpayers seeking a hearing on a tax issue.

It is not clear why the Circuit Court re-hearing for the taxpayer has been removed.

In summary; the combined effect of:

- Holding the case in public; and
- Removing the taxpayer's option for a Circuit Court re-hearing

Means that a taxpayer will now have to make a stark choice to either:

- Pay the amount Revenue say they owe – even if they do not believe that to be correct and fair; **or**

- Have their financial details published for everyone in the country to see and if they lose at Appeal, go directly to the High Court with all the expense involved.

We do not believe this is fair to taxpayers.

Other issues with the Bill

There are a number of other related issues in the Heads of Bill including the need for timely issuance of determinations, the importance of appropriate staffing for the office and the need for a hearing in each individual case. In our submission on the consultation, the Irish Tax Institute also recommended the establishment of a separate forum for small cases under €50,000 and that is not mentioned in the Heads of Bill.

I am conscious that there is limited time to address these issues and I have focused my opening remarks on the matters of most concern to taxpayers.

Thank you for your time and I look forward to taking any questions you might have on my presentation.