

Opening Statement

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Our appeals system has been very much outdated and in need of reform for a long time and so this consultative process is an important step in getting our system right.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

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

A number of positive changes being proposed following consultation

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 welcome:

- Publication of determinations is welcome – but there needs to be tighter time limits around this. “as soon as practicable”, is too open ended.
- Publication of an Annual Report also positive.
- Better procedures for appointment/tenure/removal etc.
- Tighter procedures governing the “statement of case” and “outline of a case”.
- New facility for Temporary appointments.

- Stream-lining of other tax legislation, to make time limits consistent across taxes etc.
- Re-naming of the office to Tax Appeals Commission. Tax Appeals Board better.

Two fundamental issues remain of huge concern to taxpayers

The Irish Tax Institute

- **NEW Bill proposes to abolish confidentiality in the Appeals Process after 50 years, by way of abolishing the in-camera rule.**

This matter is made even more serious given that the consultation 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 this consultation.

- The result of change will in effect be “Accept the Revenue assessment of what you owe them or be forced to have all your details published for everyone in the country to see.” Is this fair on taxpayers?
- Taxpayers may feel that they have a genuine case 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 most personal financial information.
- 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 that 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.

Taxpayer confidentiality has been at the heart of the Irish tax administration system

- 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.
- It has served the tax system well and we have tax compliance rates of up to 99% in this country.
- Speaking at PAC only last year the Revenue Chairman stressed the important of confidentiality: “....Confidentiality applies to everybody...Taxpayer confidentiality is an important pillar of tax systems all over the world and it applies to everybody”
- The 1967 Income Tax Acts introduced solemn declarations to be made by Appeal Commissioners and by Tax Inspectors/ Revenue officers which included reference to keeping information taxpayer information confidential.

Discrimination against average taxpayer as new Bill will force taxpayers to appeal to the High Court if they don't agree with Appeal Commissioner

- If taxpayers do not agree with the decision of the Appeals Commissioners they can no longer take it to the Circuit Court – they must appeal it 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 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.
- The costs for the taxpayer are already expensive – Revenue assessments can be raised by any Revenue Inspector and, once raised, the taxpayer then has to make a decision about whether to pay or appeal. If the taxpayer decides to appeal to the Appeal Commissioners, they become involved in a complex process of getting advice on the matter, preparing

details and arguments and appointing Tax Counsel (the norm for an appeal case now). This process is about to become more expensive (see recommendation below on separate forum for small cases).

- In all but exceptional cases a taxpayer will not be able to afford to take a case due to the potential exposure to costs. Revenue does not have this constraint. In addition to the significant powers available to Revenue, the proposed changes will provide an unfair advantage to Revenue in dealing with the average compliant taxpayer. This could not be the statutory intention.

In summary; the combined effect of:

1. Holding the case in public; and
2. 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:

1. Pay the amount Revenue say they owe; **or**
2. Face publication of their private tax and financial information, in the knowledge that if they lose the case at Appeal, the next step is the High Court (likely minimum cost of €100,000 for the taxpayer, if they lose there).

The Impact of all this:

The balance of power is moving firmly against the taxpayer.

The tax compliant taxpayer who has a genuine case but cares for his reputation is most disadvantaged by the new Bill.

There are a number of other related issues including:

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