

Meeting of the Irish Tax Institute/ Revenue Large Cases – High Wealth Individuals Division (LC-HWID)

17 May 2019

Key Points from the Meeting

1. Overview of LC-HWID Structure

LC-HWID was established in May 2018, following a split of Large Cases Division (LCD) into LC-HWID and Large Corporates Division (LCD).

LC-HWID consists of six branches:

- Divisional Office
- Two HWI Case-working Branches
- Two Anti-avoidance Branches
- Pensions Branch

LC-HWID has 125 staff in four locations (Dublin, Athlone, Kilkenny and Waterford). The current entry threshold for the HWI case base is individuals with net assets in excess of €50 million.

2. The Divisional Office

The role of the Divisional Office has been broadened. It will carry out planning and research to support the case-working branches (in addition to management of the division).

- **Tax refunds:** Generally, repayments are dealt with as received however repayments may be delayed if interventions are underway, or a refund is offset against an outstanding liability. Refund queries should be directed to the Divisional Office.
- **Legacy cases:** Some legacy cases at appeal have been outstanding for many years. There is merit in seeking to resolve some cases by agreement. Revenue is willing to discuss cases to establish if it is possible to resolve cases by agreement. This would not be possible in all cases. Tax agents can contact the relevant HWI caseworker or the Principal Officer to discuss their case. The Divisional office can be contacted if the caseworker cannot be identified.
- **Disclosures (new cases):** Revenue is willing to engage with agents in advance of a disclosure. This may help in perfecting the disclosure and reduce the risk that a disclosure offer will not be accepted.
- **Exchange of Information:** FATCA data received is of good quality and used by LC-HWID. Revenue Planning Division carry out initial matching exercises on data received under FATCA and CRS. Information may not directly correlate to what is declared in Irish tax returns, as structures may be taxed differently in different jurisdictions. LC-HWID is aware of this and examines these issues when issuing queries.
- **Central Register of Beneficial Ownership:** Revenue will hold the Central Register for Beneficial Ownership of Trusts which is currently under development. As an initial first step, the Form 1 (Trusts) has been updated to gather information to pre-populate the register with certain details.

3. HWI Branches

The two HWI case-working branches are divided on a sectoral basis and handle c.480 cases in total. This includes individuals with net assets in excess of €50 million, their related trusts and partnerships and family members (where there has been a significant transaction with the family member).

As recommended by the Comptroller and Auditor General, Revenue is considering reducing the entry threshold for HWI (€50 million since 2003). A comprehensive report has been prepared for the Revenue Board on the implications of reducing the threshold to €20 million.

LC-HWID has identified a couple of hundred individuals who would come within the remit of HWI, should the Board approve a €20 million threshold. These individuals have been identified following review of internal and external information sources (e.g. tax returns and payments, media reports, financial statements etc).

LC-HWID will notify any additions to the HWI case base (the individual's tax agent will also be informed). Revenue audits underway in another division relating to these individuals will generally be finalised by the current auditor, unless there are sound reasons for LC-HWID to continue the intervention (e.g. where an audit is at a very early stage.)

Requests to include a family member of a HWI individual in the HWI case base, will be considered on a case by case basis. Requests can be made to the Divisional Office before the related tax return is submitted, for example, where a gift or inheritance would increase the individual's net assets to the HWI entry threshold.

The HWI case base is not fixed. Individuals that meet the criteria will be added as they are identified.

4. Anti-avoidance Branches

The Anti-avoidance Branches have c.30 staff and focus on cases, as risks are identified. The Branches also participate in the Revenue-wide Anti-avoidance network.

- **Current cases:** Two projects were mentioned. Firstly, an appeal determination on the "Bell" project concerning a trading losses scheme is awaited. This involves about 200 cases. Secondly, a High Court judgement relating to a case concerning transfer of share rights between share classes is expected in the coming months (about 120 cases involved). "Film relief" cases are almost all concluded.
- **New projects:** These include examination of mandatory disclosures, the use of Employment Benefit Trusts (EBT), the transfer of rights and values between shares, disguised remuneration (e.g. through the use of offshore trusts and "contractor loans").
- **Queries on Transborder Workers Relief:** Aspect queries have issued to some claimants following an increase in the number of claims. The project is not unique to LC-HWID and may be extended, depending on its outcome. Reasonable requests for additional time to prepare a full response can be considered. Technical clarifications can be raised with the relevant caseworker, contact details were provided in the letters issued. If a taxpayer is

unable to supply certain information sought by Revenue, an explanation should be provided in the response to the query.

5. Areas of Focus for the Division

Case progression and early identification of issues that cannot be resolved by agreement are priorities for LC-HWID. It is intended that assessments will issue well in advance of the 4-year deadline and parties should be clear on the facts, reasons for disagreement and the basis for the assessment. To this end, LC-HWID is adopting a number of measures.

- **Taxpayer meetings:** LC-HWID wishes to meet with taxpayers in some cases. Meeting requests will be on a case by case basis and typically to establish facts or a taxpayer's intention or state of mind at a point in time (not to discuss a technical matter). Meetings can be held by way of a conference or skype call, if necessary. Practitioners queried whether taxpayer attendance at a meeting would be voluntary, given the anxiety a meeting could cause for elderly taxpayers. Revenue cited the importance of cooperation in penalty mitigation but acknowledged a meeting with an individual's financial adviser and tax agent may be sufficient in some situations.
- **Submission meetings:** A meeting to discuss a submission is preferred, so LC-HWID can clarify background information, queries and identify any further information required. This is intended to help expedite matters through substantive discussion on the issues at an early stage. Where there is disagreement, it will allow for early and full clarity on the facts should a case proceed to appeal.
- **Timely responses:** Section 900 or other Revenue information powers may be used where Revenue do not receive a response to correspondence, following the issue of, generally two requests for information. Revenue intend to copy letters to taxpayers unless the taxpayer indicates otherwise. Practitioners requested that Revenue bear in mind the importance of timely responses by Revenue also to help case progression. Revenue agreed to send correspondence to the tax agent before it is issued to the taxpayer, so the agent can brief the taxpayer on the matter. Revenue is also reviewing the structure of LC-HWID letters to make requests clearer to readers.
- **Case appraisal:** A comprehensive appraisal of all HWI cases will be completed by the year end. This will allow LC-HWID to identify and prioritise two or three key risks (based on the quantum of tax involved).

6. Pensions Branch

The Pensions branch has responsibility for the approval and tax compliance of pension schemes. It provides advisory support to the Revenue branches and opinions on interpretation issues relating to pensions. The Branch also deals with Personal Fund Threshold requests. Ireland has a large number of pension schemes and products (for example 165,000 defined contribution schemes, 8,000 new single member state scheme in 2018 alone).

Revenue provided an overview of the proposals for pensions reform which is intended to rationalise the number of schemes and products available. This will also involve a broad review of the utilisation of the Approved Retirement Fund (ARF) option and consider whether

regulatory oversight of this product is fit for purpose. In addition, it will entail an extension of the role of the Pensions Authority as the “gatekeeper” before a scheme is dealt with by Revenue and the use of “master trusts”. Legislation in relation to the new role of the Pensions Authority in the authorisation of pension schemes is expected to be drafted before the end of 2019.