

## Meeting of the Irish Tax Institute/Revenue Medium Enterprises Division

26 November 2019

### Key Points from the Meeting

#### 1. Overview of Medium Enterprises Division (MED)

MED was established in November 2018, as part of the realignment of Revenue's operational structure. It consists of 10 Branches; nine sector-specific branches and the Revenue Technical Services (RTS) Branch. Divisional staff are located in 18 offices countrywide. MED has national responsibilities for government bodies and state agencies, the largest legal and accountancy firms and their partners and tax compliance for certain high wealth individuals, with income less than the entry threshold for Large Cases-High Wealth Individuals Division. RTS is managed on a national basis by MED.

MED has a case base of c.28,000 taxpayers. This includes corporate entities with annual turnover between €3 million and €190 million and their proprietary directors, together with individuals with significant wealth, based on a number of factors. There has been some movement of cases between Large Cases Division and MED over the last year. Work has been underway to profile and segment the division's case base and identify areas of "tax risk".

#### 2. MED Sectoral Branches

From a corporate perspective, risk will be assessed on a group rather than a single entity basis (similar to the approach adopted by LCD). The case base is quite diverse, 46% of cases have annual turnover between €3 million and €10 million.

Considerable work has been undertaken to identify specific sectoral and structural risks at each tier within the case base. Analysis has indicated that operational risk can be highest in the lower tiers (smaller entities with lower turnover), as larger entities may have more robust corporate governance arrangements due to their size. In contrast, transaction-based tax risk can be higher in larger entities where considerable tax may be at stake.

Revenue provided an overview of the remit of each MED Branch. An organisational chart for MED detailing the Principal Officers for each Branch is available on:

[www.whodoeswhat.gov.ie](http://www.whodoeswhat.gov.ie).

- As part of its work, the Accountancy, Legal and High Wealth Individuals Branch in MED deals with high wealth individual cases where risk factors are identified. Risk factors include: annual income in excess of €500,000 and a low effective tax rate; large capital transactions and the use of losses. Risks associated with recruitment companies with annual turnover in excess of €3 million.
- The IT, Science and Finance Branch deals primarily with IT and cloud computing companies; holding companies in these sectors; the R&D tax credit and KDB claims for taxpayers outside of the LCD case base.
- The Public Administration, Education and Management Branch deals with publicly funded entities. This consists of c.1,200 entities including government departments, State agencies, public hospitals, the HSE, the education sector etc. The core taxes for this cohort are payroll taxes. Revenue held a number of information seminars on payroll for this sector to assist them to comply with the requirements of PAYE modernisation.

- The Construction Branch is a national division dealing with contracts in excess of €3 million (per contract). The Branch handles both compliance and service issues for its case base of c.5,800 taxpayers. The Branch has a dedicated non-residents unit. It also engages with the construction sector on the Help-to-Buy scheme. The Branch also manages RCT compliance for the forestry and meat processing sectors.
- The RTS Branch is managed by MED. RTS staff are based in MED, Business Division and in Personal Division. Revenue has been endeavouring to improve service delivery over the last year. The number of open queries has reduced. Revenue has also invested in technology to track and retrieve previous opinions provided. The Revenue Manuals are being updated to reflect opinions given and these updates are highlighted in the related eBriefs.
- The Services Branch provides a centralised service to support compliance for taxpayers dealt with by the MED. This Branch is managed in Cork.
- The Motor, Transport and Utilities Branch has c.2,700 cases and is a continuance of the Motor Branch that previously operated as part of the East South East Revenue Region. Transport and utilities were added to this Branch's remit as part of the realignment.
- The Agriculture, Health and Tourism Branch has a case base of c.3,000 taxpayers given the predominance of these sectors in the Irish economy. The Branch covers a broad range of businesses, for example; farming, fishery, hospitality, tour operators, real estate agency lettings, some public hospitals, GPs and dental practices, sports and leisure centres.
- The Manufacturing Branch is a national branch with a varied case base of c.1,500 companies, and a similar number of proprietary directors. It also deals with some R&D and KDB claims and Brexit-related issues.
- The Wholesale/Retail Branch has a case base of c.6,000 taxpayers. This includes supermarkets, discount stores and mineral oil suppliers.

### **Sectoral projects and areas of focus**

As outlined above, Revenue will be adopting a group-based approach to interventions. A number of companies within a group may be dealt with by different Revenue divisions, but MED will examine the group on a holistic basis. In such circumstances, Revenue may bring the different companies into the MED case base over time.

MED will be conducting real-time interventions for PAYE modernisation in 2020. MED will be engaging with Revenue's Planning Division on the compliance policy to apply to these interventions.

Brexit-preparedness is high on Revenue's agenda. Infrastructure has been scaled up in preparation for the potential customs issues and contingency plans have been developed. Revenue has also been examining potential VAT and excise issues post transition. Revenue has been engaging with businesses on supply chains to provide focused messages on preparing for Brexit.

MED will be adopting a risk-based approach to compliance interventions. Interventions in businesses with turnover between €3 million and €10 million will focus primarily on operational risks. Issues examined will also include cash extraction and "slippage" in timely tax payments, based on information from the Collector General's Office. Taxpayer behaviour will also affect Revenue's approach e.g. , the complexity of the corporate or group structure; common-ownership; mergers and acquisitions or other transactions which affect capital

taxes and transactions with proprietary directors. Revenue expect to conduct more comprehensive audits, including transfer pricing audits.

To date, MED has only received one KDB claim and has been working with Revenue Legislation Services (RLS) in developing their approach to reviewing claims. MED will be closely examining claims and developing their skills in this area.

Mineral oil and motor retailers continue to be national projects for Revenue.

Revenue will also examine other tax risks identified from their sectoral analysis and insights and expects to intervene more frequently on a “real-time” basis.

### **3. Revenue Services**

#### RTS

Revenue is committed to providing a quality RTS service. Work has been underway to better track queries and alleviate delays; measure service delivery against service standards and retrieve previous opinions. RTS staff make suggestions to RLS on updates to Manuals to reflect common queries raised.

600 queries were received in 2019 to the end of October - 182 were rejected primarily on the basis that the query sought tax advice. Revenue noted the importance of completing the Form RTS1 to provide the details of the case and the practitioner’s technical analysis. The RTS expert is willing to meet with the taxpayer and practitioner in a complex case, where it would help to resolve the query and a number of meetings have taken place.

Practitioners observed that they continue to experience difficulties in obtaining a timely response from Revenue to RTS queries and are often waiting many months for a reply. The quality of replies can also vary. Often it is unknown where the query is in the system, for example, whether it has been reviewed; when a response can be expected or whether it has been referred to RLS and a response will be further delayed. Practitioners welcomed the Revenue Chairman’s acknowledgment of the importance of the RTS and commitment to delivery of a quality service, as outlined in his letter to the Institute in June 2019.

Revenue acknowledged that timely responses are a really important part of service delivery. An evaluation of RTS is currently underway. This involves analysing the nature of the queries received; query themes; agents who appear to use the service repeatedly for queries which are addressed in the Manuals; the output from queries (e.g. issue of an opinion or update of a Manual). Revenue also emphasised that they do not provide “letters of comfort”. The query must concern a doubt in the application of the legislation and this doubt must be expressed in the query.

#### Refunds

Turnaround time on refunds is actively monitored and Revenue can be alerted to inordinate delays in individual cases. A central team handles processing of PSWT claims and refunds.

The Business Taxes/Income Tax/CGT phonelines are managed nationally and are predominantly used by practitioners, rather than individual taxpayers.

Tax registrations are managed nationally by Business Division.

Practitioners raised the ongoing issue of lengthy response time for queries/requests submitted via MyEnquiries. A Main TALC sub-group has been meeting to focus on ways to improve service delivery. The Institute welcomes the support and involvement of the divisions in the work to improve the service.

#### R&D Tax Credit Claims

Practitioners queried Revenue's approach to R&D tax credit claims and highlighted an instance where the Revenue officer firmly adopted an incorrect interpretation of the law and practice. This resulted in time and costs for the practitioner and the taxpayer in trying to resolve the matter with Revenue. Practitioners queried the training provided on R&D tax credit claims and the procedures in place to ensure that technical views are signed off at an appropriate level of seniority in Revenue.

Revenue conducts staff training and has a quality assurance programme that examines cases on a random basis. It would expect that the case cited would be an uncommon experience and Revenue would welcome an example.

Practitioners noted that issues around R&D tax credit audits were commonly raised by Institute members. The R&D Stakeholder Forum has been discussing ways to improve guidance on the topic. However, many issues that arise can be operational in nature and practitioners find that the R&D tax credit audit process can be difficult. This can result in unintended consequences, such as, businesses perception of the R&D tax credit and their willingness to submit claims, in light of their previous experiences. It is important that the credit works effectively and as intended and that this is reflected in Revenue's operational approach to R&D tax credit claims.

#### **4. Other areas of focus for the division**

##### Appeals

Revenue has a dashboard of cases in the appeals system. 40 – 50 appeals (outside of group cases) relates to the MED case base. Case workers continue to manage their cases post-transition from the previous operational structure. Revenue is always open to engagement on cases in the system, with a view to reaching a settlement. However, it will not change its view on a matter of interpretation of legislation and it may be necessary for cases at appeal to continue to an appeal hearing.

Practitioners noted that it would appear from a review of published determinations that some cases should have been resolved at an earlier stage, given the nature and sensitivity of the cases. Practitioners queried Revenue's approach to case management which could resolve these cases at an earlier stage.

Revenue actively manages cases at Branch level. At times, a taxpayer wants to pursue their right to an appeal hearing. In some cases, the matter in hand may be precedential in nature. Revenue uses its Appeals Committee to evaluate certain cases listed for appeal. The Committee considers cases that may create a policy precedent, where Senior Counsel will be engaged and cases above a certain threshold.

The relevant Branch continues to be responsible for the case as it progresses through the system. The basis for the underlying assessment should be explained and the process documented.

### Use of information

Revenue receives information under CRS and FATCA and is actively using this data as it provides a broader view of a taxpayer, when combined with Revenue's domestically-sourced data. The data is validated before queries are pursued. Revenue uses the data carefully and is compliant with GDPR and the requirements of the Data Protection Commissioner.