Summary Note of Branch Meeting between the Irish Tax Institute and Revenue's Business Division
8 December 2021
via Microsoft Teams

Key Points from the Meeting

1. Overview of Business Division

Business Division has a case base of approximately 935,000 taxpayers consisting of individuals and businesses with annual trading revenue or professional income less than €3 million. In early 2022, the revenue threshold for the Division will increase to €9 million and some cases currently in the Medium Enterprises Division (MED) case base will transfer to Business Division.

The Division consists of 11 Compliance Branches, two Service to Support Compliance Branches, a Divisional Office and a Risk Management and Quality Branch (including case selection). There are 1,200 staff employed in the Division, with Principal Officers in 29 offices across the country.

Revenue gave an update on the detailed organisational chart provided, which sets out the Divisional management responsibilities and office locations. The 11 Compliance Branches are focused on geographical areas. Since the last Branch Network meeting, the Dublin Branches have been reconfigured into three distinct districts: Dublin Central, Dublin North and Dublin South.

International claims and DWT for the Division are currently dealt with by Service to Support Compliance Branch 1, but this activity will move to the Collector-General's Division from 1 January 2022.

Almost all Division staff have been working remotely since the outset of the pandemic, with only a small number of staff working from Revenue offices for specific reasons. The current remote working arrangements are expected to continue until at least March 2022, when potential easing of restrictions will facilitate a form of blended working, based on business, individual and training needs.

Revenue staff have responded well to the challenges over the last year in working remotely, maintaining productivity, adapting to changes in their activities arising from the COVID-19 Support Schemes and supported by Revenue's IT systems.

Revenue also acknowledged the challenges and pressures on practitioners, the patience exercised and the useful engagement when implementing the supports for businesses. Revenue considers that the Division has been as flexible as it can be in their implementation of the supports and in engagement with practitioners and businesses.

Practitioners acknowledged the work of Revenue staff in supporting businesses and practitioners during a difficult year. Positive feedback on Revenue phonelines and turnaround time on responses to queries submitted via MyEnquiries, despite the challenges, was also noted.

The extension to the Pay & File deadline at a critical point, which assisted practitioners under pressure was also welcomed, with nearly 560,000 income tax returns filed by the deadline with €2.8 billion in tax paid.

2. Business Division Branches

Current Priority Areas of Focus for the Division

All Principal Officers in the Division have at least one responsibility at a national level in addition to leading their Branch.

The COVID-19 Support Schemes continue to be a priority area of focus. Work on the Temporary Wage Subsidy Scheme (TWSS) is nearly complete [102 TWSS cases are currently open (63 of which are expected to be closed in the coming days), 14 TWSS cases are under appeal and 19 cases require some amendment to assessments]. As the Division had 60,000 TWSS compliance interventions at the outset, this has now reduced to approximately 20 active cases and Revenue expects all such activity to be concluded by January 2022, apart from the cases at appeal.

Division activity continues on the Employment Wage Subsidy Scheme (EWSS), where checks are made in real-time. The vast majority of employers are very compliant and are operating the scheme properly. A small number of egregious cases involving fraud have been identified by Revenue and some cases have been referred to An Garda Síochána, with a number of arrests made and cases progressing through the Criminal Courts. Some of the cases involve agents. Unlike the TWSS, the EWSS permitted the inclusion of new employers and employees, so access to the EWSS was not as tightly linked to payroll, giving rise to additional risks requiring monitoring.

Revenue's EWSS activities include appraisals of cases, reviews of cases, aspect queries, a small number of investigations, issues raised on the Eligibility Review Forms (ERFs). Revenue is working through approximately 300 responses to EWSS reviews. A small number of queries are open on ERFs. There are "stops" on payments in some cases. Where a stop on payment is in place, the employer/agent is aware of the stop and why it is in place. EWSS will continue to be a core focus for the Division in the first half of 2022.

Regarding the Covid Restrictions Support Scheme (CRSS), 44 cases in the Division have been appealed to the Tax Appeals Commission (TAC) but have not yet been heard.

The Division does not have a large number of open interventions on hand, circa 22,000 compliance interventions are underway across the Division and the focus is on higher risk cases.

1,000 TAC appeals are on hand. Cases at the TAC are progressing quickly, with increased use of Case Management Conferences and appeal dates scheduled for legacy cases. A lot of work is underway in preparing for appeals and progress on older cases is welcome.

Business Plans for 2022

In addition to the COVID-19 Support Schemes, high risk VAT and real-time reporting are always a priority, together with the shadow economy. Work on the COVID-19 Support Schemes involves a considerable amount of staff resources. However, Revenue hopes to have largely concluded work on the schemes by the end of June 2022.

In 2022, the Division will examine employee share schemes and expects to open interventions on circa 300 unapproved share option schemes. These will be desk-based interventions and will start in January 2022. Revenue intends to raise awareness of an employee's obligations as a chargeable person in respect of share options, following information provided in the Form RSS1.

Employees may raise queries with their employers as a result. As such, Revenue wants employers to be aware of the activity they are carrying out and will be writing to employers. Revenue will issue compliance letters to certain employees which will take the form of an aspect query, examining what may be due from 2017 to 2020 years.

Regarding automatic exchange of information, Revenue will be following up on 59 cases of non-filers for 2019, in January/February 2022.

The Division will also be proceeding with a new compliance programme to examine Relief for Investment in Corporate Trades (RICT) e.g. the Employment Investment Incentive (EII) and the Start-up Relief for Entrepreneurs (SURE) schemes. This will proceed gradually and involve small double figures interventions at company level.

As regards the shadow economy, areas of focus include bogus self-employment, non-operation of PAYE, construction, trade in domestic animals and the health and beauty sector (i.e. barbers, hairdressers, tanning salons etc). Social media influencers and endorsers, car washing and valeting services, couriers and food or product delivery (i.e. quasi-couriers) are also areas of focus. These projects with run throughout the year, and start with construction, hair and beauty and trade in domestic animals (e.g. “puppy farms”).

VAT high risk, suspicious transactions report and information from FATCA will also inform interventions during 2022.

Revenue will undertake a significant project in Quarter 1 on compliance with PAYE Modernisation (Pmod) requirements. In April 2022, Revenue will contact employers that are not operating Pmod properly, advising them of errors that occurred in their January and February payroll submissions and requesting for errors to be rectified. If the errors are not corrected or are repeated in subsequent payroll submissions, Revenue will launch a compliance intervention. Revenue anticipates that the format of these interventions may involve a visit to the business and a review of the books and records that may be conducted under the new Compliance Intervention Framework, which is due to be implemented from 1 May 2022.

Revenue acknowledged that the vast majority of employers operate payroll correctly and mistakes can arise from time to time. However, Revenue has identified that some employers are not operating the requirements correctly on an ongoing basis. Revenue expects for letters to issue to approximately 50,000 businesses in March 2022, requesting them to address the issues or Revenue will conduct an intervention. It is envisaged that two letters will issue to such businesses. If the issues identified are not addressed, interventions will begin in April and May. Alongside work on the Covid-19 Support Schemes, this is expected to be the largest activity for the Division in 2022 and paves the way for real-time Pmod compliance.

Revenue is cognisant of the impact of the pandemic and that practitioners will be involved in engaging with other divisions in Revenue in 2022, such as, the Collector-General’s Division on debt warehousing and is considering these factors in its approach to ensure practitioners are not dealing with multiple contacts from different divisions at the same time. However, if employers in the Division’s case-base are not operating Pmod correctly, they should expect contact from Revenue.

Progress on Legacy Cases

Many legacy cases are proceeding through the appeals process. The number of the Division's cases at appeal has diminished compared to last year and Revenue is keen to engage and move forward with cases.

Revenue encourages engagement on legacy cases and any other case notwithstanding the current challenges from the pandemic or practice-related work. Engagement with Revenue is advised to discuss the case and identify how it can be progressed to a conclusion. Where responses are not forthcoming, Revenue will continue to proceed with issuing assessments.

Practitioners' Queries and Feedback

Practitioners queried whether Revenue's focus on share options/share scheme would include the KEEP. Revenue clarified that the focus at the outset is on unapproved share options first, but the project could be extended further later in the year. Improved reporting through the new share return form has increased the quality of data available to Revenue to help apply a more streamlined approach to queries.

Practitioners queried Revenue's approach to the application of interest in settlements, where delays are arising outside of the control of the taxpayer or practitioner. For example, an instance arose in concluding a case because the Revenue official involved was allocated to the COVID-19 Support Schemes and did not have the capacity to progress the case due to workload. Practitioners queried whether a "stop" could be put on interest in such circumstances, as the delay was not due to the fault of the taxpayer or agent.

Revenue noted that the Principal Officer should be contacted in such cases and it would be expected that a common sense approach would be adopted. Revenue would examine such cases on a case-by-case basis, considering the individual circumstances and apply a pragmatic approach. It would not be appropriate to apply punitive interest for periods of delay where the delay was solely on Revenue's side.

Practitioners sought further details on Revenue's approach to compliance activities on the EII scheme, whether Revenue Legislative Services (RLS) would continue to handle EII-related technical queries and scope for engagement with practitioners, as the approach to the compliance project is developed.

Currently, the Division is training staff on the operation of the EII scheme and will adopt a phased and incremental approach to the compliance project, beginning with a small number of cases. The focus will be on EII investments made under the self-certification regime (after 2019). Revenue's focus and the depth of their enquiries will be driven by the data which is currently being analysed and will involve an examination of whether the eligibility criteria for the scheme have been met. It is expected that some audits, in addition to non-audit interventions, will be conducted.

RLS will continue to have responsibility for the "pre-2019" legacy EII cases. Compliance in relation to the "post-2019" self-certification regime will fall within the remit of the relevant operational division, including the Medium Enterprises Division (MED). However, Business Division will have 80% of the EII cases due to the profile of its case base.

Practitioners' technical queries in relation to EII self-certification regime, such as queries on GBER etc should be addressed to the RTS/RLS.

Revenue is interested in engaging further on the operation of the EII scheme, perhaps through a sub-group, to help inform an efficient and effective approach to these interventions.

In relation to the proposed Pmod activity, the Institute noted the recent Revenue article in the *Irish Tax Review* on data quality in payroll submissions, which covered a range of issues Revenue had identified. The Institute agreed to profile this article again in the new year given the launch of compliance activity surrounding the operation of Pmod. Revenue considered this suggestion helpful.

Revenue's analysis indicates that a sizeable number of employers are making one or two errors repeatedly in their payroll submissions (rather than a large number of individual errors). There are not many agents making repeated significant errors but Revenue may need to speak with a very small number of payroll service providers. The aim of the letters is to encourage employers to correctly operate and report payments in accordance with the Pmod requirements.

3. Engaging with the Division – Services and Supports

<u>Preparing for the Upcoming BRR</u>

The last eRCT Bulk Rate Review (BRR) was in September 2019, with the subsequent BRR deferred due to the pandemic. Revenue is aware of the pressures on businesses and the BRR for the Business Division case base has been deferred until March 2022. Revenue will carry out a review of cases. Where the RCT rate may increase following the BRR, Revenue will write to these sub-contractors in advance to allow them to deal with outstanding compliance obligations. Such sub-contractors will receive letters from Revenue in February 2022. The Division intends to adapt its approach to BRR, to carry out reviews much more frequently, for example, on a monthly basis.

<u>Telephone Helpline Activity</u>

It has been a very busy year for staff on the Employer Helpline who are answering calls remotely. Additional staffing was added to the phoneline during the peak busy periods. However, the call volumes are now manageable with the current complement of staff. The reduced phoneline opening hours have assisted in reducing the work items on hand. Only 318 work items are currently on hand and 95.5% of items are responded to within 10 days (70% in 3 days).

Both the Employer Helpline and the Business Taxes Helpline are open from 9:30am to 1:30pm Monday to Friday. This assists in progressing work items received by MyEnquiries, which is a priority issue for management. Pay & File was a very busy period, with circa 15,000 work items still on hand.

There are circa 6,000 refund requests on hand, which amount to approximately €73 million, of which circa 2,000 involving correspondence with agents and taxpayers on queries or where feedback is required. Revenue is placing a key focus on processing refunds.

<u>Tax Registrations</u>

Tax registration activity is busy given Brexit and business start-ups. 98% of applications are registered within 10 days. 80% of VAT registrations are registered within 10 days. 85% of online

VAT registration applications are registered within 10 days, however, only 49% of paper VAT registrations are registered within 10 days.

ROS forms are more complete than paper applications, where entries are often blank, resulting in queries from Revenue, in particular, where applications are made by taxpayers who may not be familiar with the tax system and the registration requirements or who may not be using an agent.

The integrity of the registration process, in particular for VAT, is critical. Revenue will seek more information if they consider it is required. Accuracy and completeness of form completion is important and there is a marked higher quality in applications from agents as compared to non-agent cases. Should prolonged delays occur in registrations, these can be raised with the relevant Principal Officer. If there are problems Revenue need to be made aware of these so that Revenue can further improve the registrations process.

Practitioners' Feedback and Suggestions on Service Delivery

Practitioners have observed improvements in service delivery and provided some feedback on refining service delivery further:

- Instances arise where Revenue initiated queries in MyEnquiries do not include the client's name or tax number (i.e. the reference column is blank). The agent then cannot identify the client to which the query relates. Revenue agreed to examine the matter and sought an example and screenshot which was provided after the meeting.

- When Revenue responds to a practitioner's query on MyEnquiries, the query is marked completed. However, often Revenue may have requested further information and this is not apparent to the practitioner, who sees the "completed" marker and assumes the matter is concluded. In such circumstances, it would be preferable if the query remained marked as "in progress" to ensure is not overlooked by the practitioner. Revenue agreed to consider this and to discuss the matter with internally with ICTL.

- The use of the "exceptional contact" where cases were delayed beyond 20 working was a positive experience and a useful service, with a low number of cases referred to the exceptional contact. However, cases sometimes arise where it is difficult for the practitioner to understand why the response was delayed beyond the Customer Service Standard and in some cases, practitioners had the impression the case was not reallocated when the case worker was on extended leave or had departed Revenue.

  Revenue noted that case management in circumstances where there are staff changes or retirements can be difficult. Cases are reallocated, but it can be difficult to identify who can take over the case to be reallocated, depending on the complexity of the matter. Revenue considers only a very small number of cases would be liable to a pronounced delay and if this arises, practitioners should contact the Principal Officer or Assistant Principal to request a response to the case. Similar to other organisations, recruiting and retaining staff is difficult and retirement of senior staff can impact on Revenue's capabilities, as further staff training is required. Practitioners queried whether a staff member who is working on a live case could advise the agent if they are retiring. This is determined on a branch by branch basis rather than a set procedure.

- The size restriction for file attachments in MyEnquiries was raised and instances where an agent did not receive a notification that a query did not send due to the file size were highlighted. Revenue considers a message should always be displayed where a message is too large to send, due to the size of the attachment.

- The deadline to file the VAT Return of Trading Details (RTD) was raised by practitioners who considered 21 days after year end too early to file the VAT RTD. The VAT3 forms will not necessarily contain the full information to complete the VAT RTD. This is often only obtained following the preparation of the statutory accounts. Practitioners suggest it would be better to align the return date with the filing dates for income tax or corporation tax returns or provide a grace period before an outstanding VAT RTD could impact on the processing of a tax refund. Revenue considered the matter may be more appropriate to TALC. It was noted that engagement had taken place between Revenue and the Institute on the VAT RTD in 2019 and it may be worthwhile to recommence this engagement and refer the point raised for resolution at TALC.

- Instances have arisen where an outstanding Form IT38 has delayed the processing of a VAT refund, even though the Form IT38 cannot be filed due to a dispute over the estate, which is delaying the point at which a person becomes beneficially entitled to the inheritance. Yet, Revenue appeared to deny a VAT refund due to the outstanding Form IT38 and would not accept the agent's explanation or solicitor's letter explaining the issue. Revenue considers the handling of individual cases depends on their circumstances. Revenue has to balance the tax at risk, while providing the taxpayer/agent with the benefit of the doubt to explain the circumstances outside the taxpayer's control. The practitioner can engage with Revenue on what proof can be provided.

- In family run companies, where a teenager is hired to work in the business, their PPSN is not active for tax purposes and the agent cannot activate the number for tax purposes because the information can only be accessed via the new employee's myAccount registration. Practitioners noted there should be a way to facilitate an agent's activation of the PPSN for tax purposes. Revenue requested some practical examples to be forwarded after the meeting to outline the issue for further consideration.

- At times, prompting of Revenue is required before refunds of the R&D tax credit will issue rather than a proactive release of such refunds. Quick issue would be welcome.

- The ability to engage at such a high level in the Division was much appreciated by attendees in order to keep clients as compliant as possible. Revenue noted that it is working to improve service delivery and awareness of issues and pressure points is useful. However, it is important that contact with senior personnel is only made in appropriate cases (i.e. when normal case-working has not been effective, and that avenue has been exhausted). Principal Officers can then be contacted in appropriate cases (e.g. items that need to be escalated where a systemic issue arises, or a significant problem has occurred).

4. Business Division Customs Activity

Revenue has significantly ramped up resources at airports and ports due to Brexit. Business Division and MED merged staff temporarily into 9 Customs & Excise Hubs, four in the North which are managed by Business Division and five in the South managed by MED. The intention is to dismantle these Hubs over time and each division will become self-sufficient in terms of customs & excise activity.

Revenue must demonstrate to the EU that Customs audits and post-clearance checks are conducted each year. The numbers conducted are not excessive but are required.

Trade facilitation is not operated by Business Division or MED but by the Investigations, Prosecutions & Frontier Management Division (IPFMD). Some additional checks following Brexit are due to take effect from 1 January 2022 and small businesses exporting to the UK should prepare for this.