Summary Note of Branch Meeting between the Irish Tax Institute and the Collector-General's Division
30 November 2021
Via Microsoft Teams

Key points from the meeting

1. Update on the Collector-General's Division

Revenue provided a presentation outlining the Divisional structure, responsibilities, updates on the three COVID-19 Support Schemes operated by the Division, Debt Management, tax clearance, the Diesel Rebate Scheme, Pay & File statistics, and the Finance Bill 2021 provisions regarding debt warehousing of certain Schedule E tax liabilities.

There have been a number of changes in management personnel in the Division during the year, following the retirement of three Principal Officers and new Principal Officers appointed.

Revenue outlined the broad range of COVID-19 related activities in which the Division has been involved since the last meeting. These include the core COVID-19 related support schemes operated by the Collector-General's Division (i.e., the Debt Warehousing Scheme, the Covid Restrictions Support Scheme (CRSS) and the Business Resumption Support Scheme (BRSS)), together with support given on the Temporary Wage Subsidy Scheme (TWSS) and the Employment Wage Subsidy Scheme (EWSS).

The Division has also provided staff to support businesses with Brexit, contact tracing for the Health Service Executive (HSE), Helpline support for the HSE vaccination programme, the roll out of the Covid Digital Certificate by the Department of Health and the related Helpline. The Division also provided support for the revaluation of Local Property Tax (LPT) and assistance with customer contacts.

2. Debt Warehousing Scheme

On 22 November 2021, Revenue began issuing customer service letters to approximately 100,000 taxpayers that are participating in the Debt Warehousing Scheme. The letters advise that Period 1 (the Covid restricted trading period) is coming to an end on 31 December 2021 and that VAT for the November/December return and Employer (PAYE) for the December monthly return (both due in January 2022) also qualify for inclusion in the warehouse for eligible businesses.

The letters remind taxpayers of the importance of continuing to file tax returns to retain tax clearance and to enable Revenue to quantify the tax debt to be warehoused. Letters to taxpayers with tax returns outstanding are customised to include a schedule of tax returns outstanding. In February 2022, Revenue intends to write again to taxpayers participating in the Debt Warehousing Scheme to confirm the final position on their warehoused debt and advise of the opportunity to review and amend warehoused returns where necessary.

The full amount of tax debt warehoused cannot be fully determined at this point, as tax returns in respect of all warehoused debts have not been filed. However, of the overall tax debt warehoused taxpayers dealt with by Business Division account for almost half of the warehoused debt in quantum.

Revenue confirmed that TWSS and EWSS liabilities outstanding are automatically warehoused, where a business already qualifies for debt warehousing.

Revenue's focus over the coming months is to ensure outstanding returns are filed so that the warehoused debt can be finalised. To that end, Revenue will be engaging in a returns' compliance campaign in the first half of 2022 and letters will issue to taxpayers with warehoused debt that have outstanding returns. It was highlighted that where return compliance issues persist this could lead to warehouse revocation and the loss of all the benefits of the Debt Warehousing Scheme.

Period 2 (the zero-interest period) will end on 31 December 2022. Taxpayers will need to engage with Revenue in advance of Period 3 to agree a Phased Payment Arrangement (PPA) to pay the tax debt from 1 January 2023 at a 3% interest rate. A facility to allow COVID-19 and non-COVID-19 related tax debts to be included in a single PPA is under development. This is expected to be implemented in March 2022.

Note: Following the introduction of new public health restrictions with effect from 20 December 2021, the Government announced on 21 December 2021 that Period 1 (the Covid restricted trading period) of the Debt Warehousing Scheme would be extended by three months, to 31 March 2022, for taxpayers eligible for COVID-19 support schemes. On 21 January 2022, the Government announced that Period 1 for these taxpayers would be extended by a further month to 30 April 2022. Therefore, Period 2 (the zero-interest period) for these taxpayers will now be from 1 May 2022 to 30 April 2023. More information will be made available on the Revenue website shortly.

3. Debt Management

Revenue is very cognisant of the pronounced impact of the pandemic on some sectors of the economy and profiles and categorises debt cases carefully to identify cases for further collection activity. Some pre-COVID-19 debt, non-filers and debt that has not been warehoused have been identified for collection.

Revenue is adopting an incremental approach to enforcement. During the debt collection process, the Division engages in additional contacts with businesses in advance of proceeding to enforcement.

4. Tax Clearance

Revenue provided an overview of tax clearance activity in the presentation slides. In March 2020, automatic tax clearance reviews were ceased considering the pandemic. However, Revenue intends to return to normal periodic reviews of tax clearance in 2022.

Tax clearance status is not adversely affected by debts which are warehoused, or which are being paid via a Phased Payment Arrangement (PPA).

5. Covid Restrictions Support Scheme (CRSS)

€704 million has been claimed by 25,500 businesses under the CRSS. 47 appeals have been lodged with the Tax Appeals Commission. No appeals have been heard to date, but cases are progressing with the submission of Statements of Case and Outline of Arguments.

Revenue reminded that claims made under the CRSS are an acceleration of tax-deductible expenses and, as such, will need to be factored into a businesses' income tax or corporation tax calculations, in due course.

6. Business Resumption Support Scheme (BRSS)

Applications for the BRSS closed on 30 November 2021, and several cases are at application status which were received in recent days and will be worked through. A small number of BRSS applications have been refused, for example, on the basis that the business was not actively trading, or it was a Case II trade.

7. Diesel Rebate Scheme

Revenue is renewing communications about the Diesel Rebate Scheme to transport operators registered for the scheme. The scheme provides for a repayment of a portion of Mineral Oil Tax paid by qualifying road transport operators. There are a significant number of businesses registered for the scheme who are not submitting claims.

Revenue is issuing a mailshot to the ROS inbox of those businesses registered for the scheme to provide information on its operation and to advise them to review their eligibility and consider whether they could submit claims.

Revenue has useful information on its website to further promote the scheme, which may be of value to transport operators who are eligible but have not registered for the scheme. Registration and claims can be made via ROS and some of the key requirements include the purchase of diesel from a Revenue approved fuel card provider and having tax clearance.

8. ROS Pay & File deadline

558,093 income tax returns were filed by the deadline of 5pm Friday, 19 November 2021. This is an increase of 1.4% on last year. €2.7 billion was paid in income tax, an increase of 6% on last year. 4,310 taxpayers availed of the income tax debt warehousing scheme (available to those who experienced a 25% reduction in total income when compared to 2019, due to COVID-19). Approximately 933 availed of the extended Debt Warehousing Scheme for Schedule E liabilities for directors/employees affected by section 997A TCA 1997, whose employers' PAYE has been warehoused.

144 agents submitted lists requesting additional time to file income tax returns for 4,700 taxpayers. The facility to request additional time has closed and agents have been informed of the agreed extension date for filing their outstanding returns. ROS will automatically apply a "late" surcharge when the returns are filed. Revenue will review agents' lists once the extended deadline has passed and manually remove the surcharges, where the returns have been filed in accordance with the agreement with Revenue.

The Institute thanked Revenue for the useful bilateral engagement with the Division in advance of the ROS Pay & File deadline regarding practitioners experiencing exceptional difficulties in filing by the deadline, due to the pandemic, and on dealing with such difficulties.

9. Practitioners' Feedback and Questions

Practitioners raised the challenges for businesses in the hospitality sector who are reliant on a buoyant Christmas season to support them during the early months of the new year. However, the anxiety surrounding the spread of COVID-19 and emergence of a new variant has impacted bookings and resulted in cancellations. Businesses will not be able to warehouse tax debt arising in early 2022 (as Period 1 will have expired) and maintaining payment of current taxes is a requirement of the Debt Warehousing Scheme.

Considering these challenges, practitioners sought clarity from Revenue on their approach to such businesses. Revenue advised that such businesses should contact Revenue as early as possible to work through the matter and come to an acceptable arrangement. Revenue will consider what flexibility can be applied on a case-by-case basis.

Practitioners queried Revenue's approach to businesses that may have an uncertain future. It may not be clear in 2022 whether a business may be viable, however, given more time and support the business may recover. Practitioners queried Revenue's scope to write off tax debt warehoused in such cases.

Revenue noted that debt warehousing is a deferral of the payment of debt. If there is no scope to pay the debt that may mean the business is not viable and debt warehousing may not be appropriate. Other options, such as, the appointment of an insolvency practitioner or use of the new Small Companies Administrative Rescue Process (SCARP) may be appropriate in such situations. Revenue regularly engages with insolvency practitioners and Revenue may only be excluded from the SCARP on limited and specific grounds.

Regarding the compliance campaign in relation to outstanding returns for those participating in the Debt Warehousing Scheme, Revenue clarified that where the business has an active ROS Digital Certificate, Revenue will send the communication via the ROS inbox. Revenue expects that approximately 40% of communications will issue to the ROS inbox and 60% by post.

The list of returns outstanding notified to businesses will not only relate to warehoused debt but will be a schedule of all outstanding returns. It will not be possible to copy agents with these letters.

The Institute requested engagement from Revenue when the compliance campaign begins so that tax agents can be made aware of the requirements and that returns submitted on a "best estimates" basis can be finalised, so the final tax debt is accurately quantified.

Practitioners queried whether there would be scope to review on ROS the tax debts owing, both warehoused and non-warehoused. Before the onset of the pandemic, practitioners had suggested that scope to review a list of clients' tax debt balances on ROS would assist in addressing debt quickly, minimising the need for recourse to enforcement and Revenue had been examining the possibilities. Practitioners considered such a development would be useful and worth exploring.

It was discussed that some businesses may wish to begin making repayments in Period 2 to avail of the zero-interest rate and practitioners would be encouraging businesses to do so, where businesses are able to do so.

Revenue noted that a significant number of businesses in Business Division are continuing to pay and file returns even though they automatically qualify for the Debt Warehousing Scheme. In addition, some businesses who applied for entry to the scheme were not as seriously impacted by the pandemic as they had initially anticipated and were continuing to keep up to date with payments and returns.

Revenue advised that timely compliance rates have improved across the taxpayer base with a reduction in late filings, in response to queries on whether Revenue's concerns about "compliance slippage" on timely filing has been addressed.

Practitioners queried whether it would be necessary to revise income tax returns for directors who warehoused their Schedule E tax liability, where the PAYE was being paid by their employer. Revenue reminded that a person with a "material interest" under section 997A TCA 1997 is credited last with any PAYE paid by their employer company. Therefore, PAYE would not be credited to the director until the full PAYE liability for the company has been paid. At that point, the income tax return would need to be amended. No action is required in the interim by the director.

In response to queries as to whether nightclubs would qualify for the CRSS considering the public health restrictions announced on 16 November 2021 (i.e., closure of nightclubs at midnight), Revenue advised they would review eligibility on a case-by-case basis.

Revenue clarified that the debt management of warehoused debt will be segregated by reference to Business Division, Personal Division, Medium Enterprise Division (MED) and Large Corporates Division (LCD) when agreeing PPAs towards the end of 2022. It was acknowledged that engagement would be required to devise workable arrangements where complex matters could arise in MED and LCD, for example, including the impact of Brexit.

As regards Revenue's approach to interest on late payments where challenges have arisen in computing and in paying liabilities on time, Revenue confirmed that a pragmatic approach to interest continues, while bearing in mind the different circumstances in which certain businesses and sectors find themselves.

10. Insolvency

In relation to Members' Voluntary Liquidations, approximately 1,000 cases are on hand which is a decrease on previous years. Where delays arise in processing clearances, practitioners can contact Revenue.

There is some level of activity in insolvency. However, there is limited liquidation activity at present. Creditors Voluntary Liquidations peaked at 450. Revenue engaged in approximately 10 examinerships during the year and engagement on personal insolvency continues with circa 300 cases. It was anticipated that additional activity would arise in the coming year.