**Summary Note of Annual Branch Network Meeting between the Irish Tax Institute and Revenue's Medium Enterprises Division (MED)**

**19 April 2023**

**Irish Tax Institute Offices, Longboat Quay, Grand Canal Harbour, Dublin 2.**

## 1. Overview of MED

MED has 437 staff based in 18 locations countrywide managing a case-base of approximately 81,000 cases. This consists of 11,000 individual taxpayers, 72,000 corporates (including 2,500 groups). 2023 marks the first full year of normal compliance activities since the pandemic and MED is conducting more outdoor activities and face-to-face engagement with taxpayers and tax agents now that it is possible to do so.

Blended working arrangements are in place for Revenue staff in line with Civil Service guidelines but are subject to business needs, with full-time office attendance required in some cases. The largest number of staff are based in Dublin followed by Cork. Hubs are also located in Limerick, Galway, Waterford, Athlone, Letterkenny, Nenagh, Navan and Athy with some Customs and Excise personnel based in other locations.

Recruitment and retention of staff in a tight labour market is a common challenge across the tax profession. There has been significant staff churn since 2018 and Revenue has invested in recruitment. Approximately, 3,700 new staff have joined Revenue since 2018 and the organisation has been working to mentor, coach and develop the skills of new staff.

Another notable development since the last Branch Network Meeting in 2022 is the changing pace at the Tax Appeals Commission (TAC), with an acceleration in listing and hearing of appeals. Revenue expects a more 'real-time' approach to appeals in Quarter 4 (Q4) of 2023, as indicated by the TAC. 521 appeals relating to MED cases were on hand at the end of 2022, consisting of 280 taxpayer units and a total of €123 million of tax in dispute.

Revenue Technical Services (RTS) is managed by MED. The division is strengthening its resources to handle queries received and expanding RTS to deal with a more comprehensive range of taxes, including Excise Duty, Local Property Tax (LPT) and Vehicle Registration Tax (VRT). 160 queries were processed by RTS so far this year, with the number of queries received down 50% on the first quarter of last year. There have been some retirements of highly experienced RTS experts, so MED will be seeking to add to and strengthen the service's expertise.

Overall, there has been good economic growth by businesses in the MED case-base, despite the challenging business environment. €24 billion in tax receipts were generated by taxpayers in the MED case-base in 2021. €21.2 billion of this sum was generated by businesses with turnover of less than €50 million (which represents 88% of the case base), with €3 billion generated by businesses with turnover greater than €50 million.

Overall, €2.2 billion in debt has been included in the Debt Warehousing Scheme (DWS) by approximately 65,000 taxpayers. 5,500 businesses in MED were approved for the DWS, however, only 1,500 MED taxpayers currently have warehoused debt amounting to €639 million.

Revenue's analysis of claims in relation to the COVID-19 Support Schemes indicates broad compliance by businesses with the requirements of the schemes. Only 3% of claimants made incorrect claims, which have been recouped.

There are 12 Branches in MED made up of 10 operational branches, RTS Branch and the Divisional Office and each Branch is led by a Branch Manager. An organisation chart of MED is available here. There has been an increase in face-to-face meetings internally within the division and externally, with tax agents and taxpayers.

The composition of groups within the division is reasonably stable, following the movement of cases between divisions when the entry threshold for MED was changed. (The entry threshold for inclusion in the MED's case-base is now €8.8 million in annual turnover for companies and includes the proprietary directors of such companies and connected parties). Cases subject to open interventions were not transferred until the intervention was concluded. Similarly, the transfer of some cases was delayed because the taxpayers were in the debt warehouse.

Practitioners asked whether Revenue plans to transfer cases in MED which are in-scope of Pillar Two because they are part of a larger global group to Large Corporates Division (LCD). Revenue advised that this matter is currently under consideration and a decision will be made on this point in Q4 of 2023.

## 2. MED Sectoral Branches - Priority Areas of Focus

### Accountancy, Legal and High Wealth Individuals (HWI) Branch

HWI within the case base of this Branch are individuals with net worth between €10 and €20 million (as distinct from individuals within the remit of Large Cases-High Wealth Individuals Division (LC-HWID)). The Branch uses information from FATCA, CRS etc. to inform its compliance activity. It is also examining returns of income and gains on offshore funds and investments, and it has noted errors on returns and the use of 'best estimates'. Revenue advised that taxpayers and practitioners need to understand the source and nature of the investment and obtain the relevant information to complete the return correctly.

In respect of capital taxes, the Branch is also examining Stamp Duty on high value transactions, the valuation date for CAT (which may not be the date of death) and the appropriate use of the CAT thresholds. Revenue has also identified cases where taxpayers and agents are relying on old opinions. Opinions issued more than 5 years ago cannot be relied upon unless renewed by the taxpayer. The Branch encourages self-review across the tax-heads.

### Manufacturing Branch

A small number of cases remain open in respect of the Employment Wage Subsidy Scheme (EWSS). The Branch is also focused on closing out older open interventions. In carrying out audits in the MED's manufacturing case-base, the Branch will generally review two years across all tax-heads but has a particular focus on R&D Tax Credit claims, KDB claims, directors' loans and Benefit-in-Kind (BIK), share buybacks and capital allowances.

**Wholesale Branch**

Closing out old interventions and the small number of remaining EWSS cases is an area of focus for the Branch. The Branch will also conduct more profile interviews with a particular focus on the top 25 groups based on turnover. It will examine sectoral risks, for example, Solid Fuel Carbon Tax (SFCT) in respect of the first supply in the State; VAT fraud in respect of fast-moving consumer goods (FMCG) and missing traders, and will conduct PMod compliance activities with a focus on real-time interventions.

**Public Administration Branch**

This Branch deals with education, health and government departments. There are four teams across Ireland, including staff involved in service for compliance. 80% of the customer service queries relate to issues such as VAT, PREM and PSWT. There is more use of shared services for payroll in the public sector and the bodies often raise questions with Revenue on issues in relation to PREM.

Capital project infrastructure is also an important area of focus, including VAT, PREM, BIK, contract of/for services and postponed accounting. In addition, the Branch has identified reliance on old opinions (i.e. issued more than 5 years ago), when renewal of an opinion should have been sought if the taxpayer wished to continue to rely on the opinion.

Revenue has started to pilot a Cooperative Compliance Framework (CCF) within the Branch and one large body is currently participating in the pilot. It is expected this pilot will be extended to other public sector bodies. This exercise is at an introductory stage and focused on assisting public bodies to gain an understanding of the different elements of the CCF, such as the Tax Control Framework. An Annual Risk Review has not been undertaken as yet.

While public bodies may not have a formal Tax Control Framework in place, given the strong focus on governance and controls in the sector, many may meet the criteria of having such a framework without considerable adaptation. Revenue confirmed that they would meet with tax agents as part of their engagement with public bodies, however, public bodies often meet with Revenue without the attendance of an agent.

**Divisional Office**

The Divisional Office supports the MED Branches and manages and monitors the phonelines and service delivery. An update on these issues was covered further on in the agenda of the meeting.

**Agriculture, Health and Tourism Branch**

The case-base of this Branch includes agriculture, health, hotels, tourism and entertainment. The pandemic had a significant impact on many businesses in these sectors. As a result, the

Branch has been closing out interventions in respect of the COVID-19 Support Schemes, in particular EWSS.

Revenue will conduct PMod interventions in real-time and will profile the largest groups within the Branch. Another area of focus is the provision of emergency accommodation including direct provision and the VAT treatment, for example, any required Capital Goods Scheme Adjustment.

**Retail Branch**

The case-base of the Branch includes supermarkets, online and platform sales. Branch staff are located in Dublin, Athlone and Athy. Interventions are group-led i.e., Revenue wants to understand the group structure and conducts Level 1 Interventions in a number of cases to gain this understanding. Revenue also examines multi-year Excise Duty risks, e-commerce business models and online purchases. The Branch seeks to engage proactively with businesses.

**Construction Branch**

The case-base of the Branch comprises businesses within the definition of construction operations for RCT. However, it does not include meat processing or forestry companies. There are number of elements to the Branch's current compliance activities relating to EWSS, identifying risk in real-time in VAT, RCT and PREM. This includes site visits working with other divisions and other bodies and examining issues such as misclassification of employment.

More real-time engagement can also be expected with taxpayers in the Branch's case-base. Revenue will seek meetings with the larger groups as the Branch makes greater use of profile interviews to learn more about business models in the sector. Issues arising from the movement and secondment of staff and project teams have emerged in meetings to date.

MED is the business owner for the Residential Zoned Land Tax (RZLT) and the Defective Concrete Products Levy (DCPL). RZLT is not a fiscal measure as its purpose is to activate land for development or rezoning, if appropriate. Revenue is not involved in Phase 1 of implementation of RZLT because it involves identifying lands within the charge. Local Authorities were tasked with identifying land that would be liable to RZLT and publishing draft maps. The relevant local authority is the contact point for those dissatisfied with a determination made by a local authority. Appeals in relation to local authority determinations can be made to An Bord Pleanála, not to the TAC nor Revenue. Revenue is building a model to facilitate compliance with the RZLT for those liable to the tax, which will be released later this year.

The DCPL which applies to pouring concrete and concrete blocks will apply to a limited number of taxpayers. The first returns will be due in January 2024 with further returns due every six months thereafter.

**Non-Resident Online Business Branch**

This Branch was established in 2018. It keeps track of policy developments and customs duties for all non-resident online businesses regardless of size. It examines compliance with the non-resident schemes e.g. distance selling, VAT IOSS, VAT OSS. Initially, there were 6,500 in the VAT MOSS when the Branch was established and now, there are 57,000 within the VAT schemes.

The Branch consists of three teams in three locations to deal with non-resident online entities and to provide assurance regarding compliance. Most interventions are classified as Level 1 in the Compliance Intervention Framework (the Framework). Currently, the distance sellers are the Branch's first priority as some sellers are continuing to operate as if Brexit never happened.

The Branch is developing competence in IOSS and examining IOSS intermediaries through profile interviews in respect of due diligence and controls, analyzing business models and dealing with increased mutual assistance requests from tax authorities in other Member States. In seeking assistance, the other tax authority must be specific in its request to Revenue and specify the risk.

The next important development is the EU's Central Electronic System of Payment information (CESOP). From 1 January 2024, Payment Service Providers (PSPs) will submit data on cross-border payments received by businesses from customers. PSPs will submit this data to the tax administrations in each EU Member State in which they provide services. Revenue is currently preparing an article for the *Irish Tax Review* on this topic. The first returns are due by 30 April 2024. Revenue intends to communicate further on the requirements later in 2023.

Practitioners raised the lack of awareness by many businesses on what precisely they need to do to comply with all the different schemes and queried whether Revenue could provide more clarity, such as, a step-by-step guide to what is required in respect of the VAT schemes and how to avoid errors.

Revenue is open to providing further guidance in relation to the VAT schemes. In the short term, Revenue considers there is merit in providing guidance in respect of distance sellers. Practitioners emphasised that taxpayers and their advisers are keen to avoid errors in relation to the VAT schemes and it would be helpful if Revenue could point out errors and avoidable problems. Practitioners considered the *Irish Tax Review* may be a useful platform to draw attention to how to avoid errors in relation to the VAT schemes and Revenue agreed to consider this option.

Revenue noted errors made by traders in respect of large VAT refunds claimed at the beginning of the year through double counting and the requirement to claim the VAT at the point of customs. In these circumstances, amended customs declarations are required instead of claiming via the VAT return.

**IT, Science and Finance Branch**

Payroll interventions are an area of focus for the Branch. For example, in relation to company cars where there is a high value in the financial statements and a low value for BIK purposes and, in particular looking at cases with high levels of exempt vehicles. Revenue requires evidence of exemption. The Branch also reviews other issues such as director's loans.

In respect of financial services, Revenue examines exempt versus partially exempt activities when reviewing VAT input credit. Stamp duty, KDB claims, and quality assurance of data supplied in respect of DAC2 and FATCA are also areas of focus for the Branch.

**Motor Transport and Utilities Branch**

The Branch has a diverse case-base, however, 70% of interventions are in respect of VAT and PREM. A review of PREM includes, for example, directors' expenses, travel and subsistence and PMod compliance. VAT interventions often relate to the VAT rates on car hire (for long or short periods) and on insurance. Interventions are conducted at all levels in the Framework from Level 1 to Level 3.

The Branch also examines concerns in relation to missing traders and reminded of the importance of businesses carrying out checks on the integrity of their supply chain. Revenue also reminded that customs duty of 10% is applicable to most vehicles imported from the UK and the risk of claiming relief from customs duties without entitlement to do so.

The Branch consists of four Assistant Principal (AP) led teams and includes customs and excise personnel, looking at matters such as customs controls, warehouses, tax and excise authorisation and controls. The Branch works with the Wholesale and Retail Branches in respect of non-compliance and duties suspended. Since Brexit, businesses need to consider many issues in relations customs and controls.

Revenue has carried out some internal restructuring in relation to customs where responsibilities were previously split geographically between MED and Business Division. A more integrated approach within MED has now been adopted meaning compliance interventions relating to both tax and customs can be conducted concurrently with a taxpayer.

## 3. MED Approach to Compliance Interventions

**MED activity in relation to R&D Tax Credits and KDB claims**

Revenue outlined the most common issues MED has identified with R&D Tax Credit claims. Namely, issues relating to the 'accounting test' and the importance of ensuring the claim is not excessive; failure to deduct grants received under the EU Horizon programme when calculating qualifying expenditure; overclaims in relation to subcontractors; claims deductible by overseas branches; time limits for claims; keeping proper books and records and inconsistencies and different approaches within businesses on the keeping of timesheets, which is unhelpful when providing supporting documentation for a claim.

In relation to the KDB, issues can arise in respect of the qualifying asset arising from qualifying R&D; incorrectly factoring in acquisition costs of IP (where IP contributed from outside of Ireland); calculating income from technical services and apportionment of expenses and income etc.

Revenue noted the changes to the R&D Tax Credit in Finance Act 2022, primarily to accelerate the payment of the credit into a three-year fixed payment schedule. The new rules apply for accounting periods commencing on or after 1 January 2023. However, prior to this, a transitional period applies which allows companies to choose to claim under the new rules or the old rules.

The 2022 and 2023 Forms CT1 are being updated to facilitate these developments. In the interim, when completing the 2022 Form CT1, it is not currently possible to claim the acceleration of the carry forward instalments upfront under section 766(4D) and/or 766A(4C) TCA 1997. Should filers wish to accelerate the excess second and third instalments this should also be done via the specified return. Should the company wish to file claims under section 766C and/or section 766D a specified return should be filed.

Practitioners raised the complexity of the R&D panels on the Form CT1, the short timeframe for claiming relief and queried scope for simplification of the return or Revenue guidance on avoiding errors when completing the return. Revenue is in favour of developing built in controls/ mandatory fields into the return to assist filers and reduce errors. Practitioners agreed that such a development would be helpful.

**Update on Profiling - Multi-year sectoral profiling and profiling of groups**

MED is profiling groups and single entities in the case-base. In reviewing the group structure, MED will focus on the main risk, for example, carrying out electronic audit of the main trade, seeking a self-review or conducting a Risk Review. The information collated on the group structure is based on information supplied on Forms CT1 so practitioners should be cognisant of accurately completing information about subsidiaries and associated companies on the returns and keeping it up-to-date. Accurate information assists in ensuring MED can properly assess the group for risk. There are plans to pre-populate the associated companies information on the Form CT1 going forward, however, the timeframe for release of this development is uncertain.

In profiling a group, MED may seek more information on the group structure and conduct profile interviews. MED may review information on the group for four years to identify trends and open an intervention on one year or two years and may give the taxpayer the opportunity to conduct a self-review for the other years where an issue spans multiple years.

Practitioners raised the uncertainty for taxpayers on the response expected to a Revenue request to conduct a self-review, given the terminology used and the short timeframe to respond (28 days). Correspondence may ask the taxpayer to provide their own analysis across a number of tax-heads. The taxpayer is keen to respond appropriately to avoid any potential escalation of the matter but is unclear what level of analysis is expected by Revenue. Depending on the nature of the request, the time involved in responding to a self-review request could be equivalent to the time required to prepare for an audit.

MED's use of self-review requests is linked to the scale of the case-base. MED intervenes based on risk and wants to make greater use of Level 1 Interventions and analysis of information to inform its approach. If MED identifies an apparent anomaly in a return, they may write to the taxpayer so that the taxpayer can review the matter and respond. In addition, MED want to gain an understanding of the structure of groups which will inform their approach to interventions.

MED is seeking to review risk across its case-base. It is exercising a more disciplined approach to cover its extensive case-base and focusing more on tax transactional risks, for example, in relation to mergers and acquisitions and share buybacks. The purpose of Level 1 Interventions is to get to know the company/group starting with a self-review, which may be followed by a profile interview. In the context of manufacturing, for example, this exercise is focused on the top 25-50% of companies by turnover.

If the timeframe to respond to a self-review request presents a difficulty, the taxpayer/agent can contact Revenue to agree a response time. MED will have regard to smaller businesses and the resources available to reply to self-review requests. MED expect the response to a self-review request to be concise and focused. Practitioners requested that if the taxpayer/agent responds in a timely manner that Revenue should reply in a like manner.

Over the last year, Revenue has conducted 1,300 compliance contacts, 93 audits and 41 Risk Reviews together with some Level 3 Interventions. Practitioners raised a query about a request for extensive information about a customer of the taxpayer by way of a Level 1 Intervention letter to the taxpayer, which did not seem to align with the purpose of Level 1 envisaged by the Code of Practice i.e. to support the taxpayer's compliance.

Revenue noted that such a letter may have been issued in the context of a mutual administration assistance request from a tax authority in another Member State, with which Revenue is legally obliged to co-operate. The Level 1 classification may have been used as the default option, in the absence of another label but Revenue agreed it may be appropriate to clearly set out in the letter to the taxpayer that the information is being sought on foot of a mutual assistance procedure.

## Employment Wage Subsidy Scheme (EWSS)

Over 2022, €804.7 million in support was claimed under the EWSS by almost 23,300 employers in respect of just under 326,500 employees.7,203 EWSS compliance checks were completed. 952 cases remain open with approximately 38 to 42 cases at appeal. Revenue awaits a determination on one case, two cases are currently at adjournment with five upcoming cases to be heard. The appeals primarily relate to employer eligibility (e.g. the existence of a separate business) and whether the projections used by the business in determining whether they qualified for EWSS were reasonable.

## 4. Engaging with the Division

### MED Telephone Service and MyEnquiries

The MED phone service is operated by the Divisional Office, within the Public Administration Branch and MED operates a RCT phoneline. The phone service is open from 9:30am to 1:30pm from Monday to Friday. The majority of calls do not require input from the sectoral branches but relate to callers following up on queries etc.

MED closed the phone lines for two days over a four-week period to trial whether the resulting allocation of resources to responding to MyEnquiries correspondence could reduce the number of phone calls. MED received the same number of calls over three days as during the five-day period of service.

During the pilot of reduced phoneline hours, processing of MyEnquiries correspondence increased by 15%. However, Revenue concluded that it would need to enhance the self-service options on ROS before reduced phone line opening hours could be extended on a broader basis. It was noted that some of the suggested enhancements to ROS have been referred internally, such as scope to amend an accounting period, however, the development will not be delivered in 2023. Note that CT1s can be filed for periods other than those expected by Revenue's systems and it may not be necessary to contact Revenue to provide for this – please see Tax and Duty Manual (TDM) 38-02-06 in this regard.

MED conducted a detailed review of MyEnquiries correspondence not responded to by MED within the Customer Service Standard to establish the reason for delays in responses, in particular where lengthy delays arose. MED closed 68,000 queries overall in 2022 including just over 25,000 from tax agents, with 2,800 open as at 31 December 2022.

From January to March 2023, MED received on average 2,300 MyEnquiries items each month. MED identified 126 queries of the 1,500 open (at the beginning of April) as outstanding for more than 20 working days and conducted analysis to identify why the delays arose.

The analysis showed various reasons for the apparent delay. In some cases the matter had been dealt with but the query had not been closed by the caseworker; an intervention was underway or it was a complex query with a lot of attachments and the agent had been following up to seek a meeting. 19 items related to payroll from one group and a technical query in relation to ROS also featured. 6 items were assigned to a team where the Revenue staff on the team were not aware that they were responsible for those queries (this has now been rectified) and one related to death cases where the agent indicated additional details would follow.

Practitioners noted that response times were generally reasonable for queries submitted to MED, however, certain types of queries appear to take longer to be addressed. This may partly arise because it is not clear to whom the query should be directed, for example, queries in relation to corporate non-resident landlords and in respect of employees on assignment in Ireland. Revenue is willing to review cases raised where significant delays arise.

Practitioners noted the engagement at TALC about an IT development to help ensure that Revenue-initiated queries sent via MyEnquiries are not overlooked due to the absence of the staff member to whom the query is addressed or Revenue uncertainty on the contact point in a practice. It is hoped an IT development in which a mailbox in MyEnquiries for delivery of Revenue-initiated queries that would be accessible by a number of staff in a practice will be rolled out in 2023.

In the interim, the Institute has provided information to members intended to assist their oversight of MyEnquiries and minimise instances where a Revenue query is missed, for example, through the use of a group email address accessible by a number of practice staff, and cleansing the staff list on MyEnquiries to remove staff who have left the practice to avoid Revenue sending queries to departed staff. It is hoped that these suggestions will assist practitioners to monitor Revenue-initiated queries while the IT development is awaited to better resolve this issue.

**Update on RTS**

There are 14 full-time staff in the RTS Branch with queries allocated to subject matter experts, as appropriate. RTS makes suggestions to RLS to update TDM informed by common queries received. RLS has an oversight role in relation to RTS, however, MED aim to manage RTS fully within MED and develop service improvements including an IT development to allow for better recording of queries. RTS intends to extend the service to LPT and Stamp Duty. It is also considering including Excise Duty.

A relatively large number of queries are rejected. In some cases, the RTS1A is not fully completed and no analysis or supporting information is provided by the taxpayer/agent. In addition, RTS cannot accept a query if the issue is subject to a compliance intervention. Approximately half of the cases accepted are referred to RLS. RTS does not always meet the 20-working day Customer Service Standard but will keep the taxpayer/agent updated.

Practitioners highlighted dissatisfactory experiences of RTS, where there were lengthy delays and incremental queries by Revenue at intervals over several months, with repeated requests from the agent for a response and noted that these are not one-off experiences. Revenue advised that it is monitoring RTS for repeat correspondence and is developing a new query recording system which will help to identify issues and improve service delivery. The new system will allow MED to control the query process from end-to-end. Some challenges have arisen from the retirement of experienced RTS staff who could deal with a large number of complex queries.

RTS Branch will continue to help inform TDM updates with common queries addressed by RTS. MED considered it would be useful to engage on practitioners' RTS experiences in the coming months to share and discuss case examples of service delivery. RTS is a flagship service and Revenue wishes to deliver a consistently good service and identify improvements where required.

5. **MED Approach to International Tax Issues Relevant to Large Groups in the MED Case-Base (e.g. interest limitation rules, transfer pricing and interactions with LCD on such matters)**

In relation to the forthcoming changes arising from the international tax framework, the division intends to work with LCD. Currently, the Transfer Pricing Audit Branches in LCD conduct audits of MED cases.

There are cases within the MED case-base that will be impacted by the Pillar Two Minimum Tax Directive and consideration will need to be given to how these will be managed by Revenue and Revenue's current approach to groups.

**AOB**

Practitioners noted Revenue's comments on returning income/gains on offshore funds and investments and pointed to the complexity in ascertaining the tax treatment and the broad range of taxpayers who now invest in such products.

The Commission on Taxation and Welfare had identified this area as a focus for simplification which practitioners would welcome. It was considered that RLS may be providing input to this area in the planned upcoming review of offshore funds and other matters being undertaken by the Department of Finance.