

Summary Note of the Annual Branch Network Meeting between the Irish Tax Institute and Revenue's High Wealth and Financial Services Division (HW&FSD)

19 May 2025

Irish Tax Institute offices, Longboat Quay, Dublin 2

1. Update on HW&FSD - structure, staffing and location of personnel

Revenue provided an updated list of the management team in the Division. Recruitment is currently underway for a Principal Officer (PO) for HWI Branch 1, following Fiona Molloy's appointment as Assistant Secretary of the Division.

The Division consists of 200 Revenue staff operating from 6 bases (Athlone, Dublin, Kilkenny, Limerick, Galway, Waterford) and three satellite locations (Tallaght, Castlebar and Sligo). Blended working arrangements are in place for staff, however, the Branches are grouped around certain bases. For example, the Pensions, Banking, Insurance Branches and National Anti-Avoidance (NAA) Branch 2 are based in Castle View, Dublin. High Wealth Individuals (HWI) Branch 2 and NAA Branch 1 are based in Kilkenny and HWI Branch 3 is based in Limerick. The Divisional Office is based in Waterford.

Of the 200 staff, 85 work in the three Financial Services' Branches, 65 in the HWI Branches, 30 in the Divisional Office and 20 across the two NAA Branches. The Divisional Office also deals with Automatic Exchange of Information, for example, FATCA and CRS data.

Customer service staff resourcing has increased since the addition of the three Financial Services Branches to the Division in 2024.

In general, there has been an increase in HWI interventions over the last year. The NAA branches have closed twice as many cases as last year. In-person

meetings can be facilitated in appropriate cases where such would help to progress a case.

2. Financial Services (FS) Branches

The three Financial Services Branches provided an update on their activities, which was followed by feedback from practitioners on their experiences interacting with the Branches.

FS Banking Branch

This Branch is led by a PO with six Assistant Principals (APs). Its case-base includes all regulated banks, stockbrokers, standalone treasury companies, credit unions and a mix of other entities. The Co-operative Compliance Framework (CCF) is a keen area of focus for the Branch considering the large number of groups in the Branch that participate in the CCF. There has been some change in the CCF participants given developments in the Irish marketplace. Approximately 14 groups currently participate in CCF. Many of the entities within the case-base of the Branch would not meet the size criteria for CCF but are included in the Branch's case-base given the nature of their business.

The Branch has a number of areas of focus including corporation tax (e.g. section 21B TCA 1997, stock lending and bond washing), VAT recovery rate and PREM. The Branch recently conducted an exercise involving CCF and non-CCF cases which focused on PREM compliance across a range of entities, both domestic and multinational. Analysis of the findings from this exercise is currently underway.

Deposit Interest Retention Tax (DIRT) is a continuing area of focus for the Branch. Revenue also leverages data available from FATCA and CRS. A project was completed on Stamp Duty on credit/debit cards which identified mistakes made and that some foreign-based entities were unaware of their obligations under Irish tax legislation. A small number of Transfer Pricing interventions are

conducted using information available from Country-by-Country Reporting (CBCR).

Responding to practitioner queries tabled on the agenda, Revenue noted that the Branch is applying a greater focus to non-CCF cases. Some CCF cases also have large internal tax teams which provide Revenue with a certain level of assurance about the attention to tax matters. This assists Revenue to increase its focus on non-CCF cases.

Similarly, the Branch is conscious of its communications with regulated entities during the course of a compliance intervention. However, all interventions are conducted under the Compliance Intervention Framework (CIF) which determines how interventions are conducted, and intervention letters are framed. At times, Revenue's communication may be assertive in the interests of closing out an issue.

Revenue responded to a query tabled on the agenda about data security concerns when sending FATCA/CRS data in response to requests from Revenue. Revenue assured the absolute security of data it receives.

FS Insurance Branch

There are six Assistant Principals (AP) and six Higher Executive Officers (HEO) in the Branch with 17 staff overall. The Branch is based in Castle View, Dublin. Its case-base consists of entities within the insurance industry including life assurance, general insurance, health insurance, captives and reinsurance businesses. There 18 groups in the CCF (out of 33 that are eligible to participate). Applications for entry to the CCF by eligible groups are always welcome.

Areas of focus for the Branch include Tax Relief at Source (TRS) in relation to health insurance premiums, the health levy and Stamp Duty returns on ROS.

In some CCF cases, the annual review meetings may be held every 18 months rather than annually depending on what is agreed with the group. The Branch is increasingly focusing on interventions on non-CCF groups and those groups/ companies which do not meet the criteria to be in HW&FSD but are in the branch because they are insurance companies

VAT assurance checks are also conducted by the Branch. Review of DAC6 filings will also be conducted considering the level of filings received to date.

FS Investment Funds Branch

The case-base of this Branch includes aircraft leasing, investment funds/IREFs, fund administrators and fund managers, section 110 entities and non-regulated financial services entities. The Branch is based in Galway, with some staff in Sligo and Castlebar. It is led by six APs. Section 110 companies and investment funds are not eligible to join the CCF.

Areas of focus in compliance interventions include the operation of PREM, section 60 Finance Act 2022 amendments relating to VAT exemption and the management of special investment funds.

Practitioners welcomed the update from the Branches and shared their feedback and that from clients on engagement with the Branches, in particular, in relation to regulated entities. Many of these entities participate in the CCF and would be familiar with similar engagement models in other jurisdictions.

The CCF can work well, however, there can be a perception that participation will result in more, rather than less, attention from Revenue. For example, feedback that CCF participation can result in a series of ongoing queries from Revenue.

Practitioners stated that where unprompted qualifying disclosures are made that will result in more queries. These factors can influence the attractiveness of participation in the CCF to potential new applicants. Attendees discussed the practical issues arising and the importance of closing out queries between CCF meetings.

In addition, in the regulated arena, issues and correspondence from Revenue may have to be reported internally to risk committees and may be requested by regulatory bodies. Therefore, the tone and content of correspondence from Revenue in relation to compliance interventions is particularly important as it can be misinterpreted as indicative of a regulatory risk. Instances have arisen where practitioners considered that the tone used in the communication was harsh.

Revenue noted the benefits of the CCF for taxpayers and that the numbers involved are holding steady. Revenue stated that a key element of the CCF is a strong tax control framework. A significant number of disclosures can cause Revenue to question whether strong controls are in place. Consequently, this can result in queries following disclosures.

Practitioners and Revenue agreed that for new joiners to the CCF there is a bedding down period in adapting to it and understanding the expectations from each party. Cases differ in the level of resources that groups commit to CCF engagement. Revenue is keen to close out interventions and queries in a timely manner and before the subsequent annual meeting.

The difficulties raised relate to a small number of cases. Revenue noted difficulties experienced in the handling of an individual case should be raised with the case manager/PO and can be escalated to a higher level, if necessary, with a view to resolving the issues.

Noting Revenue's comments on its increasing focus on non-CCF cases, the Institute queried scope for Revenue to make available statistics on the number of interventions conducted in CCF versus non-CCF cases. This could help to

convey that there is not undue focus on CCF cases. Additionally, LCD previously conducted a survey of the experience of CCF participants. It may be worthwhile to repeat this exercise to identify areas for improvement that could potentially increase the attractiveness and uptake of the CCF.

Practitioners queried whether it would be possible to supply a sample rather than the full list in response to Revenue requests in relation to CRS/FATCA. Concerns can arise around data privacy should an error occur in the transfer of the data. In addition, some of the personal data is sensitive and there are concerns that directors' remuneration could be viewed by a junior staff member. Given Revenue seek a full data set, often a large volume of information must be supplied.

Revenue noted the AEOI team handles these requests. Revenue requires the full data set as Revenue is required under international obligations to conduct a certain number of checks on the FATCA/CRS data. Part of the purpose of these requests is to identify data that has not been reported. For this reason, a full data set is required. Revenue will discuss the issues raised with the relevant unit.

In response to two further queries raised, Revenue confirmed that LCD will manage all Pillar Two related queries regardless of which Division manages the case. Regarding Revenue's policy on accepting draft financial statements in iXBRL format, this is a matter that is being discussed between Revenue's Accountant General's & Strategic Planning Division (AG&SPD) and the Institute separately.

3. Pensions Branch

Pensions Branch is based in Dublin, with a satellite office in Kilkenny. The Branch has 25 staff and no defined case-base. Customer Service is dealt with within the Branch.

Areas of focus for compliance include property transactions (e.g. scheme members buying or selling property to/from their own pension and other connected party transactions) and the use of PAYE Modernisation (PMOD) data

to examine funding relating to Personal Retirement Savings Account (PRSA) and Occupational Pension Schemes (OPS).

Revenue noted the importance of the correct operation of payroll. Errors can arise for example, where a once off PRSA/OPS contribution is included in the payroll for one period but not removed from the payroll submissions for later periods so that the PMOD data reflects contributions far in excess of those actually made.

Practitioners queried Revenue's activity regarding employer contributions to a PRSA following feedback from members of a project underway by the Branch.

As outlined at the Branch Network meeting in 2024, Revenue noted it would examine filed returns for 2023 to review employer PRSA contributions. While Chapter 2A of the Taxes Consolidation Act (TCA) 1997 does not impose a cap on employer contributions to a PRSA, the provision must be considered in light of the TCA as a whole in determining the appropriate treatment.

Less than 10 cases relating to employer PRSA contributions made in 2023 have been opened to date. In each case, a Level 2 compliance intervention letter has been sent to the employer and to the individual benefitting from the contribution. Prior to issuing the letters, Revenue conducted an analysis to identify cases where the employer PRSA contribution was in excess of €100,000, the employment had been added to the payroll for the first time in 2023 and there was a connection with the employer.

Revenue is reviewing all risks related to employer PRSA contributions, including salary sacrifice. Its area of focus does not include contributions that would be within the OPS rules, provided another risk is not identified. In some of the cases, the individuals who have received a Level 2 intervention letter do not have a tax agent and have contacted Revenue to clarify the nature of the letter. The project and the cases opened to date are at a very early stage, save for any case where a disclosure has been made. Letters of findings have not been issued in any case, as yet.

Revenue will review tax returns filed for 2024 in Quarter 4, 2025. This may lead to further interventions relating to pension declarations.

Exempt Unit Trusts (EUTs) are also an area of focus for the Branch. Initial intervention letters are issuing.

Revenue is also examining schemes with funds invested in loan notes, connected party transactions and use of pension properties, including, properties with no rental income.

Where agents have a technical Pensions query they must complete a Form RTS1A. The query submitter must set out their technical interpretation and the analysis performed. This helps to ensure that Revenue is clear on the specific question asked, the factual background to the case and that the submitter has conducted their own technical analysis of the issue. Technical queries relating to pensions that are not outlined in a Form RTS1A will be refused.

Revenue also noted queries received regarding a perceived risk. The tax system operates on a self-assessment basis. It is for the taxpayer to determine whether there is a risk and, if so, to make a qualifying disclosure under the *Code of Practice for Revenue Compliance Interventions*.

Pensions will also form part of the annual CCF review meeting, where appropriate.

Practitioners sought greater clarity from Revenue on the tax treatment of lump sums drawn from foreign pensions, such as, the US pension product 401k. Practitioners are increasingly asked by clients for guidance on this area as individuals with an accumulated pension fund retire or relocate to Ireland. It is difficult to provide these individuals with any certainty on the tax treatment in the absence of guidance from Revenue. Practitioners observed that section 200A TCA 1997 was intended to provide clarity on this area, but in the absence of Revenue guidance the usefulness of the section is very limited.

Revenue raised the difficulties in providing guidance as the terms of pension schemes vary, while practitioners considered that there are generic employer-sponsored pension products such as the 401(k) for which guidance could be provided. Practitioners noted that global mobility is an increasing reality in the modern work environment and Ireland could be an attractive place for such individuals to locate.

Practitioners asked Revenue to further consider the development of general guidance on the more common and standard foreign pension products, perhaps with a focus on the US and the UK. Revenue agreed to note the request raised with Revenue Legislation Services (RLS).

Practitioners queried the rationale for Investigation, Prosecutions & Frontier Management Division (IPFMD) issuing compliance intervention letters in respect of lump sum payments from foreign pensions. Revenue clarified that this activity was identified by IPFMD from information received under the Exchange of Information provisions so IPFMD has responsibility for the interventions opened in the cases identified.

4. Update from HWI Branches

There are three HWI Branches in HW&FSD. In conducting interventions, the Branches generally prioritise a review of the most recently filed tax return but may also examine the three preceding years. For example, where there is a significant event involving the HWI, such as a large transaction or a death, the tax position will be reviewed.

The Branches focus on risks specific to the HWI, including aggressive tax planning and avoidance. Domicile Levy is an area of review. Regarding pensions, if a risk is identified the relevant HWI Branch will pursue the matter, unless the risk is being examined under a particular project by Pensions Branch.

The Branches examine Business Property Relief claims and relief claims generally, transactions involving section 586, valuations, loss claims and connected party transactions.

Enhanced Compliance Engagement

The HWI Branches are examining the development of a new approach, specific to the Branches, which would encourage the supply of supporting information upfront when filing a tax return and encourage engagement in advance of large transactions. Development of this approach is in the initial stages and the Division will engage further with the Institute on the matter.

Compliance activities and areas of focus

The HWI Branches request prompt and full responses when interventions are initiated and endeavour to respond in a timely manner so that queries are not open in excess of 90 days.

In addition, it is preferable that valuations provided are prepared on an independent basis. Valuation can be a subjective and a more complex exercise depending on the nature of the asset. However, an independent valuation carries more weight. The absence of a valuation can cause concerns.

5. National Anti-Avoidance (NAA) Branches

There are circa 20 staff operating within the two NAA Branches, with staff based in Dublin, Waterford and Kilkenny.

Legacy tax avoidances appeals are handled by NAA Branch 2. In the Liberty Syndicates scheme, approximately 65% of the cases have been closed and settled with the remaining 35% as live appeals in the Tax Appeals Commission (TAC). A number of those appeals have recently been determined by the TAC. This follows the perfection of the Court of Appeal judgment in the lead Liberty appeals. The TAC Determinations are in line with that judgment.

Revenue was also successful in a section 811 artificial losses case (i.e. Hanrahan) at the Court of Appeal and the majority of participants in that scheme have now settled.

Revenue was successful at the High Court and was awarded its legal costs in relation to a preliminary matter on the 4-year rule in an appeal concerning a case in the share rights (cash extraction) scheme. This scheme involved 130 taxpayers with the majority now settled and closed.

NAA Branch 1 does not have a case-base but examines ongoing risks in relation to tax avoidance. Revenue reminded that the reference to a particular relief in the naming of a project does not necessarily mean that Revenue is solely challenging claims for the relief in these cases. The examination of the relief was the genesis of the project in which a case may reside.

Areas currently being examined include:

- Section 604A TCA 1997 relief; however as the availability of the relief is being tapered out the current cases are being worked to a conclusion
- Section 586 TCA 1997 relief; “share for share” transactions
- Entrepreneur Relief
- Section 817 project, which generally includes consideration of section 135(3A)
- Retirement Relief (new cases opening this month)
- Corporate disposals with a focus on possible subsequent cash extraction transactions
- Transactions with offshore entities and application of section 806 TCA 1997; Transfer of Assets Abroad legislation
- Connected party transactions and cash extraction

Apart from the primary anti-avoidance work that the Branch undertakes, NAA1 made reference to a number of compliance issues that they have encountered over the last 12 months, including, for example:

- Invalid CGT deductions (e.g. unsupported enhancement expenditure)
- Unsupported capital losses and invalid debt on security claims
- CAT in relation to shares (including under/overvalued shares in a disposal)
- Debt forfeitures
- Goodwill valuation issues
- Close company surcharge
- BLK on outstanding directors' loans
- Stamp Duty - section 80 relief
- Invalid base cost claimed on the allotment of shares related to directors' loans
- Trade Benefit Test e.g. instances where the individuals have not been involved in the business or do not meet the criteria for the relief
- Revised Entrepreneur Relief e.g. where the individual is not working in the business but has a full-time job in another company

Approximately, 75% of NAA Branch 1 interventions are conducted as Level 2 interventions under the CIF. The remaining interventions take the form of verification checks. Revenue's focus will usually be clear from the correspondence issued. NAA Branch 1 may be consulted by other operational divisions and may attend meetings or work cases with other branches within Revenue, including branches outside of HW&FSD, such as Business Division and MED.

The Branches' activities are very data driven, for example, using data on events and transactions from tax returns.

Practitioners had queried Revenue's activity in relation to section 586 TCA 1997 considering a recent TAC Determination on this section. Revenue confirmed that section 586 is an area of focus and other cases of higher quantum are scheduled to be heard by the TAC. More assessments will also issue.

Revenue reminded of the Qualifying Avoidance Disclosure (QAD) regime. A valid QAD under section 811D TCA 1997 provides an opportunity for a taxpayer to

mitigate a tax avoidance surcharge and avoid publication, if they decide to settle with Revenue. The earlier the settlement is agreed the lower the penalty.

6. Capital Taxes Compliance Policy and Modernisation Unit

This is an internal Branch with a national role which is focused primarily on staff training and ensuring consistency in Revenue's approach to capital taxes interventions. Non-filer programmes are conducted by the relevant operational division.

Revenue is scoping activity in relation to section 104 CATCA 2003 i.e. where CGT and CAT are chargeable on the same event.

Revenue has national CAT and CGT networks which support divisions in working on a risk. For the CGT network, loss forward analysis is also conducted to ensure the losses are valid and not already utilised. High value disposals where there is no gain for CGT are also a focus.

Private share valuation is also an area where Revenue is developing its expertise and internal supports, for example with valuation champions in the divisions.

Practitioner engagement with the HWI and NAA Branches and related queries

Responding to queries, Revenue clarified that all three HWI Branches increased their activities since 2024. There is a greater use of Risk Reviews, however, some interventions are conducted by way of compliance contacts (i.e. Level 1 interventions).

The Branches profile the HWIs in their case-base when they enter the Division and in regular refreshes of the profiling every two or three years. Considering analysis will have been done prior to issuing an intervention, potential discrepancies identified will result in a Level 2 rather than a Level 1 intervention.

Practitioners highlighted the extremely busy peak tax compliance period each Autumn and the challenges in managing requests from Revenue during this time. Practitioners noted that the Division recognised this challenge in the correspondence issued during the compliance period in 2024, with letters acknowledging that additional time to prepare a response may be requested. Revenue asked that requests for additional time are made early. Should it be possible to provide some of the information requested, this is preferred.

Regarding the issue of assessments late in the year, in general, Revenue tries to avoid this occurrence. However, at times Revenue is awaiting information that has not been provided or the information provided is not sufficient to satisfy the matter. In such circumstances, if Revenue could run out of time to issue an assessment under the 4-year rule, an assessment may issue before the end of that year, if appropriate.

Revenue's preference is for early engagement. If Revenue finds a liability is due it will issue a letter of finding and seek to engage further with the taxpayer and after that if agreement cannot be reached, it will issue an assessment. The letters of findings will generally indicate when the assessment will issue. Revenue encourages engagement at an early stage where a settlement may be possible before work on a case advances in pursuing the case at the TAC.