



Branch Network Update

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Summary Note of Meeting between the Irish Tax Institute and Revenue's Business Division

14 December 2020

Via Skype

Key points from the meeting

1. Overview of Business Division

Revenue gave a [presentation](#) to provide an overview of Business Division structure management responsibilities and areas of focus for the Division and supplied this presentation to the Institute for circulation with the summary note, once agreed. An updated organisational chart was also provided.

Business Division has a case base of 806,000 taxpayers consisting of individuals and businesses with annual trading or professional income less than €3 million. The Division contains 11 Compliance Branches, two Service Branches, a Divisional Office and a Case Select, Risk and Quality Branch. Of the 1,450 staff in the Division, almost all of whom are working remotely.

2. Update on Revenue Activity

TWSS Compliance Programme and Reconciliation Process

55,000 of the 65,000 employers who claimed TWSS are dealt with by Business Division. 89% of the compliance checks have now been completed. A small number of cases (approximately 900) were escalated for further queries with repayment of the TWSS in 32 of these cases, amounting to approximately €480,000 in repayments of subsidy.

Revenue acknowledged that it has been a very busy period for employers and tax agents but noted that 2,700 employers have failed to provide a reply to Revenue's letters and an immediate response is required. In the absence of a reply, Revenue can only assume that the employer was not eligible for the scheme or did not pay the subsidy to the employees. Revenue is proceeding to raise assessments in these cases if a response is not forthcoming.

Based on the compliance checks completed to date the vast majority of claimants operated the TWSS correctly and were eligible. A number of employers are in the process of fully reversing out of the scheme. A very small number of egregious cases have been identified and these are being pursued by Revenue.

Regarding the TWSS Reconciliation Process, 46,000 employers have supplied the Subsidy Paid data as required under stage 1 of the process. 4,000 have not supplied any data and 7,000 have some gaps in the data provided. Revenue warned that where employers have not responded to Revenue's requests to supply the Subsidy Paid data, they should upload the data immediately. In the absence of a reply, Revenue will treat the full amount as repayable to Revenue and will raise assessments to pursue the repayable amount.

Employment Wage Subsidy Scheme (EWSS)

Approximately 1.3 billion has been provided in subsidies under the EWSS to support circa 409,000 employees. Revenue reminded attendees of the change in the benchmark period for EWSS claims after 1 January 2021, as introduced by the Minister for Finance in Finance Bill 2020 at Committee Stage. The 30% decline in turnover/customers' orders is now by reference to the period 1 January 2021 to 30 June 2021 as compared to the same period in 2019. Therefore, employers carrying out their month-end review at the end of December need to take account of the new criteria to claim EWSS from 1 January 2021. Revenue expects to issue updated guidance shortly.

Revenue is currently interrogating the EWSS data in real-time to intervene to correct issues with employers immediately rather than accruing liabilities. Revenue will be taking a more detailed review of certain cases, based on risk, at the end of the scheme.

Covid Restrictions Support Scheme (CRSS)

Over €102 million has been paid in respect of 15,500 claims to date. Revenue is cross-checking information supplied on registration applications against the tax returns filed.

Stay and Spend Tax Credit

Approximately 2,994 businesses are registered for the scheme. There was a significant increase in receipts uploaded to submit claims in early December post lifting of the Level 5 Public Health Restrictions with credits claimed to the value of €547,000.

Revenue Services

There are two Service to Support Compliance Branches. The Employer Helpline is managed by Service to Support Compliance Branch 1 in the Division and has been operating a full day service since March. There are no backlogs in queries to the service. The Business Taxes phonenumber is operated within the Division by the second Service Branch.

3. Compliance Plans for 2021

The main area of focus in early 2021 for the Division in compliance will be on the COVID-19-related support schemes; TWSS, EWSS and CRSS.

Businesses who do not respond to Revenue's requests for information can expect an escalation of matters in the first quarter of 2021 (i.e. the issue of an assessment to recoup TWSS paid). Revenue will be prioritising egregious cases of which there have only been a small number in TWSS and cases that need to be brought back to compliance. Real-time interrogation of data will continue to identify behaviours early and facilitate intervention. This will include patterns Revenue has identified in payroll reporting.

Work is continuing to reduce the number of legacy cases that remain open, including case management conferences on cases in the tax appeals system. As regards other compliance areas of focus, Revenue's focus on mineral oil and vat fraud will continue together with a small number of sectoral projects focused on risk. Revenue continues to gear up as best it can for the outcome from Brexit while the full affect remains unknown.

Practitioners outlined the pressures on practices since March in managing a huge increase in workload trying to help clients to avail of the COVID-19-related supports and managing myriad deadlines while also working with the staffing challenges from COVID-19. Practitioners highlighted the risk of errors when working at speed and as details on the schemes' operation evolved and queried Revenue's attitude to errors identified by Revenue.

Revenue acknowledged the pressures on small practices over recent months. The policy behind the COVID-19-related supports was to keep businesses on life support and prevent job losses as a result of COVID-19 restrictions. Revenue intends to be as reasonable as possible in cases of genuine error and has dealt with such instances that have arisen to date as fairly as they can.

Revenue's focus in their compliance activity is on a small number of egregious cases, for example, involving fraud, manipulation of the payroll, not paying the subsidy to employees and on non-responders. These cases will be vigorously pursued by Revenue. Should practitioners become aware of such egregious cases, Revenue recommends that the taxpayer makes a disclosure before Revenue pursues them. The first contact in such cases can be made via MyEnquiries and will be directed to the appropriate Branch.

Revenue acknowledged that 2021 will be another difficult year for many businesses but Revenue will not walk away from cases where businesses do not respond to requests for information or are less than professional in their engagement with Revenue.

The TWSS Reconciliation exercise and queries from employees and population of the 2020 Preliminary End of Year statement will also highlight issues if subsidies paid out have not been paid to employees.

As noted, Revenue's primary focus will be compliance checks on the COVID-19 support schemes, VAT, progressing cases at the Tax Appeals Commission and Brexit. Revenue will also be refocusing on the proper operation of payroll and adherence with PAYE Regulations as Revenue has identified a re-emergence of incorrect behaviours that were identified at the outset of PAYE modernisation.

Revenue do not expect to conduct a large number of Revenue audits and any that are commenced will be risk based. However, there will be some new aspect queries or profile interviews that are risk driven.

Practitioners queried the impact of the timing of the TWSS Reconciliation exercise on the facility for employers to pay their employees' liability on the TWSS without BIK and how the employer could obtain information on the quantum of the income tax/USC/PRSI liability referable to the TWSS. The Institute will follow up with some examples of the point in question.

Practitioners observed a general improvement in the MyEnquiries service and appreciated Revenue's efforts to improve the service despite the increased volume of correspondence. They noted that at times that the experience of response time could be mixed and instances where reminders to Revenue were not responded to. Revenue noted that such matters can be brought to the attention of the relevant Service or Compliance Branch. Revenue is prioritising refunds to ensure that customers cashflow is assisted.

In addition to the points raised above where further details were sought, the Institute agreed to supply Revenue with some further details on other items raised, including:

- The timeframe to issue tax clearance in a Members Voluntary Liquidation and the interaction with the Collector-General's Division.
- Whether any workaround can be implemented to deal with filing of CAT returns related to non-residents when no CAT may be due, for example, on a foreign estate given the delay in issue of PPSNs.

The expectation that Revenue caseworkers and agents treat other professionally was raised. The Institute and Revenue agreed on the value of the Branch engagement at these meetings and the importance of practitioners and Revenue engaging on terms of mutual respect and professionalism in their daily interactions.

Summary Note of Meeting between the Irish Tax Institute and Revenue's Collector-General's Division

24 November 2020

Via Skype

Key points from the meeting

1. Update on the Division's structure

Revenue provided an update on the Division's structure and management team responsibilities, followed by [presentations](#) on the Covid Restrictions Support Scheme (CRSS), the Debt Warehousing Schemes and Phased Payment Arrangements for income tax at the 3% rate of interest.

2. CRSS

Principal Officer and CRSS project lead, Katie Clair provided a detailed presentation on the CRSS, followed by a Q&A. The presentation was circulated to the Institute after the meeting for wider distribution to members.

In response to queries as to whether a business could qualify for the CRSS if their customers are located outside the 5 kilometre restricted travel area, Revenue clarified that it is the restrictions that apply to the business's location that are relevant in determining CRSS eligibility (not the location of the customers). The business must be required to prohibit or significantly restrict public access to their business premises due to the direct effect of the public health restrictions. It is not sufficient that the business is indirectly affected by the restrictions, for example, due to restrictions on travel or a reduction in numbers entering the premises as a result of space constraints from the application of the social distancing requirements.

Where a business has premises in multiple locations, each premises will qualify for CRSS if they are subject to the relevant public health restrictions in their location. Secondary suppliers (i.e. wholesalers, suppliers of closed businesses etc) do not qualify for CRSS even if they meet the "turnover test", as their business is not required to prohibit or significantly restrict public access as a direct result of the public health regulations.

Revenue advised that if the CRSS registration screen is not visible in the eRegistration section on ROS, the business may not have tax clearance. This needs to be addressed before the business can register for the scheme. Revenue recommended that businesses with multiple premises, where some premises qualify for CRSS, but some do not, can register all of their business premises for the scheme (as a premises may qualify for the scheme at a later stage).

Revenue emphasised the importance of fully and correctly completing the registration and claims application screens, for example, checking and updating bank account information and completing the relevant declarations. It is also critical that applicants provide the correct figures on the registration application. Instances are arising where annual turnover rather than "average weekly turnover" for 2019 is being entered. There is a warning on the application screen to help

applicants to avoid this error. Applicants can now correct such errors on ROS before the claim is submitted. A claim for payment can be submitted once 24 hours has elapsed from completion of the registration process.

The tax treatment of the Advanced Credit for Trading Expenses (ACTE) payment under CRSS is a common question from businesses. The payment is taken into account to reduce the tax deductible expenses for the accounting period. However, the payment will only be taxable if the business is profitable.

Revenue is checking applications at the registration stage and will raise any necessary follow up questions via myEnquiries. Applicants should monitor myEnquiries for messages from Revenue so they can respond quickly and expedite their claim. There is an eight-week timeframe from the beginning of the claim period to submit a CRSS claim. However, Revenue will pause the registration application where further information is requested and supplied and the applicant will qualify once the claim is submitted within 3 weeks of registration, if this is later than eight-weeks from the beginning of the claim period.

3. Debt Warehousing Schemes and 3% PPA for income tax liabilities

Revenue gave a presentation on the Debt Warehousing Schemes, including the extension of warehousing to certain income tax liabilities and overpaid subsidies under the Temporary Wage Subsidy Scheme (TWSS), and on the 3% PPA for income tax liabilities where the 2019 Form 11 was filed and PPA entered into by 10 December 2020.

In response to queries on the procedure for making payments to Revenue during the “zero interest” period of the debt warehousing schemes, Revenue clarified that they will accept payments on an ad hoc basis during this period. The taxpayer can choose which tax-head they wish to allocate payments to (i.e. VAT, PAYE (Employer), TWSS or income tax).

To avail of the 3% PPA, the income tax return must be filed and the PPA must be entered into by 10 December 2020. For PPAs sought after 10 December, contact should be made with the Collector-General’s Division

The Institute raised some queries on the letters that issued in relation to the Debt Warehousing Scheme for COVID-19-related VAT and Employer (PAYE), seeking the submission of outstanding returns, namely:

- Whether the reference to iXBRL returns as outstanding, with a due date 21 September, accelerated their submission date, as there is a three-month concessionary period after the Form CT1 filing date to submit iXBRL accounts.
- Whether requests to submit a 2015 VAT Return of Trading (VAT RTD), could be waived given the passage of time, where this form appeared in the list of outstanding returns.

As regards the due date for submission of iXBRL accounts, Revenue noted that the letter references that some of the returns listed are pending, as opposed to outstanding.

As regards requests for VAT RTD for 2015, this has not been brought to Revenue's attention so these may be isolated instances. Revenue suggested that tax agents and taxpayers prioritise the submission of outstanding returns relating to current years or periods. Revenue will be pragmatic in relation to the submission of VAT RTDs dating back to 2015 if they are appearing on the record in some cases.

Revenue advised that they will be gradually returning to collection and enforcement activity in the new year. They wish to be clear about which taxpayers and what debts have been warehoused to ensure this debt is insulated from renewed collection activity. Therefore, it is essential that taxpayers submit the outstanding VAT and Employer (PAYE), and other outstanding returns to ensure the debt qualifies for the warehousing scheme. Taxpayers should endeavour to submit outstanding returns before Christmas as Revenue will be starting to review the warehoused debts at the end of 2020.

4. Divisional activity in 2021 – collection and enforcement

Revenue will be gradually returning to the normal environment for collection activities in 2021.

The standard duration for a PPA has increased on the online system and the level of down payment sought has been reduced, from that required pre-COVID-19. Revenue intends to return to their previous practice of seeking documentation and examining a business's ability to pay to determine what is reasonable for a business in arranging a PPA.

The Institute asked about Revenue's approach to reactivating enforcement and the pace of such activity, given the swiftness of a referral to enforcement in the pre-COVID-19 environment. Revenue do not intend to adopt a sudden significant resumption of enforcement. Enforcement will return progressively and incrementally over time, starting at the beginning of 2021 and it is for this reason that submitting outstanding returns for debts that qualify for warehousing is so important.

Revenue do not expect collection and enforcement to return from the outset at the same speed as before the COVID-19 pandemic (i.e. the issue of 7-day Final Payment Request letters, followed by referral to enforcement). However, Revenue's debt management teams will be working cases and pursuing, in particular, cases where the taxpayer is not engaging with Revenue. The Institute requested that Revenue continue to engage at TALC on process developments to help tax agents quickly identify situations where a debt is unpaid and to allow agents to engage with Revenue to deal with the debt in preference to referring the debt to the Sheriff, where possible.

The Institute queried Revenue's approach to the application of interest on late payments of tax in 2020 and where underpayments of preliminary tax would inevitably arise due to greater reliance on the "90% test" to quantify preliminary tax payments in an uncertain environment. Revenue noted that they intend to apply a pragmatic and flexible approach to interest where genuine difficulties have arisen due to COVID-19. The clarification provided to TALC in relation to CGT due on 15 December reflects this approach which is Revenue's position generally.

Note: In January 2021, the Collector-General confirmed that the Division has now temporarily paused the incremental resumption of enforcement activity in light of the unexpected deteriorating position with the pandemic since the meeting took place.

However, the Division will continue to review cases with a view to identifying those suitable for intervention once enforcement activity resumes. In the meantime, Revenue will keep the developing pandemic situation under review, as that will inform their approach. The Collector-General will notify the Institute in advance of the eventual resumption of enforcement activity.

5. Insolvency

The number of insolvency cases have fallen by approximately 20% on a year to date basis. There has been some increase in creditor voluntary liquidations and practitioners considered that increases may be expected. Revenue anticipate that there may be increased activity, Revenue has two insolvency teams with staff to attend insolvency meetings.

Practitioners queried delays in the issue of tax clearance letters relating to Members Voluntary Liquidations. Revenue noted that the Districts must review the cases and revert to the Collector-General's Division and that the Division has been following up on cases with the Districts to try to expedite matters. If there are specific cases particularly delayed these can be raised with the Collector-General's insolvency unit.

6. Tax Clearance

The Institute queried whether Revenue could inform taxpayers and agents in advance of withdrawing tax clearance should challenges arise in maintaining current taxes and filings in 2021, especially given businesses' reliance on the COVID-19 Government supports.

Revenue advised that the status of businesses that held clearance as at 13 March had not been changed. Revenue inform businesses of the reason for withdrawal and will bring it to businesses' attention where clearance is likely to be rescinded. Revenue intends to take a measured approach but will be incrementally returning to reviews of tax clearance status. Revenue advise that businesses make early contact with Revenue in circumstances where they are experiencing difficulties.

Summary note of meeting between the Irish Tax Institute and Revenue's Large Cases – High Wealth Individuals Division (LC-HWID)

30 September 2020

Via Skype

Key points from the meeting

1. Current Work Practices due to COVID-19

Practitioners and Revenue discussed the practicalities of remote working due to the COVID-19 pandemic and the impact on tax administration. Revenue clarified that approximately 97% of the Division's staff are working remotely. While remote working presented challenges for Revenue at the outset it is now well established. A process has now been put in place to permit Revenue staff access to the offices for the purposes of retrieving files and printing letters where required. Staff are equipped with Skype for Business. LC-HWID can facilitate physical meetings in their office, if absolutely necessary, subject to social distancing requirements and Government restrictions in place at the time. New interventions and progress on appeals slowed for a time but have now recommenced.

Staff training continues remotely. A remote training programme on anti-avoidance matters is underway. This programme includes information and a Q&A and is not solely for LC-HWID staff. Revenue also continues to provide general Learning and Development sessions, via Skype, for staff training in the current environment.

Practitioners queried Revenue's approach to the application of the "late surcharge" where staff illness in a practice, due to COVID-19, could impact on timely filing of income tax returns. Revenue's general position on the surcharge remains unchanged, however, Revenue will be reasonable where a practice has a specific issue. If such a situation arises, the practice should contact Revenue to explain the difficulty.

2. Update on LC-HWID Structure

LC-HWID has expanded since last year, and there are two new Principal Officers in the Division. The Division consists of three case-working High Wealth Individuals (HWI) Branches, a National Anti-Avoidance Branch, a Pensions Branch and a Divisional Office. Each Branch is led and managed by a Principal Officer and has a team of Assistant Principals. There are approximately 130 staff in total in LC-HWID who are located in Athlone, Dublin, Kilkenny, Limerick and Waterford.

Divisional Office

The Divisional Office deals with service issues and related queries. It also provides support to the Branches in the Division, for example, in preparing and managing the business plans. Revenue continues to prioritise the processing of tax refunds across all divisions, to keep delays to a minimum, given the cash-flow pressures on many businesses from COVID-19. If a refund in the Division is delayed, the taxpayer will be made aware of the reason for the delay i.e. if Revenue is seeking further information.

HWI Branches

The case base of LC-HWID consists of “primary cases” (i.e. individuals with net assets of at least €20 million) and “secondary cases” (i.e. related entities, spouses, non-trading companies, partnerships, rental companies and family members to the extent that they are involved in the family business or party to substantial transactions with HWI individuals).

The case base is not fixed, and individuals may enter or exit over time, as the case base is reviewed annually to identify individuals meeting the entry criteria. New cases are added to the Division’s case base each year as they are identified. A further 200 will be added soon. There are currently approximately 1,000 primary cases and 1,000 secondary cases in the Division.

Revenue use a variety of sources to identify cases meeting the LC-HWID entry criteria, including information from tax returns, such as, large shareholdings or substantial Stamp Duty transactions. Practitioners can contact Revenue to inform them that the individual meets the criteria for the Division.

Children of HWI are not added automatically to the case base. Instead, children involved in the family business or who have received a large gift or inheritance are included in the Division. As is current practice, Revenue will inform the tax agent of an individual’s addition to the LC-HWID case base a few days in advance of communicating with the taxpayer.

The three HWI Branches are divided on a sectoral basis; primarily manufacturing, retail and technology. All three Branches also deal with the property sector and interact and share information.

In response to a question on duplicate requests for information, Revenue clarified that if the information being sought by LC-HWID is already on file with Revenue, even if it is in another division, it can be accessed by Revenue. There is no intention to duplicate requests for information. Revenue staff have access to offices so they can retrieve information that has already been supplied to another division. In such situations, the practitioner should contact Revenue to advise if the information has already been provided.

3. Areas of Focus for the Division

LC-HWID is focused primarily on specific risks which are addressed through targeted interventions. The Division has profiled its case base and identified risks in relation to capital taxes following this comprehensive appraisal.

The risks would include:

- CGT losses
- High value sales with a low CGT paid
- Expenses and losses
- Connected party transactions
- Business relief claims, including the source of funds and how the funds are used
- Filing of a Stamp Duty return but no CGT declared

The Division is currently more focused on risks in relation to specific transactions, rather than project based.

As regards legacy cases at appeal, Revenue is willing to discuss cases to establish if it is possible to resolve cases by agreement. Case progression and early identification of issues that cannot be resolved by agreement are priorities for LC-HWID. Revenue wish to have full information before any assessment may be issued.

LC-HWID is adopting a common approach across its Branches so that queries and intervention letters include the Branch Manager's contact details in the correspondence. The Branch Manager can be contacted if the practitioner is experiencing difficulties or delays in progressing the intervention. Queries and interventions are specific and targeted in scope and Revenue expects a substantive reply to be provided, grounded in documents, within a reasonable timeframe. Revenue is prepared to hold a meeting with the practitioner/taxpayer, if required.

Non-engagement with Revenue will result in the issue of a warning that Revenue may use its powers in cases where they consider it appropriate. As regards cases at appeal, Revenue request that any directions made to the Tax Appeals Commission be copied to Revenue.

Practitioners requested that Revenue consider the importance of timely responses by Revenue to help case progression. They also raised the difficulty in complying with a 21-day timeframe to reply to Revenue. Practitioners acknowledged that Revenue has recognised in their recent letters the potential impact the current COVID-19 pandemic may have on the ability to reply within the timeframe provided in the letter.

Practitioners queried the rationale of sending letters to HWI, seeking details of all assets owned by an individual, when the individual was already regularly reviewed by the Division. Practitioners asked Revenue to consider narrowing the scope of such requests to ensure that queries can be targeted and focused, given the time and cost in responding to letters with such an expansive scope. Revenue clarified that such broadly scoped letters would not be Revenue's intention or standard approach, but an exception to be used in limited circumstances. Practitioners can contact the Branch Manager or the Divisional Office on a case by case basis to discuss concerns about letters received.

Practitioners also highlighted instances of Revenue raising queries in the lead up to the deadline for issuing an assessment, under the "four-year rule". Revenue agreed that early intervention was preferable. Identifying and engaging on risk at an early stage is a priority for LC-HWID. However, where Revenue identify a substantial risk, they must proceed to raise queries with a view to issuing an assessment, if necessary. Revenue has been profiling the large number of new cases added to the LC-HWID case base last year. Revenue expects that the issue of letters/assessments close to the four-year deadline will happen less often in the future. Practitioners are encouraged to engage with Revenue in response to such letters and provide Revenue with the information requested. Where the risk can be eliminated the matter can be dealt with promptly.

MyEnquiries

Practitioners queried the meaning of the “completed” marker in the MyEnquiries tracking system, in the context of a request for an opinion or an aspect query. Revenue advised that the completed marker was devised to provide visibility on the handling of customer service requests (i.e. to denote when a task had been done and to close the individual thread of a query on Revenue’s IC system).

This is separate to Revenue’s process for closing interventions or responding to queries requiring a more substantive reply, such as opinions. Practitioners considered that it would be useful to clarify this point in guidance, as taxpayers/agents would think that “completed” meant a matter had been fully dealt with or is closed. The Division is engaging with the Accountant General & Strategic Planning Division on this matter.

4. National Anti-Avoidance Branch

Transborder Worker Relief Project

The Transborder Worker Relief Project is a LC-HWID project, operated by the National Anti-Avoidance Branch which commenced last year, with additional cases opened since then. The purpose of the project is to ensure the conditions of the relief are met. Revenue has had some disclosures and is in engagement with some cases on specific technical matters relating to the project. The Branch is engaging with Revenue’s Policy and Legislation Service (RLS) personnel about the meaning of “incidental duties” carried on in the State especially in light of the impact of COVID-19 on travel to/from the State. The National Anti-Avoidance Branch is clear on its stance on the matter but will await a response from RLS before it will engage further with individual cases on the issue. Once the position is confirmed, the Branch will be happy to meet with practitioners dealing with these cases. Practitioners pressed for early resolution of the matter.

Other projects underway include:

- Cases relating to a property investment entity involving foreign currency and a refinement of Hans Droog
- Artificial capital losses challenged under Section 811
- Artificial trading losses
- Share rights involving cash extraction involving 130 cases, with 93 closed to date yielding €37 million
- “Liberty Bell” – the Tax Appeals Commission held in favour of Revenue and a High Court hearing is awaited
- Employment Benefits Trusts using offshore trusts. This project is not limited to LC-HWID.
- Non-domicile project which commenced last year with a letter issue and received a significant number of responses

5. Engaging with the Division

Practitioners outlined the challenges in the current working environment in responding to queries with a 21-day or 30-day timeframe. The standard letters from LC-HWID seeking information acknowledge that difficulties may arise in the timeframe to reply, due to the current circumstances arising from COVID-19. Practitioners are encouraged to contact Revenue to

confirm when they will be able to reply. The letters include contact information for the Branch Manager.

“Force majeure” presence in Ireland

Practitioners queried what opinions had issued in relation to individuals in Ireland longer than anticipated due to COVID-19 and what further guidance could be provided by Revenue. Several queries on this topic have been received by Revenue divisions and by RLS. No definitive responses are currently being issued to requests for such opinions, pending further guidance from RLS. Revenue is keen to ensure a consistent approach is adopted across the divisions. Revenue expects that further guidance on the matter will be published to update the current guidance on the Revenue website.

6. Pensions Branch

The Pensions Branch is currently very busy dealing with applications. The Branch has a greater focus on compliance issues and closing out open cases. The main risk area for focus currently is small self-administered schemes.

Practitioners queried whether there had been a change in Revenue’s approach to treating a tax-free lump sum in commutation of foreign service as a capital sum. Revenue invited feedback on the particular issue in question.

Summary Note of Meeting between the Irish Tax Institute and Revenue's Large Corporates Division (LCD)

3 March 2021

Via Skype

Key points from the meeting

1. Overview

Revenue circulated a [slide presentation](#), providing an overview and organisational chart of LCD.¹ Each LCD Branch is responsible for circa 60-65 corporate groups. As part of an ongoing review of the LCD case-base, some cases have been transferred in and out of LCD (i.e. meeting or ceasing the relevant LCD criteria). 83 groups have recently been transferred to LCD from Medium Enterprises Division (MED), with 56 groups transferring from LCD to MED. All remote bookmakers were transferred to MED in early 2021. In order to create stability in the case-base, it is intended that no more substantial changes will be made to the case-base from 1 April 2021 for a period of 3 years.

LCD adjusted quickly to the remote working environment from the outset of the pandemic, assisted by current internal practices and the nature of the LCD case-base. Work has continued, as normal, on interventions, Revenue audits and progressing appeals, with the use of Skype for Business for internal meetings, and access to other virtual platforms, if requested, for external meetings.

Revenue's buildings are also accessible to staff to access files and to conduct meetings, subject to social distancing requirements. Participants in the Cooperative Compliance Framework (CCF) can contact their case manager with queries in the normal manner. Non-CCF cases are dealt with by the Customer Service Branch, with queries and correspondence primarily routed through online channels. Where a hardcopy letter, related to an aspect query, must be sent to the taxpayer, Revenue may also contact by phone or email in advance, to ensure that the correspondence is received by the appropriate person where a business premises may be closed. Attention was drawn to the Tax and Duty Manual published on 29 January 2021 which contains Revenue guidelines for conducting Revenue interventions remotely during COVID-19. Section two of this manual deals with intervention notifications for audit and non-audit interventions.

2. LCD Branches

Each LCD Branch outlined some of their key priorities and areas of focus over the year ahead.

Sectoral Branches

Property, Construction & General Manufacturing Branch

- The COVID-19 support schemes, in particular, the Employment Wage Subsidy Scheme (EWSS) and the Temporary Wage Subsidy Scheme (TWSS).

¹ The current Principal Officer in charge of Financial Services (Banking) will be moving posts at the end of March and a new PO will be appointed.

- 14 new groups have been moved into the Branch. Revenue will be examining and seeking resolution of issues identified in their filing patterns, for example, outstanding tax returns including Forms 46G, DWT returns and Forms CT1.
- Payroll taxes generally

Alcohol, Tobacco & Multiples Branch

- Excise controls
- Sugar Sweetened Drinks Tax (SSDT) enquiries

Natural Resources, Food & Leisure Branch

- The COVID support schemes, including, the TWSS reconciliation exercise
- Payroll taxes and compliance with the PAYE Regulations
- Corporation tax, including R&D tax credit claims

Financial Services (Banking) Branch

- Tax risks in non-CCF cases
- Understanding risk changes as a result of Brexit
- Form CT1 2019 returns and change of items on Balance Sheets without Brexit

Financial Services (Insurance) Branch

- VAT recovery in 2020 and 2021
- PAYE modernisation related queries for the Branch's case-base, including pension payrolls
- Stamp Duty on insurance levies

Information, Communications & Technology (ICTL) Branch 1 and Branch 2

- VAT, payroll tax, and corporation tax with issues raised based on perceived risks
- KDB claims
- Section 247 interest
- Section 291A claims
- VAT and postponed accounting
- Stamp Duty and relief claims on restructuring
- Country by Country Reporting (CBCR)

Motor, Oils & Transport Branch

- Deferment of Mineral Oil Tax
- Non-cash emoluments to distributors and motor traders

Life Sciences (Biotechnology, Pharmaceutical & Medical Devices) Branch

- Understanding remuneration models and changes in these models
- Section 291A claims
- Capital versus revenue tax treatment

Financial Services (Financing and Investment Funds) Branch

- Trading losses and group relief utilisation
- Verification checks in aircraft leasing
- iXBRL compliance

- IREF service to support compliance i.e. prioritising development of an online IREF return and e-payment

Practitioners queried whether the reports made under DAC6 would inform interventions by LCD going forward. Revenue noted that each Branch conducts a risk assessment of its case-base and has access to all data tools available when conducting their risk assessments.

Non-Sectoral Branches

E-Audit, Customs & PREM Audit Branch

- Wage Subsidy Schemes
- Real-time PAYE audits and interventions
- Increase in Customs audits

As regards the Wage Subsidy Schemes, Revenue clarified that engagement with LCD has generally concerned technical questions and queries surrounding employer eligibility. There has also been engagement with taxpayers that have availed of the TWSS and EWSS but have subsequently voluntarily reversed out completely from the schemes.

Customs audits will increase from 2022 onwards and greater resources will need to be dedicated to this area. The number of Customs declarations have increased exponentially, due to Brexit.

Transfer Pricing Audit Branch 1 and 2

Revenue has been focusing on improving their skills and staffing in the Transfer Pricing (TP) Branches, recruiting a diverse range of professionally qualified staff. There are now two TP Audit Branches, each led by a Principal Officer, with 5 Assistant Principals in each Branch, together with other staff.

Since the Transfer Pricing Audit Branch began in 2015, 18 interventions have been closed, generating circa €90 million in yield (i.e. of tax saved or paid). Audits and interventions are risk driven and both Branches select cases from the LCD and MED case-bases and use all available information in appraising cases; including CBCR, Exchange of Information, DAC6 reports, the OECD Guidelines on Transfer Pricing (now codified in Irish legislation) to identify risks. They also assist other divisions with TP queries.

Revenue noted the Finance Act 2019 legislative provisions which came into effect from 1 January 2020 and the recently published new Tax and Duty Manual (TDM) which informs Revenue's approach to interventions. Revenue expects a significant improvement in the Local and Master files in view of the more prescriptive requirements mandated by the OECD 2017 Guidelines. The removal of the grandfathering provisions and expansion in scope to non-trading transactions brings arrangements and entities previously excluded into scope, for example pre 2010 or non-trading loans, will form part of audits.

TP audits will involve the issue of an Audit Notification to the taxpayer, in the normal manner. The audit will involve, for example, examination of the records; economic analysis; evidence of how the arm's length price was calculated and applied; Functional analysis to understand functions and what relevant teams do. The quality and detail of TP documentation is important. It can take a number of years to finalise TP audits, given their complexity.

The TP Audit Branches have no involvement in Advance Pricing Agreements (APA) and Mutual Agreement Procedures (MAP). These are dealt with by the Competent Authority in the International Tax Division in Revenue Legislation Services. The taxpayer can advise the auditor if they intend to pursue an APA or invoke the dispute resolution mechanism under MAP.

Practitioners noted the abeyance of the “Ireland to Ireland” TP modified rules set out in Finance Act 2020 (now subject to a Commencement Order) which had attempted to put into legislation Revenue’s interpretation of the 2019 legislation relating to the same modified rules. Practitioners sought clarity as to how Revenue will be approach “Ireland to Ireland” transactions when undertaking TP audits, given the relevant legislation is subject to Commencement Order and the new TP TDM published does not provide guidance on how Revenue will interpret and apply the modified TP rules.

Revenue noted that cross-border transactions would be of perceived higher risk, that intra-Ireland transactions, when selecting cases for TP audits based on risk. Revenue acknowledged that there is an ongoing consultation process with the Department of Finance regarding the policy for “Ireland to Ireland” transactions. It is hoped that the “Ireland to Ireland” position will soon be resolved and before Revenue will conduct TP audits in relation to 2020 accounting periods. Should it arise on an intervention before then, it will be dealt with in a practical way by Revenue.

TP will remain a very topical policy matter, in light of the commitment in the Corporation Tax Roadmap to extend TP to branches in 2021 and the provision in DAC7 to allow joint audits involving more than one tax authority.

3. LCD’s Approach to Revenue Audits and Compliance Interventions

As outlined in a recent TDM, Revenue audits and interventions will be conducted remotely, wherever possible. The normal procedures for conducting such interventions, as outlined in the *Code of Practice for Revenue Audit and Other Compliance Interventions*, continue in a remote setting.

LCD has a comprehensive methodology to conducting and managing audits virtually. For example, at the opening virtual audit meeting, the Revenue auditor can produce a high resolution copy of his/her identification card on screen.

In the conduct of audits/interventions remotely over the last twelve months, Revenue has deployed an audit information project management tool with a view to the efficient progression of audits. This has been accompanied by single issue ‘pinpoint’ interviews conducted using Skype for Business to discuss and progress open technical matters whilst both Revenue and taxpayers are working out of the office as a result of the Covid-19 restrictions in place.

E-Audit will be the default option for Customs and PREM Audits. Revenue’s Customs Risk Intervention Selection Programme (CRISP) is used in the selection of imports and declarants for a post clearance intervention. Revenue provided a [slide presentation](#) on their approach to Customs and PREM audits. Revenue expects a doubling of the case-base for selection for Customs intervention.

The PREM Audit Unit in LCD is providing expert consultancy to the other Divisions on the Wage Subsidy Schemes. The TWSS reconciliation process will commence in March and employers will have until June, to review the data to identify gaps or inaccuracies. Guidance will issue shortly on the process. As outlined on the slides, where an employer has paid out more subsidy to an employee than the subsidy amount calculated by Revenue, for example, during the transitional phase, this additional amount must be repaid to Revenue and will be a cost to the employer. The employee will be taxed on the amount received from the employer, which is a separate matter.

E-Audits will also focus on an analysis of PAYE modernisation. Revenue encouraged taxpayers to undertake a full review of their payroll reporting in advance of any scheduled PREM audits.

4. Cooperative Compliance Framework (CCF)

123 corporate groups are participating in the CCF. A group must meet the entry threshold requirements to be eligible to apply for the CCF. In general terms, circa 20% - 25% of the case-base meet these criteria. Revenue acknowledged that the initial meetings with CCF groups may have generated a considerable level of queries, but as Revenue's understanding of the CCF participant has deepened, this should have reduced. Tax technical issues can take time to resolve. However, issues raised at a meeting would be expected to have been fully resolved before the next meeting.

Revenue published a TDM in January to codify the CCF offering. The opportunity to apply to enter the CCF by groups that meet the eligibility criteria remains available. Revenue will be conducting a full in depth analysis of the operation of CCF in 2021 to ensure it is being applied in a consistent manner to all participants. Revenue has sought feedback from participants on their experiences and acknowledged practitioners' suggestion to survey participants and agents on CCF. The Institute also expressed that it could convey members' feedback on the CCF experience in response to the survey questions.

Revenue confirmed that Ireland is a participating jurisdiction in the current iteration of the OECD International Compliance Assurance Programme (ICAP2). ICAP2 is a voluntary risk assessment and assurance programme that facilitates co-operative multilateral engagement between multinational groups, willing to engage actively and transparently with tax administrations, in jurisdictions where they have activities and review high level risk and obtain certainty regarding TP. ICAP2 and DAC7 also envisage joint audits involving more than one jurisdiction.

5. LCD Services and Supports

Renewal of opinions

In the context of the renewals of opinions, practitioners highlighted experiences where similar delays were experienced in the receipt of a response for non-CCF, as for CCF cases. At times, the timeframe to receive a renewal could be lengthy, for example, up to two years. Practitioners also queried the status of the opinion while the reply from LCD to the renewal request was awaited.

Revenue noted that the nature of the opinion may mean that detailed consideration of the matter and engagement with Revenue's Policy and Legislation Service is required. Revenue

would expect that the taxpayer would be informed if there is a delay in responding to the request for the renewal.

The Divisional Office of LCD can be contacted for clarity if there is a pronounced delay in receipt of a response from Revenue and the taxpayer has not been informed of the basis for the delay. The taxpayer cannot infer that the absence of a response on the renewal request means that the opinion can continue to be relied upon. Revenue will advise of the status of the opinion in writing in response to the request for its renewal. Revenue is also working to codify generally applicable rulings in the relevant TDM, where appropriate.

6. Customer Service - Tax Refunds and Processing of Requests

The Division closely monitors the turnaround time on tax refunds against the customer service standards, and the standards are generally met. The slide presentation summarises the volume and categories of items processed in 2020. Practitioners acknowledged Revenue's prioritisation of refund processing since the onset of the pandemic to assist businesses.

The Financial Services (Financing and Investment Funds) Branch outlined its activity and approach to expediting VAT refunds and the adoption of a pragmatic approach where no material issues are identified on verifications of refunds. The Branch has also experienced an increase in requests for clearance to effect a Members Voluntary Liquidation and is working to reduce the turnaround time on clearances.

Practitioners noted that certain countries may seek for particular wording to be included in a Certificate of Residence for the purposes of claim under a Double Tax Agreement, and this wording differs from the standard wording included on the Certificate. Revenue advised that practitioners engage with Revenue on a case by case basis in such instances to work to resolve the matter.

7. Agreeing Settlements

Practitioners asked about LCD's willingness to agree negotiated settlements in long-running cases and cases that are in the appeals system. Revenue noted that its approach to agreeing settlements is outlined in the *Code of Practice for Revenue Audits and other Compliance Interventions*. Revenue is willing to engage with taxpayers to establish if potential exists for resolution by negotiation, but this will depend on the tax at risk and the nature of the matter. Revenue will not reach a compromise if they consider that it is not justified based on the legislation. Revenue noted that participants in the CCF can benefit from a reduction in penalties and non-publication where disclosures are made following a self-review.

Practitioners queried whether Revenue conducted a review of the outcome of cases that had proceeded to the Tax Appeals Commission (TAC) to evaluate whether proceeding to appeal was the most efficient way to resolve the cases. This is considered on a case-by-case basis by Revenue. The issue under appeal may be a significant issue, a point of principle for Revenue or on which Revenue has a clear technical position. Revenue may wish to appeal to the Courts in some cases if unsuccessful at the TAC.

Practitioners suggested it would be useful to engage on technical issues at an early stage in the Revenue audit process where disagreements on interpretation arise. Revenue acknowledged that early engagement at the appropriate level may be beneficial. However, where clear

differences of opinion on the legislative position occurs, it may not be possible to reach agreement and proceeding to raise an assessment is therefore appropriate.

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

1 March 2021

Via Skype

Key points from the meeting

1. Overview of MED

Revenue noted the significant disruption to tax administration activities since the last Branch Network meeting with the Division in November 2019, due to the onset of the COVID-19 pandemic. MED has taken on an integral role in the operation of the Employment Wage Subsidy Scheme (EWSS). In addition, Revenue staff have undertaken new work and adjusted to a remote working environment. Assistant Secretary, Orla Fitzpatrick, commended her team for their remarkable efforts in managing to sustain the delivery of essential services, while rolling-out key Government supports.

Revenue staff continue to work remotely. However, staff have occasional access to the Revenue offices to allow them to access files. The Institute acknowledged the positive engagement with Revenue in supporting businesses that are operating in challenging circumstances.

Changes to the interactions between taxpayers and Revenue during the pandemic and insights gained from the Wage Subsidy Schemes about taxpayer behaviour and their attitude to compliance, will influence the Division's approach to compliance and service models as tax administration returns to normal. The Division cannot be definitive on their business plans for 2021, as yet. Plans will be reset as the environment becomes clearer in the months ahead.

The Divisional Office is responsible for managing the Service for Compliance activities for the Division. Revenue will review the learnings from service delivery in 2020. Following from the experience of direct interactions with employers over the last year, MED is examining the scope for closer direct engagement with some taxpayers and developing a framework for engagement, similar to the Cooperative Compliance Framework (CCF) operated by Revenue's Large Corporates Division (LCD).

Such a framework would be focused initially on engagement with the public administration sector. Revenue confirmed that the interaction between Revenue and the tax agent would continue to be important and would not be displaced by this model of direct engagement. Revenue has formed a panel of employers to gather feedback on their expectations of service and other interactions with Revenue, to help inform the development of a suitable framework of engagement.

The MED case-base is very diverse, covering cases with annual turnover from €3 million up to €190 million. 48% of the case base (circa 40,000 cases) generate an annual turnover of between €3 and €10 million and rely on tax agents. The involvement of a tax agent provides effective engagement with Revenue for this cohort. A framework involving direct engagement with taxpayers would involve the higher end of the MED case-base. The framework for this direct engagement model will be designed in 2021 with the intention of rolling it out in 2022.

The Institute asked whether the feedback Revenue has received from employers could be shared with the Institute. The Institute would also welcome the opportunity to provide input and engage on the proposed service reform. Revenue noted that this would be useful as plans evolve in the second half of 2021 and the Division would clarify with the Accountant General's and Strategic Planning Division whether anonymised employer feedback could be shared.

Revenue also noted the improvement in the MyEnquiries service delivery, in circumstances where the Business Taxes phonenumber now operates a "mornings-only" service.

The Institute sought an organisational chart of MED which could identify the allocation of responsibilities to Assistant Principal (AP) level in the Division. This would be helpful in identifying officers managing discrete sections in such a diverse case-base. Due to expanded responsibilities in the current environment, Revenue consider it may not be possible to provide a precise identification of all responsibilities at AP level but agreed to consider what further level of detail could be provided.

2. Branch Plans

Revenue had noted at the 2019 Branch Network meeting with MED that the Division would be adopting a group-based approach to assessing risk and interventions. The changed environment has impacted on the development of such an approach. However, MED is conducting risk appraisals at a group level and will be adopting this approach on a phased basis.

Revenue is reviewing the entry threshold for companies dealt with by MED with a view to increasing the turnover threshold from €3 million to circa €8.5 million for a single entity or on a group basis in aggregate (where the company is part of a corporate group). The precise entry threshold amount has yet to be finalised and may take account of the turnover threshold for the iXBRL filing requirement (i.e., €8.8 million annual turnover). This transition will happen on a phased basis, with cases moving out of the Division where the businesses' turnover is less than the entry threshold for MED.

MED had previously dealt with all R&D Tax Credit claims (for businesses with turnover less than €190 million). From October 2020, R&D Tax Credit Claims are now dealt with by Business Division for businesses with annual turnover of less than €3 million.

The MED Branches outlined their priority areas of focus for the year ahead, which include:

Agriculture, Health & Tourism Branch

- Wage Subsidy Schemes and compliance with the terms of the schemes
- Closing open interventions
- Peculiarities specific to the case base (e.g., hotels now serving as emergency accommodation or vaccine centres)

Construction Branch

- Wage Subsidy Schemes
- Reinstatement of core compliance work driven by taxpayer behaviour and using data analytics e.g., eRCT, PREM, VAT real-time interventions.

Practitioners queried Revenue's interactions with the construction sector and the sector's participation in the EWSS, as compared to the Temporary Wage Subsidy Scheme (TWSS). Revenue acknowledged the significant increase of construction sector businesses participating in EWSS in comparison to the TWSS, given the scope of the recent public health restrictions. Real-time checks are conducted to identify and engage on any risks identified on EWSS. Revenue's focus will develop as the economy reopens. MED has a deep knowledge of the sector in particular regarding large civil engineering projects and commercial construction.

Revenue is cognisant of the current challenges presented by the pandemic for the construction sector. However, Revenue's activities are risk-based and informed by taxpayer behaviour.

IT, Science and Finance Branch

- This Branch is responsible for circa 1,900 companies and 1,500 proprietary directors and will be focusing on the COVID Support Schemes, TWSS reconciliation and PREM risks.

Manufacturing Branch

- Activities related to the COVID Support Schemes, in particular, on TWSS and EWSS compliance.
- Some general activity relating to e.g., R&D Tax Credit claims, KDB claims, controlled companies, cash extraction, non-vouched expenses/wages.

Motor Transport and Utilities Branch

- COVID Supports Schemes - circa 50% of the Branch's case-base are availing of wages subsidies.
- Closing out open interventions, with any new interventions based on identified risks.
- The Branch includes Control Officers for Customs, and AEO – significant activity in this area as 2021 progresses because of Brexit.

Non-resident Online Business Branch

The Branch's case-base is not limited to businesses which satisfy the MED criteria (i.e., it has a national brief, covering the Mini One Stop Shop (MOSS), non-resident distance sellers and remote book makers. The Branch works in conjunction with EU trends and developments.

- Compliance activities are primarily directed at unregistered traders.
- Activities arising from Brexit, and the expansion of the One Stop Shop (OSS) to distance sales of goods and other B2C supplies of services from 1 July 2021.

Public Administration Branch

- Considerable ongoing engagement with the health sector in the current climate.
- A number of the departments are moving to a shared services model and dealing with direct queries from public bodies in the case-base.
- Other areas of focus include Brexit, progressing open interventions, major capital projects, PREM interventions and examining a pilot model similar to CCF for public administration bodies.

Wholesale and Retail Branch

- TWSS related activities, including the TWSS reconciliation - in excess of 23% of the TWSS claims in MED relate to the Branch's case-base.

- Progressing open interventions and issues identified from an increase in revenue generation by some businesses as a result of the pandemic.

TWSS Compliance Checks

Practitioners highlighted instances, which suggested inconsistencies in MED's approach to TWSS Compliance Checks and sought clarification on the Division's approach to these checks. Revenue noted that the starting point is the legislation. A business is required to assess the decline in business performance as a result of the pandemic, with reference to business performance pre-COVID 19.

Revenue considers they have adopted a pragmatic approach and seek evidence that the business had reasonable grounds for entering into the scheme. If a business initially expected the pandemic to have a considerable impact on their turnover/customer orders, but the trade subsequently improved and improved at a sustainable level, the business was required to voluntarily exit the scheme. Revenue considers they have adopted a consistent treatment to cases.

Practitioners queried circumstances where Revenue appeared to adopt a rigid approach to the evidence sought that a business was significantly impacted by the pandemic. In particular, Revenue requires the business to demonstrate at least a 25% reduction in turnover or customer orders by reference to a prior period and would not consider another reasonable basis used by a business in assessing whether they qualified for the scheme.

Revenue noted that if a business is capable of applying the turnover test it cannot use another basis in determining whether it qualified for the scheme. Practitioners also pointed to the genuine belief a business may have had at the onset of the pandemic, on the likely impact on their business at a point in time and the subsequent developments to the guidance as it evolved. Revenue noted that for some businesses, the outlook at the outset may have been bleak, where performance improved and improved on a sustained basis, as identified through a businesses' rolling monthly reviews of performance, the business was required to exit the scheme.

Practitioners highlighted an experience where two lines of businesses carried on the same activities in different geographical locations but were treated in a different manner by Revenue when determining whether a separate trade was operated by each business line. Revenue consider differences can arise depending on the case. However, the specific case examples referred to, where practitioners considered issues arose in Revenue's approach, can be submitted to the Divisional office for examination.

EWSS

Practitioners queried how Revenue approach the question of whether a separate trade exists in circumstances where more than one trade is carried on by the company. Revenue noted that it would need to establish that it is managed as a very distinct line of operation, with dedicated staff attributable to and responsible for that distinct line and that this management structure was in place pre-COVID-19.

Revenue will consider what resources are directly attributable to that line of business and whether that line of business suffered the requisite reduction in turnover/customers to meet the EWSS criteria. Revenue acknowledged that such separate management lines could be more difficult to prove in a smaller business.

3. Compliance activity

The Division's core compliance work has been disrupted due to the pandemic, but it has still continued. Circa 50% of MED's case-base of employers did not receive any wage subsidies and Revenue will be refocusing their attention on this cohort.

As regards EWSS and the Covid Restrictions Support Scheme (CRSS), Revenue do not expect to conduct blanket checks of all participants after the scheme ends - checks will be risk-based. Revenue is cognisant of the pressures on businesses, even as reopening may be possible in the months ahead and will be returning to compliance activities gradually.

Circa 47,000 employers are availing of the EWSS. Revenue is conducting EWSS compliance interventions in real-time. Use of data analytics allows them to assess, for example, whether it could be reasonable to expect that the business is meeting the eligibility criteria. In cases where Revenue suspect abuse of the scheme, they are actively intervening in real-time and will suspend access to the scheme until they have completed their review. The EWSS was recently extended by the Government until 30 June 2021 and the Minister for Finance has noted that there will be no "cliff-edge" to the scheme.

Revenue has expedited R&D payable credits to assist businesses. Revenue noted instances where errors are being made on the Form CT1 returns, whereby R&D expenditure has been incorrectly entered in the credit field. Revenue takes a risk-based approach to R&D Tax Credit Claims, focusing on the accounting test. Revenue engage R&D experts when examining whether the science test has been met. Revenue is carrying out compliance checks on the majority of KDB claims.

4. Engaging with the Division

Revenue's concerted efforts to improve the MyEnquiries service and development to the query tracker service terms were noted.

Revenue provided an update on the Revenue Technical Service (RTS) which is managed in the Division. RTS deals with complex technical queries for the case-base of MED, Business Division and Personal Division. The Branch is made up of a Branch Manager, six tax managers, an administration manager and three administration staff.

RTS has a very strict system of governance for sign-off on responses. In 2020, RTS received circa 600 queries and issued 250 opinions. Approximately 50 requests were abandoned by the applicant. Revenue rejected 300 requests but tried to provide some assistance to direct the applicant to the relevant Tax and Duty Manual (TDM) in 150 of these cases. Some cases may not be accepted at the outset but can subsequently be accepted, where the quality of information provided on the RTS1A query form is improved.

Revenue's default position is to accept a query. However, over 50% of queries are rejected for a number of reasons, for example:

- The RTS1A is not completed properly, for example, incomplete facts, the applicant does not include their interpretation of the position, the applicant does not specify the doubt/uncertainty on which the applicant is seeking reassurance.
- Contracts or agreements referred to in the submission are not provided.

- Correct route of transmission - Some applicants are choosing an incorrect query pathway when trying to direct queries to RTS in MyEnquiries. The RTS TDM outlines the appropriate pathway.

If the applicant receives a response from Revenue and consider that Revenue is incorrect on the technical position, Revenue can re-examine the matter if the applicant gives a detailed analysis of where they believe the RTS may have erred. Revenue has reversed their opinion in a small number of cases where further information or technical analysis is provided. RTS also submits suggestions for updates to TDM reflective of common queries.

Revenue emphasised the importance of fully completing the form and being as precise as possible on the query. RTS has ceased applying the internal “completed” marker on queries as this internal system IC record was visible to applicants and caused some confusion about the status of the query when a reply had not been sent to the applicant.

Practitioners queried whether RTS personnel are willing to meet with applicants in complex cases, as outlined in the RTS TDM and whether such meetings have been held. Revenue has had meetings in some cases and are also engaging with applicants where insufficient facts have been provided to improve the quality of the reply, as the facts will underpin the decision.

Practitioners asked whether Revenue provide a reasoned basis for their answer with their response in all cases. Revenue confirmed they will give an explanation with the reply.

Practitioners highlighted a taxpayer’s need for certainty when entering a life decision. They often wish to know Revenue’s view on the matter if there is a substantial amount of tax in question. The tax agent may be very confident of their interpretation of the position, but it can be challenging for practitioners to address a client’s need for certainty without undermining their interpretation of the position by outlining a doubt or uncertainty in their position in the query submitted to Revenue. Revenue acknowledged the concern. However, Revenue cannot step into the role of the tax agent nor provide “letters of comfort”, a doubt must be identified. The doubt in question could include that the matter has not been addressed in a TDM.

5. Agreeing settlements

Practitioners asked about the process and thresholds for agreeing settlements and noted that at times, it appeared to the taxpayer and agent that a settlement was agreed but was subsequently rejected when further reviewed internally by Revenue.

Revenue noted that taxpayers should be advised where they are in the process when engaging with Revenue on a settlement. The authorisation thresholds have recently been amended; a Principal Officer can authorise settlements up to €50,000, settlements between €50,000 and €250,000 require authorisation at Assistant Secretary level, with settlements more than €250,000 authorised by the Revenue Board.

Revenue is keen to progress cases as quickly as they can. While staff are working remotely, they have access to Revenue offices to access files and progress matters. Taxpayers should understand the stage of progression of their intervention. Issues arising in individual cases can be brought to Revenue’s attention.

6. Brexit-related activities

As regards customs activity, Revenue acknowledged the IT difficulties experienced recently and noted that the AIS is now stable, with issues largely resolved. Some issues continue to arise with incorrect details included on customs declarations. Revenue noted the importance of correctly completing the customs declarations. While VAT registered business are automatically entitled to VAT postponed accounting, if the customs declaration is not completed correctly, the business cannot avail of postponed accounting at the point of import. Revenue would welcome scope to provide further information or presentations to ensure members and businesses are clear on the requirement. The Institute will engage subsequently with Revenue on this area. Revenue noted the impact of the current circumstances on the VAT margin scheme for cars. Supplies from Great Britain to Northern Ireland and subsequently to Ireland do not qualify for the scheme and Revenue will be looking at these supplies. The vehicles will not be registered in Ireland until the customs is paid and import declaration is completed.

Revenue also reminded that supplies that are not of UK origin do not qualify for zero rating. Revenue noted that the VAT issues following Brexit may become more common over the months ahead. Businesses which have not restructured their business models in advance of Brexit, may be subject to VAT at import and VAT on a supply in the UK. Such businesses, procedures and structures need to be reviewed.

Revenue welcomed the useful engagement in a difficult environment and as observed earlier, noted some priorities and plans may reset over the coming months. Revenue noted that they are cognisant of the impact of the pandemic, its pronounced effect on certain sectors and they will be mindful of this in their approach to recommencing normal activities over the months ahead.

Summary Note of Meeting between the Irish Tax Institute and Revenue's Personal Division

24 September 2020

Via Skype

Key points from the meeting

1. Update on Personal Division

Personal Division has approximately 1,500 staff countrywide and staff continue to work remotely due to the COVID pandemic. All staff have been equipped with the necessary resources to enable them to work remotely, including handling phone calls from agents and customers e.g. rollout of laptops and access to Skype for Business for meetings. All its Helplines are open from 9:30am to 1:30pm each day. Revenue strongly encourages communications via myEnquiries where possible, rather than by phone or post and is focused on providing a quick turnaround time on queries received. Revenue is reviewing the opening hours for the Helpline service to see whether they can be extended during peak periods.

Revenue's public offices remain closed. A small number of staff are coming into the office to collect and send paper-based correspondence.

Revenue continues to prioritise the approval and processing of refunds and noted the importance of ensuring taxpayers' bank account details for refunds and address details are up to date on Revenue's records. This information can be updated via ROS. Over recent months, Revenue has been updating records on file in a concerted effort to clean up out of date and older material.

2. Personal Division case base and priority areas of focus

The major part of the Division's case base is the 2.4 million PAYE employees who hold over 3 million employments. The Division also deals with individuals and entities with taxable income which is not trading or professional income as well as trusts, charities and sporting bodies. Taxpayers which have a corporation tax or VAT registration are dealt with by other Divisions, such as, Business Division. Proprietary directors are dealt with by the Division which manages the company's tax affairs, for example, Business Division or Medium Enterprises Division. The case base is not static and there is some fluidity of cases between the Divisions periodically. Personal Division also has responsibility on a national basis for customer service for CAT.

Compliance activity

Two Branches in the Division are responsible for compliance activity for the case base i.e. Compliance Branch North and Compliance Branch South. There is no geographical distinction between the two Branches as regards the taxpayers who are dealt with by each Branch. Compliance Branch North is managed from Dundalk but has bases in seven geographic locations. It adopts a transaction and return-based approach to identifying cases for further queries. Revenue also uses third party data received from other countries under DAC and OECD

arrangements to identify cases for intervention and to pre-populate returns, where possible. Revenue cross-checks the information received to determine if it is included in a taxpayer's return. Where the information received differs from a taxpayer's return, Revenue writes to the taxpayer to request confirmation of the declared income or amendment to the return, as required. Revenue is also using internal LPT data to identify landlords with undeclared or underdeclared rental income.

The bulk issue of the requests for submission of a Form 12 for 2019 is imminent. The selection of cases for the bulk issue is primarily driven by personal wealth, for example, the highest earners in the employee case base, third party data and evidence of personal wealth especially accumulated wealth and capital transactions i.e. selling and purchasing assets and the selection criteria are reviewed each year.

Compliance Branch South is currently focusing on TWSS compliance checks for employers dealt with by the Division, for example, publicly funded charities and sporting bodies. There has been good engagement from employers with Revenue in response to the checks. Revenue is also examining employers who claimed the TWSS for domestic staff. Revenue's position is that they are not entitled to claim the TWSS. Employers who claimed subsidies that they were not entitled to will be required to return the subsidy amounts paid. Revenue is keen to close off the TWSS compliance interventions as early as possible. Following that, the next area of focus will be compliance checks of the Employment Wage Subsidy Scheme (EWSS).

Responding to a query about the process for employers who correctly availed of the scheme but wish to reverse out of the scheme, Revenue clarified that employers must reverse out by 15 October and pay the subsidy amount received, the related tax, USC and PRSI. If these conditions are met the employer will not be included on the list of published employers who availed of the TWSS. This is distinct from the position of employers who should have exited the TWSS at an earlier stage, on the basis that they did not satisfy the required reduction in turnover or customer orders for Quarter 2. These employers must now pay back the subsidy claimed in respect of the months for which the subsidy should not have been claimed. The subsidy repaid will be treated as the employee's pay for 2020 for the purposes of the end of year review. These employers will be included on the publication list as they will have benefited from the scheme.

A Stamp Duty compliance project is underway. The focus of the project is transactions where the acquirer of the property has not filed a stamp duty return, even though a CG50 was issued in relation to the transaction. Revenue is also examining cases where a commencement notice to build on a site or planning permission has been granted and work has commenced on site, but there is no record of a change in ownership.

Revenue will be contacting the purchaser/taxpayer directly in these cases in a move away from the traditional approach of contacting the person who filed the return, for example, the solicitor/adviser. The issue of these letters is due to begin in October.

New developments to Revenue's online services

The replacement for the Inland Revenue Affidavit, the ROS Form S.A. 2 (Probate) was launched on 14 September. Revenue welcomed the assistance from the Institute in raising awareness in advance, by hosting a webinar with a speaker from Revenue and the Probate Office and including an article authored by Revenue in the *Irish Tax Review*. Considerable work was

undertaken in the design phase to make the form simpler and clearer and to reduce the error rate. Since its launch, nearly 1,000 applications have been made on the online form. Revenue has also developed the TAIN and CAT online payment option. Practitioners noted that simplifying the payment option to allow agents to set up an RDI, in the same manner as for other taxes, would be a very welcome development.

Revenue is examining the scope for pre-population of the Form IT38. Due to GDPR, Revenue cannot fully pre-populate the form and make it accessible to the tax agent. However, Revenue is examining the scope to pre-populate addresses and eircodes and will be looking at further developments, while considering other scheduled IT development priorities.

Revenue noted the improvements to the MyEnquiries service, including the tracking system which provides a status update on each query and the enhancements to ROS to accommodate practitioners' common requests e.g. to allow a change of an address and change of accounting period. The Institute appreciates the useful engagement at the TALC sub-group on MyEnquiries and is drawing members' attention to new ROS features in TaxFax. Revenue noted that there has been a lower than expected uptake on the eCG50. Practitioners noted that the CGT registration seemed to be unlinked for the CGT tax head in some cases.

Regarding plans to redevelop the "letters of no audit" process for CGT (and estate cases), Revenue had built and tested an addition to the eCG50 model, but this option was excluded following practitioners' feedback. Current practice continues for obtaining clearance letters, in the absence of further solutions.

Revenue has also streamlined the application process for HPL1 Housing application process, in light of the temporary closure of public offices.

The Stay and Spend Tax Credit Scheme launches on 1 October. Agents can register clients who are qualifying service providers and amend a registration to correct an error. Revenue's Receipts Tracker can be used by taxpayers to scan and upload receipts, for the Stay and Spend Scheme and for other expenses such as health expenses.

Revenue would favour moving PSWT to an electronic platform and have explored options, but there are no current plans to redevelop PSWT.

A Tax and Duty Manual (TDM) with tips on ROS filing will be released, as usual, to aid 2019 income tax return filings. The ROS glitch that impacted the filing deadline in 2019 was a one-off and is not expected to reoccur and Revenue is actively monitoring ROS systems for any performance issues. Revenue encouraged early filing of income tax returns, where possible, and noted the ROS release scheduled for November that would impact access to ROS over a weekend.

Revenue raised the importance of taxpayers regularising their LPT compliance position before their Form 11 is filed. LPT compliance is built into the Form 11, so an outstanding LPT liability or return will automatically result in the application of a Form 11 surcharge. To avoid the surcharge, the LPT outstanding must be dealt with before the income tax return is filed. The taxpayer will be aware if LPT is unpaid, as they will have received a notification from Revenue.

The Institute queried whether the adaption to the Form 11 surcharge panel relating to directorships, could result in taxpayers who are non-proprietary directors, suffering a surcharge for the first time and in the same manner as proprietary directors i.e. before a credit is given for the PAYE deducted on their Schedule E income. Revenue is to examine the matter and revert.

3. Engaging with the Division and dealing with assignee-related correspondence

Revenue and the Institute representations provided an overview of the issues that can arise when dealing with tax administration for assignee-related cases. It was agreed that a separate call with the relevant Revenue officials would be useful to try to progress some of the matters identified during the discussion, in an effort to resolve the issues for both practitioners and Revenue. Revenue requested that a full chain of exchanges in case examples could be provided in advance, to help inform the follow-up discussion. Revenue requested that examples be provided with as little redaction as possible and clarified that such examples would be examined purely for the purposes of progressing the discussion and trying to resolve the issues identified. The Institute welcomed the opportunity to engage and agreed to revert with detailed case examples.

4. TWSS reconciliation process

The extensive engagement and collaborative approach between the Institute and Revenue to support businesses implement and operate the Temporary Wage Subsidy Scheme (TWSS) earlier this year was noted and welcomed by both representations. Revenue is currently planning for the reconciliation phase and has issued notifications to employers seeking submission of the subsidy paid figures by 31 October 2020. The reconciliation phase will encompass the Employer Refund Scheme through to the TWSS transitional and operational phases and reconciliation will be conducted on a payslip by payslip basis. Revenue is discussing internally the timing of the second stage of the reconciliation process, in light of the extension of the ROS Pay & File deadline.

During the operation of the TWSS, Revenue identified a considerable number of instances of employers failing to follow the PAYE Regulations. Issues identified appear to be a re-emergence of behaviours identified at the outset of PAYE modernisation and could attract compliance interventions and penalties.

Particular issues identified include:

- Submitting payroll late i.e. not “on or before” the payment date as required
- Reporting weekly pay runs in one monthly payroll submission
- Applying emergency tax when an RPN is available
- Applying emergency tax but no income tax paid
- Pay for income tax is greater than pay for USC

Revenue highlighted the difficulty in implementing wage support schemes where employers are not correctly reporting payroll. The Institute will convey the issues identified to members.

The Institute raised concerns about the timing of the TWSS reconciliation exercise given the ROS Pay & File extension to 10 December does not apply to taxpayers who cannot pay their liabilities (on ROS or otherwise). For these taxpayers, the income tax deadline remains 31 October 2020 to

avoid a surcharge which is the same as the deadline for uploading subsidy paid information on the TWSS. The Institute has raised the concerns about the pressures on the tax profession, especially small practices, in complying with multiple deadlines in a short-pressurised period with Revenue at TALC and with the Revenue Board.

5. Employee End of Year Review

The COVID-19 Pandemic Unemployment Payment (COVID-PUP) and TWSS payments received by employees will be coded into the Preliminary End of Year Statement to be made available to employees on myAccount from mid-January 2021. Employees can opt to pay the liability in one lump sum if they wish. Otherwise underpayments will be coded into a reduction of the individual's tax credits over 4 years from 2022, to avoid hardship.

In response to a query on whether the period and payments on the TWSS could be disregarded in calculating the Standard Capital Superannuation Benefit, Revenue confirmed that the issue has been examined by Revenue - TWSS payments are Schedule E emoluments which must be included in the SCSB calculation. In the interests of equal treatment, Revenue cannot allow a different treatment to be applied to employees who were on the TWSS in comparison to employees whose employers were not in receipt of the TWSS.

Revenue clarified that the guidance on BIK on company cars provided on Revenue's website for the COVID-19 period is on an action list for review and is being examined together with the guidance on the COVID-19 webpage in general.

6. LPT

Revenue confirmed that deductions of LPT collected by Direct Debit or other mechanisms were **not** suspended by Revenue during the COVID-19 period. Property owners who failed to pay the LPT liability, for example, if they cancelled the direct debit or had insufficient funds on the payment date should make arrangements to pay the liability in advance of submitting their 2019 Form 11. Revenue re-emphasised the importance of regularising the LPT position **before** the return is filed, otherwise a surcharge will be automatically applied. There is no automatic agent-link for LPT. Requests to agent-link to the taxpayer to deal with LPT matters can be made to the LPTregister@revenue.ie.