



Position Paper for the European Commission

**Review of the implementation of Council Directive (EU) 2017/1852 of 10
October 2017 on tax dispute resolution mechanisms in the European Union**

10 May 2024

About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA) and is the country's only professional body exclusively dedicated to tax.

The Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice. We benchmark our education programme against the very best in the world. The continued development of our syllabus, delivery model and assessment methods ensure that our CTAs have the skills and knowledge they need to meet the ever-changing needs of their workplaces.

Our membership of over 6,000 is part of the international CTA network which has more than 32,000 members. It includes the Chartered Institute of Taxation UK, the Tax Institute of Australia, the Taxation Institute of Hong Kong, and the South African Institute of Taxation. The Institute is also a member of the CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

Our members provide tax services and business expertise to thousands of Irish owned and multinational businesses as well as to individuals in Ireland and internationally. Many also hold senior roles in professional service firms, global companies, Government, Revenue, state bodies and in the European Commission.

The Institute is, first and foremost, an educational body but since its foundation in 1967, it has played an active role in the development of tax administration and tax policy in Ireland. We are deeply committed to playing our part in building an efficient and innovative tax system that serves a successful economy and a fair society. We are also committed to the future of the tax profession, our members and our role in serving the best interests of Ireland's taxpayers in a new international world order.

Irish Tax Institute - Leading through tax education

Introduction

The Irish Tax Institute welcomes the adoption of the Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union (the Directive) which, in principle, we believe should be helpful for taxpayers. Taxpayers can request the application of the procedures available under the Directive to complaints submitted from 1 July 2019 and related to income or capital earned in a tax year commencing on or after 1 July 2018.

Experience of the dispute resolution mechanisms available under the Directive

While we have canvassed the views of our members regarding the functioning of the Directive, many of the cross-border disputes which are currently ongoing do not come within scope of the Directive. For example, in Ireland, the Revenue Commissioners generally have 4 years from the end of the year in which the tax return is filed to review a tax return, make enquiries, conduct an audit and raise an assessment.

Consequently, it usually takes several years after the tax return for a particular period is filed, for disputes to emerge and evolve to the point where a taxpayer would seek to avail of the dispute resolution mechanisms under the Directive. For this reason, our members have limited experience, so far, of the procedures available under the Directive.

We appreciate that the Commission's current review of the Directive is being undertaken in accordance with the requirements of Article 21 of the Directive. The review of such legislation is important in order to determine if it has been successful in achieving its underlying objectives.

However, given the timeframe it takes for cross-border disputes to evolve to the stage where taxpayers would invoke the dispute resolution mechanisms available under the Directive, it would be appropriate, in our view, for the Commission to undertake a further review of the Directive in a few years time. At that point, we would expect that taxpayers and their advisers would have more experience of the functioning of the mechanisms available under the Directive.

Meaningful participation by the taxpayer in the dispute resolution process

The Directive is intended to improve tax dispute resolution procedures, by providing for a binding dispute resolution process with improved tax certainty for taxpayers. Clearly defined time limits apply to each stage of the dispute resolution process under the Directive, meaning that the competent authorities are required to issue acknowledgements and reach decisions within certain timeframes.

While these additional rights for taxpayers are welcome, the involvement of the taxpayer in the underlying dispute resolution process is limited. In our view, permitting more meaningful participation by the taxpayer in the dispute resolution process would increase further tax certainty and the trust of taxpayers in the dispute resolution procedures.