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

Irish Tax Institute offices, Longboat Quay, Dublin 2.

5 December 2024

1. Structure and Staffing of Business Division

Business Division has over 1 million customers in its case-base, which is made up of taxpayers with Case I or Case II income (i.e. trading or professional income) with annual turnover not exceeding €8.8 million. This threshold remains unchanged from 2023. The case-base also includes the proprietary directors of entities within the Division. There is considerable diversity in the case-base in terms of business size and type of activity.

The Division consists of two Service to Support Compliance Branches, 11 Compliance Branches, a Risk Management & Quality Branch and a Divisional Office. The two service branches manage the National Employer Helpline (NEH), the Business Taxes and Business Tax Registrations/VAT and RCT phonelines, MyEnquiries correspondence etc. The compliance branches operate on a geographical basis and are risk-based in their approach to compliance activities. An organisation chart for Business Division is available **here**.

The full complement of staff for the service branches should be 1,200 staff, however, there are currently 40 vacancies. The Division is seeking to recruit Executive Officers. Challenges with recruitment can cause some pressure points in service delivery with both Revenue and practitioners acknowledging the existing tight labour market for talent.

Revenue noted that the 'cliff edge' of a large number of retirements in a short period has now passed, resulting in more stability in staff numbers. Considering recent recruitment patterns, Business Division has a substantial number of new and inexperienced staff and is aligning its resources with the considerable growth in its case-base over recent years.

2. Overview of Activities in 2024

<u>Pay & File</u>

Revenue referred to the recent Pay & File deadline and acknowledged the efforts by tax agents each year in delivering high rates of voluntary timely compliance. Approximately, 622,000 Form 11 income tax returns were filed in respect of 2023. 76% of the returns filed and 78% of the payments made relate to cases dealt with by Business Decision Overall, 68% of the total value of the tax collected in respect of the Form 11s related to the Business Division case-base.

If difficulties arise in a small practice in complying with a filing deadline due to instances of illness, death or injury of key staff, early contact with Revenue is advised. This will enable agreement of a reasonable solution.

<u>Compliance Activities</u>

Business Divisions has closed just under 60,000 interventions for 2024, and 55,332 interventions were open at the end of October, which illustrates considerable work completed and a lot underway.

Area of focus for the Division in 2024 included:

- ***Employee share schemes:*** Revenue's activity is driven by customer behaviour. The Division is keen to progress open cases to their conclusion.

- ***Sugar Sweetened Drinks Tax (SSDT)***: This has been an area on focus for Revenue in 2024. Relevant businesses are required to register and file returns for SSDT.

- ***PMod Compliance:*** *Revenue note it is as a perennial issue*. During 2024, the Division conducted a Level 1 payroll compliance project examining issues such as late filers, incorrect use of Revenue Payroll Notifications (RPNs), non-compliance with the reporting dates, recurring errors after Revenue highlighted the issues to the relevant employers. However, Business Division is identifying a continuing pattern of errors and significant slippage in PMod compliance since the Covid-19 wage support schemes concluded. PMod will continue to be an area of focus in 2025, as outlined below, and fixed penalties will be applied in appropriate cases.

- ***Social media influencers and income earned from social media platforms*****:** This has been an area of focus for Revenue with significant undeclared income identified. For example, in the case of OnlyFans the average earnings by Irish based individuals were approximately €32,500 with the highest undeclared income in excess of €2.8 million. Tax on income earned via social media has been a high-profile issue in the media over the last year. Under basic tax principles, income is taxable regardless of its source.

- ***Tourism and hospitality including short-term lettings*****:** Review of the Rent Tax Credit has led to disclosures of rental income and short term letting is a continuing focus for Revenue.

- ***Solid Fuel Carbon Tax***: Revenue's compliance activity has focused on ensuring the relevant suppliers are registered and returning the tax. The Division has work with Local Authorities in this regard.

- ***Enhanced Reporting Requirements (ERR):*** Revenue noted employers' awareness and their participation in webinars in 2024. ERR is a very new development and it is early days for compliance activity. ERR has increased the focus on expenses and their treatment. While ERR is a new area in Business Division's compliance activities, it will be a feature in the new year, when engaging with businesses in respect of Employer PAYE/PRSI (PREM).

- ***R&D Tax Credit claims***: A list of common errors identified by Revenue in respect of the 2023 Form CT1 was prepared in conjunction with Revenue's Medium Enterprises Division (MED) and circulated through TALC. The professional bodies carried the Revenue Note in their updates to members. The Division continues to see errors on returns, for example, filers who are not claiming under the correct legislative provision; not providing the split of expenditure into the three elements required by the legislation; leaving the grant and subcontractor fields blank. Claims are time-sensitive, so it is critical that claims are entered correctly.

  Practitioners noted the agreed administrative recommendation of the TALC Sub-committee on Simplification of Business Reliefs for SMEs for Revenue to complement its published guidance with information on common errors made by claimants of the R&D Tax Credit. Revenue has raised internally whether the fields related to the breakdowns of R&D expenditure could be made mandatory on the return. Scope for a webinar on completing the R&D Tax Credit panels of the CT1 was discussed at the meeting to complement the guidance on avoiding common errors.

  Practitioners highlighted the complexity of the R&D Tax Credit panels and sought that over time efforts should be made to outline the requirements in plain English on the return with prompts, so that taxpayers can understand what should be entered on the form.

<u>MyEnquiries, Phone Service delivery and Business Registrations</u>

Response time to MyEnquiries correspondence submitted to the National Employer Helpline (NEH) is prompt, with 95% of queries processed within 10 days. Revenue is conscious that issues affecting payroll are urgent. There have been 80,000 contacts with the NEH to date and 98% of calls were answered in keeping with customer standards.

The NEH favours queries submitted via MyEnquiries, where possible, as some queries are repetitive and the NEH can extract responses from a bank of responses to assist with a quick reply. The nature of the queries can result in employers asking the same query each year at a particular point in time. A response from Revenue which an employer can save on file also assists employers.

Practitioners questioned whether the statistics represent queries resolved or queries responded to within that timeframe. The statistic reflects the point at which a response is provided, however, the NEH is keen to resolve queries with the initial response, otherwise more queries are received from the employers.

Regarding MyEnquiries correspondence from employers, 95% are responded to in 10 days; 70% responded in 3 days and 77% answered in 5 days. Regarding Business Taxes registration, the Division received 218,000 contacts for registration in 2024 which is reflective of a busy economy. There was a 17% increase in contacts for registrations. 95% of calls were answered within 5 minutes. Revenue requested that businesses do not blanket register for all tax heads and instead, register for the appropriate tax heads relevant for their business and activity. The VAT phoneline operates across all the branches. It receives approximately, 3,000 calls per month. 95% of queries submitted via MyEnquiries are answered within 5 days.

The turnaround time for refunds is a key metric which is closely monitored by Revenue. €342 million in refunds have been approved to date. 36,000 refunds are currently being worked across income tax, corporation tax, CGT and RCT. Business Division has a current backlog of refund claims but it has closed more than were received ytd. Some staff have been seconded from Revenue's Personal Division to help expedite refunds.

Revenue observed that some agents are sending a high level of queries to the Division in respect of issues that are addressed in Tax and Duty Manuals (TDMs). In one case, over 400 queries were received from one small practice. However, this behaviour is not limited to very small practices or agents who are not members of professional bodies. Revenue may decide to meet with the Principals of practices where this behaviour continues, to outline its concerns about the level of contact from junior staff.

Revenue requested that agents be cognisant that submitting queries on matters already addressed in guidance adds to delays in response time to genuine queries. The **list of tasks agents can self-serve on ROS**, which the Division supplied in 2023 and the Institute circulated to members, has helped to raise awareness of these tasks and reduced contacts. Revenue asked the Institute to remind members of the ability to self-serve the tasks listed.

In addition, it would be helpful to include a reminder to members of the facility to amend a company's accounting period on ROS, as explained in a related video for agents in the **Videos for Agents webpage**. The Institute welcomed the progress made on expanding agents' awareness of self-service options on ROS and invited feedback on other common queries from agents.

Data Quality and Interventions

The accuracy of VAT and RCT returns is critical to Revenue. Staff continue to see errors in postponed accounting entries on the VAT3 return. The right to use postponed accounting has been removed by Revenue in some cases. It is important to complete the PA1 field in the VAT3 if postponed accounting applies.

The Institute noted that it had drawn members' attention to the Division's focus on this issue and on how information can be accessed on ROS to aid completion of the postponed accounting entries. A brief Revenue video to increase awareness among traders of the access available on ROS was suggested by practitioners as a useful addition to guidance available.

Regarding RCT, the accuracy of RCT returns is concerning to Revenue. Issues identified include a considerable amount of incorrect data, unknown subcontractors, post-payment notifications. Revenue is examining ways to raise awareness of errors and may engage with the Institute in this regard.

Incorrect data is driving the selection of interventions and giving rise to concerns about the quality of returns. There is also considerable non-compliance with RCT and non-engagement following contact from Revenue. The Division will ramp up the use penalties and escalate cases to deal with non-responders.

Supporting information for capital losses/reliefs

Regarding CAT/Capital Taxes, the Division's focus is on exemptions and reliefs and supporting documentation to substantiate claims, for example, capital reliefs, capital losses carried forward, connected party losses, restricted losses. It is essential to retain supporting documentation.

According to the legislation (section 546 TCA 1997), a deduction in respect of an allowable loss can only arise in the chargeable period when there is a chargeable gain against which that loss can be offset. As outlined in the related Revenue TDM, it follows that Revenue's right to make enquiries in respect of the chargeable person's entitlement to a deduction in respect of an allowable loss commences at the end of the chargeable period in which the loss is used not the period in which the loss was incurred. This has implications for the required period for which a taxpayer must hold information to substantiate a loss, if queried by Revenue.

Practitioners considered there may not be a general awareness of the extended timeframe for which supporting documents must be held, given the normal '6-year' rule which applies. Increasingly, solicitors do not hold records related to transactions for extended periods due to regulations in relation to the holding of personal data. The normal assumption would be that the claim is made when the loss is included on the return in the year it is incurred. In respect of old cases, a different agent may have been involved in the transaction so the supporting documentation may not be available to the current agent.

The Division noted that the bulk of the cases causing concerns for Revenue are cases related to losses where the taxpayer is unable to supply any supporting documents to substantiate the loss. In individual cases, Revenue will adopt a common-sense approach if information is available, and the taxpayer is making their absolute best efforts to supply the information sought which may not be fully complete due to the passage of time.

However, it is important that taxpayers and their agents are aware of the legislative position. Revenue requested that agents advise their clients to retain the supporting information especially if their solicitor is not retaining this information.

Revenue has also noted instances of the higher stamp duty rate not being applied to 'bulk purchases' of residential unit(s) where 10 or more units are acquired. Practitioners considered that tax agents would not typically deal with the stamp duty on these transactions but suggested an article in the *Irish Tax Review* could be one avenue to raise broader awareness of the issue.

On the issue raised of retaining and supplying supporting information, practitioners noted that where transfers are made from one Approved Retirement Fund (ARF) to another ARF, for a non-resident retiring to Ireland, identifying the split of the underlying income or capital to determine the appropriate tax treatment of distributions from the ARF may prove difficult.

Share-based Remuneration

Business Division advised that 105 cases are open in relation to share-based schemes. 370 have been closed generating €8 million in yield for non-payment of Relevant Tax on Share Options (RTSO). Cases examined were informed by Form 11 2022 return data. Once work in relation to the 2022 returns is concluded, the Division will move to review Form 11 2023 data. Level 1 compliance intervention letters issued. Approximately 1,000 taxpayers have not replied, and Revenue will escalate these cases.

Agents and the removal of TAINs

Revenue noted and appreciated the contact by practitioners about a tax avoidance scheme where the promoter advised in correspondence that the scheme was 'approved by Revenue'. Two TAINs have been removed from agents (who are not Institute members). One removal related to breaches of AML and a case was referred to the Gardaí. A small number of further removals of a TAIN are expected to follow. Two Economic Operators Registration and Identification (EORI) numbers have also been removed.

Revenue wants to deal with reputable professionals and support legitimate agents. Should problematic behaviours arise in respect of members of professional bodies, Revenue has the scope to make a report to the relevant professional body. Revenue reminded of the importance of an agent keeping their own tax affairs in order.

Unlicenced Trading

Revenue will seize stock if a business is trading without a liquor licence and without the stock the business is unable to trade. If a business does not have tax clearance, it will not be able to obtain a licence. Revenue has initiated Level 1 interventions which have generated engagement. Of the 1,200 cases opened, 700 had a license which lapsed and had not been renewed. 400 involved new applications for licences.

Revenue also noted the importance of having the correct Gaming Licence or Amusement Machine Licence. Revenue has observed instances where takeaways and pubs have gaming machines but have the incorrect licence or no licence at all.

Warehoused Debt

€1.7 billion has been warehoused involving 12,000 Phased Payment Arrangements (PPAs). Approximately, €1.2 billion of the warehoused debt relates to Business Division. In general, businesses are adhering to terms of the PPAs agreed. 412 PPAs were cancelled since June, due to non-compliance. 167 new PPAs were entered into for current debt. Practitioners noted that the requirement to enter into two PPAs for PAYE in light of section 997A TCA 1997 was cumbersome (i.e. a PPA for Employer PREM for the employing company and Schedule E PAYE for the proprietary director).

Employment Wage Subsidy Scheme (EWSS)

Work on the EWSS is almost concluded. 34 EWSS cases remain open with 9 of these cases at appeal. Approximately 7,600 EWSS interventions were closed yielding €133 million. Revenue thanked agents for their work in implementing the schemes and adhering to the rules of its operation.

3. Activity for 2025

Regarding 2025 compliance activities, taxpayer behaviour will determine the response by Revenue. The Division will increase the focus on non-responders. Revenue does not consider it acceptable for taxpayers not to respond to queries and intervention letters.

In scheduling its compliance activities, the Division is conscious of the pressures on tax practices in the lead up to the Pay & File deadline in particular. The Division must pursue interventions where risks are identified, however, it endeavours not to concentrate compliance interventions in the last quarter of the year.

- ***SSDT*** work will continue with bulk issue letters to suppliers and the identification of unregistered traders. Revenue recognises that in some cases, manufacturers have altered their ingredients so that they no longer fall within the scope of the SSDT.
- ***Income from accommodation sharing platforms***, such as, AirBnB.
- ***Driving instructors***, where analysis of returns has identified patterns in relation to income declared.
- ***Couriers and delivery drivers***, some of which relates to shadow economy activities.
- ***CG50 applications*** where no corresponding return of CGT is made.
- ***Form 46G compliance*** will have a bigger focus in 2025 both in terms of the quality of returns and absence of the returns. This form is an important source of information for Revenue. Revenue's approach to penalties for Form 46G non-compliance is under discussion internally.
- ***Abandoned VAT claims*.** Revenue has noticed refund claims where substantial claims are made but when Revenue seek supporting information to substantiate the claim, the claim is abandoned and there is no response from the tax agent or taxpayer. Revenue views this activity very seriously and as a potential attempted fraud. The Division will scale up a project of interventions in this area which may include visits to agents.
- ***Construction***, including employed vs. self-employed, bogus self-employment and missing RCT. This will also involve the forestry sector and meat plants.
- ***Identity theft*** and misuse of PPSNs in payroll etc.
- ***PMod****.* As outlined, Revenue has identified significant slippage in compliance with the requirements since the Covid-19 schemes ended. Revenue will focus on the accuracy and quality of returns, reporting 'on or before' payment, correct use of RPN. This activity will

involve penalties, for example, where there are repeat issues, and the employer has already been advised of the need to alter their behaviour.

- ***Share-based remuneration*** compliance activity will continue.
- ***VAT Section 22 estimates*** and the continual filing of nil returns or non-filing of returns will be examined. A taxpayer's debt warehoused may be revoked in such circumstances.
- ***VAT high-risk*** with a significant increase in activity including on VAT postponed accounting, omitted intra-community acquisitions and related gaps on returns. Revenue can and will revoke postponed accounting in appropriate cases. VAT carousel fraud e.g. typically involving motor cars, mobile phones will also feature.
- ***Shadow economy*** is a top priority, including businesses that open and close in a brief period of time. VAT and PREM issues will generally feature.
- ***Social media influencers***. Revenue guidance is being drafted in relation to more complex aspects of valuing non-cash benefits/consideration.
- ***Food and alcohol***. In the context of couriers and short-term letting.
- ***Crypto-currency*** tax obligations.
- ***Sectors with significant wage differentials*** between advertised wages and returns through payroll (e.g. suspected cash payment top-ups).
- ***Cash only businesses*** and the use of Revolut etc.
- ***Car wash and valeting*** which may surface other non-tax related issues.
- ***Legacy cases***, Business Division will conclude the small number of legacy cases on hand.
- ***Customs & Excise (C&E) activity*** in relation to alcohol, mineral oil fraud, ROM1 returns. EU commitments require Revenue to conduct a certain number of C&E audits and Revenue has noted an increase in yield. Considerable yields relate to errors regarding place of origin and preferential origin. Revenue recommends that traders carefully review imports from Great Britain.

4. Practitioners' Feedback

The Institute noted the concerns raised at TALC and other fora regarding ERR and requested that Revenue bear in mind the challenges of real-time reporting when engaging with employers on ERR compliance in 2025. In addition, the fixed penalties for ERR breaches are sizeable. Revenue advised at Main TALC that no specific compliance programme in relation to ERR was planned, however, ERR compliance is a factor in informing PREM compliance and ERR may be examined in cases in that context.

The Division confirmed that it will operate as outlined at TALC for 2025. ERR is a legislative requirement and there are considerable information resources available on the Revenue website to support employers, including videos. Reminding employers of this information may assist employers reporting Christmas gifts to staff this month. Revenue will adopt a common-sense approach to individual cases where ERR is identified during compliance interventions, provided the cases do not involve egregious behaviour. Revenue's approach in compliance interventions is driven by taxpayer behaviour.

The Employment Investment Incentive Scheme (EIIS) is an area the Division examines. Practitioners requested that Revenue staff working such cases be reminded of the information already accessible, such as on the RICT form, before initiating queries to taxpayers. Discussion at the TALC Sub-committee on the Simplification of Business Reliefs for SMEs had surfaced issues relating to difficulties for some staff in accessing RICT forms on Revenue's internal system, resulting in requests to taxpayers for information already submitted to Revenue. Practitioners also asked Revenue to produce a list of common errors and documentation needed to support claims to complement its guidance on EIIS.

Feedback and experiences of MyEnquiries was discussed. Revenue recognises that delays can arise, but efforts are made to clear backlogs as quickly as possible. System developments such as GetNext should also help the throughput of queries. Revenue is also piloting a feature on MyEnquiries which provides an estimated response time based on turnaround time on similar queries in the same period last year. Further information on this development will be made available through Main TALC in the new year.

A new callback service option has been added to the Business Division phoneline. This option means that instead of waiting on a busy phoneline, the caller can opt to have the customer service personnel call them back, while their place in the phone queue is held. The same personnel operate the phonelines and manage the IC. Revenue is keen to minimise duplication of effort from contacting Revenue by MyEnquiries and by phone to expedite queries.

Processing of CGT returns was raised by practitioners, with disparities in experiences. Introducing Variable Direct Debit for RCT was an issue that had been raised previously and Revenue is seeking feedback internally on the suggestion.

The facility to open a corporation tax period earlier in order to arrange for the payment of preliminary tax for the upcoming accounting period when a Form CT1 is filed and scope to execute an offset for corporation tax against preliminary tax, similar to income tax were suggested. The Institute will further discuss these issues at TALC considering they would have broader application than for cases within Business Division.

Practitioners experienced considerable variance in the timeline to process CGT returns and different practices relating to whether the CGT return could be processed during the year in death cases. Issues relating to the timeline for processing clearances for solicitors may be appropriate for the upcoming TALC LONA Subgroup meetings regarding non-resident vendor CGT and estate clearances.

Practitioners' feedback on the escalation of cases to enforcement as soon as queries were closed on MyEnquiries will be shared with the Collector General's Division.

Revenue welcomed the Institute's willingness to reiterate the list of tasks that agents can self-serve on ROS. In relation to ROS and the CG50 application process, practitioners noted that delays in creating the agent-link (which takes approximately two days) detracts from the usefulness of the ROS eCG50 and requested Revenue to consider if the link could be established more quickly.

AOB

Revenue noted that there would be value in the Institute highlighting the importance of succession planning for sole practitioners (i.e. identifying who will file tax returns and manage clients' compliance in the event of the agent's death and putting in place a business continuity plan). Revenue has identified instances where significant difficulties arise if no arrangements have been put in place. The Institute will consider the appropriate forum for communication on this issue.