

**Ms. Margaret Falsey,  
Committee Secretariat,  
Committee of Public Accounts,  
Leinster House,  
Dublin 2.**

**25 May 2017**

**Dear Margaret,**

I refer to your letter of 28 March 2017 and I enclose the up-to-date position on all of the recommendations contained in Chapters 13, 14 and 16 of the 2015 Annual Report of the Comptroller and Auditor General.

I also attach:

- A soft copy of the 2016 Annual Report of the Revenue Commissioners which was published last month.



If you require any further information please do not hesitate to contact me.

**Yours sincerely**

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**Niall Cody**

**Accounting Office**

## **Update on the 7 Recommendations in Chapter 13 - Revenue's Review of Medical Consultants' Tax Affairs**

### **Recommendation 13.1 (Paragraph 13.32)**

*An internal review should be carried out of a sample of cases where significant variances in the time to close are noted. This review should identify both the cause of the delays and possible steps Revenue could take to avoid such delays in the future.*

#### **Accounting Officer's response**

*Part agreed. District Managers review the reasons for delays in closing cases by consulting regularly with audit managers. Following on from recommendations previously made in Chapter 27 (Tax Audit Settlements) of the 2012 Report of the Comptroller and Auditor General, quality assurance reviews are carried out frequently and have highlighted the need to further strengthen the controls around managing the duration of audits. These increased controls are being implemented. Metrics on the duration of audits have been included on the Revenue Case Management dashboard and are constantly highlighted and discussed at Regional/Divisional management meetings and at Business Management Executive meetings.*

*In relation to the specifics of the medical consultants programme, the nature of the engagement in these cases meant that negotiations and settlements were particularly protracted and their duration would exceed that of a normal audit.*

### **Recommendation 13.2 (Paragraph 13.33)**

*Revenue should review the procedures it has in place to ensure that interest and penalties are quantified in accordance with legislation and its Code of Practice. To assist with this exercise, a sample of interest and penalty calculations should be reviewed. Where variances are noted, Revenue should collate the reasons for the variances and communicate the findings to staff to ensure that this does not reoccur on other cases.*

#### **Accounting Officer's response**

*Part agreed. More frequent quality assurance reviews have resulted in steps being taken to ensure that lessons are learned from the small number of cases where there is a deviation from the legislation and the Code of Practice in applying interest and penalties.*

*Revenue's audit guidelines are regularly reviewed and updated and messages are disseminated through a variety of fora, including National Compliance Seminars,*

*Regional Conferences, Regional Management Team meetings and Compliance Networks.*

**Recommendation 13.3 (Paragraph 13.34)**

*Revenue should ensure that the auditor has assessed/quantified the liability due and that any settlement amount agreed below that is clearly explained and recorded in the audit report.*

**Accounting Officer's response**

*Agreed. The Revenue Case Management (RCM) System is an essential part of the solution. Audit reports filed on RCM should include clear explanations on how settlements have been reached. Planning Division will re-iterate this message to staff engaged in compliance interventions.*

**Updated response to 13.1, 13.2 and 13.3**

In addition to the Quality Assurance checks that are undertaken by each District, Revenue has in place an independent Quality Assurance programme which is co-ordinated by Planning Division. In each quarter, a random sample of cases is selected by Planning Division from the closed compliance interventions and then Quality Assured by the relevant Regional Office. A sample of these cases is then further examined by Planning Division.

To assist each Regional Office and to ensure consistency, a verification template is in place which directs the checking officer to examine the specific areas. The areas for examination include interest charged, penalties agreed, (Recommendation 13.2) the length of time a case is open, (Recommendation 13.1) risks examined and tests undertaken to address the risk, the quality of the intervention report, etc. (Recommendation 13.3). Where a particular issue(s) arises or where lessons can be learned, these form part of the report. The results and recommendations from these quarterly reviews are reported and discussed at Regional/Divisional management meetings and at Business Management Executive meetings. Business Management Executive meetings are chaired by one of the three Revenue Commissioners.

**Recommendation 13.4 (Paragraph 13.35)**

*Revenue should ensure that all of the requirements of a tax settlement, including the necessity for any adjustments to financial statements, are formally communicated to the taxpayer in*

writing. Revenue should also ensure that it follows up on cases where subsequent adjustments are required as part of the settlement agreement.

### **Accounting Officer's response**

*Agreed. Revenue's Code of Practice for Audit and Other Compliance Interventions explains that we conclude Interventions by issuing a final closure letter. Where, as a result of the audit, adjustments to financial statements are required, this will be communicated in the closure letter. Revenue expects that in line with general accountancy principles, these adjustments to financial statements will be made in the normal course of events. But Revenue commits to following up on a sample of such cases to ensure that the relevant adjustments have been made.*

### **Updated response**

Revenue are reviewing the letters of Offer and Acceptance used in the closure stages of Revenue Interventions. In appropriate cases, confirmation that the taxpayer is required to make necessary adjustments to future financial statements will be included in the closing Letter of Acceptance.

A sample of approximately 8% of the cases closed up to 31/12/15 has been selected to ensure that any adjustments to financial statements required as a result of a previous intervention have been made. These are being carried out by way of an aspect query letter and depending on the response could be escalated to profile interview or re-audit.

### **Recommendation 13.5 (Paragraph 13.37)**

*Revenue should review the approval levels for settlement amounts. The approval level for amounts up to €50,000 should be incorporated into the Revenue's Case Management System. If delegation to grades below District Manager level is required for amounts up to €50,000, the procedures manual should be amended to reflect how this should be recorded and the amended approval levels should be incorporated into the Revenue's Case Management System.*

### **Accounting Officer's response**

*Part agreed. In a very significant number of cases, the Assistant Principal Audit Manager will sign off on the audit based on assigned authority from the Principal Officer District Manager. Revenue is satisfied with the current approval levels for settlements*

*but keeps these amounts under review. The various approval levels are already built into Revenue's Case Management system (RCM) and reflected in the relevant user manual. Revenue will consider if the delegation of authority to approve settlements up to €50,000 needs to be formalised in other procedures manuals and elsewhere.*

### **Updated response**

Revenue recently reviewed the current approval levels for settlements. The Revenue Board affirmed that the existing RCM approval threshold of €0 to €50,000 will continue to apply to approvals by District Managers. In turn, approval authority within that threshold can be delegated by District Managers to Assistant Principals (AP) in respect of Aspect Queries, Profile Interviews and Audit approvals and Administrative Officers/Higher Executive Officers (AO/HEO) in respect of Aspect Queries and Profile Interview approvals. District Managers will document the rationale for the delegation of approval authority to each AP, AO and HEO and will forward the documentation to be retained in the Regional Office in his/her Region. The approval levels will be reflected in the Revenue Case Management (RCM) system and in relevant user manuals.

In relation to settlements of over €50,000, the approval threshold for Assistant Secretaries has been increased to €250,000 from €100,000.

### ***Recommendation 13.6 (Paragraph 13.38)***

*The selection of settlements for further random approval at Assistant Secretary or Board level should be extended to include settlements reached following aspect queries and profile interviews.*

#### ***Accounting Officer's response***

*Not agreed. It should be noted that non-audit interventions go through the formal approval process in the same way as audits, except that there are no random referrals. As the number of non-audit interventions greatly exceeds the number of audits, the level of random referrals must be balanced with identified risks and available resources. The Revenue Board is satisfied with the current arrangements. However, a review of non-audit interventions will be conducted later in the year and the introduction of random approval for these interventions will be considered in light of that.*

### **Updated response**

The review of non-audit interventions is underway and is not yet completed. The issue of random selection of non-audit interventions for approval by the Board is being considered as part of that review.

### ***Recommendation 13.7 (Paragraph 13.39)***

*Revenue should review a sample of closed cases in this project, and should communicate any lessons learned to staff.*

### ***Accounting Officer's response***

*Agreed. As with national programmes of a similar nature, learning the findings from the caseworking carried out and imparting these in a structured way is a very important part of the overall process. In this regard, the various internal communications channels like Divisional Management meetings as well as National and Regional Compliance networks play a critical role. A knowledge of the practices adopted by medical consultants is also relevant for potential reviews of other sectors/professions.*

### **Updated response**

This project is not yet complete. As at end March 2017, there were a total of 279 interventions open on the Revenue Case Management system. The formal review of the project will take place on the conclusion of the project. However as mentioned in the original response, the lessons learned during the project are being communicated internally within Revenue through a variety of fora.

## **Update on the 3 Recommendations in Chapter 14 - Research and Development Tax Credit**

### ***Recommendation 14.1 (Paragraph 14.28)***

*Given the annual cost of the R&D scheme and the fact that it is increasing each year, Revenue should investigate the possibility of collating information on the compliance work it carried out on R&D specifically.*

### ***Accounting Officer's response***

*Agreed. Revenue is actively considering how information on R&D compliance work can be collated. A Tax and Duty Manual is currently being prepared.*

*Consideration is being given to mandating Section 766 of the Taxes Consolidation Act 1997 rather than simply reducing the amount of the credit claimed<sup>1</sup>. If this comes to pass, full visibility on the yield from R&D intervention will be available.*

### **Updated response**

Revenue has accepted Recommendation 14.1. The recommendation is being implemented with a two pronged approach. Improvements in labelling interventions since the introduction of Revenue's Case Management system (RCM) have made it easier to identify specific R&D interventions. Revenue has also updated the Corporation Tax Return for 2017 in relation to R&D. This will allow caseworkers to raise an assessment in respect of R&D adjustments required to an R&D claim made and will allow for the direct extraction of cases where an R&D tax yield arises in a case.

### ***Recommendation 14.2: Engagement of Experts (Paragraph 14.29)***

*Revenue should review its procedures for engaging experts and ensure that where the relevant limits are exceeded, evidence is retained to show that the tax cleared status of experts was confirmed prior to processing the relevant payments.*

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<sup>1</sup> Section 766 TCA 1997 provides for a specific claw back mechanism via a Case IV assessment.

### **Accounting Officer's response**

*Agreed. Revenue will review and strengthen our engagement processes for experts and ensure that relevant tax clearance procedures are followed particularly when individual experts are hired for additional engagements in the course of a tax year.*

### **Updated response**

Revenue has implemented recommendation 14.2. A revised Manual was issued to staff (Tax and Duty Manual (TDM) 29-02-05) in February 2017 on the appointment of experts to assist in R&D Audits. This manual has strengthened the procedure so as to ensure that the verification of the tax clearance position of the expert will be evidenced prior to making the necessary payments. Details of this manual were made available to tax practitioners and other interested parties by way of eBrief 19/2017 which issued on 17 February 2017.

### **Recommendation 14.3: Qualifications of Experts (Paragraph 14.30)**

*Prior to appointing an expert to the panel, Revenue should request a copy of the educational qualifications of the person applying. This should be retained on the files by Revenue.*

### **Accounting Officer's response**

*Agreed. This recommendation is being implemented. Revenue has recently implemented new procedures which entails requesting a copy of relevant qualifications when appointing an expert. Up to this, as the majority of applicants were serving academics, Revenue did not request copies of qualifications but rather reviewed the qualifications as published by the relevant college in their academic directory on their website.*

### **Updated response**

Revenue has implemented recommendation 14.3. The revised TDM 29-02-05 referred to above has strengthened the procedure so as to ensure that documentary evidence of the qualifications held by experts will be requested. Historically, as the majority were serving academics, a review of the qualifications as published by the academic institution had been deemed to be sufficient.



## **Update on the 2 Recommendations in Chapter 16 - Deferral of Tobacco Stamp Liability**

### ***Recommendation 16.1 (Paragraph 16.27)***

*Where Revenue is utilising powers, particularly for the first time, an appropriate approval process should be established setting out the different authorisation levels required.*

#### ***Accounting Officer Response***

*Agreed. As noted, this was the first time that the Large Cases Division had invoked the exceptional circumstances provision in the legislation. Whilst the authorisation process was in compliance with the relevant legislation, a procedure setting out the different authorisations required for the use of powers relevant to Tobacco Products Tax legislation will be put in place.*

### **Updated Response**

The Revenue procedures document for decisions relating to Tobacco Products Tax outlines the approval process and authorisation levels required, particularly in the case of “non standard” queries i.e. relating to matters which are not clearly outlined in the published Revenue guidelines or Public Notices and require the use of powers relevant to Tobacco Products Tax legislation.

The procedure for dealing with claims for treating a payment of tobacco tax stamp charge as being subject to “exceptional circumstances” is as follows: The application must be made in writing by the company participating in the tobacco tax stamp system, giving full details of the case and outlining why the company believes the circumstances are exceptional. The application should be made to the company's case manager. In all cases the Tobacco Products Tax Manager and the ATM District Manager must be advised that an application has been made. The case manager should satisfy her/himself that, in the event of a default, the tobacco company's bond or guarantee is sufficient to cover all likely liabilities. (If not, the company should increase the amount covered by the bond or guarantee). The case manager should prepare a note outlining

- The reason(s) the company believes the circumstances are exceptional;
- Whether the case manager agrees the reasons constitute "exceptional circumstances";

- Confirmation that the company's bond or guarantee covers all likely liabilities (or is in the process of being increased to cover the amount); and
- The case manager's recommendation as to whether the application should be approved.

The Tobacco Products Tax Manager should review the application. If s/he agrees with the recommendation s/he should forward it to the ATM District Manager. If a decision results in a major impact on the tax yield, the ATM District Manager should send the LCD Assistant Secretary a position paper summarising the case and recommending whether the application should be approved.

***Recommendation 16.2 (Paragraph 16.28)***

*Revenue should ensure that all decisions are formally documented including submission and approval of a business case, particularly for large amounts that impact on the Exchequer return figures.*

***Accounting Officer response***

*Agreed. Revenue had a robust approval system in place for the making of such decisions. It is acknowledged that there should be a formal process in place for documenting such decisions.*

**Updated Response**

The Revenue procedures document for decisions relating to Tobacco Products Tax outlines how decisions are to be recorded and documented.

Any application requiring a decision to be made by Revenue officers must be made in writing by the company participating in the tobacco tax stamp system, giving full details of the case. The case manager should prepare a note outlining the case and her/his recommendation. The Tobacco Products Tax Manager should review the application. If s/he agrees with the recommendation s/he should forward it to the ATM District Manager. If the ATM District Manager approves the application, s/he should advise the Tobacco Products Tax Manager and case manager (where applicable) accordingly, and communicate the decision to the LCD Assistant Secretary. If the decision will result in a major impact on the tax yield, the ATM District Manager should send the LCD Assistant Secretary a position paper summarising the case and recommending whether the application should be approved.

The decision should be communicated to the taxpayer as soon as possible after it is made.

The case will be recorded on Revenue's Case Management system (RCM) as an appraisal setting out full details of the case, the reasons for the decision made together with copies of all the underlying documents, including copies of relevant legislation or Revenue guidelines necessary to understand and support the decision taken by Revenue.