Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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Cathaoirleach
Chairman

Oifig na gCoimisinéirí Ioncaim
Caisleán Bhaile Átha Cliath
Baile Átha Cliath 2
D02 F342
Éire

Office of the Revenue Commissioners
Dublin Castle
Dublin 2
D02 F342
Ireland

Ms. Margaret Falsey,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.
D02 XR20

12 July 2018

Re: Meeting of 28 June 2018
Ref: PAC32-I-1005

Dear Ms Falsey,

I refer to your letter of 4 July requesting certain further information arising from the Committee meeting of 28 June last, and which I now enclose as follows:

Appendix 1 A note on cases under appeal to the Tax Appeals Commission, amount of tax in dispute and settlement amounts.

Appendix 2 Data on seizures of tobacco product, including the countries of origin. Also a copy of Revenue's press release today on the seizure of 7.9 million smuggled cigarettes, representing a potential loss to the Exchequer of €3.4 million. This case is under active investigation and the country of origin of the cigarettes is not yet known.

Appendix 3 A note on 289 cases published in the 2017 Quarterly Lists of Tax Defaulters including monies collected and outstanding.

Also, and in response to a question that arose in discussion at the meeting, I enclose:

Appendix 4 A note on 'Good Citizen Reports'.

Please let me know if anything further is required.

Yours sincerely,

Niall Cody
Chairman

T: +353 1 858 5910 F: +353 1 679 4145
chairmansoffice@revenue.ie

Appendix 1 Cases under appeal to the Tax Appeals Commission (TAC), the level of tax in dispute and the amount settled

Cases under appeal to the TAC include:

(1) Cases where there is an outstanding tax liability recorded on Revenue systems (e.g. the full amount of an assessment that has been appealed, or the balance outstanding, in a case where part-payment has been made). In this context, the *outstanding liability* is the Revenue IT system-generated amount for which collection is suspended, pending the determination of appeals. The C&AG reports on this outstanding balance.

and

(2) Cases where there is no outstanding tax liability recorded on Revenue systems (e.g. appeals against refusal of a refund, or where the appellant has paid in full the amount of tax in dispute, as an interim protective payment).

Revenue caseworkers manually record the amount of *tax in dispute*, which is considered a better indicator of the actual tax at risk, reflecting both the amount that would be available for collection if the appeal is determined in Revenue's favour; and the amount that Revenue would have to forgo or repay, should it lose the appeal. High level statistics as at July 2018 are as follows:

- 5,622 appeals relating to 2,505[1] appellants, and in respect of which
  - *Outstanding liability* approximately €1.3 billion.
  - *Tax in dispute* approximately €1.8 billion.

Appeals closed 2015 to 2018

The table below shows the number of appeals closed and the tax in dispute in each of the years from 2015 to 2018:

Year	Number of appeals	Tax in dispute (€m)
2015	1,624	1.76
2016	1,007	3.13
2017	2,036	1.02
2018 to date	470	1.09
Totals	**5,137**	**7.01**

[1] Where a taxpayer is appealing a number of tax periods in respect of the same issue, each period is counted as an individual appeal.

Proportion of tax in dispute that is likely to be collected

The types of cases under appeal can be divided very roughly into two categories:

(1) *The issue in dispute is the interpretation of the law*: The ultimate outcome when these cases are finalised tends to be ‘all or nothing’, i.e. when the appeal is finalised, the tax in dispute will either be due in full or not due at all.

(2) *The appeal is against an assessment made by Revenue (known as ‘quantum’ appeals)*: The ultimate outcome in a quantum appeal is very variable.

In each of the above categories, there is a wide range of potential outcomes. For example:

- The taxpayer may withdraw the appeal, in which case the tax in dispute requires no adjustment.
- The TAC may dismiss the appeal, in which case the tax in dispute requires no adjustment.
- The matter may be settled by agreement between Revenue and the taxpayer, in which case the tax in dispute may or may not require adjustment.
- The TAC (or the Courts) may decide the disputed matter either in Revenue’s favour or in the taxpayer’s favour; or the decision may partly favour both parties.
    - If Revenue ‘wins’ the appeal, the tax in dispute does not require adjustment, unless the TAC decides that a higher amount than that assessed by Revenue is actually due.
    - If the taxpayer ‘wins’ the appeal, the tax in dispute requires adjustment and Revenue has to either forego or repay tax.
    - In a ‘split’ decision, the tax in dispute requires adjustment to varying degrees.

It should also be noted that by the time an appeal is finalised, the taxpayer may have become insolvent or may have a proven inability to pay some or all of the debt so that, even if Revenue wins or part-wins the appeal, the tax in dispute cannot be collected, or cannot be collected in full.

The scenarios below illustrate the difference between ‘tax in dispute’ and ‘outstanding liability’, as well as the practical difficulties in attempting to establish the proportion of tax in dispute that is likely to be available for collection, or be collected, when an appeal is finalised.

Scenario 1: Appeal against assessment for €50,000.

Appellant pays the assessment in full but appeals on the basis that the assessment should only be for €40,000.

- Tax in dispute - €10,000
- Outstanding liability – nil

Potential outcomes:

a) Appellant wins appeal: €10,000 refunded by Revenue.
b) Revenue wins appeal: No additional tax available for collection.
c) Split decision with assessment determined at €45,000: Revenue refunds €5,000.

Scenario 2: Appeal against an assessment for €50,000.

Appellant appeals on the basis that the assessment should only be for €30,000, and pays €30,000.

- Tax in dispute - €20,000
- Outstanding liability - €20,000

Potential outcomes:

a) Appellant wins appeal: €20,000 discharged by Revenue
b) Revenue wins appeal: €20,000 available for collection and collected.
c) Split decision with assessment determined at €35,000: Additional €5,000 available for collection and collected.
d) Proven inability to pay all or part of the debt.
e) Appellant has become or becomes insolvent and no debt is available for collection.

Scenario 3: Appeal against assessment for €50,000, no payment made.

- Tax in dispute - €50,000
- Outstanding liability - €50,000

Potential outcomes:

a) Appellant wins appeal: €50,000 discharged by Revenue
b) Revenue wins appeal: €50,000 available for collection and collected.
c) Split decision with liability on assessment determined at €15,000: €15,000 available for collection and collected.
d) Proven inability to pay all or part of the debt.
e) Appellant has become or becomes insolvent and no debt is available for collection.

Scenario 4: Appeal against Revenue's refusal of a claim for relief for trading losses in the amount of €50,000.

- Tax in dispute - €5,000
- Outstanding liability – nil

Potential outcomes:

a) Appellant wins appeal: €50,000 available to reduce taxable income in future years.
b) Revenue wins appeal: Additional tax available for collection in future years. The tax effect of the decision will depend on the rate of tax applying in the years for which loss relief will be allowed or not allowed.

Scenario 5: Appellant receives an assessment for €50,000 and appeals against the assessment without making any payment. The dispute relates to the interpretation of a legal point.

- Tax in dispute - €50,000
- Outstanding liability - €50,000

Potential outcomes:

a) The TAC determination upholds the appellant's interpretation. Outstanding liability of €50,000 discharged in full.
b) The interpretation affects other cases at appeal, which are settled by agreement. This reduces total 'outstanding liability' and number of cases under appeal.

Scenario 6: Appeal against an assessment for €50,000 and no payment made. The dispute relates to the amount of expenses that can be claimed as a deduction.

- Tax in dispute - €50,000
- Outstanding liability - €50,000

Potential outcomes:

a) Following discussions, Revenue and the appellant agree to the deduction of some of the disputed expenses and notify the TAC that the appeal has been settled. Revenue reduces the assessment to €30,000 which the appellant pays.
b) Proven inability to pay all or part of the debt.
c) Appellant has become or becomes insolvent and no debt is available for collection.

Scenario 7: Appeal against Revenue's refusal of a claim for a PAYE refund of €5,000.

- Tax in dispute - €5,000
- Outstanding liability - nil

Potential outcomes:

a) Appellant wins appeal: €5,000 refunded by Revenue.
b) Revenue wins appeal: No additional tax available for collection.
c) Split decision with refund determined at €1,000: €1,000 refunded by Revenue.

Summary

The wide range of practical and operational complexities is such that it is not possible to forecast the proportion of the debt under appeal that is likely to be collected. An historic review of the outcomes of appeal cases that have been finalised would be a very resource-intensive manual sampling exercise, and its outcome would be an unreliable basis for prediction of the tax that will be collected in cases currently under appeal.

The Appeal Case development in Revenue's Case Management System (RCM) has recently been released, to include the facility to record information on the progress of appeals. Information on new appeals is now being recorded on RCM and over the coming months, existing data on open appeals will transition to the new system. In time, this will provide more accurate and detailed information on appeals.

Appendix 2 Data on significant seizures of tobacco product over the last number of years, including the countries of origin

The illicit cigarettes that are seized in Ireland are primarily what are known as '*cheap whites*'. These are brands that are manufactured legitimately outside Ireland and either taxed for local consumption; or untaxed for export, and then sold knowingly to traders who transport them to Ireland where they are sold illegally without payment of domestic duty. The '*cheap whites*' that are sold illegally in Ireland originate mainly in Russia, Belarus, Vietnam, China, the UAE and Eastern Europe. The table below shows the country of origin in respect of the most significant seizures of illicit cigarettes in Ireland in the period 2014-2018[2]:

Year	No. of cigarettes (m)	Country of origin
2018 (to 31/03/18)	2	United Arab Emirates (UAE)
2017	9.6	Vietnam
2017	9	China
2017	6.5	Vietnam
2017	1.6	UAE
2016	10	Vietnam
2016	8.8	Vietnam
2016	8.7	Russia
2016	6	Vietnam
2016	3	Vietnam
2015	10.8	Vietnam
2015	10.4	Bulgaria
2015	9.8	China
2015	7.7	Belgium
2015	5.1	Malaysia
2014	32	Slovenia
2014	5	Russia
2014	1.1	UAE

[2] The seizure of 23.6 million cigarettes at an illicit cigarette factory in Co Louth in March 2018 was of counterfeit product being manufactured in Ireland, not '*cheap whites*'.

Revenue press release on 12 July 2018[3]

Revenue seize 7.9 million smuggled cigarettes worth over €4.3 million in Dublin

Yesterday (11/07/2018), as part of an intelligence led operation, Revenue officers seized 7.9 million smuggled cigarettes that arrived into Dublin Port aboard a vessel from Rotterdam.

The cigarettes were identified in a shipping container said to contain 'welding equipment' and 'workshop machinery'. The seized cigarettes were 'cheap whites' branded “Business Royals” and “Gold Classic”, with a retail value of over €4.3 million, representing a potential loss to the Exchequer of approximately €3.4 million. Investigations are ongoing.

This seizure is part of Revenue's ongoing operations targeting the supply and sale of illegal cigarettes and tobacco in the shadow economy. The majority of people pay the right amount of tax and duty. If businesses or members of the public have any information about smuggling or the sale of illegal tobacco products, they can contact Revenue on Confidential phone number 1800 295 295.

[Ends 12/07/2018]

[3] https://www.revenue.ie/en/corporate/press-office/press-releases/2018/pr-120718-smuggled-cigarettes-dublin.aspx

Appendix 3 A note on tax debt remaining unpaid in respect of tax defaulters published by Revenue in 2017

Under Section 1086 of the Taxes Consolidation Act, 1997 Revenue is obliged to publish the List of Tax Defaulters within three months of the end of the relevant period in which the agreement was reached, or a Court has determined a penalty. The list is published quarterly in Iris Oifigiúil and on www.revenue.ie[5]. In 2017, 289 cases with a total settlement value of €53.13m were published in the quarterly Lists of Tax Defaulters.

Unpaid amounts

New legislation introduced in the Finance Act 2016 obliges Revenue to identify on the published lists settlements where the person has failed to pay within the relevant period. During 2017, the published Part 2 Lists identified the taxpayers who had failed to pay in full, by listing the outstanding amounts. Amounts listed as unpaid include amounts that have been approved as inability to pay, amounts that will not be pursued (e.g. liquidation) and amounts that have been referred for enforcement and not collected by the end of the relevant period. The following is a breakdown of the unpaid settlements in 2017:

	No. published	No. with an amount unpaid at the end of the relevant period	%	Total amount published €m	Total amount unpaid at the end of the relevant period €m	%
Q1 2017	86	29	34	€14.40	€4.10	28
Q2 2017	58	19	33	€11.08	€5.68	51
Q3 2017	81	27	33	€17.43	€11.26	65
Q4 2017	64	26	41	€10.22	€4.92	48
Total	**289**	**91**		**€53.13**	**€25.96**	

As at 30 June 2018, €25.78m, in respect of 89 cases, remains outstanding. Of this, €11.64m (45%) relates to debt that is not collectable (€8.54m in cases of proven inability to pay and €3.1m other debt that is not collectable e.g. liquidation). The balance of €14.14m is being actively pursued.

[5] https://www.revenue.ie/en/corporate/press-office/list-of-defaulters/index.aspx

Appendix 4 Good Citizen Reports

Members of the public can make a report to Revenue about suspected tax evasion or shadow economy activity either online, by completing and submitting the Tax Evasion Report Form; or by letter, email, or telephone call, to any Revenue office. These reports are known as 'Good Citizen Reports' and the information provided is treated as strictly confidential.

Any sort of information may be useful, but the more specific it is the better we will be able to act on it. The following details are particularly useful:

- a description of the activity (for example, the type of business, trade or other activity being carried on, where it is happening and when it started)
- address of the business or the name and address (home, business or web address) of the suspected evader
- telephone contact numbers (land line or mobile numbers)
- approximate age of the suspected evader
- the make, model, colour and registration number of any car, van or other vehicle, owned or used by the business or person
- information about how the business or other activity is advertised (details or samples of 'flyers' or other advertisements)
- evidence that the business or person is involved in tax evasion, including details of any others involved in the evasion
- a Value-Added Tax (VAT) number (if displayed on invoices, vehicles and so on).

Where the information provided is sufficiently detailed or specific, we use it to investigate the business or person suspected of tax evasion. If the information may be useful to another State agency, we pass it on to them. For example, information about an individual who is 'working and signing' is useful to both Revenue and to the Department of Employment Affairs and Social Protection (DEASP).

For reasons of taxpayer confidentiality, we do not report back to the person who provides the information on the outcome of an investigation into tax evasion.

In the period from 2016 to the end of May 2018, Revenue received a total of 9,721 Good Citizen Reports. The yield from 2,971 reports received in 2016 was €4.9m; while the yield from 4,734 reports received in 2017 was €2.6m.