



## **Tithe an Oireachtais**

### **An Coiste um Leasanna Chomhaltaí Dháil Éireann**

#### **Breithniú ar Nithe a Eascraíonn as Dearbhú Easnamhach Cánach Breisluacha ag M&J Wallace Ltd.**

#### **Tuarascáil ón gCoiste**

**Iúil 2012**

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### **Houses of the Oireachtas**

#### **Committee on Members' Interests of Dáil Éireann**

#### **Consideration of Matters Arising from the Under- Declaration of Value Added Tax by M&J Wallace Ltd.**

#### **Report of the Committee**

**July 2012**

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*The Committee on Members' Interests of Dáil Éireann, having regard to public debate and controversy arising from the statement by Deputy Mick Wallace that he knowingly made a false Value-Added Tax declaration to the Revenue Commissioners in respect of M&J Wallace Ltd., considered the matter with a view to establishing whether it was appropriate that the Committee carry out an investigation into the matter. The Committee has made progress in the matter and has decided to make this report to the Dáil.*

## **Introduction**

1. The Committee on Members' Interests of Dáil Éireann (the "Committee") is a Standing Committee whose appointment is provided for in Standing Order 101 of the Standing Orders relative to Public Business of Dáil Éireann and section 8 of the Ethics in Public Office Act 1995 (the "1995 Act") as amended by the Standards in Public Office Act 2001 (the "2001 Act") (collectively referred herein after as "the Acts"). The Committee is charged with performing the functions conferred on it by the Acts.
2. Briefly, those functions are –
  - where a complaint that a member has contravened the Acts is referred or made to the Committee, or the Committee considers it appropriate to do so, to carry out an investigation;
  - from time to time, to draw up and publish to members guidelines concerning steps to be taken by members to ensure compliance by them with the Acts;
  - at the request of a member, to give advice to the member in relation to any provision of the legislation to ensure compliance with the Acts.
3. Pursuant to the legislation, the Committee is tasked with investigating alleged or potential breach of the legislative provisions. This includes the doing of a "specified act" by a member or connected person, being an act or an omission that is, or the circumstances of which are, inconsistent with the proper performance by such member of the functions of the office of member or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance.
4. These functions of the Committee relate only to those members of Dáil Éireann who are *not* holders of certain public offices.

## **Background**

5. The false Value-Added Tax declaration to the Revenue Commissioners in respect of M&J Wallace Ltd. was reported in the media on 7<sup>th</sup> June 2012. On the same day, Deputy Wallace was interviewed on Morning Ireland in relation to the matter. Matters arising from the false declaration immediately became a source of public debate and controversy.
6. By letter dated 8<sup>th</sup> June, 2012, the Ceann Comhairle, Sean Barrett T.D., wrote to the Chairman of the Committee, Deputy Thomas Pringle, requesting that "...*In view of the grave issues raised by the admission by Deputy Wallace of his under declaration of VAT payments by his construction firm and the implication this has for democracy and the standing of the Dáil and the Members...*" the Committee examine the issue with a view to conducting an investigation as the Committee might see fit.

## **Deliberations of the Committee**

7. At its meeting of 13<sup>th</sup> June 2012, the Committee gave consideration to the request from the Ceann Comhairle. Pursuant to Section 9(1) of the 1995 Act, the Committee has „original jurisdiction“ to carry out an investigation when it considers it appropriate to do so. The Committee decided that, in order to determine whether it is appropriate that the Committee carry out an investigation, it must firstly determine whether any matters which may be at issue were done by Deputy Wallace or a connected person during his tenure in office, and thus within its jurisdiction.
8. The Committee was of the view that it was necessary to establish a timeline of events, commencing with the making of the false returns and ending with the listing of M&J Wallace Ltd in the Revenue Commissioners“ list of defaulters, for the purpose of establishing the parameters of the Committee“s jurisdiction.
9. The following were amongst the matters the Committee decided it must establish before arriving at any such determination:
  - (1) the accounting period or periods relevant to the understatement of VAT receipts by M&J Wallace Ltd;
  - (2) Deputy Wallace“s role in the making of any such understatement;
  - (3) the date or dates on which the return or returns which understated such VAT receipts were made to the Revenue Commissioners;
  - (4) the date and circumstances of the aforesaid understatements becoming known to the Revenue Commissioners;
  - (5) the dates of commencement and conclusion of the settlement negotiations between the Revenue Commissioners and M&J Wallace Ltd;
  - (6) the date of the settlement agreement entered into between M&J Wallace Ltd and the Revenue Commissioners; and
  - (7) the details of the settlement agreement including details as to any repayment schedule contained therein.
9. Accordingly, the Committee wrote to Deputy Wallace and M&J Wallace Ltd. requesting this information. The Committee also requested that M&J Wallace Ltd. (i) indicate whether it consented to the Revenue Commissioners disclosing the above information to the Committee and (ii) if the company so consented, to include a letter to the Office of the Revenue Commissioners communicating such permission with its reply.
10. On 21<sup>st</sup> June 2012, the Committee received correspondence from Deputy Wallace and M&J Wallace Ltd. in response to its letters of 13<sup>th</sup> June.
11. The letter from M&J Wallace advised that the issues raised in the Committee“s letter were being dealt with by Mick Wallace T.D.
12. In his reply to the Committee, Deputy Wallace advised that the accounting period relevant to the understatement of VAT receipts by M&J Wallace Ltd. was the year ended 31/8/2009 and the year ended 31/8/2010 and therefore before his tenure in office. A letter

from the Revenue Commissioners confirming this statement was also provided by Deputy Wallace.

13. At its meeting on 21<sup>st</sup> June , the Committee considered both items of correspondence. It was of the view that Deputy Wallace's correspondence dealt with only one of the questions posed by it in its letter of 13<sup>th</sup> June 2012, i.e. the accounting period or periods relevant to the understatement of VAT receipts by M & J Wallace Ltd. Consequently, it was not possible for the Committee to determine whether the matters at issue fell within its jurisdiction, i.e. were subsequent to Deputy Wallace's election to Dáil Éireann
14. The Committee accordingly wrote to Deputy Wallace requesting that he address the other six questions set out in its letter of 13<sup>th</sup> June.
15. On 25<sup>th</sup> June 2012, the Committee received correspondence from solicitors acting on behalf of Deputy Wallace. It noted that the matter which the Ceann Comhairle brought to the attention of the Committee was "*The under-declaration of VAT payments by his construction firm and the implications of this for (democracy and ) the standing of the Dáil and the Members*". It reiterated that the matters at issue were done prior to Deputy Wallace's tenure in office and thus were outside of the jurisdiction of the Committee. Referring to the additional information sought by the Committee in its letter of 21<sup>st</sup> June, it was argued that this went beyond what was necessary to determine the issue of jurisdiction and that it was wholly inappropriate for the Committee to embark on expansive and unnecessary queries before the jurisdiction of the Committee was conclusively established. Deputy Wallace's solicitors also sought clarification on (i) the specific statutory provision being relied on to confer authority of the Committee to carry out an investigation in relation to Deputy Wallace and (ii) the specific act or omission which it is was alleged Deputy Wallace may have done which constituted a statutory basis for the carrying out of an investigation by the Committee.
16. The Committee met on 27<sup>th</sup> June to consider the issues raised in this correspondence. On 28<sup>th</sup> June , it responded by letter, providing the following clarifications –
  - the Committee was not in any way limited by the content of the Ceann Comhairle's correspondence in this matter;
  - the Committee was determining whether the issues raised by Deputy Wallace's admission were matters in respect of which it might and should investigate;
  - the Committee was seeking to establish, based on the information available to it first hand, a timeline of events, commencing with the making of the false returns and ending with the inclusion of M&J Wallace Ltd in the Revenue Commissioner's list of defaulters, for the sole purpose of assessing the parameters of the Committee's jurisdiction;
  - the Committee had no jurisdiction to investigate the false declarations themselves as this was a matter which fell solely to the Revenue Commissioners and, if appropriate, the DPP;

- the Committee was satisfied that the circumstances of the under-declarations of VAT, having occurred prior to Deputy Wallace's tenure as member of Dáil Éireann, fell outside of the jurisdiction conferred on the Committee by the ethics legislation;
- the Committee had jurisdiction, however, to investigate any breach of the ethics legislation, including any acts/omissions of a member or a „connected person“ (within the meaning of the ethics legislation) which may constitute a „specified act“ (within the meaning of the legislation), where such acts/omissions occurred during a member's tenure;
- the Committee was not in investigative mode at the time of writing as it must still determine this jurisdictional issue; any questions relating to a possible investigation by the Committee were therefore premature.

The Committee's letter reiterated that the Committee was determining whether the issues raised by the admission were matters in respect of which the Committee might and should investigate. Based on the information provided by Deputy Wallace and the Revenue Commissioners to date, all that had been established thus far was that the under-declarations of VAT related to accounting periods predating Deputy Wallace's election to Dáil Éireann. The Committee, therefore, again called upon Deputy Wallace to provide a statement of the information sought, to the fullest extent possible, to the Committee together with supporting evidence from the Revenue Commissioners to enable it to determine this net issue.

17. By letter of 3<sup>rd</sup> July 2012, solicitors acting on behalf of Deputy Wallace requested additional time to respond comprehensively to the Committee's correspondence. A meeting of the Committee scheduled for 4<sup>th</sup> July 2012 was therefore deferred until 11<sup>th</sup> July 2012.
18. By letter of 10<sup>th</sup> July 2012, solicitors acting on behalf of Deputy Wallace again questioned the purpose of the Committee's request for additional information. In view of the acknowledgement by the Committee that the circumstances of the under-declaration of VAT liability fell outside of the jurisdiction conferred on the Committee by the ethics legislation, the letter advocated that the Committee should conclude matters. Otherwise, it considered the Committee to be acting without jurisdiction, in breach of natural and constitutional justice and ultra vires the ethics legislation. The letter stated that, without prejudice to the above, the returns were made to the Revenue Commissioners during the accounting periods year ending 31/08/2009 and 31/08/2010 and the under declaration was made known to the Revenue Commissioners during the accounting period year ending 31/08/2010, prior to Deputy Wallace's tenure as a member of Dáil Éireann.

## **Conclusions**

19. In its report on a Code of Conduct for Members of Dáil Éireann (pursuant to the Standards in Public Office Act 2001), published in May 2001, the Committee on Members' Interests of Dáil Éireann made the following observations in relation to activities of Members prior to their election—

*“The question was raised with the Committee as to whether or not the activities of a Member before he/she was elected to the Dáil should be governed by the Code of Conduct. Examples cited were where a Member had belonged to a terrorist organisation or had engaged in other forms of illegal activity. The Committee is of the view that it would be unjust to apply the Code of Conduct retrospectively to the activities of persons who were not governed by the Code at the relevant time. It is noted, of course, that Members may be accountable in other ways for activities engaged in before their election, for example, through the courts or non-statutory political processes.”*

20. The Committee is satisfied from the evidence received that the accounting period relevant to the under-declarations of VAT in respect of M&J Wallace Ltd., being prior to Deputy Mick Wallace’s tenure as member of Dáil Éireann, fell outside of the jurisdiction conferred on the Committee by the ethics legislation.
21. Having taken advice on the matter, the Committee is satisfied that it has no jurisdiction to investigate the tax compliance of Deputy Wallace and or M&J Wallace Ltd., as this is a matter which falls solely to the Revenue Commissioners and, if appropriate, the DPP.
22. The Committee attempted to establish a timeline of events, commencing with the making of the false returns and ending with the listing of M&J Wallace Ltd in the Revenue Commissioners’ list of defaulters, for the purpose of establishing the parameters of the Committee’s jurisdiction. Despite several contacts between this Committee and Deputy Wallace and his solicitors, the Committee has been unable to establish whether certain aspects of the matters at issue were done by Deputy Wallace or a connected person during his tenure in office, and thus within its jurisdiction.
23. Unless and until Deputy Wallace provides the information sought, together with supporting evidence from the Revenue Commissioners, the Committee is of the opinion that it will be unable to determine its jurisdiction in the matter and in the circumstances is making this report to Dáil Éireann.
24. The Committee is of the view that the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 pose ongoing difficulties for the Committee from both a legal and procedural perspective in effectively carrying out its functions and accordingly recommends that the legislation be extensively reviewed.



Thomas Pringle T.D.  
Chairman

11 July 2012

## Appendix 1

### Members of the Committee on Members' Interests of Dáil Éireann

**Deputies:**

John Browne, (FF)

Olivia Mitchell, (FG)

Thomas Pringle, (Ind) (Chairman)

David Stanton, (FG)

Jack Wall, (Lab)

Notes:

1. Members appointed to the Committee by order of the Dáil on 9 June 2011
2. Deputy Thomas Pringle elected to the position of Chairman of the Committee on 29 June 2011



## Appendix 2

### Correspondence

- (i) *Letter to the Committee from An Ceann Comhairle*
- (ii) *Letters from the Committee to Deputy Wallace and M&J Wallace Ltd.*
- (iii) *Response to the Committee from Deputy Wallace and M&J Wallace Ltd.*
- (iv) *Letter from Committee to Deputy Wallace of 21<sup>st</sup> June 2012*
- (v) *Response to the Committee by Redmond & Co., Solicitors of 25<sup>th</sup> June 2012*
- (vi) *Letter from Committee to Redmond & Co., Solicitors of 28<sup>th</sup> June 2012*
- (vii) *Response to the Committee by Redmond & Co., Solicitors of 3<sup>rd</sup> July 2012*
- (viii) *Response to the Committee by Redmond & Co., Solicitors of 10<sup>th</sup> July 2012*



## Ceann Comhairle

Deputy Thomas Pringle,  
Chairman,  
Members' Interests Committee,  
Dáil Éireann.

8<sup>th</sup> June 2012

Dear Chairman,

In view of the grave issues raised by the admission by Deputy Mick Wallace of his under-declaration of VAT payments by his construction firm and the implications this has for democracy and the standing of the Dáil and the Members, I would request that your committee would examine the issues raised with a view to conducting an appropriate investigation as you may see fit.

I am making my request in view of the fact that the Dáil Committee on Procedure and Privileges would have no function in the matter whereas the Members Interests Committee would appear to have a role in the legal framework provided under the Ethics in Public Office legislation to conduct an investigation as required.

Yours sincerely,

Seán Barrett TD  
Ceann Comhairle



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An Coiste um Leasanna  
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Committee on Members'  
Interests of Dáil Éireann  
Leinster House  
Dublin 2

Tel: (01) 618 3850  
Email: john.hamilton@oir.ie

Mr. Mick Wallace TD  
Leinster House,  
Dublin 2.

13 June 2012

Ref: I021/ R029

Dear Deputy Wallace,

The Select Committee on Members' Interests of Dáil Éireann has been requested to examine the issues raised by your statement that you knowingly made a false Value-Added Tax declaration to the Revenue Commissioners in respect of MJ Wallace Ltd.

The Committee has authority pursuant to the Ethics in Public Office Acts 1995 and 2001 to carry out an investigation to determine whether a member of Dáil Éireann has contravened the Acts<sup>1</sup>.

At its meeting of 13 June 2012, the Committee gave consideration to the matter and decided that: in order to determine whether it is appropriate that the Committee carry out an investigation, it must firstly determine that the matters at issue were done by you or a connected person during your tenure in office, and thus within its jurisdiction.

The following are amongst the matters the Committee has decided it must establish before arriving at any such determination:

- (1) the accounting period or periods relevant to the understatement of VAT receipts by MJ Wallace Ltd;
- (2) your role in the making of any such understatement;
- (3) the date or dates on which the return or returns which understated such VAT receipts were made to the Revenue Commissioners;
- (4) the date and circumstances of the aforesaid understatements becoming known to the Revenue Commissioners;
- (5) the dates of commencement and conclusion of the settlement negotiations between the Revenue Commissioners and MJ Wallace Ltd;
- (6) the date of the settlement agreement entered into between MJ Wallace Ltd and the Revenue Commissioners; and
- (7) the details of the settlement agreement including details as to any repayment schedule contained therein.

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<sup>1</sup> See Section 9 of the 1995 Act as amended by Schedule 1 to the Standards in Public Office Act 2001

The Committee would be grateful if you could assist it by providing the above information at your earliest convenience.

The Committee is to meet again on 21 June 2012 to consider the matter further and would be grateful for your response in writing by that time.

The Committee has also requested that MJ Wallace Ltd.:

- 1) indicate whether it consents to the Revenue Commissioners disclosing the above information to the Committee; and
- 2) if the company so consents, to include a letter to the Office of the Revenue Commissioners communicating such permission with its reply.

Yours sincerely,



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John Hamilton  
Clerk to the Committee.





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Committee on Members'  
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Leinster House  
Dublin 2

Tel: (01) 618 3850  
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M.J Wallace Ltd.  
24 Lower Ormond Quay,  
Dublin 1.

13 June 2012

**Ref:** I022/ R029

To whom it may concern,

The Select Committee on Members' Interests of Dáil Éireann has been requested to examine the issues raised by the statement of Deputy Mick Wallace that he knowingly made a false Value-Added Tax declaration to the Revenue Commissioners in respect of MJ Wallace Ltd.

The Committee has authority pursuant to the Ethics in Public Office Acts 1995 and 2001 to carry out an investigation to determine whether a member of Dáil Éireann has contravened the Acts<sup>1</sup>.

At its meeting of 13 June 2012, the Committee gave consideration to the matter and decided that: in order to determine whether it is appropriate that the Committee carry out an investigation, it must firstly determine that the matters at issue were done by the member or a connected person during the member's tenure in office, and thus within its jurisdiction.

The following are amongst the matters the Committee has decided it must establish before arriving at any such determination:

- (1) the accounting period or periods relevant to the understatement of VAT receipts by MJ Wallace Ltd;
- (2) the role of Mr. Mick Wallace in the making of any such understatement;
- (3) the date or dates on which the return or returns which understated such VAT receipts were made to the Revenue Commissioners;
- (4) the date and circumstances of the aforesaid understatements becoming known to the Revenue Commissioners;
- (5) the dates of commencement and conclusion of the settlement negotiations between the Revenue Commissioners and MJ Wallace Ltd;
- (6) the date of the settlement agreement entered into between MJ Wallace Ltd and the Revenue Commissioners; and
- (7) the details of the settlement agreement including details as to any repayment schedule contained therein.

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<sup>1</sup> See Section 9 of the 1995 Act as amended by Schedule 1 to the Standards in Public Office Act 2001

The Committee would be grateful if you could assist it by providing the above information at your earliest convenience

The Committee is to meet again on 21 June 2012 to consider the matter further and would be grateful for your response in writing by that time.

The Committee also asks that:

- 1) MJ Wallace Ltd. indicate whether it consents to the Revenue Commissioners disclosing the above information to the Committee; and
- 2) if the company so consents, to include a letter to the Office of the Revenue Commissioners communicating such permission with its reply.

Yours sincerely,



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John Hamilton  
Clerk to the Committee.



Mick Wallace

Committee on Members' Interests of Dail Eireann

Leinster House

Dublin 2

By Email [john.hamilton@oir.ie](mailto:john.hamilton@oir.ie)

Ref: I021/R029

21<sup>st</sup> June 2012

Re: Under declaration of VAT liability to Revenue Commissioners in respect of M & J Wallace Limited

Dear Mr. Hamilton,

I refer to your letter dated 13<sup>th</sup> June 2012.

I note that at the meeting of the Select Committee on Member's Interests on the 13<sup>th</sup> June 2012, the Committee decided that in order to determine whether it is appropriate that the Committee carry out an investigation, it must firstly determine that the matters at issue were done by me or a connected person during my tenure in office, and thus come within your jurisdiction.

The accounting period relevant to the understatement of VAT receipts by M & J Wallace Limited is the year end 31/8/2009 and year end 31/8/2010 and thus before my tenure in office, and I attach letter from the Revenue Commissioners dated 21<sup>st</sup> June 2012 confirming this.

Please revert once you have completed your consideration of the preliminary issue of jurisdiction.

Yours faithfully,

Mick Wallace

MICK WALLACE TD



# WALLACE

**M & J. WALLACE LTD**



Office No:

01 8874406

Fax No:

01 8874398

Email:

[info@wallace.ie](mailto:info@wallace.ie)

Committee on Members' Interests of Dail Eireann

Leinster House

Dublin 2

By Email [john.hamilton@oir.ie](mailto:john.hamilton@oir.ie)

Ref: I022/R029

21<sup>st</sup> June 2012

Re: Under declaration of VAT liability to Revenue Commissioners in respect of M & J Wallace Limited

Dear Mr. Hamilton,

We refer to your letter dated 13<sup>th</sup> June 2012 and note that the issues raised therein are being dealt with by Mick Wallace TD, and that you have received confirmation from the Revenue Commissioners regarding the relevant accounting period.

Please revert once you have completed your consideration of the preliminary issue of jurisdiction.

Yours faithfully,

M & J Wallace Limited

M & J Wallace Limited





Revenue



Office of the Revenue Commissioners  
Dublin Regional Office  
Apollo House  
Tara Street  
Dublin 2, Ireland

Oifig na gComisínéirí Ioncaim  
Oifig Réigiúnach Bhaile Átha Cliath  
Teach Apollo  
Sráid Tara  
Baile Átha Cliath 2, Éire

21 June 2012.

Deputy Mick Wallace,  
Dáil Éireann,  
Dublin 2.

Dear Deputy,

I can confirm that the accounting periods relevant to the understatement of VAT receipts by M & J Wallace Limited are the year end 31/8/2009 and the year end 31/8/2010.

Yours sincerely,

**Philip Brennan,**  
Assistant Secretary,  
Dublin Region.



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Mr. Mick Wallace TD  
Leinster House,  
Dublin 2.

21 June 2012

**Ref:** I023/ R030

Dear Deputy Wallace,

I have been directed by Thomas Pringle T.D., Chairman of the Committee on Members' Interests of Dáil Éireann, to refer to your letter of 21 June 2012 and the letter from M & J Wallace Ltd of the same date concerning the under declaration of VAT liability to the Revenue Commissioners in respect of M & J Wallace Ltd. Both letters were considered by the Committee at its meeting on 21 June 2012.

The Committee noted your reply dealt with only one of the questions posed by it in its letters to you and M & J Wallace Ltd., dated 13 June 2012:

(1) the accounting period or periods relevant to the understatement of VAT receipts by M & J Wallace Ltd;

In order to proceed with its determination whether it is appropriate that the Committee carry out an investigation into this matter, the Committee requests that you address the other six questions posed:

- (2) your role in the making of any such understatement;
- (3) the date or dates on which the return or returns which understated such VAT receipts were made to the Revenue Commissioners;
- (4) the date and circumstances of the aforesaid understatements becoming known to the Revenue Commissioners;
- (5) the dates of commencement and conclusion of the settlement negotiations between the Revenue Commissioners and M & J Wallace Ltd;
- (6) the date of the settlement agreement entered into between M & J Wallace Ltd and the Revenue Commissioners; and
- (7) the details of the settlement agreement including details as to any repayment schedule contained therein.

The Committee has also requested that M & J Wallace Ltd.:

- indicate whether it consents to the Revenue Commissioners disclosing the above information to the Committee; and
- if the company so consents, to include a letter to the Office of the Revenue Commissioners communicating such permission with its reply.

The Committee notes from the letter from M & J Wallace Ltd. that you are also dealing with this matter.

The Committee would be grateful for your response in writing in advance of its next meeting on 27 June 2012 when it will consider the matter further.

Yours sincerely,



---

John Hamilton  
Clerk to the Committee



# REDMOND & CO.

## ■ SOLICITORS ■

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• **BY RECORDED POST** •

Mr John Hamilton  
Clerk to the Committee  
Committee on Members' Interest of Dáil Éireann  
Leinster House  
Dublin 2

Our Ref:

• **By Post & Email – john.hamilton@oir.ie** •

Your Ref:

Date:

NR/CD/

25 June 2012

Re: Under Declaration of VAT Liability to Revenue Commissioners in Respect of M&J  
Wallace Limited

---

Dear Mr Hamilton

We have been asked by Deputy Mick Wallace to respond to your letters of 13 June and 21 June and we now do so having taken instructions from our client, having considered the relevant statutory provisions and on the basis of advice from Senior and Junior Counsel.

We note that the matter which the Ceann Comhairle brought to the attention of the Committee is:

*"The under-declaration of VAT payments by his construction firm and the implications of this for (democracy and) the standing of the Dáil and the Members."*

In your letter of 13 June 2012 you state that at its meeting of 13 June 2012, the Committee decided that in order to determine whether it is appropriate that the Committee carry out an investigation, it must firstly determine that the matters at issue were done by Deputy Wallace or a connected person during his tenure in office.

We fully agree that the issue of jurisdiction must be determined as a preliminary matter before the Committee embarks on any enquiry in relation to the substantive matter.

Insofar as this jurisdictional enquiry requires a determination as to whether the matters at issue – which can only be the matter which the Ceann Comhairle brought to the attention of the Committee – were done prior to Deputy Wallace's tenure in office, it is manifestly clear that this issue can be conclusively disposed of based on the information already provided.

By letter dated 21 June 2012, Deputy Wallace succinctly explained that the accounting periods relevant to the under-declaration of VAT receipts by M&J Wallace Limited were year end 31 August 2009 and 31 August 2010 and thus before his tenure in office. This is confirmed in writing by the Office of the Revenue Commissioners. Accordingly, it is clear

that the "matters at issue" were done prior to Deputy Wallace's tenure in office and thus are outside the jurisdiction of the Committee.

By letter dated 21 June 2012, the Committee sought further information from Deputy Wallace. This information goes beyond what is necessary to determine the issue of jurisdiction. It is wholly inappropriate for the Committee to embark upon expansive and unnecessary enquiries before the jurisdiction of the Committee is conclusively established.

In this regard, we note that while you refer, in your letter of 13 June 2012, to section 9 of the Ethics in Public Office Act, 1995 (as amended by schedule 1 of the Standard in Public Office Act, 2001), you fail to identify the element or portion of that section which you allege confers authority on the Committee to carry out an investigation in relation to Deputy Wallace and/or the basis upon which this investigation is being conducted. Moreover, you fail to identify the alleged transgression or wrongful act, by reference to the relevant statutory provision, which permits the carrying out of an investigation in relation to Deputy Wallace.

You will appreciate that it is impossible us or for Deputy Wallace to properly consider the request for information without first being properly informed of the basis for the investigation.

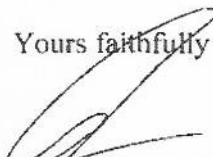
Accordingly, we would call on the Committee to confirm by return:

- (i) The specific statutory provision being relied on to confer authority on the Committee to carry out an investigation in relation to Deputy Wallace; and
- (ii) The specific act or omission which it is alleged Deputy Wallace may have done which constitutes a statutory basis for the carrying out of an investigation by the Committee.

In the circumstances, we look forward to receiving answers to the questions posed at (i) and (ii) above, by return, and/or confirmation that the investigation is being discontinued for want of jurisdiction based on the information already provided.

All future correspondence in relation to this matter should be addressed to this firm.

Yours faithfully

  
REDMOND & CO.





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Committee on Members'  
Interests of Dail Eireann  
Leinster House  
Dublin 2

Tel: (01) 618 3850  
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Ms Noeleen Redmond,  
Redmond & Co Solicitors,  
Bridge Point,  
Abbey Square,  
Enniscorthy,  
Co Wexford.

28 June 2012

**Our Ref:** I024/ R032  
**Your Ref:** NR/CD/

Dear Ms Redmond,

I have been directed by Thomas Pringle T.D., Chairman of the Committee on Members' Interests of Dail Eireann, to refer to your letter of 25 June 2012 concerning the under declaration of VAT liability to the Revenue Commissioners in respect of M & J Wallace Ltd. This letter was considered by the Committee at its meeting on 27 June 2012.

The Committee on Members' Interests of Dail Eireann has original jurisdiction to investigate members of Dail Eireann, pursuant to section 9(1) of the Ethics in Public Office Acts 1995 and 2001 ('the ethics legislation'), where it considers it appropriate to do so. The correspondence from the Ceann Comhairle to which you refer was not considered by the Committee to be a complaint within the meaning of the ethics legislation. The Committee was separately appraised of the matters at issue and, at this point in time, is considering whether it should exercise its own original jurisdiction in this matter. You should, therefore, note that the Committee is not in any way limited by the content of the Ceann Comhairle's correspondence in this matter, as you have suggested.

As per our previous correspondence to both of your clients, the Committee is determining whether the issues raised by your client's, Deputy Wallace's, admission is a matter in respect of which this Committee may and should investigate. At this point in time, therefore, the Committee is seeking to establish, based on the information available to it first hand, a timeline of events, commencing with the making of the false returns and ending with the inclusion of M&J Wallace Ltd in the Revenue Commissioner's list of defaulters, for the sole purpose of assessing the parameters of the Committee's jurisdiction. In this regard, a number of matters are certain:

Firstly, the Committee has no jurisdiction to investigate the false declarations themselves as this is a matter which falls solely to the Revenue Commissioners and, if appropriate, the DPP. Furthermore, having examined both your clients' correspondence and correspondence from the Revenue Commissioners, the Committee is satisfied that the circumstances of the

under-declarations of VAT by your client, having occurred prior to Deputy Wallace's tenure as member of Dáil Éireann, fall outside of the jurisdiction conferred on this Committee by the ethics legislation. The Committee has jurisdiction, however, to investigate any breach of the ethics legislation, including any acts/omissions of a member or a 'connection person' (within the meaning of the ethics legislation) which may constitute a 'specified act' (within the meaning of the legislation), where such acts/omissions occur during a member's tenure.

As is clear from the above, the Committee is not in investigative mode at this stage as it must still determine this jurisdictional issue. Your request for, in effect, a statement of contravention is, at this point in time, therefore, premature. As there has been no determination that it is appropriate for this Committee to investigate this matter, there is no investigation to discontinue, as you have suggested.

Based on the information provided by your clients and the Revenue Commissioners to date, all that has been established thus far is that the under-declarations of VAT relate to accounting periods predating Deputy Wallace's election to Dáil Éireann. The Committee, therefore, again calls upon your clients to provide a statement of the information sought, to the fullest extent possible, to this Committee together with supporting evidence from the Revenue Commissioners to enable it to determine this net issue.

The Committee would be grateful for your response in writing in advance of its next meeting on 4 July 2012 when it will consider the matter further.

Yours sincerely,



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John Hamilton  
Clerk to the Committee



# REDMOND & CO.

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■ SOLICITORS ■

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• **BY RECORDED POST** •

Mr John Hamilton  
Clerk to the Committee  
Committee on Members' Interest of Dáil Éireann  
Leinster House  
Dublin 2

• **By Post & Email – john.hamilton@oir.ie** •

Our Ref:

Your Ref:

Date:

NR/CD/

3 July 2012

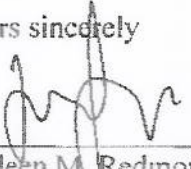
Re: Under Declaration of VAT Liability to Revenue Commissioners in Respect of M&J  
Wallace Limited

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Dear Mr Hamilton

Thank you for your letter of 28<sup>th</sup> ult. We are consulting with our client and will be responding to you on his behalf in the coming days. While it is not possible to respond comprehensively by the suggested time limit of 4<sup>th</sup> inst, we will be replying to you on our client's behalf at the earliest possible date.

Yours sincerely

  
Noeleen M. Redmond  
REDMOND & CO.



# REDMOND & CO.

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**BY RECORDED POST**

Mr John Hamilton  
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Committee on Members' Interest of Dáil Éireann  
Leinster House  
Dublin 2

**By Post & Email – [john.hamilton@oir.ie](mailto:john.hamilton@oir.ie)**

Our Ref: NR/PH/ Your Ref: Date: 10 July 2012

Re: Under Declaration of VAT Liability to Revenue Commissioners in Respect of M&J Wallace Limited

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Dear Mr Hamilton

We refer to the above matter and to your letter of 28 June 2012. We have now had the opportunity of consulting with our client and counsel and would respond as follows:

We are at a loss to understand the purpose of the request for information. Your letter of 28 June concerns "the under declaration of VAT liability to the Revenue Commissioners in respect of M&J Wallace Limited" (paragraph 1).

You state that the Committee is currently considering whether it should exercise its own original jurisdiction "in this matter". We assume that "this matter" refers to the under declaration of VAT liability to the Revenue Commissioners in respect of M&J Wallace Limited.

However, we note that the Committee is satisfied that the circumstances of the under declarations of VAT in respect of M&J Wallace Limited occurred prior to our client's tenure as a member of Dáil Éireann.

We note also the Committee is therefore satisfied that the circumstances of the under declaration of VAT liability fall outside the jurisdiction conferred on the Committee by the ethics legislation.

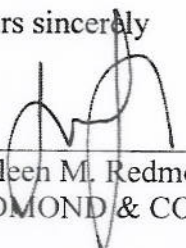
With respect, we are firmly of the view that this acknowledgement and satisfaction on the part of the Committee should conclude matters.

Insofar as the Committee is considering investigating some other undefined offence or 'specified act', our client is entitled to know what this alleged act is. You refer, in the penultimate paragraph of your letter, to "this net issue", without specifying what this net issue actually is.

In the circumstances, we are firmly of the view that in light of the acknowledgements in your letter of 28 June, the Committee is currently acting without jurisdiction, in breach of natural and constitutional justice and *ultra vires* the ethics legislation.

Without prejudice to the foregoing and in order to draw this matter to a close, our client confirms that the relevant returns were made to the Revenue Commissioners during the accounting periods year ending 31/08/2009 and 31/08/2010 and the under declaration was made known to the Revenue Commissioners during the accounting period year ending 31/08/2010, prior to our client's tenure as a member of Dail Eireann.

Yours sincerely



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Noeleen M. Redmond  
REDMOND & CO.