

**Opening Statement of Mr. Niall Cody, Revenue Chairman, to the
Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach
24 January 2019**

Good morning and thank you, Chairman, for the opportunity to make an opening statement. I am accompanied this morning by Commissioner Gerry Harrahill; Therese Bourke, Principal Officer in Personal Taxes Policy & Legislation Division; and Clare Omelia, Principal Officer and liaison to the Oireachtas Committee.

Brexit

Revenue's role is to serve the community by fairly and efficiently collecting taxes and duties and implementing customs controls. Since 2015, we have a dedicated Customs Division. We started considering the implications of Brexit before the UK referendum. Budget 2017 provided funding for additional Revenue staff to prepare for Brexit and to scale up our Customs IT framework. Initially, our preparations were based on a central case scenario and a transition period to the end of 2020. The Government has indicated that in the event of a no deal Brexit, it will engage with the EU Commission and EU partners in relation to North/South trade; and Revenue will continue to provide technical support to the Brexit team in the Department of the Taoiseach, Department of Foreign Affairs and Trade (DFAT), and the Department of Finance.

If the UK leaves the EU Customs Union, it becomes a third country and the free circulation and movement of goods between EU Member States and the UK will end. This will substantially increase the proportion of Revenue customers who are required to deal with customs formalities and other related obligations. It will present a significant challenge for many of those businesses, who do not have any experience of third country trade and what it entails. Revenue's responsibility and priority is to provide high quality service to support voluntary compliance and to put in place the Revenue resources to facilitate the efficient movement of legitimate trade in the new trading environment.

Context

To put this in context, currently, around 17,000 businesses trade with third countries. During 2018, Revenue, through our electronic systems, processed 898,000 import

declarations; 762,000 export declarations; and 5.6 million transport documents were declared in our eManifest system, related to this trade. We process 39,000 transit declarations; and 100,000 Safety and Security declarations are made per annum through our Import Control System.

Currently, businesses that trade with the UK do not have to engage with customs formalities. Our data indicates that during 2017, 84,000 businesses engaged in trade with the UK, and of those, more than half (around 45,000) were engaged in regular such trade. Post Brexit, import and export declarations could increase to as many as 20 million per annum.

Preparations

As part of the coordinated efforts of Government Departments and Agencies, Revenue's overarching objective is to enable and support businesses to trade with the UK as a third country. I will summarise for the Committee some details on our progress on the matters which are directly within Revenue's control.

Engagement with Business

Over the past 18 months or so, Revenue has engaged closely with businesses on the steps they should be taking to prepare for Brexit. This engagement has been through the Customs Consultative Committee (made up Revenue and representatives of import/export trade organisations); by participation in events organised by other State Agencies (e.g. Enterprise Ireland, Bord Bia); industry organised events; and meetings with representative groups. We have also had one-to-one engagement with logistics companies and larger importers across various sectors and our level of engagement with companies has intensified. Our message to business has been clear and consistent: You need to undertake a Brexit impact assessment for your business; you need to identify the challenge or challenges of adapting your business processes; and you need to be ready to comply with the customs requirements that will arise from trading with the UK as a third country. We have emphasised the comprehensive information and support that is available from Revenue, and how it can be accessed and used.

We identified two key trader groupings, who are expected to be significantly impacted by Brexit. These are large economic operators who trade with the UK; and

logistics companies or freight forwarders. We wrote to these traders last November, highlighting the Brexit-related Revenue supports available to them; and inviting them to a series of Revenue Brexit seminars. These events aim to explain customs requirements and formalities; highlight simplified procedures that facilitate the efficient movement of goods; and provide information on how businesses can apply for appropriate authorisations, to better position themselves to trade with, and through, the UK, post Brexit. At the seminars, traders can speak directly with Revenue experts across a range of specific Customs themes. Experts from Government Departments, including from the Department of Agriculture, Food and the Marine (DAFM) and the HSE's Environmental Health Service (EHS), also participate in these events. In December, seminars took place in Cork and Dublin. This month, we have held seminars in Galway and Dundalk. Today, there is seminar in Dublin Castle, and one next Wednesday in Wexford, with Limerick and Sligo scheduled after that.

Revenue has identified approximately 70,000 SMEs who traded with the UK in 2017. We expect that most will engage a Customs broker to meet their customs requirements. In that regard, we had a dedicated briefing seminar for Customs brokers and agents earlier this month to raise awareness of the likely increased demand for the services of such brokers and agents and of the issues that arise for businesses trading with the UK as a third country. In December, we held a meeting for all customs software providers, to brief them on the changes we are making to our systems to cater for the UK as a non-EU member; and we are satisfied that post Brexit, their software will interact correctly with Revenue systems. Revenue is engaging directly with the Irish Small and Medium Enterprises Association (ISME) and the Small Firms Association (SFA), and by the end of this month we will have contacted all these traders directly, to advise them on the importance of preparing for Brexit; and provide guidance on the supports and information available from Revenue in advancing those preparations.

Revenue's overarching approach is to carry out the required customs controls through a risk based programme of post clearance checks and customs audits which, to the greatest extent possible, will take place at traders' premises, away from the point of importation.

Staffing, Recruitment and Training

The Customs Division is overseen by my colleague Commissioner Harrahill, and is headed up by an Assistant Secretary. The dedicated Brexit Unit, which has 14 full time equivalent (FTE) staff, draws together and coordinates expertise from relevant specialist areas throughout Revenue including customs; indirect tax; information technology; international relations; legislation; recruitment and training; and statistics, research and analytics. We are involved now in a significant programme of Brexit-related recruitment and training.

In our initial planning process, based on the assumption of a transition period to the end of 2020, Revenue determined that an additional 600 staff will be required overall, to be deployed on a phased basis in the period up the end of December 2020. It was estimated that approximately half would be assigned to import/export trade facilitation activities; and half to the National Divisions, engaged in trade facilitation, and customs control and oversight activities, at specific trader case level. This work will include providing support to businesses to meet their customs obligations; processing and assessing customs authorisations; ongoing monitoring of traders with customs authorisations; performing controls on the movement of goods; and auditing businesses in relation to their customs activities.

Budget 2017 provided funding for 40 Revenue staff to prepare for Brexit; and by the end of last year, these new staff had completed their training and were deployed. A Government Decision of September 2018 approved the phased recruitment of additional staff. Internal; inter-Departmental; and open recruitment campaigns began. The Public Appointments Service ran an open recruitment campaign, for Customs Officers to work on a 24/7 basis, which attracted more than 3,000 applications. Interviews began in October 2018 and successful candidates proceed onto a five-week training programme.

In preparation for a no deal Brexit, we have accelerated and expanded our recruitment and training schedules to meet the end of March deadline. We are on track to have over 400 additional staff in place by the end of March; we have re-assigned serving staff, are preparing for any necessary further redeployments on a temporary basis; and will have the balancing complement of additional staff recruited

by the end of 2019. We are working with DAFM and others to co-ordinate activities, for optimal trade facilitation at our ports.

IT Systems

IT systems are at the heart of all Revenue's operations, and are also central to how Ireland and the EU facilitate the fast and efficient completion of customs formalities. Revenue systems were not originally designed to handle the number of customs transactions that can be expected post Brexit.

In Budget 2017, the Minister for Finance included provision for a €2 million investment in scaling up our customs IT framework and we have carried out significant work to increase systems capacity to cater for trade with the UK as a third country.

All our IT preparations are currently on schedule. Based on the progress made to date, and the robustness of our testing programmes, we are confident that by the end of March 2019, our IT systems will handle the increased transaction levels in a no deal scenario.

International and National Engagement

Revenue plays its part at EU level in Brexit preparations. We are involved in meetings and workshops on the continued use of the UK landbridge; and meetings of a like-minded group of Member States including Ireland, France, Belgium, Germany and the Netherlands. Our aim is to encourage a collaborative approach to ensure the consistent treatment of traders by the Member States concerned, post Brexit; and to address common challenges, such as efficient processing of Roll-on, Roll-off (RoRo) traffic and making sure that trade movements under the Customs Transit procedure operate with maximum efficiency, thereby ensuring the smooth flow of legitimate trade. We are satisfied that our concerns are understood and appreciated by the Commission and the customs administrations of the Member States concerned.

We are also actively engaged in the preparatory work that is coordinated by DFAT. In this, Revenue supports the task of ensuring that Ireland's unique position is understood and conveyed into the international negotiation process through the

appropriate channels; that analysis is undertaken to identify the consequences of Brexit; and that efforts focus on maximising the free flow of legitimate trade, post Brexit.

Infrastructure

During 2018, an Inter-Departmental group chaired by Revenue considered the adequacy of port and airport infrastructure and facilities, post-Brexit. The group, which is now chaired by the Department of Public Expenditure and Reform (DPER), includes representatives from Revenue; DAFM; the Department of Health; the Department of Transport, Tourism and Sport (DTTS) and the Office of Public Works (OPW). The group considered physical infrastructure requirements to facilitate and support the movement of legitimate trade; including requirements of Revenue; DAFM; and the EHS; to carry out any necessary customs controls and Sanitary and Phytosanitary (SPS) checks at ports and airports. The OPW, which is responsible for the delivery of the required infrastructure, is now actively engaged with relevant stakeholders with a view to ensuring that needs are met.

Brexit No Deal Scenario

In a no deal scenario, the free circulation and movement of goods between EU Member States and the UK will end. This will pose significant challenges for Ireland and other Member States, as well as for the UK. Irish businesses engaged in trade with the UK will be obliged to comply with customs procedures and controls.

The Union Customs Code (UCC) provides streamlined and simplified procedures and Revenue has invested in scaling up our Customs IT systems to handle the increased transaction levels; we are engaged with businesses to help them to prepare for trade with the UK as a third country, and we have prioritised the deployment of staff to facilitate trade.

The Government has made clear that its overriding objective is to avoid a hard border on the island of Ireland. Revenue is not planning for customs posts. The Government has indicated that in the event of no deal, it will engage in intensive discussions with the EU Commission and our EU partners and Revenue will provide whatever technical expertise and assistance may be required during this process.

Brexit Summary

In keeping with Revenue's role and responsibilities, we are strongly focused on facilitating the efficient and timely movement of goods in compliance with customs controls, post Brexit. We will continue to work to support trade and businesses. We are determined that all that is in our control to do, will be done. Revenue will be as ready as we can possibly be, to deal with the outcome of unfolding political and policy developments.

Administration of Flat Rate Expenses

Moving now to the second of this morning's topics, under section 114 of the Taxes Consolidation Act 1997 (TCA), employees are entitled to a deduction for expenses that are wholly, exclusively and necessarily incurred in the performance of the duties of the office or employment.

Revenue publishes statistical information on the cost of tax expenditures, including claims by all taxpayers for allowable expenses that they have incurred in the performance of their work. The latest available statistics show that in 2016, there were 545,600 such claims at a total cost to the Exchequer of €85 million. Of this, approximately €38.4 million relates to the cost of claims for what are known as 'flat rate expenses'. Final figures for 2017 will be available later this year. The actual cost to the Exchequer is dependent on the specific circumstances of each taxpayer and will vary depending on whether, and to what extent, the taxpayer has taxable income; and whether such income is taxable at the standard or marginal rate of income tax.

Flat Rate Expenses

Tax relief for flat rate expenses is given as a deduction from employment income. When, for example, an employee pays for tools that are necessary to do their job, but not provided, paid for, or reimbursed by the employer, the expense is tax deductible. This expenditure is the same for employees within certain categories, and over the years, Revenue engaged with employee representative bodies to determine a 'flat rate' expense within occupation categories, such that large groups of employees working in the same sector can more easily avail of their entitlements. The flat rate expenses regime is a concessionary practice operated by Revenue. Its purpose is to simplify administration where the specific legislative criteria is met, to help both the taxpayer and Revenue by making it easier for large groups of

employees working in the same sector to avail of their entitlement to tax relief in respect of expenses incurred in the performance of their employment duties. In practical terms, this means that the flat rate expense that is agreed between Revenue and the relevant employee representative group can be claimed unvouched, by all employees within that category, using Revenue's online myAccount service.

In a series of agreements reached over a period spanning 40 to 50 years, flat rate expenses are in place for 53 industry groups, covering around 134 employment categories. The list of [flat rate expenses and employment categories](#) is published on Revenue's website.

Review of the Flat Rate Expense System

Many of the rates that are now in place pre-date a range of significant changes in employment circumstances; regulations; and working practices; that have come about over the years. As one example, the Health and Welfare at Work (General Application) Regulations 2007, oblige employers to supply their employees with personal protective equipment. If this expense is no longer actually incurred by employees, it follows that it is no longer justified or proper to be included as an element in the flat rate expense amount for the relevant occupation categories.

It is clear that the flat rate expense administration system creates efficiency for both Revenue and taxpayers. However, its operation does not relieve Revenue of its obligation to administer the tax system in accordance with tax legislation. In 2018, a comprehensive review of flat rate expenses began, to ensure expenses previously agreed are still justified, and are in accordance with the legislative requirement for deduction. We are in a process of engagement with the various representative bodies, to consider whether the respective flat rate expenses are still appropriate. At the end of the process, there will be adjustments to decrease or increase rates to reflect actual expenses incurred by employees; or to withdraw rates in some categories, if they are no longer in keeping with legislative requirements. The Committee will be aware that it was initially intended to implement any changes on a phased basis according as the categories are reviewed. However, in the interest of fairness to all workers, Revenue decided that all the changes will be implemented together, on 1 January 2020.

By providing assurance of compliance with tax legislation, the review underway will support the continuance of what has been a very efficient and effective administrative system. Finally, it is important to point out that neither the flat rate expense regime itself, nor the review, affect the statutory right of any employee to claim a deduction for expenses wholly, exclusively and necessarily incurred in the performance of the duties of their employment, to the extent to which such expenses have not been reimbursed by the employer. Revenue has a strong track record of being proactive in encouraging taxpayers to claim their proper entitlements. We will continue to prioritise our actions to enhance taxpayers' awareness of their obligations and entitlements.

Bogus Self-Employment and the Impact on Tax Revenue

Moving now to the final topic, the Committee is aware that on 31 January last year, the Government published a report entitled "*The use of intermediary-type structures and self-employment arrangements: Implications for Social Insurance and Tax Revenues*". The Report was prepared by a working group comprising the Department of Employment Affairs and Social Protection (DEASP) and the Department of Finance, with technical support from Revenue. It found that on aggregate, there is no evidence of any significant change in the level of self-employment in the economy; and that there is limited evidence of bogus self-employment (disguised employment). Its recommendations included policy matters, including to consider reducing the differential in social insurance rates contribution payable by self-employed people; as compared with the much higher level of the total payable by, and in respect of, employees.

The report outlined the changing face of the labour market, and emerging new forms of service relationships in the so-called 'gig' and 'sharing' economies, that have blurred the lines as to what constitutes contract of service (employer / employee relationship) and contract for services (self-employed contractor). As an alternative to the traditional employer-employee relationship, intermediary-type structures are now common as a means of providing labour. These are used for example in the airline, IT, and pharmachem, industries; and in other industry sectors, such as media, entertainment and construction. These structures can take the form of a Personal Service Company (PSC) of which the worker is a director and/or employee;

or a Managed Service Company (MSC) of which the worker is one of a number of directors and/or employees.

It is Revenue's responsibility to protect income to the Exchequer from all taxes. Revenue's compliance framework identifies risk, including the tax risk associated with the use of different employment relationships and structures to provide labour. Such arrangements create different outcomes in terms of employers' and employees' PRSI. They may also give rise to tax risks, in the potential to defer payment of part of, or all remuneration, with a consequent deferral of payment of the associated tax/USC; or payment of unwarranted tax-free expenses; or different pension planning or tax planning opportunities. Revenue conducts a full range of interventions to combat all types of tax evasion. Revenue interventions include a focus on the practice of disguised employment, and challenging the inappropriate classification of workers as self-employed contractors. The determination as to whether a person is employed or self-employed is primarily made by the DEASP, and matters of policy in this area are for the DEASP and the Department of Finance.

Finally, I must draw the Committee's attention to my obligation, under section 851A of the Taxes Consolidation Act, 1997, to uphold taxpayer confidentiality, and I will try to answer any questions the Committee has.

Thank you.

[ENDS]