



Cathaoirleach
Chairman



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

R1610 (ii) PAC33

www.revenue.ie

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

Your Ref: S1070 PAC33

Our Ref: 100614/22

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Mr. Martin Hughes,
Committee Secretariat,
Committee of Public Accounts, Leinster House, Dublin 2.
D02 F342
PAC@oireachtas.ie

Dear Mr. Hughes,

I refer to your letter of 21 November 2021 and invitation to attend a meeting on 8 December to assist the Committee in its examination of:

Appropriation Accounts 2021

Vote 9 - Office of the Revenue Commissioners

Account of the Receipt of Revenue of the State collected by the Revenue Commissioners 2021

Report on the Accounts of the Public Services 2021

Chapter 15. Collection of VAT on e-Commerce

Chapter 16. Revenue's suspension of periodic reviews of tax clearance certificates

Chapter 17. Overstatement of certain unallocated tax deposits, and 4. Re-allocation of voted funds.

I enclose an advance briefing paper in relation to the above items at Appendix 1 which includes updates on the implementation of previous recommendations made by the Committee to Revenue as requested in your letter of 21 November 2022. It also includes details on €395 million in COVID-19 expenditure and the collection of tax revenue re online gambling as requested. Appendix 2 contains links to certain Revenue publications for the information of the Committee.

I will provide details of Revenue attendees early next week.

Please do not hesitate to contact me if any additional information is required.

Yours sincerely,

Niall Cuddy,
Accounting Officer.

Appendix 1

Briefing paper for the meeting of the Committee of Public Accounts
on 8 December 2022

1. Account of the Receipt of Revenue of the State

In 2021, Revenue collected total gross Exchequer receipts of €96.6 billion, including €17.5 billion in non-Exchequer receipts collected on behalf of other Government Departments and Agencies. The net Revenue receipts of €67.5 billion were up by 20% or almost €11.3 billion on 2020. The net receipts for Corporation Tax were €15.3 billion (up 29%), Income Tax €26.7 billion (up 18%) and VAT €15.4 billion (up 23%).

Up to the end of November this year, the net Exchequer receipts collected by Revenue were over €76.6 billion, some €15 billion or 25% more than the same period last year.

The following table shows the breakdown of net receipts for 2021 and 2020:

Category	2021 €m	2020 €m
Income Tax and USC	26,750	22,648
Value-Added Tax	15,390	12,474
Corporation Tax	15,323	11,833
Excise	5,823	5,427
Stamp Duties	1,495	2,095
Capital Gains Tax	1,645	950
Capital Acquisitions Tax	582	505
Customs	520	273
Total	67,528	56,204

2. Appropriation Account 2021

Vote 9 provides for the salaries and expenses of the Office of the Revenue Commissioners, including certain other services administered by that Office.

Revenue's estimate for 2021 was €501 million; €442 million net of Appropriations in aid. Gross expenditure in 2021 was €489 million compared with €467 million in 2020, an increase of € €21.5 million or 5% overall. The increase in 2021 over 2020 primarily relates to ICT expenditure and pay.

Revenue had 6,535 staff serving at the end of 2021, with €340 million of Revenue's €489 million expenditure related to pay expenditure. The other main item of expenditure was on ICT, which accounted for some €73 million in 2021.

Revenue provides printing, mailing, IT hosting, and other allied services to other departments without charge. The value of these services in 2021 was €4.6 million to other voted bodies and €1.1 million to non-voted bodies.

Revenue is committed to ensuring compliance with relevant procurement guidelines and legislation in the purchasing of goods and services. Revenue regularly reviews procedures to ensure that the controls on procurement are operating effectively and in accordance with good practice. Revenue has also implemented a procurement network with membership drawn from all divisions which provides oversight and consistency of all procurement activity across the organisation. It is Revenue policy to avail of centrally available frameworks where practicable and engage with the Office of Government Procurement (OGP) where we have more specific requirements. Controls will remain in place to ensure compliance with this strategy.

3. Chapter 4 - Reallocation of voted funds

This Chapter of the Comptroller and Auditor General's Report examines a number of cases where there was substantial re-allocation of voted funding from one or more programme subheads to other subheads, but where the procedures prescribed in Public Financial Procedures did not appear to have been complied with. The Secretary General of the Department of Public Expenditure and Reform (DPER) discussed these instances with the Committee at [his appearance on 20 October, 2022](#).

Revenue is one of a number of examples provided in this chapter where voted funds were reallocated. Based on detailed estimates across several budget subheads, Revenue operated a total gross administrative budget of €501.2 million for 2021. The total virement sanctioned for 2021 was €15.834 million, or some 3.15% of the total voted funds to Revenue for 2021.

The Chapter notes that virement was provided on an exceptional basis and it is important to note the context for the reasons virement was required. The period 2019 through to 2022 has been a time of unprecedented and largely unforeseeable impacts on the management of the Revenue vote. Brexit, although well prepared for against an international context of great uncertainty, had an impact as Revenue dealt with an exponential increase in Customs activity. Specifically in 2021 Revenue was required to provide for Facilities Management costs of €3.1 million at Customs Facilities at Dublin and Rosslare ports from within existing Vote allocations.

The Covid-19 Pandemic resulted in Revenue being called upon to develop new ways of working for its employees (remote working) as well as facilitating Government supports to businesses and taxpayers with the introduction of the various support schemes. Revenue staff assisted with contact tracing, the printing and mailing of Covid-19 certificates, and other Government led initiatives. The cost of this additional workload was borne by Revenue from within its allocated Voted expenditure. This could not have been achieved without the virements sanctioned by Department of Public Expenditure and Reform (DPER). In this context, Revenue was in regular communications with DPER colleagues for their advice in relation to the appropriate procedures for managing these issues.

4. Chapter 5 - Covid 19 Expenditure

Revenue implemented a range of measures to support businesses that suffered cashflow or trading difficulties as a result of Covid-19. The technical infrastructure developed for real-time payroll reporting provided the platform that allowed us to quickly deliver the supports directly to businesses. The Chapter in the Comptroller's Annual Report details payments of €395 million under the Covid-19 Restrictions Support Scheme (€397 million) and the Business Resumption Support Scheme (€8 million) between March 2021 and February 2022. The following provides the details of all of the measures implemented by Revenue in response to Covid-19 since March 2020.

Temporary Wage Subsidy Scheme (TWSS)

The Temporary Wage Subsidy Scheme (TWSS) was introduced by the Emergency Measures in the Public Interest (Covid-19) Act 2020. While funded by the Department of Social Protection, under the Act, Revenue was given responsibility for the administration of the Scheme. The TWSS operated for a 22-week period from 26 March 2020 to 31 August 2020.

The TWSS provided for the payment of income supports to eligible employers in respect of eligible employees where the employer's business activities experienced significant negative disruption due to the COVID-19 (Coronavirus) pandemic.

The total amount paid out under the scheme for TWSS was €2.8 billion.

Employment Wage Subsidy Scheme (EWSS)

The EWSS, which replaced the Temporary Wage Subsidy Scheme (TWSS) from 1 September 2020, was an economy wide enterprise support that focused primarily on business eligibility. The scheme provided a flat-rate subsidy to qualifying employers based on the numbers of eligible employees on the employer's payroll, and their gross pay. It also applied a reduced rate of employer PRSI of 0.5% until 28 February 2022.

The scheme operated until 30 April 2022 for the majority, and until 31 May 2022 for those impacted by the Public Health Restrictions in place between 20 December 2021 and 22 January 2022.

The total amount paid out under the scheme for EWSS was €6.7 billion.

Covid Restrictions Support Scheme (CRSS)

The CRSS was a targeted support for businesses significantly impacted by restrictions introduced by the Government under public health regulations (in accordance with sections 5 and 31A of the Health Act 1947) to combat the effects of the Covid-19 pandemic.

The scheme was available to eligible businesses that met all the relevant qualifying criteria including the key anchors of the scheme, i.e., the specific terms of Covid restrictions required the business to prohibit or significantly restrict customers of the business accessing the relevant business premises. Eligible businesses made a claim for a payment known as an "Advance Credit for Trading Expenses ("ACTE")" for each qualifying claim period under the scheme. The CRSS ended on 22 January 2022.

The total amount paid out under the scheme for CRSS was €716.4 million.

Business Resumption Support Scheme (BRSS)

The BRSS was a targeted support for businesses significantly impacted by the Covid-19 pandemic. The scheme was available to eligible businesses, who met all the relevant qualifying criteria.

Eligible businesses made a claim for a single payment known as an "Advance Credit for Trading Expenses ("ACTE")". The scheme commenced on 1 September 2020 and ended on 31 August 2021.

The total amount paid out under the scheme for BRSS was €7.9 million.

Accelerated Loss Relief

Section 11 of the Financial Provisions (Covid-19) (No. 2) Act 2020 introduced section 396D of the Taxes Consolidation Act 1997. Section 396D provides for a temporary acceleration of Corporation Tax loss relief for accounting periods affected by the COVID-19 pandemic and related restrictions. It allowed companies to estimate their trading losses for accounting periods ending in 2020 and 2021 and to carry back up to 50% of those losses against chargeable profits of the preceding accounting period on an accelerated basis.

Accelerated Corporation Tax loss relief was available in respect of any accounting period of a company carrying on a trade which included some or all of the period commencing on 1 March 2020 and ending on 31 December 2020 ("the specified accounting period"). This meant that accounting periods ending in 2020 and 2021 could be eligible for accelerated Corporation Tax loss relief. Accelerated Corporation Tax loss relief is no longer available and the last possible date by which a claim could be made was 30 May 2022.

Section 10 of the Financial Provisions (Covid-19) (No. 2) Act 2020 provided for temporary Income Tax measures to assist self-employed individuals adversely impacted by the COVID-19 restrictions. Self-employed individuals could claim to have their losses and certain unused capital allowances carried back and deducted from their profits for the preceding tax year of assessment, thus reducing the amount of Income Tax payable on those profits. A €25,000 limit on the total amount that may be carried back applied. An acceleration of this relief allowed self-employed individuals to make interim claims based on the estimated amount of relief available to them.

The following time limits applied:

- Where the interim claim related to losses incurred or specified allowances to be claimed in respect of the year of assessment 2020, the claim could not be made after 31 May 2021.
- Where the interim claim related to losses incurred or specified allowances to be claimed in respect of the year of assessment 2021, the claim could not be made after 31 May 2022.

Where a taxpayer made an interim claim for relief under sections 395A and/or 304(3A), he or she was required to make a corresponding "final claim" for relief under sections 395A and/or 304(3A) by the income tax filing date for the appropriate year of assessment. The final claim for relief is the actual amount of relief that is available to be claimed by the taxpayer under sections 395A and/or 304(3A) for that year of assessment. Where a final claim is not made, the interim claim will be deemed to be the final claim.

The total amount of losses claimed through the Temporary Accelerated Loss Relief for companies is €573.5 million and €4.8 million claimed in respect of self-employed individuals.

Debt Warehousing

Debt warehousing allowed for the “parking” of certain tax liabilities relating to periods during which trading was restricted due to the Covid-19 Pandemic. The liabilities that could be warehoused were PAYE (Employer) and VAT liabilities, overpayments of the Temporary Wage Subsidy Scheme (‘TWSS’) and Employment Wage Subsidy Scheme (‘EWSS’) due to be refunded to Revenue and income tax liabilities of certain self-assessed income taxpayers.

Debt warehousing was available to businesses who, as a consequence of Covid-19-related restrictions, were unable to pay these liabilities and who have filed all required returns. The deadline for repayment of Warehouse Debt has been extended to May 2024.

The total amount currently warehoused at 31 October 2022 is over €2.5 billion.

The following table shows the breakdown of the cost of the COVID-19 Support Schemes.

COVID-19 SUPPORT SCHEMES

TWSS – Temporary Wage Subsidy Scheme	Number or Amount
Subsidies paid out	€2.8bn
Number of employers supported	67,232
Number of employees supported	689,725

Scheme commenced 26/03/20 and ended on 31/08/20

EWSS – Employment Wage Subsidy Scheme	Number or Amount
Value of subsidy paid	€6.7bn
Number of employers supported	51,312
Number of employees supported	742,853

Scheme commenced 01/07/20 and ended on 31/05/22

CRSS – COVID Restrictions Support Scheme	Number or Amount
Value of subsidy paid	€716.4m
Number of businesses supported	22,097
Number of premises supported	25,521

Scheme commenced 13/10/20 and ended on 22/01/22

BRSS – Business Resumption Support Scheme	Number or Amount
Value of subsidy paid	€7.9m
Number of businesses supported	1,985
Number of trades supported	2,005

Scheme commenced 01/09/20 and ended on 31/08/21

Accelerated Loss Relief	Number or Amount
Number of company claimants	406
Losses claimed	573.5m
Number of self-employed claimants	438
Losses claimed	€4.8m

Debt Warehousing	Number or Amount
Number of businesses availing of debt warehousing as at 31/10/2022	72,800
Total liabilities warehoused	€2.533 bn
<i>Of which: VAT</i>	€1,205m
<i>Of which: Employers PAYE</i>	€1,153m
<i>Of which: Income Tax</i>	€60m
<i>Of which: TWSS/EWSS overpayments</i>	€115m

Extended to May 2024

5. Chapter 15 - Collection of VAT on e-Commerce

The Chapter on the Collection of VAT on e-commerce provides an overview of Revenue's strategy to capture and collect VAT due on e-commerce, assesses e-commerce risks and highlights some aspects of the e-commerce compliance work undertaken by us. It is essentially a snapshot in time because e-commerce is ubiquitous and ever evolving, it is not a fixed concept and requires continuous flexible reviews and the development of new approaches. Revenue's approach to e-commerce risk encompasses this understanding and will continue to respond effectively and appropriately to any developments in economic activity involving e-commerce both domestically and at EU level.

The e-commerce environment in Ireland has been completely transformed in recent years and Revenue continues to manage the risks and opportunities of this transformation. Brexit saw the departure of the UK from the EU VAT area, thus ending the long-established UK-Ireland "single market" for e-commerce. Prompted by Brexit, Irish customer behaviour and UK business models have changed, leading to the creation of new markets and as well as new risks. However, the VAT e-commerce changes introduced across all EU Member States since 2015, recognise the development of e-commerce trade across borders and aim to facilitate traders while strengthening VAT collection.

VAT is subject to the requirements of the EU VAT Directive with which Irish VAT law must comply and Revenue worked with the European Commission to introduce changes to the taxation and collection of e-commerce trade as domestic legislation on its own would not be as effective in tackling cross-border tax evasion and abusive practices.

The first measures entered into force in 2015 and covered telecommunications, broadcasting and electronic services to private consumers along with the introduction of an optional special scheme known as the Mini One Stop Shop (MOSS) which allowed a business engaged in these supplies to register and pay tax in a single Member State and this has proven to be highly effective. VAT on these

services became chargeable based on where the consumer is located instead of where the supplier is located, and this has removed the incentive for businesses in these sectors to locate in low-VAT rate Member States. Revenue collected approximately €10.5 billion through MOSS from 2015 to date which equates to just over 40% of the total VAT collected by all Member States. Ireland has benefitted by almost €1.2 billion from this scheme with compliance rates of in excess of 90%.

The second package of measures was adopted by the Council in December 2017 and extended the simplification to distance sales of goods as well as to any type of cross-border service supplied to final customers taking place in the EU. This package of measures in force since July 2021 has significantly altered the application of VAT to cross-border e-commerce in the EU. These new measures were designed to and have largely mitigated the risks associated with e-commerce, risks that had been identified by all Member States and the European Commission. The measures extended the scope of the MOSS, turning it into a One Stop Shop (OSS); the low value consignment VAT relief of €22 was abolished meaning that all goods imported into the EU are now subject to VAT; the distance selling thresholds of €35,000 and €100,000 in the EU were abolished; and platforms now collect the VAT on goods imported from outside the EU or where the underlying seller is not established within the EU. In parallel, a new cross-border compliance framework has been introduced by the EU to ensure effective collaboration between Member States in compliance activities. These changes are transformational, and the European Commission has reported that these latest measures have exceeded all expectation with almost €8 billion in VAT collected in the first six months of operation and another €2 billion collected on low value imports into the EU.

Additionally, a new Central Electronic System of Payment Information (CESOP) will be introduced in January 2024 to allow for the transmission and exchange of payment data to ensure cross-border VAT compliance. Payment service providers offering payment services in the EU will have to transmit information on businesses who receive cross-border payment, and the information will then be made available to anti-fraud experts of Member States.

6. Chapter 16 - Revenue's suspension of periodic reviews of tax clearance certificates

At the outset of the COVID-19 pandemic in March 2020, Revenue took some key policy decisions to assist businesses cope with what was an unprecedented public health and economic emergency. One of those policies was to allow what were, at that time, tax compliant businesses retain their tax clearance status. This decision was in line with overall Government direction and policy at the time, to optimise support for businesses in what was an unprecedented challenge facing the country and most businesses. This was one of several administrative policy decisions in relation to debt collection, interest and enforcement. It is important to note that what was delivered was not a

suspension of tax clearance but rather an extension of the then existing tax clearance status, for over 324,000 taxpayers, on 13 March 2020.

The retention of tax clearance status was, therefore, a pragmatic and administratively straightforward approach by Revenue that aligned fully with the provisions of the (subsequently introduced) Debt Warehousing Scheme, designed to support business during the pandemic when businesses were subject to restrictions and faced extremely difficult trading circumstances. Businesses which did not have tax clearance did not qualify for payments under the various support schemes such as EWSS, CRSS and BRSS. There were no payments made under those schemes to businesses without tax clearance.

During 2021, and particularly mindful of the importance of businesses continuing to file their tax returns even where they were not obliged, in accordance with the terms of the Debt Warehouse Scheme, to pay any tax liability associated with the returns in question, Revenue carried out three targeted campaigns to identify and engage with cohorts of taxpayers who had return filing compliance issues. The key aim of these campaigns was to get customers to file their tax returns. Taxpayers were allowed a period of time to bring their returns up to date – this was reasonable and, indeed, essential as various Covid restrictions were in place at different times making it difficult for taxpayers to engage with their agents to get outstanding returns filed. The main purpose of these campaigns was to promote return filing but not payment as tax liabilities arising in the vast majority of cases did not have to be paid as they could be warehoused.

Where Revenue secured positive engagement by the businesses concerned, the outstanding returns were filed. Where, despite Revenue's efforts, the businesses concerned did not file the outstanding returns, then Revenue rescinded their tax clearance, resulting in ineligibility for payments under the different support schemes from that point forward.

Section 1094 Tax Consolidation Act (TCA) 1997 sets out the circumstances in which a TCC is to be issued by Revenue and allows Revenue to review a person's tax compliance from time to time and to rescind a TCC where tax obligations are not complied with. In normal circumstances (outside of the extraordinary circumstances of the Covid-19 pandemic), Revenue elects to review the entitlement to tax clearance certificates on a six-monthly basis. This is done as a critical support for prevailing high voluntary compliance levels and ensuring there is no competitive advantage for noncompliant businesses as against tax compliant businesses.

Revenue commenced a staged return to normal periodic reviews for tax clearance in March 2022 for the entire case base of taxpayers that had tax clearance at that time. The process resumed on an

incremental basis in view of the very large number of cases involved and has been completed since 22 November 2022.

7. Chapter 17- Overstatement of certain unallocated tax deposits

The total net receipts collected by Revenue on behalf of the Exchequer for 2021 was €67.5 billion. The statement of balances in the revenue account for the year ended 31 December 2021 includes a liability amount of €85.4 million in respect of Unallocated Tax Deposits (UTD). Chapter 17 deals with an overstatement in the UTD balance and an equivalent understatement in tax receipts. It is noted in the Chapter that the amount involved (€32.5 million or 0.05% of reported receipts) would not be regarded as a material error or misstatement requiring correction in the financial statements and the amount was both recorded on the taxpayers' record and transferred promptly to the Exchequer.

UTD is a term used for payments received from taxpayers that cannot be brought to account immediately onto the customer record. It is standard that UTD payments arise in the course of tax collection as part of daily payment operations. During a tax audit, taxpayers may make a payment on account pending the conclusion of the audit and the assessment of the final liability due and the related tax(es). When the audit is completed and a final liability and associated tax(es) is determined, the payment is brought to account onto the customer record under one or a number of tax(es). As part of this customer update, the payment is also reclassified from UTD to the appropriate tax head such as Income Tax, VAT etc.

The reclassification of the payment from UTD to the relevant tax head requires manual caseworker intervention. In 2021, it was discovered that whilst the customer record had been updated correctly, the manual reclassification of UTD to the appropriate tax head did not happen in all cases. This resulted in an overstatement of the UTD balance of €32.5 million in the year end Accounts with an equivalent understatement in tax receipts. Following a reconciliation project undertaken in early 2022, the €32.5m difference between tax head receipts and the 2021 year end UTD balance has now been resolved. The amount of €32.5m for audit tax settlements has been correctly reclassified to the appropriate tax heads.

In October 2022, an ICT system enhancement was introduced to Revenue's financial management system, which has removed the manual intervention required in the reclassification of UTD payments. This system development reduces the steps necessary for the allocation of monies into a one step process, streamlining the process and reducing the risk of manual intervention or errors.

8. Collection of tax – online gambling

Policy on gambling regulation mainly falls within the remit of the Department of Justice. Gambling regulation is currently provided for, in particular, by the Betting Act 1931 (as amended) and the Gaming and Lotteries Act 1956 (as amended). These acts provide for the licensing and operation of bookmakers, and for the control and regulation of gaming and lottery activities. Under legislation gambling and gaming are two distinct activities that are not interchangeable. Gambling and gaming are subject to different tax treatments and licensing frameworks. While there may be some overlap in the individual and companies involved in providing both gambling and gaming services, from Revenue's perspective these are different activities and are regulated and taxed differently.

Revenue has responsibility for the administration and collection of Betting Duty as well as licensing bookmakers, remote bookmakers, and remote betting intermediaries.

Betting Duty is chargeable on all bets placed by a person in the State with a licensed bookmaker at a Bookmaker's registered premises, irrespective of how a bet is placed. Betting duty is also chargeable on all bets placed by a person in the State with a licensed remote bookmaker by remote means.

Betting duty in Ireland is applied as a turnover-based tax, whereby the tax charged is based on the amount of the bet placed by customers in the State. The current Betting Duty rate is 2%.

Betting intermediary duty is a tax charged on the commission received by remote betting intermediaries. The rate is 25%.

Betting duty net receipts 2019 - 2022

Year	Bookmaker	Remote Bookmaker	Remote Bookmaking Intermediary	Total
2019	€51.9m	€40.6m	€2.5m	€95m
2020	€39m	€44.9m	€2.8m	€86.7m
2021	€24.3m	€60.7m	€4.2m	€89.2m
2022 ¹ (01 Jan to 31 Oct)	€46.7m	€50.4m	€4.1m	€101.2m

Licensing of Betting Operators

All bookmakers, remote bookmakers and remote betting intermediaries that are licensed in the State are entered in either the *Register of Licenced Bookmakers* or the *Register of Remote Bookmaking Operations*, as appropriate. Revenue maintains these licence registers and they are available on the Revenue website.

Total Operators licensed

Licence Type	No. of Licences Issued
Remote Betting Intermediaries	< 10
Remote Bookmakers	66
Bookmakers	233
Registered Premises	808

Gaming

Gaming, including e-gaming, is defined by the Gaming and Lotteries Act 1956. Gaming is not subject to Betting Duty and is subject to VAT at the standard rate (23%). Revenue does not have any role in the regulation of online websites or apps that offer games and lotteries. Under the 1956 Act, Revenue is responsible for issuing gaming licences (for premises) and maintaining a register of gaming licences. Revenue is also responsible for issuing gaming machine licences in respect of each gaming machine held by an operator on a premises that is licenced for gaming.

All operators of games of chance are required, by the Gaming and Lotteries Act 1956, to hold a valid Gaming Licence, for the premises where the gaming takes place, in addition to individual Gaming Machine Licences in respect of every gaming machine held by that operator. Currently there are no licensing requirements for eGaming.

The total revenue generated by the issue of Gaming licences in 2021 is outlined below.

2021 Gaming Licences and Revenue

Category	No. of Licences	Total Licence Duty
Gaming Licences	52	€31,000
Gaming Machine Licences	1,715	€249,000

The proceeds of gaming are subject to VAT rather than a specific gaming duty. As VAT registered businesses are not required to separately identify the yield from a particular activity or product type in their VAT return, it is not possible to provide data on the VAT collected in respect of gaming and eGaming activity.

Regulation of Gambling

In line with Programme for Government commitments, the preparation of a Gambling Regulation Bill is progressing under the auspices of the Department of Justice. The Bill will provide for the establishment of the Gambling Regulatory Authority of Ireland, a new State body, focused on public safety and well-being, covering gambling online and in person, with the powers to regulate

advertising, gambling websites and apps. It will repeal the Totalisator Act 1929, the Betting Act 1931, the Gaming and Lotteries Act 1956 and certain statutory instruments. The Bill has recently been published and will progress through the Oireachtas.

Revenue is committed to working closely with the Department of Justice to enable the modernisation and streamlining of the legislation in this area in a manner that supports effective administration and collection of excise duties and the protection of Exchequer receipts. In particular, Revenue will participate in the implementation group responsible for facilitating the move of all bookmaker, gaming and amusement machine licences to the new Gambling Regulatory Authority of Ireland to create appropriate arrangements for a seamless transition for licences.

9. Committee of Public Accounts examination of the 2019 Appropriation

Account for Vote 9 – Office of the Revenue Commissioners

The following provides an update on the five recommendations in this report.

Recommendation 1 relates to the inclusion of a detailed note that presents a breakdown of the individual taxes included within the Excise Duty category in Account of the Receipt of Revenue of the State collected by the Revenue Commissioners, commencing from the year ended 31 December 2021.

The Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2021 references that a breakdown of the individual taxes included within the Excise Duty category is published in the 2021 Annual Report of the Revenue Commissioners.

The following table, which is an extract from the Revenue Annual Report 2021, categorises the breakdown of excise receipts:

Duties, Taxes & Levies	2021 Net Receipts €m	2020 Net Receipts €m	2021 Net Receipts +/- 2020 €m
Tobacco Products Tax	1150	1031	116
Alcohol Products Tax	1176	1204	-28
Mineral Oil Tax	1926	1814	112
Carbon Tax	652	494	158
Vehicle Registration Tax	786	751	35
Other Excise Duties	133	130	3
Total Excise Duty	5823	5427	396

Recommendation 2 relates to any future schemes that are rolled out as a matter of urgency, suggesting that Revenue uses the lessons learned from the TWSS to reduce the potential for overpayments, and the timeframe for resolving same.

The experience and insights gained from the operation of the Temporary Wage Subsidy Scheme and the subsequent Covid subsidy schemes, as outlined above, have been applied in the legislation and design of Temporary Business Energy Support Scheme (TBESS) which is being administered by Revenue. This scheme has been developed with a number of key real time compliance processes and up-front calculation processes that will minimise the level of overpayment and subsequent recovery.

TBESS is provided for in Finance Bill 2022 and is an approved State aid under the European Commission's Temporary Crisis Framework. Detailed guidelines on the operation of the scheme are available on the Revenue website.

The TBESS will provide support to qualifying businesses in respect of energy costs relating to the period from 1 September 2022 to 28 February 2023. The scheme operates by reference to bills for the metered supply of electricity and natural gas through electricity accounts or gas connections identified by its own Meter Point Reference Number (MPRN) or Gas Point Reference Number (GPRN) and provides for a cash payment to qualifying businesses impacted by the unprecedented increase in energy costs resulting from the military aggression by Russia in Ukraine.

In order to be eligible, businesses are required to show that the average unit price for their supply of electricity and natural gas for each month in that period, September 2022 to February 2023, must have increased by 50% when compared to a reference period in the previous year. This is known as the 'energy costs threshold'. Support is available on 40% of those businesses' 'eligible costs'. The eligible costs are, in broad terms, the increase in a bill amount when compared to a bill in a reference period in the previous year. Businesses are required to input relevant data from their bills on Revenue's Online System (ROS) as part of the registration and claim process.

Where a business does not have a bill for the reference period because either it commenced after the end of the reference period concerned, or it did not hold the relevant electricity account or gas connection in that reference period, provision is made for a deemed reference unit price to be used for the purpose of determining whether the relevant business meets the energy costs threshold and also for quantifying the amount of the eligible costs. The deemed reference unit prices for both electricity and gas have been made available by the Sustainable Energy Authority of Ireland (based

on data provided by suppliers and the Commission for Regulation of Utilities) and are published in the Revenue guidelines. **See Appendix 2.**

The scheme opened for registrations on ROS on 26 November and will open for claims in early December. Payments will be made in respect of qualifying claims once the enabling legislation in Finance Bill 2022 has been signed into law. Eligible businesses who have successfully completed registration and made valid claims by the third week in December could see payments in respect of September, October and November paid before the end of the year.

The total number of current registrations to date is 237.

Recommendations 3 and 4 relate to the employment status of workers for income tax purposes. The issue has also been examined more recently by the Comptroller and Auditor General in his Annual Report 2021 in Chapter 14 on the Classification of workers for PRSI purposes. This Chapter has been the subject of discussion at a recent meeting with the Accounting Officer from the Department of Social Protection.

Revenue's role is to determine the employment status for income tax purposes. The issues involved in the classification of workers are complex and can take significant time to finally resolve. The complexity arises as the distinctions between a contract of service (employee) and a contract for service (self-employment) can be fine points in some instances. The courts have interpreted the nature of the contract between the parties. There are a number of key precedent cases, including a mixture of employment rights and tax judgements, although it should be noted that the courts may apply the case law precedents differently depending on whether the case being considered concerns employment rights or tax. The Karshan (Midlands) Ltd. t/a Domino's Pizza v Revenue Commissioners case, which is referenced in the C&AG examination, centred on whether Domino's Pizza van drivers were employees, is a good example of the complexity and significant timelines which can arise as regards their resolution. Revenue's case working in this instance started in 2011 and is currently the subject of an Appeal to the Supreme Court.

Recommendation 3 which recommends that Revenue;

- increases site visits across all employment sectors to ensure a minimum of 4,000 visits per annum from 2022 with year-on-year increases thereafter,
- publishes statistics on site visits conducted, individuals interviewed, and the number of individuals reclassified as employees or newly registered for PAYE on an annual basis, and

- works to bring forward legislation to replace the existing Code of Practice to provide stronger and more comprehensive definitions of employment and self-employment.

As indicated in previous correspondence restricted working arrangements arising from Covid-19 guidelines impacted on the number of site visits and this is evident from the information in the table below. Revenue initiated a Sectoral Shadow Economy Project in late 2021. This involves targeted outdoor visits across a range of business sectors including construction, hair and beauty, courier and delivery services. In carrying out this programme of outdoor visits, we are utilising all available data and intelligence at our disposal, including returns submitted by taxpayers and third parties, RCT data, Tax Evasion Reports, social media and other sources. Profiling work commenced in October 2021. To date, we have completed more than 3,100 desk-based appraisals across the various sectors. Revenue is also reviewing the approach Shadow Economy risks including consideration of issues such as structure, resources, collaboration, and systems.

The following table sets out the updated figures for site visits to end September 2022

Year	Construction site visits by Revenue only	Number of contractors, sub-contractors /employees interviewed on site	Construction site visits by Revenue with either DSP or WRC	Number of contractors, sub-contractors/ employees interviewed on site	Outcome Individuals registered as new employees for PAYE	Outcome Sub-contractors reclassified as employees	Revenue visits to other business sectors
Q1-Q3 2022	299	486	632	1,183	139	3	1,050
2021	32	38	250	141	55	2	307
2020	203	956	157	717	65	3	1,076
2019	829	3,476	844	3,176	297	97	4,091

Recommendation 4 relates to the commissioning of an independent investigation by Revenue on the financial and sectoral implications of Revenue's agreement with the courier sector in 1997. This investigation should include an examination into:

- the magnitude of revenue lost to the State as a result of this practice,
- the number of workers impacted by the agreement in the sector, and
- the financial cost to those workers.

Revenue provided further information to the Committee in relation to this issue on 5 November 2021 and 14 January 2022. These letters confirmed that the scheme has all but ceased to exist, with less than 10 courier companies operating the scheme for less than 10 individuals.

The Commission on Welfare and Taxation recommends, at point 11.4, that the rate of PRSI for the self-employed (Class S) should be aligned over time with the employer's rate of Class A PRSI attaching to employment (11.05%).

This aligns with the proposal in an inter-Departmental report from 2018 which concluded that the most effective step to take is to consider reducing the differential in social insurance rates. This would act to reduce the financial incentive to employers and employees to use self-employment arrangements and intermediary-type structures for the purposes of disguising employment.

Home Tutors

The Committee have expressed an interest in the classification of Home Tutors. The purpose of the Home Tuition Grant Scheme is to provide funding towards the provision of a compensatory educational service for children who, for a number of specific reasons, are unable to attend school. It is a condition of the scheme that parents or guardians must source a qualified tutor who is registered with the Teaching Council of Ireland for the duration of the approved tuition.

Since September 2015, Revenue's position on the tax treatment of emoluments paid to home tutors under the Home Tuition Grant Scheme run by the Department of Education, is that home tutors are employed under a contract of service by the family, which means they are employees of the family and subject to PAYE deductions by the Department of Education on any such emoluments. For tax purposes, therefore, home tutors are subject to the expense regime that applies to employees and are entitled to the employee tax credit. Where the parent employed the tutor directly, the Department of Education agreed to operate the PAYE system on payments made to the home tutors.

This was an agreed position for ease of administration as the payments initiated from the Department of Education originally. Furthermore, it avoids placing the obligation on each individual parent to register as an employer and administer the PAYE system. Prior to September 2015, home tutors were paid by the parent(s) from grants paid to them by the Department of Education. The parents of the children passed on the payments to the home tutors without deduction of PAYE. In the circumstances, the tutors were chargeable persons for income tax purposes in respect of the gross payments received prior to September 2015 and their income as home tutors should have been returned under the self-assessed income tax 'Pay and File' system. The change in treatment in 2015 regarding home tuition payments came about following a Revenue compliance intervention into the then Department of Education and Skills and was the subject of a review by the Comptroller & Auditor General in his 2015 Report. **See Appendix 2.**

Taxes are now deducted at source from home tuition payments. Tax and Duty Manual (TDM) 05-01-26 Taxation of payments made to Home Tutors by the Department of Education (**see Appendix 2**), clarifies the taxation treatment of emoluments paid to home tutors. The determination of the social insurance contribution an individual pays is not a matter for Revenue. The Department of Social Protection (DSP) determined that class S (self-employed status) was the appropriate rate of PRSI applicable to the emoluments paid to home tutors governed by the Home Tuition Grant Scheme.

Recommendation 5 relates to an EU Commission audit. The Committee recommends that Revenue:

- provide the Committee with a copy of the EU Commission inspection report and Revenue's reply
- provide the Committee with a timeline for the matter to be resolved and the costs involved, and
- undertakes a risk assessment of the impact on the Exchequer should Revenue's challenge be unsuccessful.

The engagement with the EU Commission is ongoing in relation to this audit.

In 2021, at the invitation of the EU Commission, Ireland paid €30,367,070 on reserve to avoid the accumulation of late payment interest on undervalued textiles and footwear from the People's Republic of China imported into Ireland between 16 September 2012 to 31 December 2019.

The amounts determined to be owed by each MS were based on a statistical analysis of data. However, the CJEU in its judgement on C213/19 – Commission v United Kingdom, determined that, while the statistical method is permitted, the Court asked that the Commission re-calculate the amount owing to take account of the Court's ruling, including accounting for false positives (para 477). False positives are legitimate imports by well-known high-street retailers which are below the

LAP (lowest acceptable price). In October 2022, the Commission updated Member States (MS) on the issue, indicating that a recalculation of the amount owing will result in a significant reduction for most MS. Revenue expects that this will also be the case for Ireland. For those that made a payment under reservation, the Commission indicated that they would work bilaterally with MS to recalculate individual liabilities, and that they will refund the difference when the amount owing is recalculated.

Appendix 2

Revenue Publications

Revenue Headline Results 2021

- <https://www.revenue.ie/en/corporate/press-office/annual-report/2021/headline-results-2021.pdf>

Revenue Annual Report 2021

- <https://www.revenue.ie/en/corporate/press-office/annual-report/2021/ar-2021.pdf>

Statement of Strategy 2021 – 2023

- <https://www.revenue.ie/en/corporate/documents/governance/sos-2021-2023.pdf>

Revenue Corporate Priorities 2022 and 2021

- <https://www.revenue.ie/en/corporate/documents/governance/rcp-2021.pdf>
- <https://www.revenue.ie/en/corporate/documents/governance/rcp-2022.pdf>

Corporation Tax 2021 Payments and 2020 Returns

- <https://www.revenue.ie/en/corporate/documents/research/ct-analysis-2022.pdf>

Income Tax Receipts in 2021

- <https://www.revenue.ie/ga/corporate/documents/research/income-tax-overview-2021.pdf>

VAT Repayments and Returns 2021

- <https://www.revenue.ie/en/corporate/documents/research/vat-payments-returns-2021.pdf>

Covid Restrictions Support Scheme (CRSS)

- <https://www.revenue.ie/en/self-assessment-and-self-employment/crss/index.aspx>

Business Resumption Support Scheme (BRSS)

- <https://www.revenue.ie/en/self-assessment-and-self-employment/brss/index.aspx>

Employment Wage Subsidy Scheme (EWSS)

- <https://www.revenue.ie/en/employing-people/employment-wage-subsidy/index.aspx>

Temporary Energy Support Scheme (TBESS)

- <https://www.revenue.ie/en/starting-a-business/tbess/index.aspx>

Debt Warehousing

- <https://www.revenue.ie/en/starting-a-business/paying-your-tax/debt-warehousing/index.aspx>

Covid-19 Scheme Statistics

- <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/number-of-taxpayers-and-returns/covid-19-support-schemes-statistics.aspx>

Local Property Tax

- <https://www.revenue.ie/en/property/local-property-tax/what-to-do/index.aspx>

Local Property Tax Statistics

- <https://www.revenue.ie/en/corporate/documents/statistics/lpt/lpt-stats-update-211122.pdf>

TDM - Taxation of payments made to Home Tutors by the Department of Education and Skills

- <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-01-26.pdf>

OCAG - Tax Settlements on Certain Payments to Teachers and Others (2014)

- <https://www.audit.gov.ie/en/find-report/publications/2015/chapter-12-tax-settlements-on-certain-payments-to-teachers-and-others.pdf>