Appendix 1

Briefing paper for the meeting of the Committee of Public Accounts

25 January 2024

1. 2022 Account of the Receipt of Revenue of the State

In 2022, Revenue collected total gross Exchequer receipts of €118 billion, including €22 billion in non-Exchequer receipts collected on behalf of other Government Departments and Agencies. The net Exchequer receipts of €82.4 billion were up by 22% or almost €14.9 billion on 2021.

In 2023, Revenue collected total gross Exchequer receipts of €127 billion[1], including €26 billion on non-Exchequer receipts collected on behalf of other Government Departments and Agencies. The net Exchequer receipts collected by Revenue last year were €87.2 billion, some €4.8 billion or almost 6% more than in 2022.

The following table shows the breakdown of net receipts for 2022 and 2021 as well as provisional net Exchequer receipts for 2023:

Category	**2023* €m**	**2022 €m**	**2021 €m**
Income Tax and USC	32,913	30,730	26,750
Value-Added Tax	20,347	18,780	15,390
Corporation Tax	23,837	22,645	15,323
Excise	5,613	5,472	5,823
Stamp Duties	1,760	1,820	1,495
Capital Gains Tax	1,519	1,747	1,645
Capital Acquisitions Tax	634	605	582
Customs	582	618	520
Other Property Related Taxes	1	N/A	N/A
Total	**87,206**	**82,417**	**67,528**

[1] Provisional. Final 2023 receipts figures will be published in Revenue's 2023 Annual Report in April 2024.

2. Appropriation Account 2022

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

Revenue's estimate for 2022 was €497 million; €442 million net of Appropriations in aid. Gross expenditure in 2022 was €492 million compared with €489 million in 2021, an increase of €3 million. The increase in 2022 over 2021 primarily relates to ICT expenditure and pay.

Revenue had 6,851 permanent staff serving at the end of 2022, with €351 million of Revenue's €492 million expenditure related to pay expenditure. The other main item of expenditure was on ICT, which accounted for some €72 million in 2022.

Revenue provides printing, mailing, IT hosting, and other allied services to other Departments without charge. The value of these services in 2022 was €5.5 million to other voted bodies, and €1.4 million to non-voted bodies.

Revenue has a range of controls and oversight measures in place to ensure compliance with relevant procurement legislation and guidelines. Revenue regularly reviews its procedures to ensure that the controls are effective and that procurement activity across the organisation is operated consistently and in accordance with good practice. It is Revenue's policy to avail of centrally available frameworks where practicable and engage with the Office of Government Procurement (OGP) where we have more specific requirements.

In 2022, Revenue made over 12,000 supplier payments to the value of €135 million (incl. VAT) for the provision of goods and services. The Comptroller and Auditor General examined payments made in 2022 by Revenue to suppliers under contracts of €25,000 or more (excl. VAT). The payments examined were made to 224 different suppliers and had a value of approximately €97 million. The examination determined 7 contracts were non-compliant with procurement guidelines. When VAT is included, the total payments made under such contracts was approximately €3.3 million.

3. Chapter 20 - Assessment and Collection of Local Property Tax

The Chapter on the Assessment and Collection of Local Property Tax focused on the examination of Revenue's controls over the completeness of the database of residential properties, the accuracy of

the valuations declared by taxpayers and the collection of LPT due from liable persons in a timely manner.

On 22 July 2021, the Finance (Local Property Tax) (Amendment) Act 2021 was signed into law. The Act introduced a new structure for LPT from 2022 onwards, which required property owners to revalue their properties based on the market value at 1 November 2021. The valuation band applicable to a property's new valuation determined the amount of LPT to be paid for each year from 2022 to 2025.

LPT is charged according to the valuation band that applies to a property, subject to any 'Local Adjustment Factor'. For the 2022 – 2025 valuation period, the LPT valuation bands were widened – the first band was doubled from €0 - €100,000 to €0 - €200,000, the second and third bands were increased by approximately 75% and all remaining bands were increased to cover a valuation 'range' of €87,499 i.e. band four applies to properties whose value is between €350,001 and €437,500. This valuation band 'range' was previously €49,999.

For properties valued up to €1.75 million, LPT is charged according to the declared valuation band that applies to a property. Each of the 19 valuation bands for the period 2022 – 2025 has a corresponding basic rate of LPT. The basic rate for the first 2 valuation bands is set at €90 and €225 respectively. For valuation bands 3 – 11, the LPT basic rate is calculated at 0.1029% of the valuation band mid-point. Furthermore, each Local Authority can increase or decrease the LPT rate by up to 15% from the basic rate each year. This means that the LPT charge for a property's valuation band may be different to the LPT charge basic rate. This is known as the 'Local Adjustment Factor'. A link to valuation band and Local Adjustment Factor information is included in Appendix 2.

The LPT charge for properties with a market value greater than €1.75 million is not calculated based on a valuation band. It is based on the market value of the property. The LPT charge for these properties is calculated as the sum of 0.1029% of the first €1.05 million of declared market value, 0.25% of the portion of the declared market value between €1.05 million and €1.75 million and 0.3% of the portion of the declared market value above €1.75 million. For the valuation period 2013 – 2021, two rates of LPT applied to properties with a market value over €1 million.

Over 100,000 previously exempt or non-liable properties were brought within the charge of LPT from 2022 onwards, while newly liable properties now come within the charge of LPT on an annual basis. Newly built or refurbished residential properties become liable for LPT for 2023 where the property became suitable for use as a dwelling after 1 November 2021 and on, or before, 1 November 2022.

Similarly, properties that became suitable for use as a dwelling after 1 November 2022 and on, or before, 1 November 2023 became liable to LPT for the first time in 2024. Owners of newly liable properties are required to base their valuation on the market value of their property as if it had existed on 1 November 2021. Revenue published guidance for valuing newly liable properties, including 'discount factors' which property owners can use to account for changes in property prices over time, since 1 November 2021. These 'discount factors' are designed to help property owners convert the value of a new residential property, built, completed or sold *after* 1 November 2021 into a value *as at* 1 November 2021.

Property owners are required to pay, or put arrangements in place to pay, their LPT for each year of the valuation period, 2022 to 2025. There are a wide range of payment options available including making a single payment in full each year by debit, credit card or Annual Debit Instruction. Alternatively, property owners can spread payments throughout the year via monthly direct debit or deduction at source (from salary, wages, occupational pension, Department of Social Protection payment or Department of Agriculture, Food and the Marine payment). For ease of administrative burden, it is possible to select a payment arrangement to apply for all years (2022 to 2025) which Revenue then rolls over automatically without requiring further action from the property owner. Property owners can also pay in full, or on a phased basis, through an approved payment service provider (An Post, Omnivend and Payzone).

As of 16 January 2024, payment compliance rates for LPT for 2022, 2023 and 2024 are 97%, 95% and 80% respectively. Further breakdown of these figures can be found in the table below:

	2022	**2023**	**2024**
Payment Methods on File	1,754,918	1,731,457	1,429,811
Local Authority & Approved Housing Bodies	174,374	179,664	184,833
Exemptions	20,526	20,602	20,545
Other **	12,425	14,953	21,229
Total	1,962,243	1,946,676	1,656,418
Total properties per Register	**2,020,907**	**2,043,062**	**2,065,491**
Compliance Rate	97%	95%	80%

** Other includes cases with no owner linked, uninhabitable properties and cases with active correspondence, etc.

There are approximately 2 million properties liable for LPT in the State. For the 2022 – 2025 valuation period, the LPT charge is based on the valuation band applicable to the property's value as at 1 November 2021. In December 2021, Revenue published findings of its detailed analysis and comparison of self-assessed property valuation bands, for the 2022 – 2025 valuation period, across the 31 local authority (LA) areas with CSO data. This exercise showed that the self- assessed LPT

valuations by property owners track very closely to the prevailing average sale prices. In the vast majority of LA areas, the sales price average fell within the same LPT valuation band as the owners' valuations.

Revenue's administration work covering both service and compliance management, as well as the data analysis referred to above, has shown that the majority of property owners made reasonable and honest efforts to value their properties. While instances of undervaluation occur, Revenue manages this risk area through its normal compliance programmes, actively challenging valuations where anomalies arise. For example, Revenue has recently commenced a review of properties that had a declared minimum decrease of three valuation bands in the second valuation period (2022 – 2025) compared to the first (2013 – 2021). Just over 3,600 properties, or 0.15% of the LPT case base, fell into this category. Following an initial screening, certain property owners have been requested to submit documentation in support for the valuation band declared. This review will continue into 2024.

It is important to note that LPT is unique in that there is, in effect, a 'back-stop' whereby unpaid LPT remains a charge on the property and any shortfall is picked up when a property is sold. As such, there is a strong incentive on any potential property acquirer to make sure there are no LPT issues outstanding on the property.

Revenue clearance is required on the sale of a property to confirm that the property is fully compliant for LPT. There are two types of Revenue clearance, general clearance or specific clearance. General clearance is facilitated by the LPT Online portal. Where the sale price of the property exceeds the limits set for general clearance, property owners are required to make an application for specific clearance to Revenue. Where the property owners' declared valuation band is not accepted, clearance is not provided until such time that the additional LPT liability plus any interest arising on same has been paid.

When LPT was first introduced in 2013, there was no existing complete database of all residential properties, and their owners, available. Revenue created the 'LPT Register' using a wide range of sources. For example, Revenue used data from internal sources including electronic stamp duty and mortgage interest relief, as well as external sources including the Department of Social Protection, the Residential Tenancies Board, the Local Government Management Agency, ESB Networks and GeoDirectory.

Since the creation of the initial LPT Register, and on an ongoing basis, Revenue undertakes a range of work to both ensure and improve the accuracy and completeness of the register. Revenue systems are designed to facilitate the automatic update of the LPT register where, for example, a stamping document related to the sale of newly built property is submitted to Revenue. As LPT is a self-assessed tax, the LPT online portal enables property owners to register their own properties, for example, self-built properties, and notify Revenue when there is a change in circumstances for the property such as a sale or transfer of ownership

Separately, and notwithstanding the high compliance rates for LPT, Revenue conducts regular comparisons between the GeoDirectory and LPT Register and has undertaken a review of properties on the LPT Register not linked to a liable owner resulting in the number of such properties on the register being reduced from 42,000 to under 2,000. Revenue is currently reviewing the approximate 18,000 unhabitable properties on the LPT Register. To date, this review has established that the uninhabitable status is correct for 2,700 properties, while almost 2,000 properties have now been deemed habitable and liable for LPT.

The Chapter notes a variance between the number of residential properties on the LPT Register when compared with other national databases (CSO, Eircodes). However, a direct comparison of the different databases is not possible for a number of reasons. This includes the fact that different criteria are used to define what constitutes a residential property and the fact that, for a number of reasons, Eircodes are obtained prior to a property becoming habitable. LPT only applies to the types of properties specified in legislation and to properties habitable on 1 November in the preceding year.

Notwithstanding that there are clear reasons for the variances in the different property databases, Revenue is committed to taking all reasonable measures to ensure its LPT Register is both accurate and continually maintained. Revenue has been to the fore in establishing a National Residential Property Register Cross Departmental group comprising of Revenue, CSO, the Department of the Environment, Climate and Communications and the Department of Housing. The initial terms of reference focussed on developing a greater understanding of the reasons for the differences in the residential property databases. The group has evolved into a valuable network with associated tangible outputs. For example, Revenue used ESB Networks data in establishing a preliminary Vacant Homes Tax (VHT) register, the CSO used ESB Network data to produce its ‘Vacant Dwelling Indicators based on Metered Electricity Consumption’ report in February 2023 and the group has facilitated collaboration between Revenue and CSO to ensure that the same methodology was employed in the establishment of the VHT Preliminary Register.

Vacant Homes Tax (VHT) is an annual self-assessed tax introduced in the Finance Act 2022 with the objective to increase the supply of residential properties available for sale or rent. VHT applies to properties which are residential properties for the purposes of LPT and have been used as a dwelling for less than 30 days in a chargeable period. VHT will not apply if the property is derelict or uninhabitable, was sold in the chargeable period, is subject to a qualifying tenancy, or is exempt from LPT for 2023. In addition, several exemptions to VHT can be claimed as part of the VHT return.

The first chargeable period for VHT was 1 November 2022 to 31 October 2023, with returns for chargeable properties due by 7 November 2023. For the first chargeable period, VHT is set at a rate equal to three times the property's standard LPT rate, before any Local Authority Adjustment factor.

A register of vacant homes has been established by Revenue and will be continually updated as necessary. To date, the total properties declared as vacant is 5,898 of which almost 3,500 are liable for VHT. An exemption has been claimed in respect of the remaining almost 2,400 properties. The total net liability to Vacant Homes Tax (2024) is approximately €2 million.

4. Chapter 21 – Revenue's Tax Debt Warehousing Scheme

The Chapter on Revenue's Tax Debt Warehousing Scheme focussed on the processes in place to ensure that only those who were eligible gained access to the scheme and that only eligible debt was warehoused, the management of warehoused debt to ensure debt payment is maximised and the compliance work carried out to ensure that the conditions of the scheme continue to be met by those availing of it.

On 13 March 2020, as the severe economic impacts of the Covid-19 virus started to hit businesses, Revenue issued a press release which outlined actions it had taken to assist businesses who expected to experience unprecedented cashflow and trading difficulties arising from the impacts of the virus. At this very early stage in the pandemic, Revenue advised businesses of the suspension of interest on late payments for certain liabilities, the suspension of debt enforcement and the retention of current tax clearance status. Revenue also advised taxpayers to continue to send in tax returns on time, on a best estimates basis where necessary.

This announcement was in line with overall Government direction and policy at the time. The Debt Warehousing Scheme was subsequently announced by Government on 2 May 2020. The scheme provided a vital liquidity support to businesses impacted by Covid-19. It allowed for the "parking" of

certain tax liabilities relating to periods during which trading was restricted due to public health restrictions.

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 repaid to Revenue and income tax liabilities of certain self-assessed taxpayers. The eligible debt was parked at 0% for a significant period – until the end of 2022 in most cases (or to the end of April 2023 for businesses which were subject to further restrictions in late 2021 and thereby qualified for an extension to the scheme). After the 0% interest period, interest is charged at 3% per annum on the warehoused tax debt until it is paid in full.

The legislation for the scheme provided that businesses and individuals managed by Revenue's Business and Personal Divisions were entitled to automatic access to the scheme. Revenue's Business Division manages enterprises with an annual turnover less than €3 million, which accounts for the majority of business taxpayers. Revenue's Personal Division deals with all business taxpayer entities with no trade or professional income such as trusts, charities, sporting bodies.

Admittance to the scheme was also available on application to larger businesses managed by Revenue's Large Corporates and Medium Enterprises Divisions, as well as a small number of individuals in Revenue's High Wealth Division. Such applications were considered on a case-by-case basis having regard to whether the business or individual in question was adversely impacted by Covid-19. Revenue's Medium Enterprises Division deals with business taxpayers with an annual Irish turnover of more than €3 million (but less than €190 million) as well as the subsidiaries/parents of such companies. Large Corporates Division deals with the largest corporate taxpayers with an annual Irish turnover of more than €190 million per annum.

The balance in the warehouse has decreased by €1.4 billion since January 2022. As at 31 December 2023:

- approximately 58,000 taxpayers are availing of the Debt Warehousing facility
    - this includes 1,643 Large Corporates and Medium Enterprises
- €1.756bn is currently warehoused
- the breakdown of the warehoused debt is as follows:
    - €884 million in VAT
    - €722 million in Employer PAYE
    - €47 million in Income tax
    - €32 million in TWSS overpayments
    - €72 million in EWSS overpayments

- 5,347 taxpayers have warehoused debt in excess of €50,000 and account for €1.50bn of the overall warehoused debt figure.

In October 2022, Revenue announced an important and significant extension to the Debt Warehousing Scheme in light of the continued challenging economic situation prevailing at the time for businesses and the impacts of the energy crisis. Under the terms of the scheme, most businesses with warehoused debt were due to enter into an arrangement by 31 December 2022 with Revenue which would clear the debt over an agreed timeframe with effect from 31 December 2022. This date was extended to 1 May 2024 and resulted in businesses no longer having the challenge of making arrangements to pay their warehoused debt immediately. Importantly, businesses were still able to avail of the reduced 3% interest rate for debt warehoused periods from 1 January 2023, as opposed to the general interest rate of 8% or 10%, when they come to pay the debt.

It remains a key condition of the scheme that current returns are filed, and resultant liabilities paid on time. Revenue is aware, however, that there may be circumstances where businesses continue to experience cashflow difficulties, which, in turn, impact either their ability to pay non-warehoused debt, or their ability to meet ongoing, current tax obligations on a timely basis. Where this is the case, the advice remains, as has always been the case, to engage with Revenue as soon as such difficulties start to arise so that an agreed solution can be found. Revenue has a proven track record in agreeing flexible and ultimately successful payment arrangements that take account of the financial circumstances and challenges of each business and their capacity to pay. These flexibilities can include a reduced down payment amount to commence a phased payment arrangement, an extended payment duration, the availability of payment breaks and payment deferral when temporary cash flow difficulties arise during the arrangement term.

However, where there is no meaningful engagement with Revenue and persistent non-compliance with current tax obligations, the taxpayers in question will lose the benefit of the scheme and their warehouse status will be revoked. To date, 12,400 taxpayers with warehoused debt of €326 million had their warehouse status revoked due to persistent non-compliance with the scheme conditions.

Where taxpayers address their compliance issues and bring their current tax obligations up to date, they can be reinstated into the warehouse. As at end December 2023, almost 600 taxpayers with warehoused debt of €63 million have been reinstated back into the warehouse.

Revenue's approach to the clearance of warehoused debt is, and will be, flexible and tailored to each business based on its capacity to pay. An interest rate of 3% per annum began to accrue on warehoused debt from 1 January 2023 (or 1 May 2023 for those eligible for the extended scheme).

In advance of 1 May 2024, some businesses have already begun to repay their warehoused debt where their financial circumstances permit, and this is evident in the reducing warehouse balance. At the end December 2023, over 2,100 taxpayers had agreed phased payment arrangements for warehoused debt of €158 million. Revenue's expectation is that businesses will continue to proactively make plans to address the payment of their warehoused debt.

Revenue continues to engage directly with businesses at every opportunity to outline the payment options available for the payment of their debt and to encourage the setting up of payment plans as early as possible. In addition, Revenue is participating in informational events for business representative bodies and sectoral groups to continue to raise awareness and engage with businesses with warehoused debt, particularly businesses in the SME sector.

5. Chapter 22 - Corporation Tax Losses

The Chapter on Corporation Tax Losses reviewed trends in corporation tax losses, verification work undertaken by Revenue in relation to corporation tax loss balances, temporary acceleration of corporation tax loss relief and how Revenue uses available data on corporation tax losses for planning and forecasting purposes.

Loss relief is a standard feature of corporate tax regimes worldwide. Under the Irish corporate tax regime, losses incurred in the course of a business are allowed to be considered when calculating the appropriate amount of tax due by companies. Loss relief recognises the fact that business cycles run over a longer period than just a single year, and that it would be inequitable to tax profits in one year and not allow loss relief in the next.

Under existing loss relief provisions in the Tax Acts, a company may claim to have a trading loss offset or used on a value basis against profits of any description for the same accounting period in which the loss was incurred or of an immediately preceding accounting period of the same length. For a company that is part of a group, losses arising in the current accounting period may be available to be surrendered and claimed by other companies in the group. Any unrelieved trading losses of a company for an accounting period may be carried forward for offset against trading income of the same trade in future accounting periods.

Statistical information on losses is available in Revenue's Annual Report on Corporation Tax at Appendix 2 and is published on the Revenue website. These reports show that losses used per year are broadly consistent, ranging from just under €10 billion to just over €14 billion in the most recent five-year period. It is Revenue's view that these figures are the most relevant to consider in respect of the actual impact of losses, rather than the losses forward balance.

Losses carried forward into 2021 increased by €10.6 billion (from €211.9 billion in 2020 to €222.5 billion). Just under 60,700 companies had losses carried forward on their 2021 tax returns, 43,600 of which also had losses carried forward in 2020 (i.e., carrying losses for multiple years). Losses carried forward into 2022 amounted to €229.7 billion.

Around 28,000 companies used losses in 2021 totalling €12.2 billion, at a cost to the Exchequer of €1.5 billion. Of companies with losses in 2020, over 15,100 did not carry losses into their 2021 returns. The CT liability of these companies was €348 million for 2021.

Revenue supports voluntary compliance through a risk-focused, effective, and proportionate response to non-compliance, reflecting taxpayer behaviour. In line with this approach, returns that include corporation tax losses forward are reviewed for indicators of risk. In addition, Revenue carries out specific compliance projects on corporation tax losses forward, some of which are sectoral based. Overall, this compliance work has shown that the vast majority of corporate taxpayers correctly claim losses forward to which they are entitled. Two separate projects carried out on losses carried forward by 25 companies in the aircraft leasing sector resulted in a restriction of total losses carried forward by the relevant companies of €358 million (10% of the total losses carried forward) resulting in an additional €45 million in tax yield. A further project carried out to examine the validity of losses carried forward from 2017 into 2018 by 30 companies with the highest losses in specific sectors resulted in a restriction of total losses carried forward by the relevant companies of €18 million (1% of the total losses carried forward) resulting in an additional €2.2 million in tax yield.

Under section 396D TCA 1997, a temporary acceleration of corporation tax loss relief was put in place as part of the measures available to companies affected by the COVID-19 pandemic. It allowed companies to estimate their losses for certain accounting periods and to carry back 50% of those losses against chargeable profits of the preceding accounting period on an accelerated basis. The relief effectively came to an end in May 2022 due to the time limits for making claims provided for in the legislation. This Covid-19 related temporary accelerated loss relief had no net cost in the medium term, as it is an acceleration of a relief that already exists in the corporation tax code. Accelerated tax refunds of €72 million in total were paid to companies, arising from approximately 400 claims

submitted in respect of 2020 and 2021 trading periods. Twenty compliance interventions (5% by number and 87% by value) undertaken in respect of the scheme did not result in any additional tax yield.

The Department of Finance has responsibility for the preparation of tax forecasts. Revenue assists the Department as required. Forecasting the future impact of losses on Corporation Tax receipts is difficult, given that the future use of losses is dependent on the future profitability and the ability of companies to utilise any losses available to them. While the Chapter states that the future use of losses is a key component of forecasting Corporation Tax receipts, Revenue does not view it as a particularly relevant factor. As can be seen in Revenue's Annual Report on Corporation Tax publication, receipts are concentrated in a small number of large multinationals who are consistently profitable, and losses are generally not relevant to the tax payments of these companies. Revenue's annual survey of the top 10 corporate groups confirms this stance, as we have not received any responses indicating that losses are a factor influencing variations in tax payments by these taxpayers.

The Chapter notes the recommendations made by the Committee of Public Accounts in 2018 in relation to distinguishing between trading losses and unused capital allowances and performing regular age analyses of losses carried forward. The Chapter acknowledges that tax legislation does not provide for a distinction between the portion of the loss that is attributable to capital allowances and the portion that is not.

On the matter of age analysis, current legislation does not set out any order in which trading losses carried forward from earlier years should be offset, other than to say they must be set off at the first available opportunity against the profits from the same trade. Given that there is no prescription in law on the streaming of losses carried forward by reference to the year in which they are incurred, there is no basis to require taxpayers to provide an age analysis of losses carried forward as it is not relevant to the calculation of their tax liability. As there is no basis in legislation for streaming losses by year and there is no requirement for taxpayers to provide an age analysis, it is not possible for Revenue systems to carry out an age analysis of trading losses carried forward.

The PAC recommendations can only be implemented by Revenue on foot of a policy decision, which is a matter for the Department of Finance.

6. The classification of employment for contribution purposes and financial implications of the misclassification of workers.

Revenue's role is to determine employment status for income tax purposes. Responsibility for PRSI classification rests with the Department of Social Protection (DSP) while consideration of matters relating to workers' rights fall within the remit of the Work Relations Commission (WRC), operating under the aegis of the Department of Enterprise Trade and Employment (DETE).

Revenue has engaged in discussions with the Committee on the employment status of workers for income tax purposes on a number of occasions over the past number of years. A worker's employment status is not a matter of choice, it depends on the terms and conditions of the role. While it is usually clear whether an individual is employed or self-employed, it is not always obvious.

Developments in this area since the matter was last discussed with the Committee relate to the Supreme Court judgement delivered 20 October 2023 in the Karshan (Midlands) Ltd. t/a Domino's Pizza case. The case centred on whether Domino's Pizza delivery drivers were employees. The judgement brings welcome clarity and provides a decision-making framework to assist businesses correctly classify workers between those who are employed or self-employed. The decision-making framework consists of five questions that, having regard to well-established case law, should be used to resolve the question of whether a contract is one of service (employee) or for services (self-employed). When considering whether someone is engaged under a contract of service or contract for service, regard should be given to any formal contracts, but also how the work is actually carried out, and the relationship between the worker providing the service and the business paying for that service. It is important to note that the judgement and the decision-making framework is relevant to a broad range of sectors and is not limited to the taxation of delivery drivers.

In light of this, Revenue publicly encouraged any business that currently engages contractors, sub-contractors or other workers on a self-employment basis (i.e. where that worker is not treated as an employee of the business for income tax purposes) to review the nature of any such arrangement(s) in light of the Supreme Court judgment and consider any implications it may have for them. A copy of Revenue's press release is linked in Appendix 2.

Revenue will shortly issue detailed guidance to explain the implications of the judgement for tax purposes and is working closely with colleagues in the DSP and the WRC to update the joint Code of Practice on Determining Employment Status. Revenue has also set up a sub-group of its Senior Executive team with the objective of ensuring a considered and consistent approach to challenging classification for tax purposes, having regard to the Supreme Court judgment.

While the Supreme Court judgement will result in workers across a number of sectors being re-classified as employees for tax purposes, there will always be legitimate operators in the gig economy and wider economy where workers are correctly classified as self-employed.

It is important to note that there is no difference in the tax rates which apply to employees or those who are self-employed. Where an individual is engaged under a contract of service, i.e., as an employee, he or she will be taxable under Schedule E where Income Tax, USC and PRSI are deducted from his or her employment income through the employer's payroll system as each payment is made. He or she can claim a deduction, through MyAccount, for expenses incurred **wholly, exclusively and necessarily** in carrying out the duties of the employment.

Where an individual is engaged under a contract for service, i.e. as a self-employed individual, he or she is taxable under Schedule D, where he or she will generally be obliged to register for self-assessment, pay preliminary tax and file income tax returns using the Revenue Online System (ROS). He or she can claim a deduction for expenses incurred **wholly and exclusively** for the purpose of his or her trade or profession. In practical terms, the main difference for tax purposes between individuals taxed under Schedule E and Schedule D is the different rules for allowable expenses.

As the Committee will be aware, Revenue has been very active, over a number of years, in carrying out interventions in relation to potential misclassification as part of its risk-based approach to compliance. Recent work has involved examining risks across multiple sectors including construction, medical locums, food delivery riders, couriers and brand ambassadors in the motor industry to name but a few. Despite anecdotal suggestions to the contrary, the experience and evidence to date suggests that misclassification is not widespread, but rather Revenue's targeted interventions have identified a limited number of outlier cases in the pre-Supreme Court judgement landscape.

Since 2021, Revenue has been engaged in a shadow economy programme involving targeted outdoor visits across a range of business sectors including construction, hair and beauty, courier and delivery services, takeaway food and beverages, tourism, car washes and others. In carrying out this programme of outdoor visits, Revenue utilises all available data and intelligence at its disposal, including returns submitted by taxpayers and third parties, RCT data, tax evasion reports (also referred to as good citizen reports), social media and other sources. To date, Revenue has completed 5,735 desk-based appraisals across the various sectors.

In 2023, our shadow economy teams carried out 4,604 outdoor visits which represents an increase of 51% over the activity in 2022. Revenue registered 324 new employees, compared with 244 new registrations in 2022. This is not to be confused with individuals reclassified as employees, where there were 14 such instances in 2023.

	FY 2022			FY 2023		
	Construction	Other*	Total	Construction	Other*	Total
Standalone Visits	407	1,614	2,021	577	2,610	3,187
Joint Visits	716	322	1,038	671	746	1,417
	1,123	1,936	3,059	1,248	3,356	4,604
Registered as new employees	244			324		
Reclassified as employees	8			14		

** Other relates to all other sectors excluding construction*

Revenue also has a cash economy compliance programme, where we respond to reports provided by members of the public and interested parties about suspected tax evasion or shadow economy activity. Where the information provided is sufficiently detailed or specific, Revenue uses it to investigate the business or person. If the information may be useful to another State agency, we share it with them, where provided for under legislation. **20,457** cash economy programme interventions were carried out in 2023 yielding **€191.5 million.**

Classification of employment status remains a key focus for Revenue and features in Divisional business plans for 2024 and will continue to do so in the coming years.

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.

This recommendation is fully implemented. Revenue publishes a breakdown of Excise receipts in its Annual Report each year.

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 were applied in the legislation and design of Temporary Business Energy Support Scheme (TBESS) which was administered by Revenue. The scheme provided support to eligible businesses in respect of energy (electricity and natural gas) costs in the period 1 September 2022 to 31 July 2023.

Inbuilt processes and controls were in place at both registration and claim stage to mitigate the risk of incorrect claims. Additionally, while the scheme was operated on a self-assessment basis, all the necessary calculations were carried out by Revenue's portal with businesses only required to input relevant data from their energy bills on Revenue's Online System (ROS). These procedures were put in place as part of the learnings from earlier schemes.

The scheme has now expired. In total, just over 25,100 businesses were supported, with claims of €150.5 million made under the scheme.

Recommendations 3 and 4 relate to the employment status of workers for income tax purposes.

As outlined in section 6 above, the October 2023 Supreme Court judgement in the Karshan (Midlands) Ltd. t/a Domino's Pizza case has dramatically changed the landscape for determining whether an individual is employed or self-employed. The judgement, along with the decision-making framework arising from same is relevant to a broad range of work and is not limited to the taxation of delivery drivers.

In **Recommendation 3,** the Committee recommended 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 towards bringing forward legislation to replace the existing Code of Practice to provide stronger and more comprehensive definitions of employment and self-employment.

Revenue's tax compliance programmes are kept under constant review to ensure that they are focussed on the areas of greatest risk. This includes risks associated with the misclassification of workers. Revenue works closely with other State agencies such as the Department of Social Protection (DSP) and the Workplace Relations Commission (WRC) in this regard.

Rather than setting strict numerical targets, Revenue applies complex risk criteria and data analytics to identify cases for compliance intervention. This ensures a clear risk-focused, effective, and proportionate response to non-compliance, reflecting taxpayer behaviour. Having regard to this approach, in planning its programme of compliance interventions for 2023, Revenue evaluated the risks associated with the misclassification of workers and considered these alongside the other risk areas in its overall compliance framework that need to be managed.

Revenue's Joint Investigation Unit (JIU) makes a significant contribution to the overall intervention strategy by targeting shadow economy activity. JIU officers conduct 'standalone' Revenue operations and also work very effectively with the Department of Social Protection Special Investigation Unit (SIU) officials and also, as circumstances require, with the Workplace Relations Commission (WRC) to address areas of mutual concern across a range of economic sectors. One such sector is construction. Revenue carried out over 3,000 site visits in 2022 and 4,600 site visits carried in 2023. Revenue will continue to conduct standalone and multi-agency site visits as part of its 2024 compliance programme.

The table below shows the activity in this sector over the last number of years.

Year	Construction site visits by Revenue only	Number of contractors, sub-contractors /employees interviewed on site (Revenue only)	Construction site visits by Revenue with either DSP or WRC	Number of contractors, sub-contractors /employees interviewed on site (with DSP or WRC)	Outcome Individuals registered as new employees for PAYE (Construction / All sectors)	Outcome Sub-contractors reclassified as employees (Construction / All sectors)	Visits to other business sectors by Revenue only and by Revenue with DSP or WRC
2023	577	791	671	2,257	76 / 324	8 / 14	3,356
2022	407	872	716	1,432	76 / 244	7 / 8	1,936
2021	32	38	250	141	10 / 55	2 / 2	307
2020	203	956	157	717	65 / 208	3 / 20	1,076
2019	829	3,476	844	3,176	297 / 775	97 / 106	4,091

The Department of Social Protection has the lead responsibility for the 'Code of Practice on Determining Employment Status' ('the Code') and legislation to place this Code on a statutory footing is a policy matter. Revenue is working closely with colleagues in DSP and the WRC in relation to updating the Code as a result of the recent Supreme Court case mentioned above.

In **Recommendation 4** the Committee recommends that Revenue commission an independent investigation 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 detailed information to the Committee in relation to this matter on 5 November 2021 and 14 January 2022. Copies of these letter are provided in Appendix 2 for ease of reference.

In summary, Revenue's arrangement with the courier sector primarily facilitated tax compliance on the part of the self-employed courier. The arrangement itself didn't establish that individual couriers were self-employed, however, a courier had to be self-employed to be included in the arrangement.

Following a detailed examination of historic P35 end year returns made by employers over a 15-year period from 2004 to 2018, Revenue provided the table below which indicates the numbers of employers using the 'voluntary PAYE scheme' for couriers. More recent data indicates that the scheme has all but ceased to exist with less than ten courier companies using the system in respect of less than ten individual couriers.

Use of the voluntary PAYE scheme over a 15-year period from 2004 to 2018

YEAR	GROSS PAY	TAX	NO OF EMPLOYEES	NO OF EMPLOYERS
2018	€1,524,970	€22,329	154	<10
2017	€1,470,119	€15,216	154	<10
2016	€1,511,469	€13,565	209	<10
2015	€1,408,701	€13,367	210	<10
2014	€1,524,970	€22,329	154	<10
2013	€1,230,250	€3,949	147	<10
2012	€1,204,814	€10,523	154	<10
2011	€1,333,646	€10,084	165	<10
2010	€1,538,140	€8,059	173	<10
2009	€2,119,337	€14,155	248	<10
2008	€3,076,638	€46,391	380	<10
2007	€2,366,513	€29,744	328	<10
2006	€2,245,676	€44,402	341	<10
2005	€1,627,437	€56,058	262	<10
2004	€1,301,380	€42,668	264	<10

It is important to restate that there was no financial cost to the couriers or the Exchequer as the individuals included in the 'voluntary' regime had to be bona fide self-employed. However, under the

terms of the 1997 agreement, individual motor couriers received the benefit of an annual 45% ‘flat deduction’ against their pay in recognition of the expenses they incurred in the performance of their duties.

Revenue does not have the power to set up and commission an independent investigation and there is no legal basis for Revenue to do so.

Recommendation 5 relates to an EU Commission audit. The Committee recommended that Revenue provides the Committee with a copy of the EU Commission inspection report and Revenue’s reply, provides 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. The most recent correspondence issued from the Commission on 27 April 2023. The letter covered two issues:

1. It stated that the statistical method used to determine amounts owed by each MS will only be applied to imports from 16 June 2015. The estimated TOR losses for the period 16 September 2012 to 15 June 2015 was €9,773,845.25 net. This amount was repaid to Ireland in 2023.
2. It also asked for data in relation to import declarations lodged by Authorised Economic Operators (AEOs) for certain goods originating in China. Ireland submitted the data to the Commission on 29 June 2023.

Appendix 2

Revenue Publications

Revenue Headline Results 2023

- https://www.revenue.ie/en/corporate/press-office/annual-report/2023/headline-results-2023.pdf

Revenue Headline Results 2022

- https://www.revenue.ie/en/corporate/press-office/annual-report/2022/headline-results-2022.pdf

Revenue Annual Report 2022

- https://www.revenue.ie/en/corporate/press-office/annual-report/2022/ar-2022.pdf

Revenue's Statement of Strategy

- 2021 – 2023: https://www.revenue.ie/en/corporate/documents/governance/sos-2021-2023.pdf
- 2023 – 2025: https://www.revenue.ie/en/corporate/documents/governance/sos-2023-2025.pdf

Revenue Corporate Priorities

- 2022: https://www.revenue.ie/en/corporate/documents/governance/rcp-2022.pdf
- 2023: https://www.revenue.ie/en/corporate/documents/governance/rcp-2023.pdf
- 2024: https://www.revenue.ie/en/corporate/documents/governance/rcp-2024.pdf

Local Property Tax - General Information

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

Local Property Tax – Valuation Band and Local Adjustment Factor information

- https://www.revenue.ie/en/property/local-property-tax/valuing-your-property/determining-lpt-charge.aspx

Local Property Tax Statistics

- 2022: https://www.revenue.ie/en/corporate/documents/statistics/lpt/lpt-stats-update-120723.pdf
- 2023: https://www.revenue.ie/en/corporate/documents/statistics/lpt/lpt-stats-update-041023.pdf
- 2024: https://www.revenue.ie/en/corporate/documents/statistics/property-taxes/pt-stats-update-120124.pdf

Debt Warehousing Scheme – General Information

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

2023 Headline Results - Debt Collection & Debt Management

- https://www.revenue.ie/en/corporate/press-office/annual-report/2023/debt-collection-management-infographic.pdf

Covid-19 Support Scheme Statistics (including Debt Warehousing)

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

Corporation Tax Report - 2022 Payments and 2021 Returns

- https://www.revenue.ie/ga/corporate/documents/research/ct-analysis-2023.pdf

Revenue update following judgment delivered in The Revenue Commissioners v. Karshan (Midlands) Ltd. t/a Domino's Pizza

- https://www.revenue.ie/en/corporate/press-office/press-releases/2023/pr-102723-update-v-domino.aspx

PAYE Real Time Data in 2022 - Insights on Taxpayers in 2022

- https://www.revenue.ie/en/corporate/documents/research/paye-real-time-insights-2022.pdf

2022 PAYE Returns

- https://www.revenue.ie/en/corporate/documents/statistics/registrations/paye-returns-2022-q1.pdf

VAT Payments and Returns 2022

- https://www.revenue.ie/en/corporate/documents/research/vat-payments-returns-2022.pdf

Vehicle Registration Tax (VRT) Report 2022

- https://www.revenue.ie/en/corporate/documents/research/vrt-report-2022.pdf

Illegal Tobacco Products Research Surveys 2022

- https://www.revenue.ie/en/corporate/documents/research/tobacco-surveys-2022.pdf

Survey of SMEs 2022

- https://www.revenue.ie/en/corporate/documents/research/sme-survey-2022.pdf

Revenue reply to PAC – 5 November 2021 (relevant extract)

5 November 2021

Committee of Public Accounts,
Leinster House,
Dublin 2.
D02 XR20
PAC@oireachtas.ie

Dear Ms. Cremin,

I refer to your letter dated 22 October 2021 regarding the Committee's consideration of the Minute of the Minister for Public Expenditure and Reform dated 29 July 2021 on the examination of the 2019 Appropriation Account for Vote 9 - Office of the Revenue Commissioners.

The information requested regarding;

- what Revenue can investigate in respect of the financial and sectoral implications of a voluntary PAYE system agreed by Revenue and courier firms in March 1997

and

- a copy of the 2019 EU Commission inspection report on the control strategy for customs values and repayments when it is completed

is included in the attached appendices.

If you have any further enquires please contact Angela O'Gorman at angela.ogorman@revenue.ie

Yours sincerely,

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Niall Cody,
Chairman.

Appendix 1

Information note in relation to what Revenue can investigate in respect of the financial and sectoral implications of a voluntary PAYE system agreed by Revenue and courier firms in March 1997

By way of background, it is important to note that PAYE is not a tax, but a collection mechanism for Income Tax. The operation of PAYE does not, of itself, confer any rights in terms of employment rights or welfare entitlements.

The operation of PAYE on bona fide self-employed couriers involved the application of a withholding tax on an administrative basis, which facilitated collection of tax on account from a cohort of self-employed individuals and made it easier for these individuals to meet their payment compliance obligations. A review of the 1997 letters from Revenue bears out the fact that the individuals in question were required to be self-employed and that the conditions to participate in the "voluntary PAYE scheme" were that the individuals were in fact bona fide self-employed. It was necessary for the couriers to display the characteristics of a self-employed person, being that the vehicle was owned by the courier, all the outgoings in relation to the vehicle were paid by the courier, that the courier was engaged under a standard self-employed contract and a basic wage was not paid in addition to a "mileage" rate. All these factors ensured that those eligible for the voluntary scheme were self-employed.

It should also be noted that the determinations made back in 1997 that the individuals concerned were genuinely self-employed are still valid today and meet the necessary criteria in the updated Code of Practice governing such matters that was published in July this year by the Minister for Social Protection and can be found at: www.gov.ie/pdf/?file=https://assets.gov.ie/34185/fcfac49276914907b939f64fad110ae8.pdf#page=null.

Bearing in mind the significant lapse of time, the information available to Revenue in relation to matters which occurred over 20 years ago is severely limited, particularly in light of Revenue only having access to information returned in statutory reporting.

However, with the introduction of PAYE Modernisation in 2019, Revenue has access to more detailed real time data in relation to PAYE returns. Revenue can conclude from that data that there is limited use of the voluntary PAYE system in recent years.

- In 2020, 3 courier companies were using the system with voluntary PAYE applied to 117 individual couriers and a total gross 'pay' figure for those individuals of c.€268,000.
- In 2021 (up to end of July), just 2 courier companies were using the system with voluntary PAYE applied to 10 individual couriers and a total gross 'pay' figure for those individuals of c.€ 67,000.

It should be noted that the tax and PRSI remitted in respect of 'voluntary PAYE' deductions represent approximately 2.5% of the overall tax and PRSI remitted in 2020, and 1.5% of tax and PRSI remitted in 2021, by the employers operating the arrangement.

In relation to the financial and sectoral implications of the voluntary PAYE system agreed by Revenue and courier firms in March 1997, Revenue's position remains, as previously detailed, that there was no cost involved as the couriers were correctly classified as self-employed. The application of the

voluntary PAYE system ensured that those self-employed individuals were facilitated in such a way that the users of the services of the couriers withheld some income tax through the voluntary PAYE system. This led to the courier having income tax withheld on payments received which could be offset when filing their Income Tax return. The Department of Social Protection (DSP) had decided that class S was the appropriate rate of PRSI. DSP is responsible for determining PRSI classes and any impact on the Social Insurance Fund is a matter for that Department.

Regarding policing the nature of relationships between employers and its workers, Revenue has a strong track record in tackling instances of misclassification of employees as self-employed persons. A recent example is the success Revenue had in an appeal to the High Court by a fast-food provider on the status of its delivery drivers. There have also been a number of appeals to the Tax Appeals Commission against Revenue assessments that re-characterised payments to workers as 'emoluments' and, therefore subject to PAYE, rather than payments made to persons providing services through self-employment.

In addition, Revenue's compliance programmes over the years have included a focus on ensuring that employers were treating workers as employed or self-employed in accordance with tax legislation and the published Code of Practice. These interventions have been conducted by Revenue acting alone or in collaboration with Department of Social Protection officers, who examine the PRSI status of individuals as part of such interventions as well as with officers from the Workplace Relations Commission, who are responsible for examining employee rights including sick leave and other entitlements.

Revenue reply to PAC – 14 January 2022 (relevant extract)

14 January 2022

Mr. Sarah Cremin,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.
PAC@oireachtas.ie

Dear Ms. Cremin,

I refer to the correspondence, on behalf of the Committee, of 13 December, 2021 in relation to information available to Revenue on the taxation of couriers, of 22 December 2021 following the meeting with Revenue on 2 December, and of 10 January, 2022 in relation a settlement between Revenue and Perrigo.

The additional information which was requested in the correspondence referred to above is now enclosed as follows:

Appendix 1: Taxation of couriers.

If you have any queries please do not hesitate to contact Angela O'Gorman at (01) 8589181 or angelaogorman@revenue.ie

Yours sincerely,

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Niall Cody,
Chairman.

Appendix 1

Taxation of Couriers

1. *Statutory reporting information available to Revenue.*
2. *A copy of each of the documents contained in Revenue eBrief 198/18 that refer to the taxation of couriers. (pg. 10)*
3. *Recent Case law*

1. Statutory reporting information available to Revenue

Revenue holds records of P35 end of year returns, which are statutory returns, made by various courier businesses that were filed in the years prior to 2019. P35 records for the years 1997 to 2003 have been transferred to microfiche and are only available on an individual courier by courier basis rather than at the level of the courier businesses, and thus, it is not possible to carry out analysis of the data for that period. The file of records from the time of the agreement with courier businesses in 1997 as well as available historic P35 records have been retrieved and have been examined in detail in recent weeks. The table below indicates use of the 'voluntary' PAYE scheme over a 15-year period from 2004 to 2018.

The data results below are indicative of the number of employers using the voluntary PAYE scheme for couriers. As part of the analysis of the P35s, to avoid including company directors who would also have Class S PRSI, employers with two or less individuals listed were excluded from the analysis. Furthermore, the data reflects the end of year position for each employer and is based at a point in time as adjustments can be made to records after the return is filed. In the interests of taxpayer confidentiality, it is Revenue policy where numbers are very low to use "<10" as the result. For the period from 2004 to 2018 less than 10 employers used the scheme in any one year.

Table 1: Use of the voluntary PAYE scheme over a 15-year period from 2004 to 2018

YEAR	GROSS PAY	TAX	NO OF EMPLOYEES	NO OF EMPLOYERS
2018	€1,524,970	€22,329	154	<10
2017	€1,470,119	€15,216	154	<10
2016	€1,511,469	€13,565	209	<10
2015	€1,408,701	€13,367	210	<10
2014	€1,396,934	€15,983	173	<10
2013	€1,230,250	€3,949	147	<10
2012	€1,204,814	€10,523	154	<10
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2009	€2,119,337	€14,155	248	<10
2008	€3,076,638	€46,391	380	<10
2007	€2,366,513	€29,744	328	<10
2006	€2,245,676	€44,402	341	<10
2005	€1,627,437	€56,058	262	<10
2004	€1,301,380	€42,668	264	<10

With the introduction of real time PAYE data through the PAYE Modernisation project in 2019, Revenue now has access to a richer dataset relating to PAYE returns. Revenue can conclude from that data that there continued to be limited use of the 'voluntary' PAYE system in recent years. In 2019, less than ten courier companies were using the system with 'voluntary' PAYE applied to 146 employees with total gross pay of c. €553k; in 2020, less than ten courier companies were using the system in respect of 117 individual couriers and a total gross 'pay' figure for those individuals of c.€268,000; in 2021, again less than ten courier companies were using the system in respect of less than ten individual couriers and a total gross 'pay' figure for those individuals of c.€ 152,000.

Furthermore, it should be restated that there was no financial cost to the couriers or the Exchequer as the individuals included in the 'voluntary' regime had to be bona fide self-employed. However, it should be noted that under the terms of the 1997 agreement, individual motor couriers received the benefit of an annual 45% 'flat deduction' against their pay in recognition of the expenses they incurred in the performance of their duties.

2. <u>Details of documents contained in Revenue eBrief 198/18 referring to the taxation of couriers</u>

The operation of PAYE on bona fide self-employed couriers involved the application of a withholding tax on an administrative basis, which facilitated collection of tax on account from a small cohort of self-employed individuals and made it easier for those individuals to meet their payment compliance obligations. The application of this withholding tax did not confer any social insurance or employment rights on the couriers in question. It would not be correct to confer an employee status on this cohort of workers by virtue of the voluntary PAYE system being applied to them individually or the number of courier firms that an individual courier engaged with.

There are a number of factors which lead to a conclusion of self-employment or employment, as the case may be. Any determination needs to be considered in the round with regard to contracts, tests and settled case law. It would be inappropriate to pick any one test as determinative or to give weight to any particular factor. To do so would be to misunderstand how determinations should be reached. On balance, a courier supplying services who provides their own vehicle and suffers running costs will likely be considered self-employed when the nature of the services and payment terms suggest that to be the case. The tests are set out in the Code of Practice on Determining Employment Status.

The full circumstances of each engagement would need to be considered and provision of own equipment and payment of insurance and other expenses would be a strong indicator of self-employment in the case of a courier. The Department of Social Protection had found couriers to be self-employed for the purposes of PRSI and the Workplace Relations Commission had also found couriers examined to be self-employed. In 2003, a Circuit Court judge found a motorcycle courier to be self-employed, mainly on the basis that the courier had supplied his own equipment and paid his own expenses. In a letter to the PAC on 4 August of 2000, Revenue had confirmed with our UK counterparts that the UK authorities also considered motorcycle couriers as self-employed for tax and social insurance purposes.

There are three separate agencies responsible for making determinations for employment status, each with its own legislative framework and appeals process.

- Scope Section in the Department of Social Protection determines employment status with a view to deciding the appropriate class of PRSI for an individual.

- Revenue decides on employment status which determines the appropriate tax treatment.
- The Adjudication service of the Workplace Relations Commission (WRC) determines employment status as a preliminary issue when adjudicating on employment rights complaints.

Decisions of the individual agencies are not binding on each other.

It should also be noted that the determinations made back in 1997 that the individuals concerned were genuinely self-employed are still valid today and, if the same facts and circumstances applied today as applied at the time of the agreement, would still meet the necessary criteria in the updated Code of Practice on Determining Employment Status that was published in July 2021 by the Minister for Social Protection. The Code can be found at: www.gov.ie/pdf/?file=https://assets.gov.ie/34185/fcfac49276914907b939f64fad110ae8.pdf#page=null.

It is, of course, open to individual couriers to seek a review of their PRSI status from Scope Section in the DSP or to engage with the WRC on their employment rights. Revenue would also consider any requests for its view on the employment status for tax purposes of a particular individual and would conduct such a review based on existing tax legislation and criteria contained in the Code of Practice.

Revenue has been fully transparent and open in all matters relating to the 'voluntary PAYE' scheme that applied to self-employed couriers. Following the March 1997 letter of agreement with the courier businesses, Revenue published details of the agreement in Tax Briefing 28 of 1997 in October of that year. In 2007, a Tax and Duty Manual (TDM) was issued incorporating the detail of the agreement. The agreement provided for a standard expense 'flat deduction' against gross income of 45% for motorcycle couriers and 20% for bicycle couriers. The TDM was reviewed in 2016 with no changes made. The TDM was again reviewed in November 2018 and, with the introduction of real time PAYE data from PMOD, the 'flat deduction' element of the 'voluntary' PAYE scheme was withdrawn.

The changes to the TDM were highlighted in e-brief 198/18 which issued on 13 November 2018. While the 'flat deduction' for expenses is no longer valid since the start of 2019, couriers can continue to claim for any actual expenses incurred wholly and exclusively for business purposes on their tax return, in the same manner as all other self-employed taxpayers.

Revenue policy is that TDMs are periodically reviewed after a set period of time to ensure they are still relevant and up to date. Where a TDM has not been subject to a thorough review within the timeframe, mostly due to other work priorities, the TDM is withdrawn from the Revenue website. Because TDM 04-01-07 had not had a recent review, it became unavailable on the Revenue website on 4 December 2020. The TDM has since been fully reviewed and will be re-published shortly.

Apart from TDM 04-01-07, all the other published material can still be accessed on the Revenue website i.e. Tax Briefing 28 of 1997 and e-Brief 198/18. Copies of the above documents are attached at Schedule A in a separate attachment for the information of the Committee. [Schedule of Records].

3. Recent Case law

Revenue challenges issues relating to misclassification of workers as self-employed where they are discovered. The issues involved can be complex and take significant time to finally resolve. This can best be illustrated by the case of ***Karshan (Midlands) Ltd. t/a Domino's Pizza v Revenue Commissioners*** which centred on whether Domino's Pizza van drivers were employees, Revenue's

case working in this case started in 2011 and interviews with staff were conducted in 2012. A Revenue Audit notification letter issued in March 2012. Appeal proceedings were heard before the Tax Appeals Commission (TAC) in July 2016 and the TAC determined that the drivers worked under multiple contracts of service and were taxable in relation to the emoluments arising therefrom in accordance with Section 112 TCA 1997 – PAYE employees. The company appealed this decision to the High Court on a point of law. The High Court upheld the determination of the TAC in its decision on 20 December 2019. The High Court decision has been appealed to the Court of Appeal which was held in July 2021 and a decision is expected shortly.

The examination of employment status is always a feature of Revenue's compliance programmes in high risk sectors, including construction, logistics. Revenue continually monitors outcomes of employment status cases both nationally, where the WRC and SCOPE Section in DSP make rulings, and internationally following developments in treatment of "gig economy" workers and treatment of "IT platform" workers in different jurisdictions.

Value For Money (VFM) Briefing

Revenue plays a vital role in the economy by securing taxes and duties due to the State. Revenue's Vote expenditure is, for the overwhelming part, related to the effective collection of the right taxes and duties at the right time. Having regard to its role, Revenue does not, in the normal course, operate programmes of expenditure.

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

Revenue's estimate for 2022 was €497 million; €442 million net of Appropriations in aid. Gross expenditure in 2022 was €492 million with €351 million (71%) of this related to pay expenditure. The other main item of expenditure was on ICT, which accounted for some €72 million (15%) of total expenditure in 2022. Revenue has robust governance arrangements in place to ensure value for money is being achieved in relation to its ICT expenditure. These are outlined below.

By way of general background, tax and customs administrations need to continually evolve to address the rapid and ever-changing nature of business including the digitalisation of the economy, the emergence of new business models and new ways of working. Therefore, Revenue requires an efficient and comprehensive capability to deal with changing business practices, increasing numbers of taxpayers and the increasing amount of information required to manage the complexity of their interactions. Harnessing Information & Communications Technology (ICT) is a significant factor in supporting this capability and Revenue has always been a fervent adopter of technology to meet its business objectives. As such, and as outlined above, ICT is the largest expenditure area in Revenue after pay. Optimising the benefits from this investment and elevating it beyond value for money is a key goal. The foundation of achieving this is a comprehensive model which categorises and prioritises spend, a governance framework which provides control, oversight, decision-making and accountability and the implementation of procedures which drive continuous improvement.

Revenue's ICT strategy sets the core priorities for investment. These are:

- securing our systems and services to ensure the integrity and privacy of taxpayer data
- maintaining high quality, 24X7 services to our internal and external customers
- advancing modernisation of our existing core applications, and

- continuing to develop new business systems while adopting new beneficial technology and retiring older, costly and difficult to maintain technologies.

All of Revenue's core tax and customs ICT services are bespoke systems, built upon layers of ICT hardware and software products. These ICT services require initial investment (computer capital) to put in place. They then typically attract maintenance, support, and licensing costs (computer non-capital) to run until their retirement. Value for money is achieved through the strategic identification of current and future needs as well as taxpayer-level integration thereby ensuring scalability, re-use, adaptability and durability of ICT assets. This is further enhanced by using tendering mechanisms to procure the most appropriate and cost-effective solutions.

Revenue maintains a core competency of internal ICT specialists to develop, maintain and manage its ICT estate. However, additional ICT expertise is required to augment this capability and to support these internal staff. Revenue sources these required external ICT resources from a framework of 19 vendors, who have been chosen through an open competitive tender.

Revenue utilises a model for categorising its ICT spend across five key areas. These are:

1. Core - covers the live support of essential systems used both internally by staff and externally by customers
2. Innovation and shared services – covers research into new technologies, development and enhancement of processes and standards. Services provided to other government Departments and Agencies using Revenue's infrastructure, platforms and systems are included.
3. Mandatory - covers projects which Revenue are required to undertake by reason of domestic legislative changes or compliance with EU and OECD directives
4. Critical - includes mission-critical projects, essential enhancements and the implementation of annual processes, and
5. Strategic - covers system developments which enable Revenue to meet its strategic corporate objectives.

An overarching governance structure, the IT Executive (ITEx) has oversight of all ICT spend and is chaired by a member of the Revenue Board. The role of ITEx is to guide, prioritise and shape strategic ICT investments aligned with corporate priorities, enabling the provision of quality ICT services to maintain critical core business, adding value and driving efficiencies through the

development of transformative and innovative business solutions and in doing so, supporting Revenue to continue as a leading tax and customs administration.

In addition, every system development project undertaken by Revenue has a governance structure supporting its delivery. The governance is tailored to reflect the scale and significance of the project, with dedicated ICT and business sponsors assigned overall responsibility to ensure successful delivery. At a minimum, a steering group is in place to govern the project. However, given that most projects are large scale and mandated, the majority of projects have an additional layer of governance in the form of a project board. These governance structures ensure that risks are managed and mitigated, and the necessary steps are taken to realise the objectives and benefits of the project within budget and delivery timelines.

As part of its overall governance of ICT expenditure, Revenue adopts a culture of continuous learning and improvement, a key element of which is undertaking post project reviews on a selection of projects. Project team activities and deliverables are reviewed through the lens of 'what worked well' and 'areas for improvement'. Each review culminates in the identification and categorisation of lessons learned and recommendations for implementation. This repository of knowledge is utilised in the planning of future projects enabling knowledge sharing and supporting optimised project delivery and benefits realisation.

External and independent reviews by the OECD and PWC/World Bank have highlighted the notable return on IT Investment by Revenue which is reflected in strong measures of efficiency and effectiveness.

Delivering Revenue's strategic priorities are fundamentally dependent upon ongoing ICT investment. Therefore, it is essential that the requisite funding is provided to maintain Revenue's existing and essential ICT services and to further advance Revenue's digital transformation journey. The continued recruitment, development and retention of capable ICT expertise in Revenue will ensure that this investment is optimised, delivers value for money and meets organisational and Government requirements.