

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 2 Nollaig 2021

Thursday, 2 December 2021

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Colm Burke,	Deputy Neasa Hourigan,
Deputy Jennifer Carroll MacNeill,	Deputy Imelda Munster,
Deputy Matt Carthy,	Deputy Catherine Murphy,
Deputy Cormac Devlin,	Deputy Verona Murphy.
Deputy Alan Dillon,	

DEPUTY BRIAN STANLEY IN THE CHAIR.

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

2020 Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 9 - Revenue Commissioners

Chapter 12 - Controls over the Temporary Wage Subsidy Scheme

Chapter 13 - Revenue's Management of Suspicious Transactions Reports

Mr. Niall Cody (*Chairman, Office of the Revenue Commissioners*) called and examined.

Chairman: I welcome everyone to the meeting. Due to the current situation regarding Covid-19, only the clerk, support staff and I are in the committee room. Members of the committee are attending remotely from within the precincts of Leinster House. This is due to the constitutional requirement that in order to participate in public meetings, members must be physically present within the confines of the place where Parliament has chosen to sit. Unfortunately, this week we had a bit of a step backwards but hopefully this will not be for too much longer.

The Comptroller and Auditor General, Mr. Seamus McCarthy, is a permanent witness to the committee. This morning we engage with officials from the Office of the Revenue Commissioners to examine the 2020 appropriation account, Vote 9 - Office of the Revenue Commissioners; account of the receipts of revenue of the State collected by the Revenue Commissioners 2020; and, from the 2020 report of the Comptroller and Auditor General on the accounts of the public services, chapter 12 - controls over the temporary wage subsidy scheme, and chapter 13 - Revenue's management of suspicious transactions reports. We are joined remotely from outside the precincts of Leinster House by officials from the Revenue Commissioners. In attendance are Mr. Niall Cody, Chairman, Mr. Gerry Harrahill, commissioner, and Mr. Brian Boyle, assistant secretary, all of whom are very welcome.

When we begin to engage, I ask members and witnesses to mute themselves when not contributing so that we do not pick up background noise or feedback. I remind all those attending to ensure their mobile phones are on silent mode or switched off. Before we start, I wish to explain some limitations to parliamentary privilege, and the practice of the Houses as regards references speakers may make to other persons in their evidence. The evidence of witnesses who are physically present or who give evidence from within the parliamentary precinct is protected pursuant to the constitutional statute by absolute privilege. However, today's witnesses are giving their evidence remotely from a place outside of the Leinster House precincts and as such, may not benefit from the same level of immunity from legal proceedings as a witness who is physically present. Such witnesses have already been advised that they may think it appropriate to seek legal advice on this matter.

Members are reminded of the provision within Standing Order 218 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government, or a Minister of

the Government, or the merits of the objectives of such policies. Members are also reminded of the long-standing parliamentary practice that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. To assist our broadcast and debates services, I ask members to direct their questions to a specific witness. If the question is not being directed to a specific witness, I ask that each witness state his or her name the first time he or she contributes.

I call on the Comptroller and Auditor General to make his opening statement.

Mr. Seamus McCarthy: As members are aware, the Revenue Commissioners are responsible for the collection of taxes, duties and other levies and charges, and for their prompt transfer either to the Central Fund of the Exchequer or to other fund accounts or public bodies as provided for in law. Revenue accounts for these receipts and transfers in what is generally referred to as the Revenue account. The 2020 account was certified by me on 20 April 2021 and received a clear audit opinion.

Tax receipts payable to the Exchequer in 2020 amounted to a net €56.2 billion, a decrease of €2.1 billion or 3.6% when compared to 2019. The most significant change related to net VAT receipts, which decreased by €2.7 billion or 18% year on year. This decrease was offset by an increase of €946 million in corporation tax net receipts. Non-exchequer net receipts collected by Revenue on behalf of other agencies decreased from €15.8 billion to €15.3 billion, a reduction of nearly 4%. Pay related social insurance, PRSI, contributions account for nearly 75% of such receipts. PRSI net receipts decreased by 7.5% in 2020 as compared to 2019.

Revenue's administration and operational expenses are charged to Vote 9 - Office of the Revenue Commissioners rather than to the Revenue account. Revenue's total gross expenditure in 2020 was €467 million. Salary costs of €329 million account for 70% of Revenue's spend. Taking account of appropriations-in-aid of €60 million, net expenditure under the Vote amounted to €407 million.

In my report on the appropriation account for 2020, I draw attention to non-compliance with procurement rules. This is disclosed by the Accounting Officer in the statement on internal financial controls.

As members will be aware, the temporary wage subsidy scheme, TWSS, was introduced to enable employers affected by the Covid-19 pandemic restrictions to receive support from the State in relation to their wage costs. The scheme was operated by the Revenue Commissioners and funded by the Department of Social Protection. The scheme operated in two phases over a 22-week period from 26 March to 31 August 2020. It was succeeded by the employee wage subsidy scheme, EWSS, which is also operated by Revenue and funded by the Department. The scheme provided very substantial assistance to employers. In 2020, subsidies totalling €2.8 billion were paid to 66,370 employers in respect of approximately 678,000 employees. This represented support to an estimated 36% of all employers registered with Revenue pre the pandemic.

Similar to the administration of the tax system, the scheme operated on a self-assessed basis. This meant employers self-declared that they met the eligibility criteria and calculated how much they were due and received subsidy payments on that basis. In June 2020, Revenue commenced eligibility checks on all employers who received subsidies. By the end of July 2021, subsidies totalling €311 million had been identified by Revenue as repayable. The bulk of this, approximately €252 million, related to subsidies paid during the initial phase of the scheme

when a flat rate of €410 per week was paid. Of the €311 million repayable, €212 million had been repaid and a further €81 million was warehoused for future collection. The balance of €18 million was outstanding for recovery. These figures are as at the end of July 2021. Overall, we found that while there was a material level of excess funding of employers under the scheme, Revenue had signalled to employers from the outset that they would be required to repay any excess. Revenue implemented a comprehensive compliance regime that has identified over-payments and has substantially recovered them.

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 introduced the requirement for certain designated persons to submit reports to Revenue where they have suspicions of terrorist financing or money laundering, including the laundering of the proceeds of tax evasion. These are referred to by Revenue as suspicious transaction reports, STRs, and potentially provide useful intelligence to Revenue in tackling shadow economy activity. Over the five-year period 2016 to 2020, Revenue received approximately 125,000 STRs or an average of approximately 25,000 STRs per year. The STRs received are matched to taxpayers, where possible, and are risk rated. Revenue was able to match nearly 90% of the STRs it received in the years 2016 to 2020 to identified taxpayers. Some 40% of the matched cases were considered high risk. Of these, nearly half were subsequently closed without a Revenue intervention and 20% progressed to some form of compliance activity. Ultimately, very few STRs directly yielded additional tax revenue. Only approximately 500 of the reports received between 2016 and 2020 had yielded additional revenues by end February 2021, amounting to just over €23 million. STRs are also used to feed into Revenue's risk assessment of taxpayers, however, and so may indirectly contribute to a later targeted audit or other intervention.

The examination reviewed a sample of 50 closed cases to assess whether the appropriate course of action had been taken and in nearly 85% of cases reviewed, no issues were identified. In a number of cases, Revenue officials considered the STRs to be relevant to other Revenue branches for possible further investigation but there was no evidence of activity following referral to the other branch. Revenue carried out a review of aged cases and concluded that a new protocol was needed to manage the transfer of STRs between divisions. Overall, we found that Revenue complies generally with international good practice in the management of STRs. The examination made five recommendations in relation to the management of STRs, all of which were agreed by Revenue.

Mr. Niall Cody: I understand that today's meeting is to focus on: the 2020 appropriation account; the 2020 account of the receipt of revenue of the State; chapter 12, controls over the TWSS; and chapter 13, Revenue's management of suspicious transactions. I am accompanied by Gerry Harrahill, commissioner and director general of Customs and Excise and Brian Boyle, accountant general.

In the context of today's discussions, I draw the committee's attention to section 851A of the Taxes Consolidation Act 1997 and my obligation to uphold taxpayer confidentiality. In 2020 Revenue collected total gross Exchequer receipts of €82.3 billion, including €15.4 billion in non-Exchequer receipts collected on behalf of other Government Departments and agencies. The net Revenue receipts were €56.2 billion, which was a decrease of €2.1 billion or 3.6% on the 2019 figures. Up to the end of October this year the net Exchequer receipts collected by Revenue were over €50.2 billion, some €8.4 billion or 20% more than the same period last year. Revenue's gross expenditure in 2020 was €467 million compared with €449 million in 2019, an increase of €18 million or 4%. The increase primarily relates to increased staffing levels, ICT expenditure and Brexit infrastructure costs. Revenue had 6,680 staff serving at the end of 2020,

with €329 million of Revenue's €467 million expenditure related to salaries. The other main item of expenditure was ICT, which accounted for €64 million in 2020.

In chapter 12 the Comptroller and Auditor General reviews the controls over the TWSS. The scheme was introduced at an unprecedented pace, such was the immediate and serious impact of Covid-19 on the cashflow and trading abilities of businesses, with Revenue making the first TWSS payments just four days after the scheme was announced. The technical infrastructure developed for real-time payroll reporting provided the platform that allowed us to deliver these vital financial supports quickly and efficiently to impacted employers and employees. The visibility of payroll data that PAYE modernisation gave us enabled us to design TWSS in an extremely limited timeframe and in a way that significantly reduced the opportunities for abuse of the scheme. Under the scheme, subsidies totalling €2.8 billion gross were paid to 67,222 employers in respect of 689,422 employees.

Beginning in June 2020 Revenue engaged in a phased programme of compliance checks on all participating employers. Compliance checks as at November 2021 are now 99.5% complete with 359 checks ongoing. Completed checks have confirmed 97.5% compliance by employers with the conditions of the scheme with Revenue accepting that the employers concerned had a reasonable expectation on entry into the scheme that turnover would decrease significantly. Revenue has recouped just over €29 million in TWSS related overpayments from 1,658 or 2.5% of employers. We also undertook a reconciliation exercise which identified an aggregate liability of €308 million, the majority of which related to the transitional period up to 5 May when we paid €410 per week per eligible employee to employers. Bringing the compliance and reconciliation exercises together, the aggregate amount of TWSS identified for recovery amounts to €324 million. Some €251 million of this has been repaid to Revenue, €60 million is included in the tax debt warehouse, €3 million is at appeal and a further €10 million is now available for collection.

In Chapter 13, the Comptroller and Auditor General reviews Revenue's management of STRs. Revenue has been in receipt of STRs since 2003. STRs provide vital intelligence in the investigation of money laundering and terrorist financing as well as in the detection of tax evasion. Based on global developments and the expansion of designated reporting entities, it is expected that the number of STRs received will continue to rise as increased measures are introduced to counter money laundering and terrorist financing. In September 2020, Revenue introduced a new online system to require all designated bodies to submit STRs online through the Revenue online service, ROS. Enhancements were also introduced to improve how STRs are processed within Revenue, including automatic uploading to linked profiles in Revenue's case management system. The five recommendations made by the Comptroller and Auditor General have been agreed by Revenue.

As was the case for many other organisations, 2020 was an unprecedented year for Revenue. Our investment in real-time payroll reporting meant that working with the payroll software sector we were able to quickly provide financial support directly to businesses, while also continuing with our core business as a tax and customs administration. Brexit resulted in a fundamentally changed trading environment between Ireland and Great Britain since 1 January 2021. Brexit infrastructure and accommodation costs were over €9.6 million at Dublin Port and Rosslare Europort, with further expenditure of over €14 million expected in 2021. Further changes to the UK Government's import requirements from January next will mean more adjustments. We will continue to work collaboratively with trade and business, both collectively and individually, to ensure trade flows remain as efficient as possible while meeting our Single

Market and customs union obligations.

The TWSS was replaced by the EWSS from 1 September 2020. EWSS subsidy payments to date have amounted to €5.65 billion while PRSI credits have amounted to over €877 million. The total amount claimed under the Covid restrictions support scheme to date is €704 million in respect of 25,500 premises. The total amount paid out under the business resumption support scheme has been €6.2 million in respect of 1,680 businesses. In addition, there was over €2.8 billion of debt warehoused at the end of October 2021. I have responded to the committee in recent times on matters related to the misclassification of workers as self-employed and arrangements in place for couriers since the late 1990s; contracts that were non-compliant with procurement guidelines; and a tax settlement in a specific case that was of interest to the committee.

Remote working, facilitated by our secure and sophisticated ICT framework, has been the norm for the majority of Revenue staff throughout the pandemic. On a daily basis Revenue staff engage with taxpayers, take and make telephone calls about a wide variety of issues such as Brexit; tax repayments; local property tax; complex international tax issues; and the Covid support schemes. In 2020 and 2021 there have been significant seizures of drugs and cigarettes and we continue to work closely with An Garda Síochána and our international partners in tackling illegal activity. Revenue staff have responded excellently to the changed environment arising from Covid-19. I take this opportunity to thank them for their resilience, commitment and professionalism. I again draw the committee's attention to section 851A of the Taxes Consolidation Act 1997 and my obligation to uphold taxpayer confidentiality. Subject to this constraint, I am happy to answer members' questions.

Deputy Catherine Murphy: Good morning everyone. It is not ideal that we are not in the committee room but those are the times we are in. I would like to ask Mr. Cody a few questions and time is short so I would appreciate it if he could keep his replies as short and succinct as possible. I want to start off with the debt warehousing scheme. Understandably, that was an initiative that sought to keep as many businesses afloat as possible. The scheme was interest free for 12 months and then there was a low interest arrangement and a phased payment that had to be agreed. How much has been warehoused by Revenue since the legislation was implemented? What is the total value of the debt currently warehoused and when will it be liable for full repayment? How long are the phases? For example, what type of phasing is being permitted? There are many viable businesses that are in a particularly difficult position at the moment. We are far from out of the difficulties. I ask Mr. Cody to address those questions.

Mr. Niall Cody: The debt warehousing initiative was introduced in the July stimulus package back in 2020. At the time, the Department of Finance was engaging with us about the challenges businesses were facing. We had suspended our normal enforcement activity from 10 March. We had suspended the imposition of interest and the referral of cases to the Revenue sheriffs. We were looking at how we would manage this process in the midst of a pandemic. We proposed to the Department that the best way to do this, to give a legal framework to build a successful system, was to bring forward legislation. We came up with the concept of the debt warehouse. In the July stimulus, there was an anticipation that we were going to come out of Covid and that there was a process in which businesses would recover. Unfortunately, that has not happened. Subsequently, the debt warehousing period was extended again in the Finance Bill.

In terms of how it works, the first period is up to the end of this year. That covers VAT liabilities up and including November-December 2021 and PAYE and PRSI liabilities up to

and including December 2021. They are the loss periods for the first periods of the debt warehousing. For all of 2022, for any debt in the warehouse repaid in that period there will be no interest. No interest accrues on any of the debt that is in the warehouse from March 2020 to 31 December 2021. As of 31 October, 98,000 individual customers are availing of the debt warehouse facility. At the end of October, there was €2.8 billion in total in the debt warehouse. We publish figures every month on debt warehousing. We will be publishing figures for the end of November next week.

For 2022, the debt is warehoused. Businesses have to engage with us at the end of 2022 to come up with appropriate arrangements. It is not yet set out what the maximum period will be. We will take an appropriate arrangement from each individual business having regard to its individual circumstances. The key condition - it is really important that businesses are aware of this - is that they must keep current returns up to date even if they cannot pay. We have written to the 98,000 customers in the past three weeks to remind them to file their returns. It is really important that they have their returns in and up-to-date as otherwise they might fall out of the warehousing and, thus, be subject to the normal interest rates. That is really important.

Deputy Catherine Murphy: They could end up with quite a lot of debt because it is for a protracted period of time that this tax bill is being deferred. I presume reviews will be undertaken. Are there any plans with regard to the how this will work? Is it likely to be targeted or will it continue to be general?

Mr. Niall Cody: In terms of current plans, we communicated with the relevant taxpayers in November. The last returns are due in January and February. Sometime in the middle of the first quarter, we will write to all of the businesses that are in the warehouse setting out their final position and total amount and reminding them of the need to keep their 2022 returns in and paid. Towards the end of 2022, we will be engaging with individual taxpayers. There will not be a one size fits all. Some businesses will be in a position to start repaying on an instalment arrangement quicker than others. Ultimately, at the end of the process some of this amount will be uncollectible and will be written off. I have noted a lot of commentary that there will be a cliff effect. We would not have come up with the idea around the debt warehousing to support businesses and to keep them in business only to then pull the plug immediately. That would not make any sense. We will take a proportionate response. I am sure the Comptroller and Auditor General will be keeping an eye on us.

Deputy Catherine Murphy: I thank Mr. Cody. I want to move around some of the areas we are going to cover this morning. I want to discuss the suspicious transaction reports, STRs. I note there is a very low level of additional tax relative to the number of reports that Revenue gets, but we do not know if, following a Revenue audit, something further and substantial would be gathered as a consequence. How do suspicious transaction reports arise? How are they notified to Revenue? What is the means of notification?

Mr. Niall Cody: The majority of suspicious transaction reports come from the financial institutions. Financial institutions are obliged to submit STRs to Revenue if they feel there is a suspicion. The suspicion could be an unusual pattern such as a person making a lodgement that is not in accordance with the norm. The financial institutions are required to send a suspicious transaction report to Revenue and An Garda Síochána. We then have them risk-rated. The key issue is that the STRs are essentially a form of third-party information. All third-party information we receive provides a backdrop to our overall risk rating system.

Deputy Catherine Murphy: Okay. The rating system was devised in 2014. Has it been

reviewed since then?

Mr. Niall Cody: As set out in the report, we had a project team looking at the review but that got caught up in the Covid period. We have relaunched that work to look at whether there are factors we can see from patterns to enhance the risk rating system. That work is ongoing. It ties in with some of our realignment of our structure in building up our intelligence, investigation and prosecution division. The STRs are part of that. They are very much, in some cases, financial institutions that-----

Deputy Catherine Murphy: I am sorry to interrupt Mr. Cody, but I want to ask a few more questions. In regard to the review, would Revenue be looking at bitcoin cryptocurrencies which are much more dominant now than they would have been in 2014. In a reply to a parliamentary question, I was told that VAT applies where payments are made using those types of currencies. For example, Revolut was not used in transactions. How speedy will the review be? Will it capture the more heavily used currencies or payment methods?

Mr. Niall Cody: Cryptocurrencies are a clear area of risk for tax administration, but also for agencies dealing with criminal assets. Essentially, there are no holders of cryptocurrencies in Ireland but there are developments at EU and OECD level. The EU is bringing forward a directive on administrative co-operation. There is a series of directives on administrative co-operation, DACs, which are entitled DAC1, DAC2 and so on. DAC8 is expected to be implemented in the next couple of years to deal specifically with the exchange of information relating to cryptocurrencies. That will be an important part of the tools to deal with those risks.

Deputy Catherine Murphy: Has Revenue received an OECD policy framework in respect of cryptocurrency assets? Does it implement such frameworks when it receives them? How does that function?

Mr. Niall Cody: We are very proactive in respect of all the OECD working groups. We are one of the most proactive administrations in the context of administrative co-operation at OECD and EU levels, and we have been subject to peer reviews on the use of administrative co-operation and data. We have consistently got the highest rating available in those peer reviews and built a lot on all our work-----

Deputy Catherine Murphy: I will skip to a couple of other issues. I do not mean to be rude. Time is short. I appreciate the 1997 Act, but there have been high-profile cases. I refer to one case in particular that went to the Tax Appeals Commission but was still being negotiated with Revenue at the time. It was subsequently settled for substantially less than the original amount of money for which the firm was deemed liable. I will mention the name of the firm - it is Perrigo. The matter is in the news. It is not that the identity of the firm is not known. In the context of the amount that was settled on, the transaction that gave rise to the tax liability was €3.25 billion and the amount of tax that was ultimately settled on was €297 million, which is approximately 2%. Why would something be deemed intellectual property when a tax liability is issued but then subsequently negotiated as a different type of tax liability?

Chairman: The Deputy's time is up. I will let Mr. Cody back in.

Mr. Niall Cody: The Deputy mentioned that she appreciates the 1997 Act. Section 851A of that Act is a provision that makes it a criminal offence to speak about the affairs of taxpayers. Every time I appear before this committee or other committees, I always highlight the fact that section 851A limits what I can speak about in the context of individual cases. We have

provided a comprehensive reply to the request for information by the committee on the case. I have no problem going through the reply with the committee, but I will bow to the direction of the Chairman on when he wishes to take that. I am sure many of the committee members are interested in a discussion on the case.

As an introductory piece, I refer to the self-assessment system. The original assessment in this case was determined by the taxpayer and the original assessment was a nil liability. That must be borne in mind as well. We then wrote under self-assessment and we would carry out our audit and inquiries. We raise assessments when we believe it is appropriate based on the information we have and having regard to timelines. We are bound by timelines in the context of when we can raise assessments. In the normal course, once the assessment is raised, the taxpayer is entitled to appeal that assessment and provide additional information following the raising of the assessment. In many cases, that gives rise to a settlement before the matter goes to appeal. The background, to the extent I can discuss the case, is set out in the letter. It is important to note that the explanation of how the self-assessment, appeal and assessment systems work is also set out in that letter. I am willing to go through it. I believe there was a bit of a misunderstanding. Originally, the Chairman thought the committee had written to us but we had not responded. I was watching the proceedings. The Chairman was surprised that the committee had not received a reply, but we had not received the request. We replied in line with the request, as we always do.

Chairman: I thank Mr. Cody. The next member is Deputy O'Connor. He has not yet joined the meeting. I call Deputy Munster.

Deputy Imelda Munster: As regards the request for the independent investigation, in the context of its agreement with the courier sector, Revenue stated that its determinations remain valid today. Does Mr. Cody appreciate that our request indicates that we do not share his position on this issue?

Mr. Niall Cody: I cannot have an opinion on the Deputy's opinion.

Deputy Imelda Munster: Does Mr. Cody accept that the committee does not share his position on this? If we did, we would not be looking for an investigation.

Mr. Niall Cody: I found the request strange. The last time I appeared before the committee, there was an inquiry in respect of the various chapters of the Revenue account. At the end of the meeting, I was asked a couple of questions about self-assessment and bogus misclassification issues. The committee then had a separate hearing with an individual. We were not involved in that meeting. There was no subsequent follow-up discussion with us. A series of recommendations came as a result of a discussion that did not include representatives from the Department of Social Protection, which is the primary body in respect of PRSI rates, or the Workplace Relations Commission, WRC, which has primary responsibility for employment rights. A series of recommendations were made and-----

Deputy Imelda Munster: On that issue, the response stated that the information is limited because it was 20 years ago. It referenced PAYE modernisation in 2019. Is Mr. Cody legitimately stating that he does not have access to all the relevant documents and paperwork?

Mr. Niall Cody: What I was talking about is that the data on the particular returns of the courier companies would have been through P35s for the relevant years. It will require a trawl back through the systems to identify-----

Deputy Imelda Munster: Does Revenue have those documents?

Mr. Niall Cody: Those records are in existence, obviously - the returns.

Deputy Imelda Munster: Those documents are in existence. I was informed that the documents in Revenue ebrief No. 198 were the documents that referred to that review and the circumstances of that whole deal. I have been informed that document has since been removed from the Revenue website. Is that correct?

Mr. Niall Cody: What we do with our tax briefings and tax and duty manuals is that, when we are updating them and when they no longer apply, they are archived but they are available.

Deputy Imelda Munster: Is there a particular reason it was removed from the website?

Mr. Niall Cody: No. This happens with a range of tax and duty manuals. We always indicate there was a record there and that it will be updated. That is a standard process we use and it is not-----

Deputy Imelda Munster: But Mr. Cody-----

Mr. Niall Cody: The deal is presented as if it was a secret deal. This deal was within our guidelines and it was a matter of correspondence with the Committee of Public Accounts in 2000.

Deputy Imelda Munster: That means Revenue could furnish the committee with a copy now.

Mr. Niall Cody: Absolutely.

Deputy Imelda Munster: We would appreciate that. I am curious as to why, when Revenue turned down our request for an independent investigation, it did not perhaps see fit to volunteer that brief.

Mr. Niall Cody: My understanding is that documentation is available.

Deputy Imelda Munster: If anyone goes to look for it today, it is not on the Revenue website. When Revenue refused our request, it did not say, "Here is this briefing document that relates to that".

Mr. Niall Cody: As I said, recommendations were made for this office on the basis of a discussion that was not had with this office.

Deputy Imelda Munster: I want to touch on the issue of couriers. These couriers are taxed through PAYE, they are availing of the flat-rate expenses and they do not submit self-assessment forms. Is it the position of Revenue they are only self-employed when it comes to their employers paying tax but not when it comes to the workers themselves availing of rights and entitlements? PAYE is for everything except when it comes to entitlements.

Mr. Niall Cody: I am sorry but that is a misrepresentation of the arrangements that were put in place in 1997. In 1997, we were looking at a challenging area and at a reasonable level of casual working non-compliance. The process the office was trying to address was to ensure the sector - the motorcycle and cycle courier services - was brought into the tax net. It was done under a background of social welfare rulings in regard to the status of social insurance rulings around the fact individual couriers had been classified as self-employed for social insurance

purposes. We also had situations in the late 1980s where we had raised assessments on courier companies and where, subsequently, the courier companies could produce decisions that the couriers were self-employed for social insurance purposes. As a result, we had to waive and remove our assessment in regard to PRSI because we were the collection agent rather than the determining agent.

It was also against a backdrop of the treatment of owner-drivers and the trends across the industry. This is not a new development and if we look-----

Deputy Imelda Munster: Sorry to interrupt. Time is of the essence.

Mr. Niall Cody: Time is of the essence but if there are going to be claims made about the organisation, I have to have an opportunity. Recommendations were made-----

Deputy Imelda Munster: I would say to Mr. Cody to keep his responses as brief as possible because otherwise we are running down the clock. In regard to the deal at the time, that served-----

Chairman: If Mr. Cody wants to make a final point, I want to let him do it, to be fair. I ask Mr. Cody to continue. I believe he wanted to make another point that he felt was important.

Mr. Niall Cody: I have been looking at a lot of this material. If we go back to the 1960s, 1970s and 1980s, there was a move towards owner-driver processes. There was a case in Readymix - I can mention the case because it is a court judgment - in regard to owner-drivers of ready-to-pour concrete vehicles. That process happened all through the 1980s and 1990s, and we have seen it with milk collection but also with milk deliveries. On the whole process of self-employment and employment, the grey areas that overlap in classification and misclassification are a challenge in which we are only one of the parties. From a tax purpose, the tax liability is actually the same whether persons are taxed under “self-employment” or under “employment”, except in the treatment of expenses that are allowable. We were dealing with this against a backdrop of non-compliance across a sector. The person in our office dealing with this was working on it for a considerable period in the 1990s. What he was trying to achieve was to ensure the sector was brought fully into the tax system. We were not determining social insurance or employment rights.

Deputy Imelda Munster: It is fair to say the deal that was done would favour the sector as opposed to the workers. It is fair to say that, in 1997, Internet and online shopping and all of that sort of thing did not really exist, and it is fair to say Revenue could not have seen that coming. However, it is also fair to say Revenue has sat on its hands for the past 20 years and has done nothing as more and more workers are exploited. Surely Mr. Cody would recognise that this is an issue for workers.

Mr. Niall Cody: I absolutely accept the changes in casualisation and the gig economy and the growth in precarious employment, but we are the tax agent, not the employment rights agent. Our obligation is to try to ensure that tax is collected. We are not the deciding agent in regard to somebody’s employment status.

Deputy Imelda Munster: On foot of that, Mr. Cody says Revenue is the tax collector. Will he tell us how much revenue has been lost to the State since 1997 arising out of this deal?

Mr. Niall Cody: The presumption there is that there was a deal that led to a loss of tax revenue. I do not accept that.

Deputy Imelda Munster: Therefore, there has been no revenue loss to the State - absolutely none - and Mr. Cody can say that categorically.

Mr. Niall Cody: I cannot ever say that about individual cases. The deal, as the Deputy calls it, provided that where a courier was self-employed, there was a withholding system by way of the PAYE system to collect the tax. That is what it set out to achieve.

Deputy Colm Burke: I thank our guests for the presentation today. I want to raise three issues. The first is in regard to second-hand cars being imported and the assessment for relevant duty that is payable. I have received a number of complaints from importers of second-hand cars where the assessment was carried out when the cars arrived and the money was paid to Revenue. They have obviously sold on the cars on the market and calculated the price they would charge on the basis of what they paid the supplier and Revenue, and leaving a margin for themselves. A number of them are getting new assessments for duty six months later. It will be very difficult for them to meet those additional demands. Once a vehicle has come in to the country and a full disclosure has been made, why is a new assessment coming down the road six months later?

Mr. Niall Cody: I will have to look for some information from the Deputy about individual cases because that would not be the norm. Regarding second-hand cars imported into the country, this is all linked to the impact of Brexit. If a car is imported, the customs duty, as appropriate, is payable on importation. VRT and VAT are payable. Generally, that will be the end of it. I would have to look at individual cases but if it is the case that vehicles were routed through Northern Ireland-----

Deputy Colm Burke: No, in this case-----

Mr. Niall Cody: I would be really interested in the details. I know the Deputy asked a number of questions about the second-hand car piece but if he provides us with details on that, I will definitely look into the matter for him.

Deputy Colm Burke: These vehicles all came through the normal channels. They did not come through Northern Ireland. The importers dealt with Revenue regarding when they were imported and paid various taxes. They then sold the cars and now, six months later, they are getting totally new assessments. It is not just one importer but a range of importers who have been affected by this. One company told me it was closing up shop because it can no longer deal with this because it does not know what is coming down the road. This is the problem the importers have. They understood when they paid the tax that everything was above board and they were finished with Revenue. They then went on to the next stage in the market.

The second issue I raise concerns the importation of tobacco. During the lockdown in 2020, my understanding is that the value of sales of tobacco products increased by €150 million. I presume that is related to fewer people travelling abroad and being able to bring in tobacco products legally. I am not talking about bringing in cigarettes and other tobacco products illegally. What is Revenue's view regarding dealing with this issue? On one hand, we have a health issue relating to trying to reduce the level of tobacco consumption while, on the other, we are facilitating in real terms the importation of these products with no tax paid and at a much cheaper price? Where are we in terms of reviewing that? Finland will not allow any product in unless the health warning is in Finnish and Swedish whereas here, the health warning can be in Spanish and there is still no restriction in real terms as regards people physically bringing in these products. Is this being looked at? I know health is not the responsibility of Revenue.

Mr. Niall Cody: We have the highest rates of excise duty on cigarettes and tobacco so we have always been a target for smuggling. The Deputy is right. It is a balance between health requirements and lowering the level of cigarettes where prices go up budget on budget. There were significant seizures in 2020 and 2021. In 2020, we seized 48.2 million cigarettes with a value of €32.8 million. While up to the end of October 2021, we had seized 55.9 million cigarettes with a value of €40 million. Regarding the level of tobacco seizures involving roll-your-own and, increasingly over the past number of years, loose-leaf tobacco, there is evidence that illicit cigarette manufacturing is taking place on the island. We have detected cigarette manufacturing facilities and I spoke to this committee a couple of years ago about the large seizure at a factory in County Louth. There were tobacco seizures to the end of October 2021 to the value of €23.1 million, which is by far the highest figure for roll-your-own tobacco we have ever had.

We take cigarette smuggling very seriously. It involves organised criminal gangs. The lockdown has had an impact on the legal market obviously because people can buy duty-free cigarettes depending on where they are coming from and if they go to Spain, cigarettes are cheaper there and they can bring them back legally. Every year, in conjunction with the tobacco regulator, we carry out a survey of illegal cigarette smuggling. The market for illegal cigarettes runs at around 15%. It fluctuates between 12% and 15% of the market. The Deputy is right. The health dimension is not my area but, clearly, there are strong health considerations in the level of legal-----

Chairman: The Deputy has two minutes left.

Deputy Colm Burke: People providing home tuition are being paid by the Department of Education yet they are classified as PRSI class S. Deputy Munster raised the issue of people deemed to be self-employed. Here we have a Department paying people to provide a service for it but these people are still classified as self-employed. Should this be reviewed by Revenue?

Mr. Niall Cody: Again, the question of PRSI rates is not a matter for Revenue. The issue-----

Deputy Colm Burke: These people are being paid by the Department of Education. They are providing a service on behalf of the Department yet they are regarded as being self-employed.

Mr. Niall Cody: The issue is around who engages the person - the family that engages the person or the paying agent. There has been a lot of focus on the area and I can get an update for the Deputy summarising the position.

Deputy Colm Burke: The point I am making is that we cannot go after the private sector by having these people deemed to be employees, while a Department decides it can do whatever it wants, these people are self-employed and in PRSI category S and it has no responsibility, even though the individuals are providing a service for that Department, which is paying them and making tax deductions from their pay.

Mr. Niall Cody: I will probably keep making the next point a fair bit today. The determination of the social insurance an individual pays is not a matter for the Office of the Revenue Commissioners. We are not the determining agent on social insurance. I am conscious that there is concern on the whole tuition piece. I will send the committee a note, if that is helpful, summarising the position as we see it.

Deputy Matt Carthy: I thank Mr. Cody and his team for joining us this morning. I will

start on the point Mr. Cody finished on. I was a member of the Oireachtas Special Committee on Covid-19 Response. Part of our work involved looking at the meat processing sector. We found that components within that sector regularly used agency staff to employee companies. These companies often consist of just one single person. The company is often incorporated in a country that person has never been to. Serious concerns were raised about the potential for exploitation. Am I correct in understanding Mr. Cody as having said that as far as Revenue is concerned, that matter is entirely one for the Department of Social Protection and not one that Revenue would concern itself with?

Mr. Niall Cody: The Deputy has raised a very interesting point on the use of corporate structures in the area of employment, self-employment and subcontracting. One of the trends that has evolved over the past ten or 15 years is the use of corporate structures. Two formats are used. There are personal service companies, which generally involve one individual and he incorporates his business. Therefore, it would be Niall Cody Limited that provides services to a principal contractor. Then there are what are called managed service companies, MSCs, which generally involve five directors, sometimes not linked to each other, sometimes providing a kind of service to different principal contractors, generally facilitated through a professional services firm that specialises in these types of structures.

We know that in certain sectors there are international dimensions to some of those because there are employment agencies that are used by some of the sectors. That happens throughout the contracting process. The personal service companies, PSCs, and MSCs are fairly common in the area of ICT. There is some of it in the construction sector and some of it in the meat sector. It is in pharma and throughout the media. It has probably replaced a lot of the self-employment.

The Comptroller and Auditor General will remember that he did a review of our national contractors project in the report for 2014 where we carried out a fairly extensive inquiry into the practices of PSCs and MSCs in relation to expenses. We had significant publications and settlements of cases where the structures were used and in the use of the structures the whole ratio of expenses were manipulated. Some of them involved the use of family members as employees of their own company. We recovered significant moneys on the tax risks in relation to PSCs and MSCs. Irish legislation does not have a provision to look through the corporate structure which has been a trend in some other companies. We paid close attention to that subcontracting use in corporate structures and have had some-----

Deputy Matt Carthy: I might just cut across Mr. Cody there. He referred to some actions in this area. It is difficult to assert how there would be a benefit to the worker on the basis that they are described as a company employed through an agency to work for a single factory in the sector I mentioned. Is that of concern to Revenue? Has it carried out specific analysis of that and is further action planned? Mr. Cody mentioned what I presume he is acknowledging is a deficiency in Irish law. Is that something he would like to see changed?

Mr. Niall Cody: We are certainly very concerned. In the context of the professional services, particularly at the low-income end where the power relationship is very unequal, certainly we would have seen some trends in relation to non-Irish nationals being in a structure. I need to be very careful here because there are a limited number of agencies involved. There are a limited number of companies and I need to be aware of taxpayer confidentiality. I would be concerned that there are abuses, not in all cases, but certainly if we go back long enough on the construction side there were fairly high-profile cases involving non-Irish workers but using some structures that I would be very uncomfortable with. We would look at the risks in those

areas and our evidence to date is that it is not widespread, but it does exist.

Deputy Matt Carthy: The obvious follow-on question is: what will be done about that? If there are concerns that there are abuses and that this practice exists, what is the next step?

Mr. Niall Cody: We are engaged in inquiries in relation to the sector.

Deputy Matt Carthy: It might be interesting to follow up with that.

I want to talk about warehoused debt and the scope for Revenue to ascertain that any company availing of warehoused debt genuinely needs to do that.

Mr. Niall Cody: At the start, I outlined to Deputy Catherine Murphy how the warehousing system evolved. I think on 20 March 2020, we announced that we were going to suspend normal interest and enforcement. The challenge then for us was that this was under our care and management rules and our care and management facility, but there is a limit to our care and management; we cannot just ignore the law as provided for. That is why we were anxious that the warehousing system would be legislated for. The warehousing system provides the legislation and the rules about who can avail of the warehousing system. So, businesses - these are smaller businesses generally dealt with by our business division and our personal division - are eligible to warehouse debt. For any other case - those are cases in our large cases division or medium enterprise division with a turnover probably in excess of, at the time, €5 million - they have to show that they were adversely affected by Covid in not carrying out their trade to be eligible to get into the warehouse. That sets the framework

Deputy Matt Carthy: Small businesses, once they fit within a certain parameter in terms of size, were eligible. What percentage of those companies that warehoused debt subsequently ceased trading? Has a value yet been assigned to that debt?

Mr. Niall Cody: No. It is far too early for that. Many of the businesses that have availed of debt warehousing have also been supported by the wage subsidy schemes and the Covid restrictions support scheme, CRSS. That is a common feature. Warehousing debt is only useful to a business when it is trading. It has to have the liability to warehouse it in the first place. An interesting feature about the warehousing is that the first debts went into warehousing in January or February 2020 before Covid restricted anything. Those businesses would have had a normal January or February. That forms the seed capital of the warehousing system.

One of the most interesting features of the system is the number of businesses that warehoused debt and that have subsequently paid it. They have not put all of their liabilities into the warehouse. This reflects how some of them are probably doing a little better than others. Having debt on the balance sheet is not what businesses want if they can pay it off.

The advantage of the Revenue warehousing system is that there is zero interest. Throughout 2020 and 2021, I read a great deal of commentary from business representative groups that there was a low uptake of some of the loan schemes and asking why any business would take up one of the loan schemes when it could warehouse its tax liability and use that as funding capital at a 0% interest rate during the period.

Chairman: I will allow Deputy Carthy back in later but we have gone over time. I call Deputy Devlin.

Deputy Cormac Devlin: I confirm that I am on the campus. I welcome the witnesses and

thank them for their attendance. It is good to engage with them again.

I will touch on three topics: customs and excise; Brexit; and suspicious transaction reports. Starting with customs, Mr. Cody stated that there had been significant seizures of drugs and cigarettes in 2020 and 2021 and that Revenue was continuing its co-operation with the Garda and international organisations. Does he have a breakdown of the number of seizures of drugs and cigarettes across 2019 to 2021, be that at ports or elsewhere? I will ask a further question on this.

Mr. Niall Cody: I have given the tobacco seizure figures. Mr. Harrahill is the director general of customs and would probably welcome answering the Deputy's question on Brexit as well. He will deal with all of those questions together. That would be useful.

Deputy Cormac Devlin: He must be the only person who is happy to speak about Brexit. I believe Mr. Cody gave figures for cigarette seizures of €32.8 million and €40 million for 2020 and 2021, respectively. Does he have a breakdown of the drug seizures? I believe that the figures Mr. Cody provided only related to certain seizures. Were they the global figures for those years?

Mr. Niall Cody: They related to cigarette and tobacco seizures for 2020 and 2021. I know I have the 2019 figures here somewhere.

Deputy Cormac Devlin: If Mr. Cody does not have them to hand, that is fine because this is a specific matter. I just thought he might have them to hand. He might send on a note.

Mr. Niall Cody: Cocaine seizures in 2019 amounted to 63 kg with a value of €4.4 million. Our 2020 cocaine seizures amounted to 101 kg with a value of €7 million. Up to the end of October 2021, 692 kg with a value of €48.5 million had been seized. This has been a significant year in terms of seizures. Does Mr. Harrahill wish to add further information?

Mr. Gerry Harrahill: I will draw attention to these interesting figures. Not just in Ireland, but internationally, there has been a noticeable increase in seizures. This is a reflection in some respects of the volume of illicit traffic. It is also an indication of the successful work that is being done by law enforcement agencies nationally and internationally. A third significant aspect is the investment that has been made by all agencies nationally and internationally in technology and equipment, including scanners and other detection equipment. The increase in seizures is down to a combination of all of these factors.

It is useful to draw attention to another matter. One of the large seizures this year that the Deputy will be aware of involved the seizure of cocaine that had been ingested in coke. It shows the ingenuity and purposefulness of the organised crime gangs. It is important to remember that these are multimillion or, in some instances, multibillion euro industries. They have incredible resources available to them and are deploying them. The challenge for State agencies, including the tax and customs administration, is to try to stay on top of the situation and make all of the investments that are necessary.

Deputy Cormac Devlin: I thank Mr. Harrahill. He might touch on significant seizures of other substances. He mentioned cocaine. The jump between the 2020 and 2021 figures is significant in light of the lockdown. While the world was looking at lockdowns, smugglers clearly were not. Instead, they were looking at opportunities. I commend the work of the customs agents and their sister agencies around the world in respect of these seizures.

Are the majority of seizures at ports and airports or do they arise from follow-ups and raids?

Mr. Harrahill mentioned equipment. The European Anti-Fraud Office of the European Commission gave a grant of €1.4 million and an X-ray scanning van was purchased. Was that in 2020 or 2019 and has that purchase resulted in a number of the seizures in question?

Mr. Gerry Harrahill: There are a couple of things worth saying in that regard. When it came to operations that tried to immerse themselves in legitimate trade flows in order to conceal their activities, the impact of Covid in dramatically reducing trade flows generally in 2020 and 2021 made the job on the customs and law enforcement side easier in terms of identifying patterns of activity that did not fit the norm.

Another element is the ongoing investment by all agencies in developing intelligence. Intelligence has a long gestation. Work that may start on a case or programme today may not come to fruition for two years. We have experience of the result of investment in intelligence gathering being realised in another country. These are cross-border organised crime gangs.

Regarding a detailed breakdown, we can provide a note. We have to do that in the annual report.

The Deputy asked about ports and airports. We conduct inland seizures as well as seizures at ports. The largest seizures tend to be at ports. In conjunction with our colleagues in the Garda, we will always look for the best approach to a seizure. Of their nature, some of these consignments come in in 40 ft containers. We seize the containers as close as possible to the point of importation.

Deputy Cormac Devlin: I thank Mr. Harrahill for that. I am limited on time, but turning to the issue of Brexit-----

Chairman: The Deputy has two minutes left.

Deputy Cormac Devlin: -----the EU-UK trade and co-operation agreement, TCA, came into force on 1 January this year. Further changes in that regard will follow on 1 January 2022. What other engagement has Revenue had with SMEs? The last time Mr. Harrahill appeared before the committee, I commended him on the engagement that Revenue had undertaken with SMEs. Now that we are 12 months in, how are we engaging with SMEs and what are we doing in the context of the next tranche of proposed changes in January 2022?

Mr. Gerry Harrahill: I thank the Deputy again, and I am happy to reassure him that we have continued the proactive engagement that we undertook in the two-year period leading up to 1 January 2021. We had two objectives in mind in doing so. Notwithstanding all the work involved in getting ready for Brexit, once it happened we clearly needed to support businesses in that transition and we have done so. Increasingly, our focus is on those changes that will kick in, as the Deputy said, on 1 January 2022. The main change to come is that the authorities on the UK side will be seeking compliance with their import formalities. The other element then is that over the course of 2022 the UK authorities will be ratcheting up controls on the sanitary and phytosanitary, SPS, side of things.

We have therefore continued our engagement with trade and representative bodies, which has been very positive. It has emphasised the importance of us being aware of what the issues are for businesses. Sometimes it is about clarification, and sometimes there are issues that we can bring to the attention of the authorities in another member state. That could involve an issue

manifesting as a problem in France or the Netherlands, for example, and we have a great deal of engagement and co-operation with colleagues right across the EU.

We are also engaging directly with Her Majesty's Revenue & Customs, HMRC, on the UK side to try to ensure that there is certainty and clarity for businesses regarding what is going to happen from 1 January 2022 and what is expected of businesses in that context. I have probably said this before at other meetings, but the one thing that businesses hate is uncertainty. Unfortunately, sometimes, the changes on the UK side are unclear and leave businesses here uncertain about what is meant and how they are going to handle those changes. Again, we are trying to maximise clarity around that aspect.

Deputy Cormac Devlin: I thank Mr. Harrahill for that response. I might come back in later on with questions on the suspicious transactions reports, STRs.

Chairman: I call Deputy Carroll MacNeill.

Deputy Jennifer Carroll MacNeill: I thank Mr. Cody and his colleagues for being here. On the collection of Brexit duties, everybody has experienced new duties having been applied to packages, which they may or may not have been expecting. Will the witnesses give us a sense of the scale of the changes at work here? What scale of increase is being seen and how quickly can it be tracked? Can Mr. Cody give us that information?

Chairman: I do not know if Mr. Cody is there.

Mr. Niall Cody: I am sorry, I was muted.

Deputy Jennifer Carroll MacNeill: I understand.

Mr. Niall Cody: No meeting goes without being on mute and talking to yourself for some of it. I am going to pass the Brexit ball to Mr. Harrahill again, but before I do I will give some idea of the scale. Mr. Harrahill and I appeared before the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach in the run-up to Brexit and we were talking then about the fact that we used to handle 1.8 million customs entries before Brexit. We had anticipated that we would have to scale up to handle something like 20 million customs entries in the first year post-Brexit, which would have been a ten-fold increase, by and large. The reality is that this year we are probably looking at a 30-fold increase in customs entries.

We examine aspects such as the local property tax and pay and file tax returns and scale. Our chief information officer, CIO, rang me the other day in that context, just after the pay and file tax returns deadline. We spend our time in the context of that pay and file process looking at our systems and ensuring that they are robust and working. Our CIO told me when he rang on that occasion that we had handled 350,000 customs entries, and that that was the highest level of entries we had on one day. Mr. Harrahill and I were chatting about this subject yesterday, and since then we have handled something like 700,000 customs entries in one day. This increase has been driven by several factors. The impact of Covid-19 has been massive on e-commerce. In addition, the EU rules concerning postal, VAT and customs' rates changed on 1 July, and that has presented significant challenges around low-value items. Therefore, the scale of customs operations is massive. I will pass over to Mr. Harrahill to add a bit of colour to this point.

Deputy Jennifer Carroll MacNeill: Mr. Harrahill may be able to answer a more specific question for me. A 60-fold increase is an astonishing expansion in any walk of life, for the public sector or for private enterprise. How is Revenue managing that as an organisation? To

get some more detail on what Mr. Cody outlined, are these customs entries the result of people ordering things online and having large numbers of small items? Is that the scale of what is happening in this regard? What is the efficiency in this context and is it possible to get any sense of what value is being captured for the State?

Mr. Gerry Harrahill: I thank the Deputy for her question. To expand on what Mr. Cody touched on, several things that came together have contributed to this explosion in customs entries. A consequence of the Covid-19 restrictions is that more and more people have gone from shopping in retailers on the main streets of our cities and towns to doing much of that online. That is undoubtedly one element of this increase, and we could see that facet of the change starting to kick in from last year.

The second significant element is that the rules concerning liability for VAT for small packages and parcels changed from 1 July 2021. Formerly, there was an exemption from VAT when people were importing goods valued at less than €22. As part of the move at EU level on rules to try to ensure there was no distortion of competition and to tackle some issues with the valuation of goods, that *de minimis* rule was removed. If people are now importing something worth €5, that package will be subject to VAT charges but not to customs duties. Those two things together have contributed enormously to causing this situation. A huge number of these customs entries are parcels and packages, as distinct from big consignments. I say that because in the early days of big consignments, and again as a consequence of the transition from the pre-Brexit situation to the post-Brexit changed reality, combined with the impact of Covid-19 and associated restrictions, trade flows slowed down. They are now returning to something closer to normal.

The explosion of activity in this area is not just an Irish phenomenon, however, but one that has been seen in all member states. I attend a meeting every couple of weeks of people involved in this area from the member states. We examine where things stand in this regard in the post-Brexit environment and everybody is sharing that experience. People who never previously had engagement with customs, and never understood what we did, are now suddenly part of this new regime. It is a new reality.

This is also part of why we have done much work last year and this year, leading up to Black Friday, and all those times, for example, to try to focus people's attention on the issue that now arises when importing goods from outside the EU in respect of liability for customs charges and VAT.

Deputy Jennifer Carroll MacNeill: Undoubtedly. It is sometimes a surprise and, if Mr. Harrahill does not mind me saying it, sometimes a nasty surprise, encountered when people have ordered gifts. As Mr. Harrahill said, the Revenue is coming into people's lives in a day-to-day way that it had not before. May I just turn to-----

Mr. Niall Cody: I am sorry, the Deputy asked one question and I-----

Deputy Jennifer Carroll MacNeill: I am sorry, I asked a question about the organisation and I should have given Mr. Cody an opportunity to respond.

Mr. Niall Cody: When Mr. Harrahill was talking, I got a chance to look at the figures. The value of customs duties collected up to the end of November this year is €458 million. For the equivalent period last year, the corresponding figure was €248 million. There has therefore been an 85% increase in the value of customs duties. Obviously, many of the customs entries

had no customs duties payable.

Deputy Jennifer Carroll MacNeill: Sure. I will just check those figures with Mr. Cody again. It was €485 million this year-----

Mr. Niall Cody: It was €458 million.

Deputy Jennifer Carroll MacNeill: Excuse me. It was €458 million this year, and the figure for the comparative period last year was-----

Mr. Niall Cody: It was €248 million.

Deputy Jennifer Carroll MacNeill: That is extraordinary. I thank Mr. Cody.

Mr. Niall Cody: There are VAT implications on top of that.

Deputy Jennifer Carroll MacNeill: In my remaining time I want to ask two questions on the work done on the suspicious transaction reports, STRs. Work remains to be done but when the system is updated with new key words that are, potentially, linked to cryptocurrencies or other marks of the black economy but, particularly cryptocurrencies, will that automatically have an effect on ratings? Once the work is done, will Revenue have an opportunity to review the period where the coding was not necessarily in place to see what, if any, effect that would have and whether reviews could be done respectively on some of the areas of greater concern?

Mr. Niall Cody: It is very hard to anticipate what would be the impact if we had done this and then if it were put back retrospectively.

Deputy Jennifer Carroll MacNeill: Surely a scoping analysis is possible.

Mr. Niall Cody: Absolutely. They are some of the things that we constantly review. As I said to Deputy Catherine Murphy earlier, the key issue around the whole area of cryptocurrencies is the developments that will take place internationally on the exchange of information rather than the STRs. I think that anybody who is trading in cryptocurrencies has obligations under the self-assessment system. It would be in everybody's interest to ensure that they comply with their tax requirements. Significant levels of data will become available to us from our international partners over the next couple of years and that will be a bigger game changer than the STRs because the STRs will mostly not involve crypto because they are coming from financial institutions. They could, potentially, come if somebody paid for something large with cryptocurrencies. Generally, a lot of the risk on the cryptocurrencies may well link to some of the areas that Mr. Harrahill was talking to earlier around organised crime gangs and probably not within the STR space for their cryptocurrencies. The international dimension is the real issue around crypto.

Deputy Jennifer Carroll MacNeill: What is the timeline? I will not ask a direct question about where the work is going on. When can the committee expect to talk about the issue again in the next couple of years?

Mr. Niall Cody: Legislation or EU agreements will probably happen in the next two years and implementation will be very quickly. Everything in our business has all of these acronyms but the DAC8 will go through the Finance Bill but probably not next year but the year after.

Chairman: I propose that we suspend the meeting for ten minutes and ask people to return sharply. The next speaker will be Deputy James O'Connor.

Sitting suspended at 11.03 a.m. and resumed at 11.13 a.m.

Deputy James O'Connor: I welcome the witnesses from the Office of the Revenue Commissioners. The temporary wage subsidy scheme was an excellent scheme that helped many employers to keep on workers throughout the pandemic. In an era when there is so much mobility within the workforce and when many employers are experiencing difficulty with trying to get staff, it was a prudent move overall. Am I correct in stating the original qualifying mechanism was such that the firm had to have experienced a drop of 25% in overall turnover because of Covid-19?

Mr. Niall Cody: Yes, that is the main rule. There were supplementary ones if the turnover rule was not appropriate but the normal rule was that firms had to be experiencing significant negative economic disruption due to Covid-19. To do this, they needed to indicate a minimum of a 25% reduction in turnover for quarter 2 of 2020 compared with that for 2019.

Deputy James O'Connor: In regard to the scale and size of firms that were expected to take up the scheme and how much that would cost, was there any analysis or questioning done within Revenue to determine whether there should be a cut-off point for the scale of the firms involved in taking up the scheme? For instance, was there analysis of whether it would be better to direct the scheme towards small and medium businesses that would be under the most pressure from the pandemic, such as those in the hospitality sector? I refer in particular to hotels and restaurants, many of which took up the scheme, versus major conglomerates. It could be argued the latter took a hit but, in the context of having both cash on hand and the financial clout to get through the pandemic, was it worth the State subsidising those businesses? Did it represent value for public money?

Mr. Niall Cody: At the time, in mid-March 2020, the genesis of the temporary wage subsidy scheme, as I outlined last year to the committee, was that the first thing to be announced was the pandemic unemployment payment, PUP. That scheme was brought in and it was going to be made available for any employee who was let go. When it was introduced, we ourselves looked at whether we could use our PAYE system to provide a mechanism to allow employers to support employees. We contacted the Department of Finance to say we thought we could do something to enable employers to do that. The Government then looked at it - it was the quickest response we have ever got to any proposal we have made - and said that if we could do that, that would be great. It was then a policy decision around having a broad-based scheme to support employment and this was across the full sector of the economy.

As it turned out subsequently, most of the money has been funded by the EU as part of the support of the EU system in response to the Covid pandemic impact. It was a broad-based scheme and the employment wage subsidy scheme, which replaced it, is similarly broadly based across the economy. That makes sure it does not fall foul of any state aid rules, as would be the case if we picked particular sectors.

Ultimately, it is a Government decision. The wage subsidy schemes have been a phenomenal success in meeting the policy requirements of keeping people in employment. Today's newspapers show unemployment is down to something like 6.9%, according to Central Statistics Office, CSO, figures published today. We never had the wage subsidy schemes before and I do not know what will happen in future, but the payroll system and the PAYE modernisation have provided that platform to support businesses.

Deputy James O'Connor: I reiterate there is a broad recognition within the Oireachtas

that the work done in Revenue by its employees has, in general, been very good. We have all dealt with businesses that have suffered a great deal because of the pandemic and that have suffered difficulties with Revenue, but I recognise the efforts of the witnesses and, more particularly, those of the workers within the organisation because it has been extraordinarily difficult for many people working for the State to have to divvy out these supports. The focus of my question related to larger firms that employ, for example, more than 500 people, which may have had major cash reserves, versus smaller businesses that did need increased support. Would we want to be careful to ensure that the money goes where it needs to go, rather than giving it out just based on a percentage at the time?

My next question is about the temporary wage subsidy scheme and the employment wage subsidy scheme. Mr. Cody is aware that these created difficulties for those who were seeking mortgage approval and seeking to purchase homes. What steps has Revenue taken to bring further clarity to that area? That could include providing transparency to employees that employers were using this scheme to pay their wages and providing clarifications that are needed for the purposes of lending. It has, unfortunately, impacted thousands of people in the Republic of Ireland. As a Member of the Oireachtas, I think the banks have behaved in a disgraceful fashion. What steps is Revenue taking to clarify this area?

Mr. Niall Cody: The legislation for the temporary wage subsidy scheme provided that the amount of the subsidy had to be shown on the individual payslips of employees. The employment wage subsidy scheme is different. Employees are paid their wages and the employer gets a payment. It is a subsidy but it is not a subsidy that is directly passed on to the employee. The scheme provided that the TWSS payment had to be shown on the payslips of anyone receiving it. Through the course of the year, certain financial institutions had concerns and brought in blanket rules which called into question mortgage applications if a person's employer was in receipt of the subsidy. Representations were made to us about some of those cases. We identified that we have no role in what the mortgage company does. We passed on concerns in submissions made to us regarding banking oversight to the Department of Finance. Transparency about being in receipt of the scheme was key because we wanted to ensure that employees knew exactly how much the employer was getting. That became part of the reconciliation process and compliance programme we did to ensure that the subsidy in the TWSS was passed on to the employee.

Deputy James O'Connor: I thank Mr. Cody. It is a valid point, which needs to be raised, and I ask Revenue to mind it closely in the coming months. It appears that we will be living with Covid for a significant period. The interaction between employers and Revenue in any future scheme, and indeed in this scheme, has an impact which filters down to people who are applying for mortgages. It is one of many unfortunate consequences of this pandemic. We have to take measures as a Government.

Chairman: I will let the Deputy back in later.

Deputy James O'Connor: I am interested in vehicle registration tax. What types of changes are-----

Chairman: I am sorry for interrupting the Deputy. I will let the Deputy back in for a second round of questions later on. We have gone over time.

Deputy James O'Connor: Apologies. I thank the Chair.

Deputy Verona Murphy: Good morning to the witnesses. Some of them will know me from the customs consultative committee in a previous life. I have a specific question, which follows on from Deputy Colm Burke's question. Deputy Burke was asking about second-hand vehicles which were brought in at the start of Brexit, to Southern ports. Those vehicles had to be cleared. Customs requested certain documents to facilitate the clearing without duty on those vehicles. The paperwork was produced. However, months later, these vehicles had been sold on, with the VRT paid, they were re-registered, and then Revenue decided that it was looking for other documentation to support the vehicles that were already cleared. It moved the goalposts in the middle of the whole operation. Even though the vehicles were cleared, with one set of documents having been produced, Revenue was not happy with that and asked for more documents, which cannot be produced for specific reasons. Does Revenue have a second bite of the cherry here? That is a binary answer.

Mr. Niall Cody: This is an area that we wanted to come back to. Mr. Gerry Harrahill has information.

Deputy Verona Murphy: I do not-----

Mr. Niall Cody: Sorry, Deputy. I will ask Gerry Harrahill to address the specific issue about vehicles.

Mr. Gerry Harrahill: I thank the Deputy. In answering her question, it is important to say that the approach to customs and tax is the same. It operates on a self-assessment basis. I will not go into specific cases, for obvious reasons. An importer brings in whatever goods are involved and presents documentation. Revenue will process and deal with that on a presumption of honesty and at face value. We always follow up on a certain percentage of transactions to satisfy ourselves that the initial documentation is valid and that the way in which a specific transaction was processed was in accordance with the requirements.

Deputy Verona Murphy: As Mr. Harrahill knows, I was very involved in the Brexit process. The difficulty is that, on occasions, it took days for cars in Dublin Port and in other ports to be cleared, while producing the documents required. Revenue had days initially. It gave the go-ahead. What concerns me about regulatory agencies such as Revenue making mistakes is that there is now an outstanding amount of money that Revenue states is due, when the reality is that Revenue has certain amounts of money belonging to these people, which it is probably going to hang on to to put against this bill. The only recourse open to the businesses is probably judicial review. Ultimately, what generally seems to happen in this country is that the judicial review goes against the regulatory agency when it gets to the court and the taxpayer picks up the bill for a legal fee which should never have arisen in the first place. We can carry on the conversation another time, but I am making the witnesses aware that I am hot on the case of State agencies that are spending taxpayers' money entering into legal cases when they should know better. They should be aware where a mistake is made. Ultimately, when the judicial review goes against them, it means they are wrong.

I have a question about Revenue's facilities in Rosslare and Dublin ports. I note from what has been presented to us that Revenue's capital assets amount to approximately €7.3 million for 2020. Will the witnesses give me some detail of what that includes? Does it include buildings? Is it just offices? Does it include grounds in Rosslare? I am concentrating on the new facilities dealing with Brexit. I do not know if that is a matter for Mr. Cody or Mr. Harrahill.

Mr. Gerry Harrahill: On the issue of the mistake, if somebody presents a declaration to

Revenue-----

Deputy Verona Murphy: No. I moved on from that. We can pick that up again.

Mr. Gerry Harrahill: The Deputy said that Revenue made a mistake. I want to emphasise and explain that if somebody makes a declaration to Revenue and we accept that on face value and it subsequently turns out that the declaration is incorrect, that is-----

Deputy Verona Murphy: It subsequently seems to have turned out that an awful lot of them were incorrect. Revenue cannot just say, 20 years later, that a car was cleared by Revenue but that it has now discovered that people cannot produce certain documents. I will take that up again. I ask Mr. Harrahill to answer the question about Rosslare. Does Revenue own the facility or has it purchased it?

Mr. Gerry Harrahill: The facility is owned by the OPW. We are one of the tenants on site together with the Department of Agriculture, Food and the Marine, and also the Health and Safety Executive. The site was purchased by the OPW.

Deputy Verona Murphy: How much does it cost Revenue per annum to be *in situ*?

Mr. Gerry Harrahill: I do not have the figure just off the top of my head.

Deputy Verona Murphy: Mr. Harrahill can send it on.

Mr. Gerry Harrahill: I can certainly provide that.

Deputy Verona Murphy: Is Mr. Harrahill aware of any other customs facility or an inspection post that is outside of a port facility anywhere else in Europe?

Mr. Gerry Harrahill: Off the top of my head I cannot just recall precisely, but-----

Deputy Verona Murphy: On understanding that the facility was going to be based outside of the Rosslare Europort, it crossed nobody's mind to ask whether this was allowable, permissible or should be continued with. Mr. Cody is nodding his head. Did Mr. Cody look into that?

Mr. Niall Cody: I will leave this to Gerry. The issue around the temporary arrangements in Rosslare were an essential part to facilitate the implementation of Brexit and to make sure that Rosslare Europort could operate.

Deputy Verona Murphy: I appreciate that. Why is the facility temporary? Why can it not be continued? Can we not apply for a derogation? The outlay for the State agencies is €11 million of taxpayers' money for a state-of-the-art facility and staff are in the lap of luxury. Why do we feel the need to utilise space, that is very much space we do not have in the port facility, when we could easily apply for a derogation to continue with the current arrangement?

Chairman: The Deputy has two minutes.

Mr. Gerry Harrahill: I have two things to say on the matter. First, in terms of the location of the facility itself, it was to try in the context of Brexit and the imminence of Brexit to provide a solution in terms of Rosslare.

Deputy Verona Murphy: Thank you.

Mr. Gerry Harrahill: There was no possibility within the existing Rosslare infrastructure,

which I know that the Deputy is very familiar with, to do with those facilities-----

Deputy Verona Murphy: My question is very simple. Going forward, why do we need to move?

Mr. Gerry Harrahill: Because we are not in compliance with EU requirements either from the point of view of customs or from the point of view of implementing the SPS requirements.

Deputy Verona Murphy: The port of Le Harve has a sanitary and phytosanitary, SPS, facility located about 20 km outside of the port. This is why I find it extremely difficult to understand. In the context of Brexit, we have been plunged into and are the most affected. Most of the money is not beneficial to the businesses but being spent for the benefit of the regulatory agencies. Why did Revenue not see fit to apply for a derogation and really give the taxpayer bang for its buck by using the state-of-the-art facility into the future? That is the question. Why?

Mr. Gerry Harrahill: Because there is no way of making the facility where it is, which is almost 1.5 km outside of the port area, compliant with EU requirements.

Deputy Verona Murphy: The facility is currently doing it.

Mr. Gerry Harrahill: Yes, we are currently doing it and it is being done and accepted by the EU in the context where this was a temporary solution which had to be put in place at a point when there was no alternative because there was no facility within the port area in which we could set up that operation.

Deputy Verona Murphy: I thank Mr. Harrahill for his answer but I do not accept it and will continue to pursue it. Does Revenue have any objection to sharing that under utilised and very spacious facility on the basis of road safety and, if needed, to erect a fence to provide for parking for the people who now must park on the side of the road thus causing a road safety issue?

Mr. Gerry Harrahill: Again Deputy, what I would say on that, based on the kind of average occupancy levels, certainly in my view there is potential for a parking facility to be made available on site. I know it is an area in which the Deputy has a particular interest. The challenge will be to try and do an assessment as to whether it is possible to put a parking facility in there at the same time as ensuring the primary purpose of the facility and the controls that need to operate around it. In principle and on the face of it, based on the occupancy levels, there is certainly potential for a parking facility to be made available on that site.

Deputy Verona Murphy: I thank Mr. Harrahill but I will be back.

Chairman: I suggest that Mr. Harrahill gives the Deputy an update on that after a short period. I know it is causing problems and we have heard about it from hauliers. Also, the matter is of particular interest to the Deputy. In terms of developing the facility and outlining its potential, perhaps Mr. Harrahill could come back to the Deputy after a period, if that is okay.

Deputy Verona Murphy: I thank the Chairman.

Mr. Gerry Harrahill: It would not be a facility necessarily run or operated by Revenue. As I understand it, our colleagues in the Department of Transport are taking up that issue now in the light of the information that Revenue has made available to them.

Chairman: I thank Mr. Harrahill.

Deputy Alan Dillon: I thank the witnesses for joining us and acknowledge Revenue's contribution in the delivery of crucial services, on behalf of the Government, during the pandemic.

I will start by focusing on compliance checks. The committee recognises the great work that has been undertaken by Revenue with 99.5% compliance checks in operation, as referenced in the opening statement. How many cases has Revenue investigated for the misuse of schemes implemented to support businesses and individuals during the pandemic?

Mr. Niall Cody: The use of the term "investigation" has a particular meaning in the tax world. We only carry out investigations where there is evidence of serious tax evasion.

As I set out in my opening statement in relation to the temporary wage subsidy scheme, we did a compliance review of all recipients because this was an area that we are not normally involved in. Paying out money is kind of outside our core business. What we were doing is we were paying out, in the case of the temporary wage subsidy scheme, €2.85 billion. We did, essentially, a compliance review of all recipients. It was a fairly light touch review in which people were required to show their reduction in turnover or the alternative method that was used. They were all asked for sample payslips to show, as I chatted to Deputy O'Connor earlier, that the wage subsidy scheme was passed on to employees. We had what I would see as an exceptional level of compliance. For the relatively small number of cases that had issues, for some of them what was involved is that they would have anticipated that they would have had a reduction because nobody what was going to happen last March 12 months. Nobody knew when we would open or whatever.

Deputy Alan Dillon: I understand that. I am trying to figure out the amount of correspondence that Revenue has had with multiple employers, in the early exchanges, to make them aware of their eligibility, which we all understand was self-assessed and administered by Revenue. How many cases have been escalated by Revenue to an investigation? Is it anticipated that the number will continue to increase as we move out of restrictions? Certainly the restrictions have been removed from a number of sectors. However, we see currently on the employment wage subsidy scheme, EWSS, that across various sectors there is still a really high number of employers and employees who are still claiming benefits.

Mr. Niall Cody: By and large on the temporary wage subsidy scheme everything is complete. Approximately 1,500 or 1,600 cases had compliance issues to sort out. That is down to 300 still open. We had the reconciliation process, which was essentially the balancing of the scheme, because for the first five weeks we paid everybody €410 per week. That was a policy decision and we knew we would have an overpayment there.

The employment wage subsidy scheme, EWSS, structure is a bit different. It is still linked to a reduction in turnover but we do a far more real-time compliance programme as businesses are claiming. Members may be aware that in June last year we introduced the eligibility review form. Every month, the business had to tell us its level of turnover so as to do a comparison with the 2019 base year. There is an ongoing basis-----

Deputy Alan Dillon: What is the current level of compliance with the eligibility review form measure? What have the Revenue Commissioners seen as the method has been modified and changed to safeguard the integrity of the EWSS? What do the Revenue Commissioners anticipate will happen again as we look to transition out of the EWSS next April?

Mr. Niall Cody: Throughout the year, having regard to the lifting of restrictions, the conditions in which people traded varied significantly. The highest monthly figure for EWSS was July last. The payment for July was €452.6 million. There could be a little bit of a lag but the payment for November, now finished, is €321.4 million. As I stated, the payment for July was approximately €452 million. The payment for August was €390 million, for September was €390 million, for October was €363 million and November is €321 million.

Deputy Alan Dillon: How many employees are involved?

Mr. Niall Cody: In November we paid €321 million and €47.3 million in PRSI was forgone for 23,600 employers and 275,100 employees. Every Thursday we publish our statistics and I had the good fortune to print today's statistics during the break. They are the up-to-date figures and indicate how much is involved.

Deputy Alan Dillon: Could we go sector by sector seeing an impact from Covid-19 restrictions? Is an approach being taken to review this sector by sector? We know, for example, the construction sector has no restrictions now but there is a very high number of employers and employees there in claims for EWSS. What are the Revenue Commissioners doing in this respect? How many staff are being deployed in order to review compliance checks in that sector, for example, and in many more?

Mr. Niall Cody: On a weekly basis we review the level of EWSS per sector. Last week we were looking at elements of the construction sector that are still claiming. By and large, those figures are going down significantly as things have opened. The system was based on an annual turnover and the turnover rules still apply. There may well be certain conditions. By and large, accommodation, food services, arts, entertainment and recreation are the big elements of the EWSS overall and increasingly on the monthly system. We can produce monthly analysis of the sector support if that is helpful to the Deputy.

Deputy Alan Dillon: How many staff are currently deployed to the compliance checks within the organisation? There are over 6,000-----.

Mr. Niall Cody: It is really difficult to isolate how many people are specifically on EWSS.

Deputy Alan Dillon: It is our biggest-----

Mr. Niall Cody: I was just going to continue. Essentially, the wage subsidy scheme is run through the PAYE system. When we are reviewing these cases, we are actually looking at the operation of PAYE incorporating EWSS. On our compliance staff throughout the past nearly two years, a significant proportion of compliance staff have been involved in the subsidy schemes because we have been restricted in what we can do in our audit and debt collection. Hundreds of our staff are looking at elements of the wage subsidy scheme. It is a significant resource.

We used much real-time data analytics. We get weekly payroll figures and so we have the analysis of pay levels. The eligibility review form has been a really important factor in being able to look at real-time level of turnover and comparing that with 2019 and our other datasets. Unfortunately, we have seen some examples of what I would call absolute fraudulent behaviour under the EWSS.

Deputy Alan Dillon: What are they?

Mr. Niall Cody: It is difficult but there are certain cases that have been referred to the Garda. This is not like normal tax evasion. Unfortunately, any repayment system will lead to unscrupulous activity. The temporary wage subsidy scheme had a great basis in that a person had to be on the payroll before anybody dreamt of a subsidy scheme. People had to be on the payroll on 28 February 2020. EWSS allows new businesses and employees. In the context of the money we have paid, it is a really small amount, but we are very concerned and have referred certain cases to the Garda. We work closely with the Department of Social Protection. I distinguish the fraudulent-type case completely from businesses that may have thought they would have been eligible and expected turnover to drop but the weather was better through September so outdoor dining and drinking might have been better than anticipated.

In a way, there was some drop off through the eligibility review form. We have been very clear that where a business had good cause to enter the scheme but it became apparent that it no longer qualified, if the business ceased its participation immediately, we tend to take a reasonable approach to what may have been claimed earlier. We do not always seek to recover it all, even if the business falls a little short of the eligibility criteria, once there is reasonableness in the case. The fraudulent criminal cases, small in number though they are, amount to what is essentially robbery rather than the tax evasion we are used to.

Chairman: In referring to the temporary wage subsidy scheme, we acknowledge the speed with which it was deployed and its efficiency. Many people will recognise that it ensured the economy was not very badly damaged by the early bouts of Covid-19.

Mr. Niall Cody: I appreciate those comments. In the context of the rolling out of these schemes, many people did much exceptional work. I do not mind the senior people. However, referring to Deputy Dillon's comments, many of our staff were working remotely on a scheme that did not exist before they went working remotely. Some of the work done by people on the front line in taking calls and assuring and reassuring businesses has been exceptional.

Chairman: We acknowledge that. I will revert to the misclassification of workers. Mr. Cody mentioned a few times that Revenue does not collect tax and it does not decide employment status. That is fair enough.

Mr. Niall Cody: Sorry, we do collect tax.

Chairman: Sorry, that Revenue collects tax but it does not decide employment status. Revenue was involved in classification on employment status in the courier sector. It put forward four issues which would identify and separate out self-employment around owning a vehicle, among which were that the driver paid for outgoings on the vehicle, that they were doing piece work and that they had a self-employment contract. However, the Denny Supreme Court case showed that was out of line with how it should be and with this year's code of practice. Is that correct?

Mr. Niall Cody: With self-employment, employment, contract of and contract for, there are a number of features, none of which on its own determines the facts. What I said earlier was that we are not the primary agency for determining an individual's social insurance class. It is hard to see the relevance of comparing the 2021 code of practice with what officials were doing in 1997-----

Chairman: The point I am making is Revenue wanted those four items inserted back in 1997. Is that the reason the deal was discontinued in 2019?

Mr. Niall Cody: No. Since then the environment has changed with the growth of platforms and the gig economy. We also had issues around takeaway food deliveries. There was the Karshan (Midlands) Limited case in which we looked at the employment status of takeaway food delivery. In that case we were satisfied the contractual arrangement was one of contract of services. We took that to appeal and were successful in the High Court. There is an impression that Revenue is sitting on its hands in this area. Every year we engage with our colleagues in Social Protection and the Workplace Relations Commission, WRC, looking at classification and bogus self-employment where we have evidence to support an approach we do that.

Chairman: That is fair enough. Mr. Cody mentioned workers at the lowest end in this sector. The Committee of Public Accounts is concerned about this because these are some of the most vulnerable workers in the State.

Was this discontinued because it could be seen as unlawful under Irish law because it takes a whole group of workers as self-employed and that cannot be done in Irish law, as confirmed in the Denny case and by Mr. Mark Connaughton in 2009? He said there is no legislative provision for appeals officers to make decisions on groups or classes of workers. Was that a factor in Revenue discontinuing work on this deal with the courier sector?

Mr. Niall Cody: The reason the scheme was being discontinued was because of the introduction of POA modernisation.

Chairman: Therefore it had no impact on the decision at all.

Mr. Niall Cody: Not that I am aware of.

Chairman: Okay. I refer to withholding tax on couriers' expenses. Some Revenue documents refer to withholding tax several times. The deal included a flat-rate expenses allowance for couriers. It was a system exclusively for employees. It is itemised on Revenue's website. Flat-rate expenses allow workers to claim back costs. Nowhere in the 1997 tax deal with representatives of the courier sector is withholding tax mentioned. That system is there to deal with PAYE workers. Is that correct?

Mr. Niall Cody: As set out at the time, the arrangement was we would provide the opportunity for courier companies to opt voluntarily to apply the PAYE system in respect of self-assessed couriers with whom they engaged. It was a method to bring the sector within tax compliance.

Chairman: I understand that. I think people would have appreciated at the time that it was something of a wild west situation where many people were not registered for tax, not on the books, being paid through cash and so on. The problem with the deal was that it de facto made all couriers self-employed. If an employee wanted to try to change that, it would be very difficult. The power relationship, as Mr. Cody acknowledged, is very limited insofar as the cards available for the employee to play are concerned. They have to take an individual case to Scope in the Department of Social Protection and then possibly to the High Court. It made it impossible. This is one reason we are concerned about it because it made it impossible for an employee to change it. No cycle or motorcycle courier would be in a position to jump easily through all those hoops. Would Mr. Cody agree?

Mr. Niall Cody: It is interesting, and the Chair would be surprised about this, that when we deal with people on contract of and contract for, generally, there are employees, if I may use that term, who want to be self-employed and there are others who want to be employed. Our

challenge is to deal with the contractual arrangement. The flat-rate scheme is part of the withholding system that was used in 1997. It was to give effect to the fact the self-assessed taxpayer would have expenses in the normal course and this was a simplified system to try to make sure they were in the tax system. It was also in the background where the determination in the sector had been that these people were self-employed from a social protection perspective. That was the environment. I was looking at the papers on this going back to the 1980s. It was a challenging sector at the time. The system has moved on. Secure email and so on has had an impact on the use of motorcycle and cycle couriers. It is not all-pervasive. Van couriers, in the context of e-commerce, are the growing thing. I was looking at statistics yesterday in the context of using the NACE code couriers are in and the ratio is about 3:1 of employees to self-employed.

Chairman: Does Mr. Cody accept there is a question around how legally correct this was, given the advice from the Chief State Solicitor, Mr. Mark Connaughton, in 2009? In the Denny case, a category of workers were taken as being self-employed. Does Mr. Cody accept that what happened there may be legally questionable?

Mr. Niall Cody: I do not accept that was what we did. What we did-----

Chairman: I am not asking what you did. I am asking if you accept that-----

Mr. Niall Cody: Where the couriers were self-employed, the withholding system applied to that. We did not determine they were self-employed.

Chairman: Do you accept it might be legally questionable?

Mr. Niall Cody: I cannot comment on that.

Chairman: Mr. Cody mentioned to Deputy Munster that neither revenue nor taxation was lost. However, the employer's PRSI contribution is different for a self-employed worker than for a PAYE worker. We all know that. Has Revenue done a calculation of the differential? It is a whole sector. It is being wound down and I see in the papers the witnesses supplied for today that it is down to two firms. That is welcome but there is a category of workers who were not getting their correct PRSI contributions and the State was not receiving employer's PRSI. Has Revenue done a calculation of the loss of revenue to the State on that or put a figure on it?

Mr. Niall Cody: This goes back to the basis. The agreement we looked at was to apply the PAYE system to self-employed couriers. That is what we were doing. It is interesting to look at the figures in relation to the sector and to the economy. From 2010 to 2019 there was not any significant change in the level of self-employed numbers in the economy or S class PRSI people.

Chairman: It is a different question I am asking. If these workers-----

Mr. Niall Cody: With respect, the Chairman is asking me to accept the argument that the couriers were employees.

Chairman: I am not asking you to accept an argument.

Mr. Niall Cody: You are.

Chairman: I am asking you to give an answer on this and maybe I am not putting it clearly enough. If the workers in that sector were employees as opposed to being grouped together and counted as self-employed from 1997 up to the discontinuation of the scheme, there is a

huge differential there in PRSI contributions to the State. I ask for a “Yes” or “No” answer. Has Revenue done a calculation of the loss to the State over that period? If the workers were treated as employees, what would the PRSI gain from that at the beginning, as opposed to the PRSI gained because of the classification as self-employed? That is the question. It is a “Yes” or “No”. I am not locking into an argument over it. I am asking the question.

Mr. Niall Cody: The answer is “No”.

Chairman: That is fair enough. That is fine.

Deputy Imelda Munster: Given Revenue’s refusal to agree to an investigation into the courier deal that was done, I ask the Comptroller and Auditor General who investigates Revenue. Is he aware of any investigation into Revenue in the past? Who conducted it? Who is Revenue answerable to?

Mr. Seamus McCarthy: The Accounting Officer is here today and is answerable to the committee. Is that the question the Deputy is asking?

Deputy Imelda Munster: We have asked for an investigation and Revenue has refused. It has said its determinations remain valid, despite everything that has happened. If it does not accede to our request for an investigation, where do we go from here?

Mr. Seamus McCarthy: I am not familiar with all the documentation the Chair quoted but it seems to me the kernel of the issue is whether certain sectors of economic activity and certain people working in that activity should be treated as self-employed. That is an issue probably primarily for the Department of Social Protection and perhaps for the Department of Finance. It is more of a policy question as to how certain activities are to be treated. From Revenue’s point of view, it is about applying the law as it exists, rather than as one might want it to be.

Deputy Imelda Munster: Revenue determined the four factors that deemed those couriers to be self-employed and that has transpired to be against Irish law. I hear what the Comptroller and Auditor General is saying. When an organisation voluntarily engages with Revenue to make a settlement with regard to bogus self-employment, would Revenue accept a report commissioned by a third party as the basis for that settlement or would it be inclined to conduct its own investigation?

Mr. Niall Cody: We will have regard to whatever information comes to us. We deal with this regularly in compliance across all areas. We encourage businesses to review. Generally it will be submissions from accountants and lawyers. We will examine and sample those. We are not dependent on those. We can do our own but we can also generally in a self-assessment system engage with the taxpayer. If their advisers come up with an submission, we will quality check and audit it and assure ourselves it is adequate.

Deputy Imelda Munster: Therefore, Revenue would accept a report commissioned by a third party. Would it then conduct its own investigation?

Mr. Niall Cody: I am not sure what the Deputy means by “commissioned by a third party”. I do not understand.

Deputy Imelda Munster: Would Revenue accept a report furnished by a third party, whether it be a consultant agency or any of the-----

Mr. Niall Cody: If a taxpayer engaged a company or professional firm to review his or her

affairs, we would take that submission. That would be fairly normal because most taxpayer have advisers.

Deputy Imelda Munster: That is perfect. That is what I wanted to know. That investigation would result in the creation of a lot of documents, I imagine. Would a final report of sorts be produced and made available to the person or persons disclosing a practice of miscalculation upon their request?

Mr. Niall Cody: I know exactly what the Deputy is talking about.

Deputy Imelda Munster: Mr. Cody is presuming, but I am just asking-----

Mr. Niall Cody: Sorry for presuming. Generally in a settlement or audit, there is considerable exchange of paper over a period. The final settlement letter may well be a summary of the issues, but the summary may have arisen prior to that. It depends on the facts and circumstances. The Comptroller-----

Deputy Imelda Munster: Would that be made available to the person or persons who made the disclosure?

Mr. Niall Cody: It depends on what the process has been. The information setting out the details of the computations may well be submitted to us. If we were satisfied with them and they were based on the computations the individuals sent to us, we would not necessarily set out the computations for them again.

Deputy Imelda Munster: If they wanted the Revenue Commissioners' final analysis or whatever, would it be made available on request?

Mr. Niall Cody: Generally, the information involved in the settlement is familiar to both sets and is usually really well documented. I am not aware of any situation where somebody had to request the basis of the settlement he or she agreed after they agreed it.

Deputy Imelda Munster: If somebody earning between €40,000 and €50,000 was misclassified as self-employed rather than as an employee, how much might the settlement with the Revenue Commissioners be? Would it beget a similar settlement concerning, say, the Department of Social Protection? Could Mr. Cody indicate how much it would be for the same individual, just to get an idea?

Chairman: Could I ask Mr. Cody to come back to the Deputy in writing on that question? He has a calculation to make. I want to allow the other members to contribute.

Mr. Niall Cody: If the Chairman wants, I can give a fairly simple example.

Chairman: Very briefly.

Mr. Niall Cody: A self-employed person on €35,000 in 2021 would have a total deduction of €5,978 between PAYE, USC and personal PRSI liability. An employee on this amount would have a net income of €29,022. They would have the same net income and the same contribution, of €5,978, and an employer PRSI contribution, which is what the Chairman was talking to me about. The differential is the employer's PRSI contribution, which is €3,867. That would be the liability difference between being self-employed on €35,000 and being an employee on €35,000. That is taking it that there are no expenses claims or anything like that. The calculation is based on basic gross income.

Deputy Cormac Devlin: I will return to my previous line of questioning on Brexit. We were talking about the new changes coming in in January and the Revenue Commissioners' engagement with SMEs, which is very welcome, but I am wondering about the impact that Brexit has had overall on customs and excise duties and the collection of these since early 2021.

Mr. Niall Cody: I mentioned earlier the additional customs duties we have received, amounting to €458 million for the 11 months compared with €248 million for the equivalent period. Traditionally, people talked about customs and excise, but excise and customs are different.

Deputy Cormac Devlin: Yes, I know.

Mr. Niall Cody: Excise generally has a lot to do with the internal matters, the major issues. The significance of the impact of Brexit will depend on how goods are sourced. The real issue regarding Brexit and for ourselves is the challenge associated with the amount of transactions, the controls we have and the ICT systems. Mr. Harrahill probably has something to add-----

Deputy Cormac Devlin: The purpose of the question is to find out how much the Revenue Commissioners have spent on preparing for Brexit contingencies in terms of new systems. I am referring to what Mr. Cody was just about to ask Mr. Harrahill about.

Mr. Niall Cody: Over recent years, the impact of the organisation has been significant. We have had Government approval for an additional 900 staff. That was subsequently increased. Even as far back as the 2017 budget, we had an additional €2 million for ICT. We built up that. Mr. Harrahill may want to flesh it out a bit.

Mr. Gerry Harrahill: Mr. Cody has been referring to expenditure on ICT systems and infrastructure. The other piece that involved the organisation involved all the engagement with business. In 2019, the year before Brexit kicked in, we would have had seminars hosted right across the country that involved approximately 2,000 businesses. We would have engaged directly with 100,000-plus businesses. We would have been instrumental in getting businesses to register for customs. The figure was about 25,000 businesses, so there was a very high level of interaction and engagement.

Deputy Cormac Devlin: Is there a cost associated with that? The delegates may send a breakdown to us in a note if they do not have it to hand. Could I have a rough estimate of the expenditure, between when Brexit came into our orbit and now, on ICT, the new staff, online preparation, forms, courses, and changes to the ports? Is there a rough estimate as to how much it has cost the Revenue Commissioners?

Mr. Gerry Harrahill: We can certainly provide a breakdown of the figure. It concerns what is part of our core business in terms of engaging with business and facilitating trade. For some of it, it will be hard to identify a specific Brexit element but we can certainly give a breakdown in terms of-----

Mr. Niall Cody: The advantage of having two of us is that I have had a chance to find the page with the information the Deputy requested. I have a table on Brexit-related expenditure from 2017 until October 2021, broken down by ICT developments, Brexit infrastructure and accommodation, and other Brexit expenses. Taking 2020 as the year we are looking at, pay was €26.8 million. We are talking about ICT developments of just over €700,000. The previous year it was €2.1 million. The figure for infrastructure is €9.6 million. The previous year, it was €3.4 million. This year up to October, it is €14.8 million. Regarding other Brexit expenses, which will cover a lot of the engagement piece, the figure in 2020 was €1.5 million. So far this

year, it has been €1.5 million. Overall, taking in the period from 2017 to October 2021, about €120 million is relevant to the Brexit aspect.

On ICT developments and staffing, we are, as we like to say, an integrated tax and customs administration, so some of this leads to additional compliance across-----

Chairman: I want to let in the Comptroller and Auditor General.

Mr. Niall Cody: -----but the idea of Great Britain being a third country has had a significant impact on the organisation.

Deputy Cormac Devlin: Of course.

Chairman: I want to let Mr. McCarthy in briefly. Two other committee members also want to contribute.

Mr. Seamus McCarthy: To go back to the point on PRSI and the self-employed, members may not recall that I produced a chapter on it in 2018. There were a number of recommendations in it that were addressed to the Department of Social Protection. Since the committee will be hearing from representatives of the Department next week, it might be useful if the Department updated the committee on the implementation of those recommendations. One of the things I drew particular attention to was an examination the Departments of Social Protection and Finance published in 2018 on this whole area of the economic implications of social insurance and self-employment. If an update on the implementation of the recommendations from that were provided by the committee, it would help it to advance a question that members are obviously very interested in. That is all.

Deputy Matt Carthy: I will ask Mr. Cody about international performance artists and revenues they might earn in this country. We have had a lot of media talk about big concerts that will take place next year. One particular gentleman, of whom I happen to be a fan, will do five nights in Croke Park. As a Monaghan man, that makes me very envious, which is probably less the case for a Kilkenny man who would be more used to going to Croke Park. Will that gentleman pay tax on the income he will earn as a result of ticket sales etc?

Mr. Niall Cody: I like to go to Croke Park regularly. I hope to get five outings next year. It would be great to get back into that, but I do not think I will be there on the same nights as the Deputy. Section 851A of the Taxes Consolidation Act 1997 applies equally to any potential taxpayer. If it is useful to the committee, we can provide a note on the taxation treatment of international acts. It is complicated.

Deputy Matt Carthy: A response to a parliamentary question that dates to 2018 states:

Artistes who are not resident in the State for tax purposes have a liability to Irish tax on income arising from the exercise of their profession in the State. However, because foreign resident artistes merely have a transitory presence in the State, there are numerous practical difficulties associated with enforcing such a liability.

As I said, that dates to 2018. Have those issues that were outlined been addressed? Can we be assured that when we purchase our tickets to international artists' concerts, they will pay tax on income earned in this State in the same way as Irish artists?

Mr. Niall Cody: I cannot say whether any individual potential taxpayer complies with his or her obligations or not. Again, it is a self-assessment system. There is no question but that

there are practical difficulties. This is a challenging area. I certainly had not anticipated talking about outings in Croke Park today. If it is helpful, I will update the parliamentary question for the Deputy.

Deputy Matt Carthy: In general, is Mr. Cody satisfied that Revenue is collecting the bulk of moneys owed in this regard? Is there wholesale avoidance of this tax?

Mr. Niall Cody: I would rather give a considered reply to the Deputy when I have had time to talk to staff in the relevant sections.

Deputy Verona Murphy: In fairness, Croke Park is probably the domain of Mr. Cody's brother. I will ask about non-compliant procurement. There were nine instances in which it occurred to the value of €3.1 million. Will Mr. Cody give us an update on what measures have been taken to ensure that non-compliance does not happen? Is Revenue now compliant with the procurement rules?

Mr. Niall Cody: Every year we have a small number of contracts where, generally, the Office of Government Procurement, OGP, framework has expired and there is an extension. We then move, as quickly as possible, to follow the proper procurement processes. If the Deputy likes, I can briefly go through the nine instances and set out where they are at present.

Deputy Verona Murphy: I am not sure we have time for that.

Mr. Niall Cody: We have submitted the details in our briefing. If I read it out, the Deputy will probably accuse me of wasting time.

Deputy Verona Murphy: No, I appreciate that. What I am really asking is whether Mr. Cody is now happy that, in future, there will not be any instances where non-compliance occurs? Is there a system in place?

Mr. Niall Cody: I am happy that we take great care in trying to ensure we are in compliance but I cannot tell the Deputy that we will not have instances of non-compliance, for whatever reason. It may well be because the OGP framework has not been renewed in time. I am not blaming the OGP; that could be a failure of some of the agencies involved to provide details. Sometimes a contract is entered into or a tender happens.

Deputy Verona Murphy: Has Revenue at least-----

Mr. Niall Cody: We have procedures in place.

Deputy Verona Murphy: Has Revenue reviewed all the contracts in 2021 for compliance?

Mr. Niall Cody: Our procurement section keeps a close eye on this. Generally, and I will not put words in the Comptroller and Auditor General's mouth, Revenue's record on procurement is by and large compliant. We have measures in place to try to improve that. Every year, we look at the instances to see whether there are areas of weakness that we can improve.

Deputy Verona Murphy: As a member of the Committee of Public Accounts, I assure Mr. Cody that that is what is expected. Revenue's standards are probably expected to be beyond non-compliance. I understand that there is not a one-size-fits-all in everything, as long as Mr. Cody is happy.

Mr. Niall Cody: We try very hard to try to ensure we are in compliance. We take it very

seriously.

Chairman: I will ask about Perrigo's tax settlement in respect of the 2013 period. The original figure was €1.636 billion which, according to details in the correspondence, was the assessment set out by Revenue at the time. It related to intellectual property. As I understand it, there was a court judgment and the judge agreed with Revenue on the figure and the classification. The court judgment looked at the debate regarding whether this figure was part of normal trading practices or a capital exchange, which was how Revenue treated it, that would have brought in a 33% tax rate. Perrigo argued that this figure was part of its normal day-to-day business and it wanted it treated at the normal corporation tax rate of 12.5%. I do not want to be unfair to Mr. Cody, but is it the case that it was subsequently treated at the normal corporation tax rate of 12.5%? Or was it 33%?

Mr. Niall Cody: As I outlined to the Chairman earlier, and I am not being smart here, I am bound by taxpayer confidentiality. I need to correct a comment the Chair made. The judge did not find. He dealt with a judicial review around our entitlement to raise the assessment. That was the subject of the High Court case. It was a judicial review that Revenue won, which Deputy Catherine Murphy referenced. I will mention that when we are judicially reviewed, in general, our record is that our processes and procedures are found to be compliant. The judicial review was about the processes, procedures and our entitlement to raise an assessment. As the judge pointed out in his judgment, he did not give any decision or view on whether the tax liability, as per the assessment, was correct or not. That was, as the judge said, a matter for the Tax Appeals Commission and, subsequently, for the courts, if that was the case. I have set out the data in our letter as best as I can-----

Chairman: I have read the wording of what the judge said.

Mr. Niall Cody: -----having regard to taxpayer confidentiality. I am sure the committee will publish the letter. That is as far as I can go on the Perrigo case.

Chairman: I have read what the judge said and the direct quotation Mr. Cody included in the correspondence. I thank him for that. It was helpful and I understand it. The Revenue Commissioners were found to be correct in that case. I am trying to figure out, as a member of the committee, and I am sure many members of the public are also trying to figure out, whether it was treated as a capital exchange that attracted tax at 33% or as a normal, day-to-day transaction that attracted 12.5% in corporation tax on profits. Which was it?

Mr. Niall Cody: I have outlined the limits of what I can do-----

Chairman: Okay.

Mr. Niall Cody: -----having regard to the legislation. I pay a lot of attention to the Chairman's opening remarks about what witnesses should and should not do.

Chairman: Of course. I am just trying to understand what happened.

Mr. Niall Cody: The committee has asked for our view on Perrigo. We have given the information that is publicly available. I can do that. I have also set out how the settlement and assessment processes work. Every few years, the Comptroller and Auditor General comes and reviews Revenue settlements and has full access to our data and files. The most recent review of tax settlements took place in 2018. This is probably not something an Accounting Officer normally says, but we find the reviews the Comptroller and Auditor General does of our settle-

ment process very helpful. We have developed and enhanced our Revenue case management system based on recommendations. To go back to the question of who we are accountable to, we are accountable to the Oireachtas. We also must operate within the legislative framework that sets out what I can do.

Chairman: I will go back to Perrigo for a second. The figure was then reduced when various pieces of information were supplied. This was set out publicly in the letter. The figure was reduced to €967 million, if I recall correctly, and Perrigo seemed quite happy with that. The issue here is that-----

Mr. Niall Cody: Chairman, it is a leap-----

Chairman: Let me finish the question.

Mr. Niall Cody: -----of faith to jump from Perrigo stating the Revenue figure was €967 million to it being happy with that. I am sure Perrigo was happy the figure was reduced but that does not go on to suggest it was happy and said, "Here it is".

Chairman: Perrigo believed the maximum income tax claim in dispute was reduced to less than €1 billion. The final figure that Perrigo agreed to pay was €297 million. By the time the process was over, the figure was reduced to €266 million. The point I am making is that an ordinary taxpayer or member of the committee would look at that and see the initial figure was €1.63 billion-----

Mr. Niall Cody: The initial figure, as I said in my earlier engagement, was zero.

Chairman: Okay.

Mr. Niall Cody: This is a self-assessment system. There are tax practitioners and legal people involved in the filing of returns. It is a serious issue to file a return and make a self-assessment.

Chairman: The notice that issued on 29 November 2018 was for €1.63 billion. The point I am making is that at the end of the process, Perrigo finished up paying a figure of €266 million. I am trying to figure out whether the tax liability was calculated as 12.5% or 33%. I know we are not going to settle this today but we do not have much of an explanation as to how that figure was reduced by so much. Even if this was treated as attracting a tax liability of 12.5%, the figure would be double what was yielded at the end of the day. It would be closer to €600 million than €266 million. That is the only point I am trying to make. Can the Revenue Commissioners give a further explanation in writing? We do not have time to pursue it.

Mr. Niall Cody: I have given the committee the information I can give it, having regard to taxpayer confidentiality. I assure the committee that we raised the assessment on the basis of the information we had at the time. We had to raise the assessment when we raised it or we would have been out of time and been unable to raise any assessment. We raised the assessment based on the best information we had at that time. Subsequent to the raising of the assessment, as happens in most cases in which we raise an assessment, there was further engagement and further information was provided. If we had the information available to us at the end of the process when we started, we would have raised an assessment for €297 million, having regard to the piece that is carried forward into earlier years.

Chairman: We are, unfortunately, up against time. I thank the Cathaoirleach, Mr. Cody, the

commissioner, Mr. Harrahill, and Mr. Doyle for attending. I also thank the staff of the Revenue Commissioners for their work in preparing for the meeting. I know they would have expected a wide range of questions and those expectations were followed through on during the meeting. I also thank the Comptroller and Auditor General, Mr. Seamus McCarthy, and his staff for attending the meeting and assisting the committee through their work for today's meeting.

Is it agreed to request the clerk to the committee to seek any follow-up information and carry out any agreed actions arising from today's meeting? Agreed. Is it also agreed that we note and publish the opening statements and briefings provided for today's meeting? Agreed.

I remind members that the launch of our report on the 2019 appropriation account for Vote 27 - Employment Affairs and Social Protection will begin on Microsoft Teams at 12.45 p.m. A photograph will be taken on the plinth directly after this meeting. If they are looking their best, members might make their way to the plinth to have their photograph taken straightaway.

The witnesses withdrew.

Sitting suspended at 12.37 p.m. and resumed at 2.07 p.m.

Business of Committee

Chairman: The public business before the committee this afternoon is minutes, accounts and financial statements, correspondence, work programme, and any other business. The committee will then go into private session before adjourning. The first item is the minutes of our meeting on 25 November, which have been circulated to members. Do members wish to raise any matters relating to the minutes? Are the minutes agreed? Agreed. As usual, the minutes will be published on the web page of the committee.

The next item is No. 2, accounts and financial statements. Five financial statements and accounts were laid before the Dáil between 22 and 26 November 2021. I ask the Comptroller and Auditor General to address these before I open the floor to members.

Mr. Seamus McCarthy: The first set of financial statements relates to the land bond winding-up account for 2020. It is a clear audit opinion. It is a very small account with a very low level of turnover.

The second is An Foras Teanga, the language body. It is a body that I audit jointly with my colleague in Northern Ireland. It is one of the cross-Border bodies. These are its 2019 financial statements. I draw the attention of the committee to the fact that they were signed on 29 April but are only now coming to the Oireachtas. The committee may wish to follow up in line with its policy in that regard. In any event, it was a clear audit opinion.

No. 3 is Institute of Technology Carlow for 2019-20. It is a clear audit opinion.

No. 4 is the local loans fund for 2020. It is a clear audit opinion. It is a very small account with a turnover in the year of €1,300. In fact, the loans outstanding at 31 December 2020 are nil, so, effectively, there should be no further transactions on that account. The final one is the Digital Hub Development Agency financial statements for 2020. It is a clear audit opinion. I have drawn attention, for the second time, to an annual expenditure of €227,500 in respect of a vacant site levy charge levied by the local authority on the agency.

Chairman: What county is that in?

Mr. Seamus McCarthy: Could the Chair say that again?

Chairman: On the digital hub where that charge was levied, are we talking about a vacant site levy?

Mr. Seamus McCarthy: We are. That is correct.

Chairman: In Dublin?

Mr. Seamus McCarthy: In Dublin, in the Liberties.

Chairman: Is this the second year that the levy has been incurred?

Mr. Seamus McCarthy: I think it may go back three years. It may have been incurred in 2018, 2019 and 2020.

Chairman: Is the €227,500 the cumulative figure for the three years?

Mr. Seamus McCarthy: That is the full-year expenditure in 2020.

Chairman: We need to follow up on that. Do any other members wish to come in? No. As the Comptroller and Auditor General pointed out, there was a delay with the An Foras Teanga statements. As is the normal procedure, we will ask the committee secretariat to notify the Comptroller and Auditor General of our concerns regarding that. Can we agree to note the accounts and statements? Agreed. As usual, the listing of the accounts and financial statements will be published as part of our minutes.

Moving to correspondence, as previously agreed, items that were not flagged for discussion for this meeting will continue to be dealt with in the normal manner, in accordance with the proposed actions that have been circulated. Decisions taken by the committee in relation to correspondence are recorded in the minutes of the committee's meetings and published on the committee's web page.

Four items of correspondence have been flagged today in the category of correspondence from Accounting Officers and Ministers as a follow-up to previous meetings of this committee. The first is No. 900B from Mr. Séan Ó Foghlú, Secretary General of the Department of Education, dated 17 November 2021, providing information requested by the committee regarding the use of public funds by An Taisce. On foot of a proposal by Deputy Sean Sherlock, this is one of 11 responses to our requests for information in relation to the use of public funds by An Taisce. We have now received eight of the 11 responses. The eight responses account for €1.2 million, or 36% of the funding An Taisce received in 2019. Responses from the Department of Housing, Local Government and Heritage, the Department of Agriculture, Food and the Marine, and Fáilte Ireland are outstanding. They account for €2.18 million, or 64% of the funding. This item has been flagged by Deputy Matt Carthy. It is proposed that we note and publish the item and consider the responses together once we are in receipt of them all. Is Deputy Carthy online?

Mr. Seamus McCarthy: I do not think he is.

Chairman: Do any other members wish to speak on this item? No. It is proposed that we note and publish the item and consider the responses. The next item is No. 901B from Mr.

Niall Cody, chairman of the Office of the Revenue Commissioners, dated 18 November 2021, providing information requested by the committee regarding the disclosure of details of a settlement between Revenue and Perrigo. At our meeting of 18 November, we considered a related response, R0873, from the Tax Appeals Commission. We discussed this matter with Revenue during today's engagement and that debate is on the public record. It is proposed that we note and publish this item. Is that agreed? Agreed. The item has been flagged by me and Deputy Catherine Murphy. I do not think Deputy Murphy is with us. We dealt with No. 901B earlier and we are no clearer on it because of the issue regarding Revenue and confidentiality. That is understandable. Time did not allow us to go any further into the issue earlier. The tax demand was for €1.636 billion. That was subsequently reduced following a number of interventions. The case came before a court. The final figure was that Perrigo is due to pay Revenue is €266 million. I propose to the committee that we write to Revenue Commissioners following today's meeting. We must recognise the fact that there has to be client confidentiality, but in the general scheme of things, the issue at stake here would appear to be whether it was treated as a capital transfer incurring a rate of tax of 33%, or one of 12.5%, as part of its normal trading profits. I suggest we write to Revenue and seek an answer to that question. Surely, it is a matter of how a company, and particularly, a very large one, is treated for tax, and specifically, whether it is paying the 33% or the 12.5%. If it is 12.5%, we should seek an explanation, because even at 12.5% the figure would be more than double what it came in, namely, €266 million. A tax rate of 12.5% would have given rise to a demand of possibly between €600 million and €700 million. If it is agreed by the committee, I will ask the clerk to follow up with that information from Revenue. While recognising the fact that it is bound by confidentiality around these matters, perhaps more light can be shed on that. Is that agreed? Agreed.

The next item is No. 903B from Mr. Derek Tierney, head of health infrastructure, Department of Health, dated 18 November 2021, and is a response to our request for information in relation to the analysis undertaken by the National Paediatric Hospital Development Board on the progress on the national children's hospital. The progress report has been with the Department of Health for some time, and we have made a number of requests for sight of the report and information on the projected costs and completion date for the hospital. The Department's position remains that:

the Department and the Development Board have a responsibility to ensure the successful completion of this critical project and that any discussion of costs, however hypothetical or otherwise, at this time, would prejudice enforcement of the existing contract, and very likely negatively impact or jeopardise the Development Board in its ongoing engagement with the main contractor, and the Board's responsibilities for the timely completion of this critical project.

Our invitation to the Department of Health to our meeting on 16 December, which is two weeks from today, includes this matter as an agenda item. Also on the agenda for that meeting is the value for money review of the nursing homes support scheme, or fair deal scheme. As detailed in our January report on our examination of the Comptroller and Auditor General's special report on the scheme, the review was initiated by the Department of Health in March 2018 and was due for publication in March 2019. More than two and a half years later this item of correspondence states that a response on that matter will follow without specifying when. I do not think committee members will be happy with that. We recommended that the Department provide the committee with updates, but these have not been forthcoming. That is most disappointing. It is proposed that we note and publish the item. Is that agreed? Agreed. The item has been flagged by me and Deputy Catherine Murphy. Do any members want to speak

on the item?

Deputy Imelda Munster: I flagged the item, too.

Chairman: Go ahead.

Deputy Imelda Munster: It is so frustrating. There are reports of the spiralling costs of the national children's hospital. Judging by this piece of correspondence, the Department is blatantly refusing to engage with the committee, citing commercial sensitivities and asserting that its focus is on completing the project. Optimistically, this hospital will not open until at least 2024. Come that time, I fully expect the Department will tell us that it cannot comment because a legal case or negotiations are ongoing. This is a complete lack of engagement in a new development. It seems to serve no other purpose, and the Department wants to kick the can down the road thus avoiding any responsibility for, what I believe to be, gross incompetency. In the end, it will likely be measured in billions of taxpayers' money. Will the committee write to the Department, ahead of the hearing on 16 December, specifically asking it to outline the distinction between negotiations and commercial sensitivities that exist today versus the updated costs it previously provided to the committee?

Chairman: We can do that. There is concern in relation to that issue. This time last year, members will recall, we were trying to arrange for the Department and the hospital board to come in to discuss this. We delayed it and put it back to 9 February to facilitate this report on the children's hospital. I was actually at that site the other day. I am at a loss at this point as to how we are in a situation whereby the project is this far advanced without being able to ascertain the final costs. I do not expect them to pin that down to the nearest dollar because obviously there are tweaks taking place and different elements built in for construction inflation. How come the taxpayers, the Oireachtas, this committee and indeed the health committee, which has pursued this vigorously as well, cannot be given a figure for the estimated cost of this project when it is completed? We are left guessing. The media are left speculating, as are we. We are trying to pick up hints from what we are being told. As Chairperson, I find it totally disrespectful to be honest. I do not see why this figure is not available at this point. There is something seriously wrong if the Department cannot state the final cost of this project or when it will be completed. I support the Deputy's request that we send correspondence to the Secretary General of the Department prior to his appearance here in two weeks' time. That is agreed.

We should also ask about the value for money review of the nursing homes support scheme. It is incredible that a Department is in the situation whereby it does not have that report completed two and a half years later. The world outside moves on apace, but somehow or another, this report cannot be done in a two-and-a-half-year timeframe. We should ask, if the committee is agreeable, that the Department should complete that report and give us an update on it when it comes before the committee. At this point, Oireachtas Members, who are elected on behalf of the citizenry who pay the taxes that facilitate these schemes and everything else, need to know the answer to this. We will ask the secretariat to include in the correspondence that we are disappointed and that we feel it has dragged on unnecessarily for a long period of time. In any circumstances, it should have been completed by now. It should have been completed a long time ago. When Department officials come before us in two weeks' time, they should have those reports with them. That is agreed. Do any other members wish to come in?

Deputy Imelda Munster: You could use the word "disappointed" but you could also say that we are at a total loss as to how, two and a half years on, they have not finalised the report.

Chairman: It is important. It is a big scheme that runs in the region of €1 billion per annum. It is important that we get that report. If everyone is happy with that, we will ask the secretariat to follow up on that and we will have it flagged for when they come before us.

The next item of correspondence is No. 910B from Mr. Bernard Gloster, chief executive, Tusla, dated 22 November. It provides further information that was requested by the committee at our meeting with Tusla on 21 October. This is a comprehensive response to 22 requests for information arising from that meeting, including a number of supporting documents. As it was flagged by Deputy Catherine Murphy, who is not in attendance, I propose we hold it over until next week. Is that agreed? Agreed. I wish to note, in contrast to the previous item, this is a comprehensive report on all the issues we asked Tusla to come back to us on. We will move on now. That completes correspondence received.

Next is No. 4, our work programme. We have two public engagements remaining this year. Next Thursday, 9 December, we will engage with the Department of Social Protection in relation to the 2020 appropriation account for Vote 37 - Social Protection. Also on the agenda is the Social Insurance Fund and the Comptroller and Auditor General's 2020 report on the accounts of the public services, which covers chapter 9 - regularity of social welfare payments; chapter 10 - management of social welfare appeals; and chapter 11 - controls over the Covid-19 pandemic unemployment payment.

On 16 December, we will engage with the Department of Health, as stated earlier, regarding its 2020 appropriation account for Vote 38 – Health. The Department has been made aware that the committee wishes to discuss the two outstanding reports, namely the children's hospital report, which was submitted to the Department of Health at the start of this year, and the value for money review of the nursing homes support scheme, which is often referred to as the fair deal scheme.

Last week we agreed our work programme for early in the new year. I thank the members for submitting their items on that. Our first engagement will be with RTÉ on 20 January, and the secretariat will work to schedule meetings with the National Transport Authority and Transport Infrastructure Ireland thereafter.

We will continue to revisit the work programme each week. Do members wish to raise any other matters on the work programme or are they happy that we have got it right this time? If anybody wants to flag an issue regarding those invited bodies, I ask that they do so as early as possible with the clerk to the committee and that they want answers on a specific issue. That concludes our consideration of the work programme.

The next item is any other business. Do members wish to raise any other matters? No.

We will now go into private session before adjourning until 9.30 a.m. on 9 December, when we will engage with the Department of Social Protection.

The committee went into private session at 2.28 p.m. and adjourned at 2.35 p.m. until 9.30 a.m. on Thursday, 9 December 2021.