TSG 06/21

Revenue Powers/Simplification Issues

Background

1. The first part of this paper examines the general area of Revenue Powers following on from the work of the Revenue Powers Group and in the light of events and views expressed since the Report was published in February 2004. It also looks at more recent issues that arise in a consideration of Revenue Powers and their current contextual background. The second part of the paper looks at possible initiatives aimed at simplifying and lightening the administrative burden involved in claiming the most common reliefs, as well as measures designed to lighten the burden on SMEs.

2. The issue of tax evasion is a sensitive public policy matter. The need for balance in this area between the rights of taxpayers as citizens and the prerogative of the State to enforce tax compliance is widely recognised.

Implementation of the Revenue Powers Group's recommendations through legislation

3. Since the publication of the Report a number of the Group's recommendations have been implemented through legislation.

4. Finance Act 2004

   – A provision was included, in a different form to that proposed by the Group, to allow Revenue access information held by a non-resident entity over which a domestic financial institution has control

5. Finance Act 2005

   – The publication limit for settlements with tax defaulters was increased from €12,700 to €30,000 with provision for the limit to be automatically revised every five years in line with the CPI to a rounded figure of the next €1,000.

   – The interest rate on underpaid tax was reduced to a daily simple interest rate equivalent to 10% for non-fiduciary taxes.[1]

   – The 2% per month interest charge for 'fraud and neglect' and the 200% tax-geared penalty for fraud were repealed.[2]

---

[1] The 11.75% rate was retained for fiduciary taxes, which are collected and remitted on behalf of others, e.g. VAT and employer's remittances of PAYE.

[2] These provisions remained in force for the historical "legacy" cases.

6. Finance Act 2006

- An enabling provision was introduced to facilitate automatic reporting. The provision allows the Revenue Commissioners to make regulations with the consent of the Minister of Finance requiring financial institutions and State bodies to make an annual return of the names, addresses and PPS Numbers of customers and others resident in the State to whom interest or other profit payments are made. Ongoing consultations are taking place with representatives of the Financial Institutions in order to decide how to best implement automatic reporting.

Implementation of the Revenue Powers Group's recommendations through administration

7. Other recommendations of the Group have been administratively implemented by the Revenue Commissioners. These include the following:

- Revenue and the Office of the Director of Corporate Enforcement signed a Memorandum of Understanding governing information exchange between the two bodies which largely meets the Revenue Powers Group's concerns.

- There has been significant progress in the targeting of audits through greater focus on risk.

- Regional 'Powers Officers' have been appointed within Revenue to manage the use of powers in each Region.

- Compliance costs are reduced where possible and are taken into account when considering the introduction of new powers.

- Revenue will aim to examine records at the taxpayer's premises where the removal of records would prevent the business carrying on in an orderly manner.

- Revenue gives more prominence to the External Reviewers and appointments will be made using the Public Appointments Commission.

Measures introduced separately from the recommendations of the Revenue Powers Group

8. A number of other issues within the general area of Revenue Powers which did not arise from the recommendation of the Revenue Powers Group were addressed.

- Power to allow Revenue to pursue prosecutions against persons who engage in tax evasion or who facilitate tax evasion

- Powers to allow Revenue to inspect records held by an insurance company where they have reason to believe tax evasion has taken place

<u>XXXXXXXXXXXXXXXXX</u>

9. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX

10. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXX

    – XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX

    – XXXXXXXXXXXXXXXXXXXXXX;

    – XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX

    – XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXX

11. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXX.

<u>New powers for Revenue</u>

12. Revenue is seeking a strengthening of their powers of investigation of revenue criminal offences by the enactment of a <u>stand-alone search power</u> and a <u>power to seek a production order</u>, for the purposes of such investigations.

13. Although similar search powers are available to the Gardai in investigating commercial fraud cases, the ODCE and the Competition Authority and the Gardai can have recourse to a third party production power similar to that sought. The Revenue Powers Group did not recommend granting these powers but suggested that the issues be investigated further.

14. The search power currently available to Revenue is focussed primarily on the investigation of a tax liability rather than a criminal offence. The search power can be rendered unusable by the subject of the investigation bringing their tax payments up to date.

15. In addition, changes are being considered that would:

    – Increase the period in respect of which interest can be paid to taxpayers on foot of a claim to repayment;

- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX

- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXX

16. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

17. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

18. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

19. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

20. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXX.

21. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXX

<u>Simplification of procedures -Claiming tax reliefs</u>

22. While it has always been the responsibility of each individual taxpayer to make a claim to receive tax reliefs to which s/he is entitled, Revenue has been incrementally taking steps to simplify and lighten the administrative burden involved in claiming the most common reliefs.

23. <u>Tax Relief at Source</u>
These steps began with the introduction of Tax Relief at Source (TRS) which works very successfully for mortgage and health insurance reliefs. Its success is dependent on a number of key criteria:

   – Simple relief with very few conditions, because it has to be operated by an intermediary

   – Standard rate (or single rate)

   – Small number of intermediaries handling large numbers of claims.

24. Revenue has examined the extension of TRS to other reliefs, in particular tuition fees and certain medical expenses, and has concluded, principally because of costs to the Exchequer and the range of conditions attached to the reliefs, that it is not the optimum approach.

25. <u>Revenue's strategy</u>
Accordingly Revenue's current strategy is a combination of:

   – Publicity to encourage claimants, including direct mailshots.

   – Self service channels, especially online and Text messaging

   – Moving towards automatic granting of credits and allowances based on third party information

   – Prompted repayment claims based on third party information.

26. The first two will take considerable time to deliver "volume" results. Accordingly Revenue is developing a range of approaches to the latter two which are expected to deliver significant benefits for taxpayers and Revenue in 2007 and 2008. Most of the proposals can be progressed on an administrative basis, but where necessary submissions to provide any legislative support required will be made in the context of the Finance Bill. Some of the conditions attached to the granting of certain reliefs may need to be reconsidered.

27. Proposals for implementation during 2007
Trade Union Subscriptions: Where possible membership information will be obtained from the larger Unions and credits applied automatically

Medical Insurance paid by employers: This applies to cases where BIK operates and the relief is not amenable to TRS

Automatic Granting of Age Related Credits: This may require legislative provision for transfer of data from the Department of Social and Family Affairs

28. Proposals to be developed in 2007 for implementation during 2008
In these cases the most likely approach will be to prompt a repayment claim:

- Hospital Expenses not covered by medical insurance

- Pharmacy costs on approved prescribed Drugs (via the Drugs Refund Scheme)

- Tuition Fees on approved Courses (at least for some institutions)

29. This model is also potentially suitable for Nursing Home fees, Medical Practitioner expenses and Dental practitioner expenses on approved procedures (Med 2 procedures) but discussion would be needed before a time scale could be indicated.

30. Data Protection issues
These proposals are critically dependent on obtaining third party information from service providers electronically with name, address, qualifying expenditure and as far as possible, a PPSN. Taxpayers whose service providers are not able to meet these requirements will of course be able to claim in the traditional manner. Preliminary confidential discussions with ICTU, VHI/BUPA, HSE and some Third level colleges are positive. There is already provision in the law for Employers and Trade Unions to supply data on Union membership to Revenue. However, Data Protection issues arise for other service providers. The Finance Act could address these concerns by permitting or requiring them to furnish the relevant information to Revenue exclusively for certain specified purposes.[3]

31. Costs and Benefits
The proposals have considerable merit in terms of improved service to taxpayers and in bringing greater equity to the system.

32. By definition, unclaimed reliefs are almost impossible to cost but two exercises carried out by Revenue are illustrative. An examination of a sample of 1,000 cases from the Drugs Refund Scheme with qualifying expenditure in 2005

[3] [3] The Data Commissioner could be consulted on these data protection issues. Existing legislation in relation to tax relief for trade union subscriptions, provides that any data received by Revenue "shall be used for the purpose of facilitating the granting of relief . . . and shall be used for no other purpose".

showed that more than 60% had not made a repayment claim by September 2006. A similar examination in relation to Employer-provided medical insurance had comparable results

Simplifications for SMEs

33. Less frequent VAT Returns
Last year Revenue introduced less frequent PAYE filing for SMEs, a move which was welcomed by business. At present there are only 2 pay and file frequencies available to VAT taxpayers. The majority of customers, 233,180, pay and file on a bi-monthly basis. 25,780 customers who pay by monthly direct debit file annually.

34. With effect from July 2007 it is proposed to:

- offer the facility of half-yearly filing to 10,800 customers that have a yearly liability between €1 and €3,000. Customers will pay and file in January and July in respect of the periods January-June and July-December respectively.

- offer the facility of filing three times yearly to 65,700 customers that have a yearly liability between €3,001 and €14,400. These customers will pay and file in May, September and January in respect of the periods January-April, May-August and September-December respectively.

35. Costs and Benefits
There will be a once off cash flow loss in the calendar year that half-yearly and four-monthly filing is introduced. As proposed, half-yearly pay and file will cost €9m and four-monthly will cost €40m.

36. There are significant computer development costs associated with the proposal. These have been costed at 75 man-weeks.

37. The main benefit is reduced compliance costs for small business. There are also benefits for Revenue in terms of 174,600 less returns to post out and process on return each year. Less periods to monitor in the Small and Small/Medium cases category creates space for closer monitoring and should lead to improved compliance levels.

Corporation Tax Pay and File arrangements for SMEs

38. The preliminary tax payment arrangements for companies have become more onerous in recent years and companies are now required to pay their preliminary tax for an accounting period one month before the end of that period – i.e. before they know their results. The rules are eased somewhat for "small" companies in that they can opt to meet their obligations by paying 100% of the previous years liability.

39. Currently, a small company is one where the final corporation tax liability for the previous year does not exceed €50,000. Following the report of the Small Business Forum, it is proposed to increase this limit to €100,000.

40. Revenue and Department of Finance are examining further options for relieving this burden on businesses generally.

Conclusion

41. The TSG is invited to discuss the various issues raised by this paper.