

TAX

Irish TAC and Revenue *Annual Reports*

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The Irish Tax Appeals Commission (TAC) and Irish Revenue Commissioners have recently published their 2020 Annual Reports providing an insight into the activities and trends in their respective areas of responsibility.

Highlighted below are some of the key points arising from those reports and our take on associated trends.

5 MIN READ

01

TAC 2020 Annual Report

Key statistics

- 1,392 appeals closed in 2020 with 3,021 appeals remaining open, around 87 new appeals being lodged per month with 1,039 appeals received in 2020.
- Total appeals on hand has reduced by 10% from 2019. This indicates steady progress, particularly in relation to legacy appeals (reduced from 1,157 to 372) and pre-establishment appeals (reduced from 289 to 73).
- 3,021 cases on hand at year-end are of a value of €4.5bn of which €1.5bn relates to 2020 appeals. Appeals closed in 2020 amount to €820m, of which €761m relates to current appeals.
- 229 cases were scheduled for hearing in 2020, with around 10% settling prior to hearing and around 3% settling post-hearing. 171 TAC Determinations were issued.
- During 2020, the Commissioners signed 28 cases stated pursuant to section 949AQ TCA 1997 to enable determinations to be appealed to the High Court (up from 10 in 2019).

Case Statistics

Introduced in 2016 replacing the Office of the Appeal Commissioners, the TAC is responsible for administering tax appeals across all tax heads ranging in complexity and quantum, and is one option open to a taxpayer disagreeing with a Revenue decision or assessment.

On its inception, the TAC took on a significant number of legacy appeals (being appeals made directly to Revenue prior to establishment of the TAC, of which there were 1,157 at 2016) and pre-establishment appeals (being appeals made to the Office of the Appeal Commissioners, of which there were 289 at 2016). The TAC has made steady progress through this caseload: reducing in 2020 from 1,157 to 372 and 289 to 73, respectively. This progress is impressive when one also considers the year-on-year newly filed appeals (1,039 new appeals received in 2020) and the resource constraints experienced by the TAC.

The TAC is already showing the benefits of the increase in the number of TAC Commissioners to six and with the welcome

appointment of Chairperson Marie-Claire Maney further progress is expected. However, with a total of 3,021 cases on-hand at the end of 2020, one might safely assume a further need to increase personnel to discharge outstanding matters and those likely filed throughout 2021 and beyond.

Quantum, case complexity and value

On 31 December 2020, the quantum in dispute in relation to appeals received in 2020 totalled €1.5bn and the quantum in dispute in relation to current appeals closed in 2020 totalled €761m (total 2020 cases closed equates to €820m). The 3,021 cases at hand at the end of the year aggregate to a combined value of €4.5bn. Moreover, during 2020 the TAC stated 28 cases to the High Court (up from 10 in 2019).

By these metrics, one can envisage a trend of increased complexity and our expectation is this trend will continue. This is particularly the case when it comes to the increased potential for litigation in the area of transfer pricing in the light of relatively newly implemented rules.



“Overall 2020 has been an industrious year for the TAC and our expectation is 2021 is likely to be similarly if not more busy.

Settlement

229 cases were scheduled for hearing in 2020, with around 10% settling prior to hearing and 3% settling post-hearing. Settlement is of course an option open to both parties in the course of a tax dispute process. It will be interesting to monitor settlement trends in the coming year.

Leveraging technology

In the same way that Courts were impacted by the COVID-19 Pandemic, the TAC may have been restricted in its capacity to hear and administer cases over the course of the past year and this could have resulted in the slight reduction in 2020 cases closed (down from 1,579 to 1,392). Our experience though is the TAC has responded admirably

to the challenges posed, by adopting technological solutions to facilitate remote hearings and physical hearings subject to public health measures. These initiatives and investment by the TAC in technology has been widely welcomed.

Overall 2020 has been an industrious year for the TAC and our expectation is 2021 is likely to be similarly if not more busy.

1,392 **3,021** **€4.5bn**

Appeals closed

Cases on hand

Value of cases on hand



02

Irish Revenue Commissioners 2020 Annual Report

Key statistics

- €82bn gross receipts with net exchequer receipts of €56bn, a decrease of 3.6% (€2.1bn) from 2019.
- €487.4m in yield from audit and compliance interventions with €128.1m from audits and investigations and €359.3m from non-audit interventions.
- €51.4m in tax settlements in respect of 109 taxpayers.
- Ireland continuing its role in International Tax matters with 1,446 requests for Mutual Assistance received from other Competent Authorities and 646 issued by the Irish Revenue, and retention of 74 signed DTAs.
- Transfer Pricing MAP substantially increased with 43 at the start of 2020 and 80 at the end, 11 completed and 48 initiated. 5 APAs completed.
- 147 Relevant Tax Opinions provided in 2020: 2 trading, 60 stamp duty, 33 withholding tax, 10 corporation tax general.
- By April 2021 €2.3bn of warehoused tax debt for over 80,000 businesses with €423m in COVID-19 support scheme payments.
- Ranked 4th globally under the World Bank/PwC Report for ease of paying taxes and the easiest country in the EU.



Gross receipts and tax warehousing

Although decreasing by 3.6% (€2.1bn) from 2019, gross receipts for the Irish Exchequer held relatively firm given the political, economic and health conditions at €82bn with net exchequer receipts of €56bn. This is a testament to the strong multinational presence in Ireland with net corporation tax receipts increasing from €10.8bn to €11.8bn and income tax receipts being relatively steady at €22.6bn, both of which have played a significant part in enabling such massive Government supports to impacted businesses and individuals.

In this regard, by April 2021 Irish Revenue had warehoused tax debt totalling €2.3bn for over 80,000 businesses, with €423m in payments in respect of the COVID Restrictions Support Scheme paid to 21,800 businesses.



“The report notes Irish Revenue’s continued engagement on the international front...”

Audit levels

In terms of audit activity, the number of individual interventions are down from 2019 with total tax yield reducing from €547.65m to €487.4m. This yield figure is made up of €128.1m from audits and investigations and €359.3m from non-audit interventions.

This is perhaps understandable given the current pandemic restrictions but we expect this to be less the case for 2021. This is particularly in light of January 2021 Revenue Commissioner guidance on the deployment of tax interventions and audits for so long as businesses remain impacted by the pandemic (see [A&L Goodbody Insight here](#)), and our assumption is this guidance was leveraged in increasing audit activity from early 2021.

Transfer pricing MAP, APA and Exchange of Information

The report notes Irish Revenue’s continued engagement on the international front, in particular with respect to requests under Mutual Assistance and transfer pricing Mutual Agreement Procedure (MAP) and Advance Pricing Agreement (APA) processes with other Competent Authorities.

The opening inventory of transfer pricing MAP cases at the start of 2020 was 43 with 80 cases on hand at the end of the year. With 11 MAP cases completed in the year that leaves 48 newly initiated processes. From an APA perspective, the opening inventory was 29 with 45 cases on hand at the end of the year. Five APAs were granted during the year with 22 new requests received. These metrics are indicative of our experience of increased activity in this area, which we expect to continue.



Ireland has continued its engagement on exchange of information with other tax authorities, with 1,446 requests for information received and 646 made by the Irish Revenue. While these numbers are somewhat down on those for 2019, exchange of information on request remains an important tool for tax authorities in enforcing their domestic tax laws and current levels of activity in this space should continue.

Revenue opinions

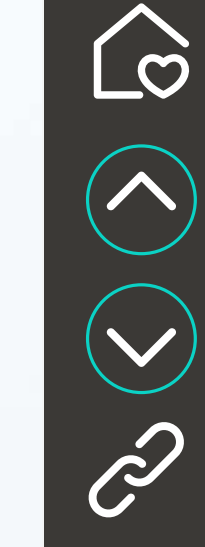
Interestingly, taxpayers continue to seek opinions from the tax authority on relevant issues with the total number of opinions/ confirmations provided through the Revenue Technical Service (RTS) standing at 339 for the year. As distinct from the opinions/ confirmations provided through the RTS, Revenue provide Relevant Tax Opinions to companies and other entities in respect of technical issues associated with direct taxes (namely Corporation Tax, Business Income Tax, Stamp Duty and CGT). During 2020, Revenue issued 147 such technical opinions covering, amongst others: trading status

(2), stamp duty (6), withholding tax (33) and general corporation tax (10).

The report notes a reminder in relation to the 2019 Revenue e-Brief (No. 197 of 2019) as to the maximum five-year validity period for Revenue opinions and advised that opinions provided between 1 January and 31 December 2014 were subject to review. Taxpayers wishing to rely on such opinions were required to make an application for their renewal or extension on or before 31 March 2020 (and Revenue confirm 6 such applications were received).

Ease of tax payment

In benchmarking performance as against other tax authorities, Revenue note a recent joint World Bank / PwC report under which Ireland is the easiest country in the EU in which to pay taxes and the fourth ranked country globally. Clearly, this bodes well in terms of efficient tax collection for the Exchequer but also certainty and ease of administration for businesses located in Ireland, many of them multinationals.



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Resources



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