

20<sup>th</sup> October 2020

Mr. Niall Cody  
Chairman  
Revenue  
Office of the Revenue Commissioners  
Dublin Castle  
Dublin 2  
DO2 F342

**Re: Statement of Strategy 2021-2023**

Dear Mr Cody

On behalf of the Irish Congress of Trade Unions, I wish to acknowledge with thanks receipt of your correspondence of 6<sup>th</sup> October regarding Revenue's Statement of Strategy for 2021-2023.

Please now find below Congress's comments and suggestions, as requested, which we hope will inform the direction of the 2021-2023 strategy.

Some of the points we make may be of more relevance to Revenue's ongoing work, including Revenue's annual 'Corporate Priorities', but we are including them in this response nevertheless.

First, we believe that one of Revenue's core values - the assumption of 'honesty on the part of taxpayers in their dealings with Revenue' - accurately reflects the approach taken by most taxpayers in Ireland but we do welcome the fact, as stated in your letter of 6<sup>th</sup> October, that the goal of 'maximising taxpayer compliance [remains] central to all of Revenue's activities'.

In this regard, you will be aware of the European Commission's conclusions that the 'economic evidence suggests that Ireland's tax rules are used by companies that engage in aggressive tax planning' and of weaknesses in Ireland's anti-money laundering framework outlined in its country report Ireland 2020 (Commission, 2020), as well as the clear recommendations on these issues, namely to 'step up action to address features of the tax system that facilitate aggressive tax planning, including on outbound payments. Ensure effective supervision and enforcement of the anti-money-laundering framework as regards professionals providing trust and company services', set out in the EU's Country Specific Recommendations to Ireland, adopted in June 2020 (Council, 2020).

While these conclusions and recommendations are primarily addressed to government, we believe they are also relevant to Revenue's work: the European Commission pointed out for example that Ireland has made changes to legislation governing Irish real estate funds (IREFs) to counter aggressive tax planning practices *identified by revenue services...*[but that]...the effectiveness of these new measures in limiting the scope for aggressive tax planning and their impact on corporate income tax revenue in the medium term will need to be assessed' (our emphasis).

Second, with regard to Revenue's commitment to act when it has reason to believe taxpayers are not acting honestly, you will be aware that ICTU has repeatedly highlighted the need to tackle bogus self-employment, including in the construction sector.

In this regard, we note the comments in Revenue's 2019 annual report, which identifies the construction sector as historically posing

...significant risks to the tax system as evidenced by the outcomes of our compliance programmes in this area over a number of years. Given this, and its expansion in line with strong economic growth, the construction sector again featured prominently in our interventions in 2019. The construction sector yielded over €41 million, representing almost 8% of the total yield from all interventions.

However, an analysis of Revenue's annual reports over recent years appears to indicate that the number of 'audits/investigations' into this sector has fallen by over two-thirds (68%) over recent years, from 1,065 in 2016 to 338 in 2019; that the number of 'risk management interventions' in this sector has fallen by nearly one fifth (-18%), from 16,736 in 2016 to 13,663 in 2019; and that the total yield from these interventions has fallen by one quarter from €54.7m to €41.2m over these periods. We believe there is a need to arrest and reverse this trend over the coming years. As we have discussed in the past, ICTU has long held the view that the Revenue practice of facilitating Main Contractors to classify workers as self-employed without any supporting evidence only serves to exacerbate this problem. Once again we request the Revenue support the proposition that all workers are classified as direct employees until proven otherwise.

Third, we acknowledge and welcome the recognition in your letter that the new strategy 'will reflect the challenges arising from Revenue's role in assisting taxpayers through the COVID-19 pandemic....' In this regard, we believe that there is a need for greater transparency regarding measures that have been introduced so far. For example, Revenue had previously committed to publishing the names of employers involved in the Temporary Wage Subsidy Scheme (TWSS) 'after the scheme has expired'. While the TWSS ended on 31 August, as far as we are aware, details of the participating companies have not yet been provided, and it is not clear when this will be done. This need for greater transparency on this matter is underlined by reports concerning possible abuse of the TWSS, including the under-payment of employees, by some companies.<sup>1</sup> In the same vein, we believe there is a need for greater transparency concerning the share of TWSS employees who were being paid wages from employers in addition to the TWSS subsidies. For example, Revenue previously published some information (Revenue Statistics, 2 July 2020) indicating that up to 88% of TWSS employees were being paid by their employers in addition to TWSS subsidies. However, an analysis of this information appears to indicate that this referred to the percentage of TWSS employees who received *at least one* such payment over a given period, and that 45% of these were paid between €1-€100. The need for greater transparency on this matter will also be of relevance with regard to the Revenue commitment to 'publish a list of employers who availed of the EWSS at the end of January and April 2021...in line with international practice' (Revenue, 22 September 2020).

Fourth, you will recall that we have previously called for the retention of the current flat-rate tax regime (most recently in our pre-budget 2021 recommendations). We acknowledge that Revenue agreed to defer the implementation of its planned changes to this regime, pending the outcome of an examination of this issue by the Tax Strategy Group.

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<sup>1</sup> For example, 'Revenue launch probe into thousands of firms' Covid supports,' The Irish Independent, 17 September 2020.

We note that the Minister for Finance stated recently that 'it would not be unexpected that any changes to the FRE regime might await the outcome of those deliberations.'<sup>2</sup> You will be now aware that the relevant Tax Strategy Group paper, published on 14 October, concludes that 'in the current unprecedented social and economic circumstances the issues that arise from seeking to adjust or withdraw what may be seen as a modest tax benefit, especially from those on lower incomes, need to be carefully weighed'. We would urge Revenue to consider this conclusion very carefully.

Fifth, you will also recall that we have previously raised with you the issue of corporate tax losses and unused capital allowances, and that the Oireachtas Public Accounts Committee in 2018 recommended that Revenue put in place procedures to analyse losses carried forward in order to identify those relating to trading losses and those relating to unused capital allowances. We are still not aware of the extent to which Revenue has acted on this particular recommendation and would welcome any clarification you may be able to provide.

Lastly, we do believe that Revenue should consider making anonymised data available to researchers for research purposes.

We would be willing to discuss our comments and suggestions further with Revenue prior to the publication of the 2021-2023 strategy and we hope that they will be reflected in Revenue's strategic objectives and priorities over the coming years.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Patricia King', with a stylized flourish at the end.

Patricia King  
General-Secretary

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<sup>2</sup> Written answer to Dail written question no.28151/2020, 9 October 2020.

## References

European Commission (2020) *COMMISSION STAFF WORKING DOCUMENT Country Report Ireland 2020* (SWD(2020) 506 final)

Department of Finance (September 2020), *Income Tax Tax Strategy Group – 20/02 September 2020*

ICTU (2020) *Congress Budget 2021 Recommendations No Going Back*

Revenue (2020), *Annual Report 2019*

Revenue (22 September 2020) *Employment Wage Subsidy Scheme (EWSS)*

Council of the European Union (2020) *Recommendation for a COUNCIL RECOMMENDATION on the 2020 National Reform Programme of Ireland and delivering a Council opinion on the 2020 Convergence Programme of Ireland*

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