



The Consultative Committee of Accountancy Bodies-Ireland

The Institute of Chartered Accountants in Ireland
The Association of Chartered Certified Accountants
The Chartered Institute of Management Accountants
The Institute of Certified Public Accountants in Ireland

Name of Respondent

Consultative Committee of Accountancy Bodies – Ireland.

The Consultative Committee of Accountancy Bodies – Ireland (“CCAB-I”) is the representative committee for the main accountancy bodies in Ireland. It comprises the Institute of Chartered Accountants in Ireland, the Association of Chartered Certified Accountants, the Institute of Certified Public Accountants in Ireland, and the Chartered Institute of Management Accountants. It represents almost 30,000 qualified accountants working in all areas of business and practice. The Institute of Chartered Accountants in Ireland is also a member of the Global Accounting Alliance, which also may provide a response under separate cover.

Contact details

Brian Keegan, Director of Taxation,
Institute of Chartered Accountants in Ireland, Burlington House Burlington Road Dublin 4,
IRELAND
brian.keegan@icai.ie

Country of Respondent

Ireland

Question 1: What are the important features of tax administration that may facilitate the co-operative compliance approach? Please build on positive and negative experiences in dealing with your tax administration.

We subscribe to the five capabilities for Revenue Authorities recommended in the OECD Tax Intermediaries report in terms of facilitating a cooperative compliance approach, if that is indeed desirable, namely:

- understanding based on commercial awareness
- impartiality
- proportionality
- openness (disclosure and transparency)
- responsiveness

We go further in advocating that these capabilities should be displayed by Revenue Authorities to ALL taxpayers.

We mention here that members of the Institute of Chartered Accountants in Ireland routinely deal with the Revenue Authorities both of Ireland and of the United Kingdom and Northern Ireland.

Question 2: Do you think that having a dedicated unit (or units) as part of your tax administration (either at national or at regional level) with particular responsibilities for HNWI is a good idea? If you are generally supportive of such an idea, what roles and responsibilities do you think such a unit should assume?

Under this heading, we would observe that there are particular technical aspects in dealing with High Net Worth individuals. For example, in the Irish context, it is likely to involve knowledge of and the application of limits to the so-called Specified Reliefs, a skill which would not be necessary in the context of dealing with the majority of the taxpaying population. Whether it is appropriate or not to limit such skill-sets to particular dedicated Revenue Authority units is a management matter for the Revenue Authority concerned.

Services to taxpayers provided by Revenue Authorities is becoming more systematized, with procedures increasingly underpinned with technology. Increasingly there is a trend towards technology driven “self service” – the HMRC OnLine services and the Irish Revenue OnLine Service (ROS) are examples. Also of importance is the increasing publication of technical information and resources on-line, aimed both at the taxpayer and the professionals who advise them. There may be a temptation not to develop these services to the fullest extent required by HNWI as they represent a smaller taxpaying constituency, thus the per capita cost benefit of these services is lower. Any cost benefit assessment should therefore be derived from tax yield comparisons, rather than taxpayer number comparisons.

a. How should a tax administration best gain insights into the behavioral drivers and the general context within which HNWI and their advisors operate? For instance, by employing staff with relevant private sector experience perhaps on secondment, on short term contracts, at the end of successful careers, or on permanent contracts. Should there be some form of “advisory board” involving advisors and other relevant market participants (e.g. private banks) or some other structured form of providing relevant background and context to the tax administration.

Again, staffing and training are management matters for the Revenue Authority concerned. Where “advisory boards” are engaged, there should be clear efforts to ensure:

- Appropriate remuneration for the board members concerned – it might be counterproductive to constitute such boards on a voluntary basis
- Strict confidentiality in the dealings between such boards and the Revenue Authority

b. What role and responsibility should the unit assume with respect to the affairs of the taxpayer (e.g. research and risk assessment or full responsibility for the file including potential audit)?

There is merit in separating the taxpayer service aspects and policing aspects of every taxpayer case.

c. What taxes relating to the HNWI and their affairs should such a unit deal with and why? For instance, should it be limited to income taxes or also cover inheritance and estate taxes, VAT/GST etc.?

From a taxpayer’s perspective, he or she deals with a Revenue Authority. Subdivisions by heads of charge are largely Revenue arrangements. Neither the taxpayer nor the agent will be too concerned, provided that a competent service is being provided.

d. Should the unit be responsible also for the affairs of all/certain entities controlled by a HNWI (e.g. only the personal affairs of the taxpayer, all operating entities and non-trading entities or only non-trading entities)?

Please see our response to c. above. It is however of critical importance to recognise that companies and other operating entities have legal standing in their own right, and may, depending on local legislation, be separate taxpayers in their own right. If for example, a privately held company is to be investigated, it should not be assumed for any tax purposes that the company and its controlling shareholder are one and the same entity unless the legislation suggests otherwise.

e. Should HNWIs and their advisors be assigned a designated contact point within the unit?

Designated contact points in the context of any service delivery, tax or otherwise, are often very helpful and represent best practice.

f. Should the unit be tasked with preparing an annual or periodic report about the overall environment and key developments, including the most pressing issues identified by HNWI and their advisors for use by the heads of tax administrations and finance ministries?

An over-emphasis on separate formalized reporting by a particular Revenue Authority unit could dilute the perceived overall authority and responsibility of the Revenue Authority

concerned in the administration and collection of taxes. This is particularly so given the emphasis in the media on reporting on HNWI's and their activities.

g. Should additional safeguards and security procedures apply to the information held by the unit?

There should be adequate safeguards and security procedures in place for all taxpayer information, HNWI's or otherwise. Where that is so, special additional safeguards should not be necessary for HNWI units.

Question 3: If you are from a country that currently has a dedicated unit dealing with HNWI's what advantages or disadvantages have you seen in having such a unit and do you have any comments on the way it was set-up and is operated? What are the features that you find the most useful?

Ireland has had a dedicated unit dealing with HNWI's for some five years. The disruption involved in the establishment of a dedicated unit could be considerable and may lead to an overall deterioration in taxpayer service. It may be that, in the future, the service experienced by a HNWI will be better than that experienced prior to a reorganization.

Question 4: If the tax administration offered this or a similar approach, what would encourage HNWI's and their advisors to opt into it? In your answer please consider the points discussed below and indicate which points may be more important and which may be less important. Please also describe any other elements or concerns that you think would be relevant for HNWI's and their advisors (e.g. privacy concerns), and how these may be addressed.

It would be unusual if a Revenue Authority, having put such a dedicated unit in place, to permit taxpayers to opt in or out of having their affairs conducted there. We are unclear if this is the intended focus of this particular question.

Question 5: The Focus Group seeks input from HNWI's and their advisors about the framework for voluntary disclosures and what particular elements would encourage taxpayers to come forward, e.g. solutions to issues such as lack of back-year records, inability to calculate final tax liability, concerns regarding privacy.

The disclosure framework in operation in Ireland, and recently introduced in the United Kingdom, have many useful features. The main element which will encourage taxpayers to engage in such disclosures is concern over detection involving harsher settlement terms. A feature of the Irish disclosure regime, though not of the UK regime, is the threat of publication where a disclosure is not made.

Our experience would be that HNWI's generally have better record systems in place than the taxpaying populace as a whole, and the resources and expertise to calculate final liabilities. As already mentioned, no taxpayer should have concerns over their privacy in dealing with Revenue Authorities. Any legislation which facilitates bringing a tax dispute too readily to the public domain should not be countenanced.

Question 6: Please express your views on the merits of a product ruling regime in connection with HNWI's. In addressing this question please take a broad view of the term "product ruling" to include any form of advance certainty (whether formal ruling or not) and also consider which segment of HNWI's you think would be the users of the types of products for which product rulings could be made available (i.e., certain HNWI's might be more likely to enter into tailor made arrangements that do not lend themselves to product rulings).

Our view here reflects the tenor of our earlier responses, namely that while HNWI's can and do have service needs which require particular expertise on the part of Revenue Authorities, we have a difficulty with forms of special arrangement applying to them over and above arrangements available to taxpayers generally.

Advance rulings have a place in a developed tax environment, as they can offer certainties on certain types of transaction with the effect of reducing administration costs both for the Revenue Authority and the taxpayer alike. An Advance Rulings regime should be defined in relation to the type of transaction covered, rather than the likely profile of taxpayer who might avail of the ruling. The technical issues surrounding, for example, VAT on a commercial real property transaction do not materially differ by virtue of the value of the building involved, but are contingent on the taxable status of the taxpayers involved and the nature and use of the building. Whether or not the taxpayer is a HNWI will be immaterial to the technical position, acknowledging that it is more likely that HNWI's will be more likely to seek such rulings than other individual taxpayers.

There can frequently be tensions between the perceived urgency of an advance ruling on the part of the taxpayer and on the part of the Revenue Authority. Any advance ruling structures should therefore have undertakings in the spirit of a Service Level Agreement, otherwise expectations could not be managed.

Taxpayers recognise that Revenue Authorities have a strong influencing role in the scope, design and application of legislation in addition to their interpretative and ruling abilities. Their influencing role may be informed by the nature of the matters submitted for advance rulings.

Many of these practical issues could best be resolved where taxpayers are permitted to express doubt on the tax treatment of transactions reflected in their annual returns. An expression of doubt should offer protection against interest and penalties in the event that the Revenue Authority authoritatively rejects the tax treatment applied by the taxpayer.

The apparent focus on "product" rulings as distinct from rulings particular to an individual taxpayer's transactions may be somewhat out of date. It does not reflect either the current tax incentive regime in developed economies, nor the approach adopted by HNWI's and their advisors in availing of such regimes.

Question 7: Do you have any other comments which you wish to make?

Not at this time, but we may wish to offer further observations without prejudice to the current comments at a future stage.