



An Roinn Airgeadais
Department of Finance

Press Office

Sráid Mhuirfean Uacht., Upper Merrion Street, Telephone: 353-1 676 7571
Baile Átha Cliath 2, Dublin 2, Facsimile: 353-1 676 2285
Éire. Ireland. LoCall: 1890 66 10 10
VPN: 8109
<http://www.finance.gov.ie>

Speech by Minister for Finance, Mr. Brian Cowen T.D.
Launch of the Law Reform Commission's Report on a Fiscal Prosecutor and
Revenue Court
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I would like at the outset to thank the Law Reform Commission for asking me to launch this Report today. I am very happy to do so and I would like to convey my gratitude and that of the Government to the Commission on the comprehensive study they have prepared and published here today.

This study, of course, arose from a recommendation contained in the final report of the Public Accounts sub-Committee on the DIRT Enquiry. It recommended that a more detailed study should be undertaken of the benefits of a Revenue Court and a fiscal prosecutor.

On foot of this the Attorney General asked the Commission to undertake this study and, following their interim Consultation Paper in the summer of 2003, they have completed their work recently and we now have the Final Report.

The authors have managed to assemble, in a single document, a very accessible compendium covering many of the complex issues ranging from the prosecution of revenue offences through to the intricacies of the tax appeals system. These are areas which, perhaps, have not always received the attention of the wider public and in this context I am hopeful that the report will be read by many outside the fields of tax law and practice.

I can assure the Commission that my Department, together with the Office of the Revenue Commissioners, will consider carefully the recommendations and findings of the Report.

On the question of whether or not a Revenue Court is necessary, the Report is clear and does not recommend the establishment of either a civil or criminal revenue court. The idea of a fiscal prosecutor is similarly not recommended and I am grateful for the clear manner with which the Report has dealt with these questions.

In addition, I note the areas in which you have made recommendations, such as the domestic application of the European Convention on Human Rights as regards penalties as well as many aspects of the Appeal Commissioners remit and administration.

The study also recognises that the Revenue Commissioners' qualifying disclosure mechanism is a sensitive and vital component in the goal of improving the level of tax compliance.

I am very conscious of the importance of fairness and efficiency in the application of the revenue process and the clear, but simple, goal of collecting the correct amount of tax due to the State. I have been studying some of these issues in preparing for my first Finance Bill to be published this Thursday, the 3rd of February.

Revenue Powers - Investigations

The opportunity has been taken in numerous Finance Acts to create an environment in which Revenue can be confident that they have appropriate legislation underpinning their aims of improving tax compliance and reducing tax evasion. This Government has regularly emphasised that in order to maintain the low tax rates which we currently enjoy, it is necessary that the tax base continue to be as wide as possible. This means ensuring tax compliance and, to that end, we have aimed to provide the Revenue Commissioners with the powers needed to assist in achieving this goal.

For example, in the 1999 Finance Act, Revenue were given major new powers to allow them to access bank accounts of a group or class of individuals, subject to High Court approval, as well as to enter a financial institution to check on the veracity of Deposit Interest Retention Tax (DIRT) returns.

These and other similar powers were crucial in the investigation into bogus non-resident accounts and have resulted in a total yield of over €787 million from the various phases of the DIRT investigations. The more recent off-shore investigations have yielded €711 million to the Exchequer. We have to find a balance between discouraging non-compliance by making sure evasion doesn't pay and encouraging enterprise through streamlined and simplified requirements wherever possible. The essential difficulty, as with many things in life, is in striking this balance.

The area of prosecuting Revenue offences would, of course, be less contentious if there was full tax compliance on the part of all members of society. As Minister for Finance, I am confident that recent initiatives introduced by the Revenue Commissioners including the restructuring of their organisation and the sustained emphasis on addressing non-compliance will result, over time, in further significant improvements.

Quite clearly, a change is taking place in the way Irish society views tax evasion. It is not socially acceptable to admit to being a 'tax dodger' and a certain degree of moral suasion is a powerful element in the ongoing struggle to ensure all of us share in shouldering part of the tax burden, which is historically as light as it has ever been.

I believe that the powers available to Revenue need to be balanced with the rights of the taxpayer and the Revenue Powers Group, which reported last year, studied the powers with this balance firmly in mind.

They found that the powers were generally in line with international standards but recommended some changes, including proposals which overlap with those of the Commission's Report.

For example both the Commission and the Revenue Powers Group recommended an increase in the limit for publication of the name of a tax defaulter. The limit has not been changed since it was first set at £10,000, or €12,700, in 1983. The Commission in its Report proposes that it be increased to €25,000. The amount recommended by the Revenue Powers Group is €50,000.

The Powers Group Report was published last year to provide for a period of debate and consultation. In the Finance Bill, which will be published later this week, I will be addressing some of the issues raised in its recommendations, including that specific question.

I believe we can find a balance between both recommendations that updates revenue powers in that and other areas. As to what they are, you'll first have to wait a few more days.

Tax Appeals

Both studies also placed considerable emphasis on the area of tax appeals and, indeed, this area has been examined by other bodies in the recent past. The Steering Group on the Office of the Revenue Commissioners and the sub-Committee of the Public Accounts Committee both made proposals in this respect.

Some work has been done on addressing the non-legislative elements of some of these recommendations. For example, the Appeal Commissioners now have a separate independent vote and Accounting Officer whereas the position had been that they were accounted for within the vote for the Office of the Revenue Commissioners.

More fundamental reform of the appeals system will require legislative change and this report makes a valuable contribution in this context.

The Commission's Report is particularly useful in setting out the issues around the practicalities of conducting tax appeals such as the administration of the oath, listing cases, record-keeping, notification and reporting of the Appeal Commissioners' decisions, precepts and so on.

Preparatory work has been undertaken in this area including a public consultation survey, which was recommended by the PAC sub-Committee. However, decisions relating to this legislation, as well as to the question of a Bill to reform the statutory basis of the Office of the Revenue Commissioners, also have to be considered in the context of the timing and content of the Report of the Moriarty Tribunal, whose terms of reference overlap with this area.

I should add that all of the recommendations made and the treatment of the issues addressed by the Commission's Report will be examined by my Department and by the Office of the Revenue Commissioners for administrative implementation or for enactment in the annual Finance Bill, as appropriate. I consider this to be important not least because of the effort and attention that characterises this Report and its recommendations.

Conclusion

In conclusion, I would like to thank the authors and the Commission once again for their excellent work in producing this Report. It is a publication in the tradition of thoughtful analysis and acuity for which the Law Reform Commission has become well known over the years. The effort involved will not go unrewarded.

Thank you.