

IN THIS SECTION

[Press Releases](#)

[Contact Details](#)

[Yield from Special Investigations](#)

[Defaulters List](#)

Speeches

[Archive](#)

[Budget Information](#)

[Revenue Prosecutions](#)

[Cash Seizures and Forfeiture Orders](#)

Paper prepared for the MacGill Summer School by Josephine Feehily, Chairman, Office of the Revenue Commissioners

33rd Annual MacGill Summer School

"Looking to 2016 – How Stands the Republic?"

Session: Envisioning a Republic of Justice, Equality and Fairness

"To Serve the Community by Fairly and Efficiently Collecting Taxes and Duties and Implementing Customs Controls."

The title I chose for this paper is the Mission Statement of Revenueor more formally the Office of the Revenue Commissioners.....which is the Irish Tax and Customs Administration. We collect and administer about 94% of the revenues of the State. When we're paying our taxes, I don't think many of us feel Revenue is performing a community service, but the importance for the State of making this connection is one of the topics I will explore, including how fairness in administration is a critical success factor for tax compliance.

In the beginning....

Almost the first thing any new State has to do is raise money to fund itself, and put in place a system to regulate its frontiers. Frequently the frontier control, i.e. Customs, is the revenue raising activity. These are defining activities of a State and badges of statehood. And so it was not surprising that the new Irish State established the Office of the Revenue Commissioners in February 1923, before most other organs of State. I will return to this later because I principally want to address how administration was envisioned, but first a few points about taxation.

As States become more developed and sophisticated, in general, citizens develop a closer identity with the State and look to the State for their needs. More revenues are needed and the social contract implies that tax compliance is strong. The theory further goes that if the State fails to deliver the expected services, or if there is strong evidence of widespread evasion, compliance declines. In a representative democracy such as Ireland, the State rules by consent and, by extension, taxes by consent and so to the concept of no taxation without representation with which everyone is familiar.

In relation to state revenues, rulers of all types....governments, monarchs, dictators, parliaments, oligarchs....have choices to make, about the incidence of taxation – who to tax, what to tax, the mix of taxes and so on. And these matters are never settled. They adapt and change. The choices made by rulers are complex and often have as much to do with social policy, economic policy, regional policy and so on as with straightforward revenue raising because the impact of those choices are potentially very significant. The choices made from time to time will also depend on the degree of consensus there is in civil society about the policies being proposed.

"It's not fair!" is a common cry in relation to taxes. If we leave aside for the moment that nobody really wants to pay taxes (although I recently met a man who told me he loves paying taxes because it means he is still making money) I could show you any amount of statistics to show that relative to our EU partners the overall tax burden as a % of GDP is about average, that it's low if you include social insurance, that the Irish personal tax system is one of the most progressive in the world, that the top 22% of tax cases pay 82% of the income tax, that arguably consumption taxes are fairer than income taxes because people have choices about how to spend their money and they are preferable from a job creation point of view. Some people think that flat taxes are fair - others think they are a terrible idea! In the final analysis, the tax mix is a matter of political choice.

But there are other dimensions to fairness. As our mission statement says explicitly, we in Revenue are very clear that our job is not just to collect tax – it is to do it **fairly and efficiently**. But I am reminded of the concept of "felt fairness" and if the tax system doesn't feel reasonably fair, overall it makes our job as administrators much more difficult.

Tax Administration

In a country which rules by consent, I believe that to tax by consent the public has to have confidence in the tax administration body, confidence that we act with integrity, that we will be fair but firm, that we will administer the law in an even handed way, that we won't exceed the authority given to us by law, and that we will be reasonable and accountable.

As well as choices about forms of taxation, a State has a choice about the kind of revenue agency it would like to have. There are many models around the world. Historically tax farming was common and versions of it persist today in some countries. You can have a Government Ministry, a division of the Finance Ministry, a government agency with an elected political head, a politically chosen head, a public servant head and lots of variations on those themes.

My proposition is that the form chosen by the founders of this State was hugely significant; that it was a conscious part of envisioning a republic of fairness and justice and it positioned tax and customs administration really well to deliver that vision (notwithstanding the proclamation, I'm not sure that equality as we understand it nowadays was a part of the vision, but that's a different paper!).

Let me refer you to a letter which came to my attention about 15 years ago. Written on 21 August 1922 at 3.30 in the afternoon by the then Minister for Finance. The historians among you will recognise that I am speaking about Michael Collins, and that the date is highly significant. He was in Cork, writing to WT Cosgrove and he made three points which are relevant here

- He was concerned about the revenues
- He wanted to find three independent men to look after the revenues
- There was an urgent need for good civil administration.

On 21st February 1923, a Board of three Revenue Commissioners was established by Government Order. We like to think this was the implementation of one of the last wishes of Michael Collins. In the context of our theme today, there are three significant points about the Order:

- That the Board would consist of three Commissioners,
- They would be appointed by the President of the Executive Council and removable only by the Executive Council
- They would be subject to the control of the Minister for Finance and accountable to the Minister for Finance.

At the same time, the first Chairman was formally advised that the Commissioners would act independently of ministerial control in exercising the statutory powers vested in them and statements were made in the Oireachtas, of which the following is typical:

"They [the Revenue Commissioners] will be subject to the Minister for Finance so far as the general control of their staff is concerned, their qualifications and hours and conditions of service, but the Minister for Finance will not have anything to say to the assessment of the taxes payable by any individual. So far as that is concerned, the Commissioners will act independently and judicially".

And so by appointing three people at the same level to run Revenue, by separating the appointment and removal process from the Minister with the day to day control and by explicitly providing for independence, the new State set a very strong foundation for tax administration that would be fair and would be seen to be fair.

The convention that Revenue would act independently of the political system was honoured by every subsequent Government and is now enshrined in law by way of the Ministers and Secretaries Amendment Act 2011.

What does fair tax administration look like?

Essentially, it seems to me that fair administration means trying as far as humanly possible to ensure that people in the same circumstances are treated the same. It means acting proportionately, not having undue delay, being prepared to fix things that go wrong, being reasonable in the use of powers and being transparent especially in the use of discretion.

There are a number of key pieces in place in Revenue to deliver on this commitment including:

- A published customer charter which includes an explicit presumption that the taxpayer is honest
- A published Code of Practice for Audit which sets out in detail how you will be treated if you are selected for an audit or other compliance intervention
- Structures to guard against vicarious use of powers or selection of cases to target
- A process for making complaints or asking for a review
- An opportunity for people, who engage honestly with Revenue to be given time to pay their tax debts.

There is a much longer list, but even so, we know we need to do more. For example, later this year we will publish a new Code of Practice setting out how we engage with the PAYE sector and we are reviewing the existing Audit Code to ensure that it remains fit for purpose.

Empowering people to engage with the administrative system overall is an important contributor to fairness, and this can easily be overlooked when resources are tight. We have consultative structures with representative bodies, including representatives of senior citizens, for example, but finding ways to engage the public at large is a challenge.

An important part of ensuring fairness is oversight and accountability. We have strong internal oversight, but that could never be enough, and so the Comptroller & Auditor General, the Public Accounts Committee, the Ombudsman, the Information and Data Commissioners, Oireachtas Committees and being publicly accountable for example when we publish our annual results are very important elements, as well as judicial oversight in certain instances.

"Justice, Equality and Fairness" – Contradictory or complementary concepts?

This question is a summer school all on its own, but I find in tax matters that it is an important question to reference. At the level of a person or business an action by Revenue can feel unjust or unfair. We see it as part of our role to also apply these principles at the level of the body of taxpayers. We believe we are not being fair to the compliant taxpayer if we allow others to freeloader. Neither are we being fair to the Government or to the people of this country who depend on the revenues for schools and hospitals. And so our approach is to be reasonable at the level of the individual but not to lose sight of the need to be fair to all taxpayers and to the community as a whole. Let me give you a couple of examples:

Revenue Debt

Business A makes widgets, charges customers VAT and deducts PAYE from the staff but instead of remitting it to Revenue, reinvests it to grow the business and create more jobs. Widget business B in the next town tries to compete with Business A, struggles to keep the door open, misses a tax payment date and signs up for an instalment arrangement with Revenue to catch up. After giving A several chances, Revenue enforces the tax debt, Business A closes and jobs are lost. Business owner, local representatives, trade unions, etc. cry "unfair". This is not a nice outcome but I submit that this is a fair and just outcome. Business B's struggles get a bit easier.

Local Property Tax

No remarks by me this year would be complete without a reference to local property tax. If you landed from Mars a few months ago and tried to judge from some of the commentary whether this tax was administered in a way that was fair, just and equal, you would have thought Revenue was worse than Vlad the Impaler!

Ignoring the question of whether there should have been a property tax, which is a question of policy, was the tax reasonably fair? I think it was. It also ticked an equality box because its scope was wide. A more relevant point is that the policy decisions were not arbitrary, the Thornhill Report which underpinned them set out the rationale. The law, which specified what would be taxed, who and how was enacted by the Oireachtas so the tax was valid in the democratic sense.

In Revenue we knew there would be at least 50% voluntary compliance rate – the household charge had achieved that – and were extremely conscious from the outset that to be fair to those people, this tax had to be easy to pay but hard to avoid. Our strategy was to be very open about what we were doing, and about how we would approach the whole matter of non-compliance. Making sure that people have the information to enable them to make informed choices is another hallmark of fairness and I believe we achieved that. In a classic example of the tail wagging the dog, every error was seized on but meanwhile property owners were complying on a voluntary basis in their droves – even to the extent that 46% paid in full almost 2 months before they had to.

Legitimate Power, Trust and Public Confidence

The Local Property Tax experience leads me to the final observation I would like to make – or perhaps it leads me back to the start. We tax by consent.

How do we do this? I believe it happens because a large number of people want to do the right thing. A commentator last week expressed the view that the Local Property Tax compliance rate was "quite astonishing" and that "Irish people would not generally have a name for being compliant in general".

I have to disagree. In a survey of SMEs in 2008, when asked to rate the influence of certain statements on their approach to tax compliance, 77% of respondents rated as high or very high that it was the law and 86% that it was the right thing to do.

Significantly, there is strong evidence to support these results. We achieve timely compliance rates on a voluntary basis of at least 80% across all the taxes. It rises to 95% for the biggest cases, and local property tax at 89% and rising was referred to recently in a Sunday newspaper as a quiet revolution.

During the Local Property Tax campaign it was suggested that we achieved compliance by fear. I would say that these rates of compliance cannot be achieved by coercive power but only by legitimate power, exercised judiciously, and that legitimacy comes from public confidence, not just from the law. In a virtuous circle, a high rate of voluntary compliance demands determined action against the non-compliant which in turn supports voluntary compliance.

We are always mindful in Revenue that public confidence is fragile. It has to be earned and worked at, and we do. It has to be resourced, and right now that is a challenge. We are also mindful that our legitimacy, our entitlement to tax, comes from the people through their elected representatives and every year the Oireachtas affirms this by explicitly placing the revenues of the State in the care and management of the Revenue Commissioners. That being the case, I occasionally find political comment quite bewildering, such as a recent observation that "Unaffected Revenue has a stranglehold over masses."

Where as a State would we be, looking to 2016, if compliance levels collapsed, if Revenue just didn't work, if there was widespread non-compliance? We only have to look at international comparisons. That is not to say that there isn't tax evasion, that there isn't aggressive and abusive tax planning. There is, and it is not right, and we have to take determined action against it. But one thing seems different over the last thirty years. It seems to me that it is not acceptable to the community, not publicly acceptable any more. And that is right.

Turning to the theme of this school, I would say that sound tax and customs administration in which the public has confidence has played its part in creating a well established pattern of strong compliance. This in turn suggests to me that our Republic has come of age in relation to taxation and Irish people in general support their State.

Could this be a positive, if one can draw positives, from the recent difficult few years?

Perhaps the reason is also in Michael Collins's letter. He concluded it by saying

"The people are splendid"

Thank you for your attention.