

16 Revenue's suspension of periodic reviews of tax clearance certificates

- 16.1** The purpose of Revenue's tax clearance scheme is to ensure that persons who derive an economic benefit from a licence or permit to conduct certain activities in the State, or who are in receipt of contracts, grants, subsidies and other payments from the State, are in compliance with their tax and customs obligations.
- 16.2** A tax clearance certificate (TCC) is confirmation from Revenue that a person's tax and customs affairs are in order. There are two elements to this
- the taxpayer's returns are up-to-date; and
 - any taxes, interest or penalties required to be paid have been remitted to Revenue.¹
- 16.3** A current TCC is required in several situations, including being eligible to receive certain government grants and to enter into a contract for the supply of goods and services to a public body. The validity of a TCC automatically expires one year after issue for grant application and Covid-19 support purposes, and after four years for other purposes.
- 16.4** Revenue has an online verification system that allows individuals or public bodies to verify the tax clearance status of persons or businesses through the Revenue Online Service (ROS) or the Government Networks service.^{2,3}
- 16.5** Revenue's eTax Clearance (eTC) system is designed automatically to check the tax compliance of holders of a TCC every six months to determine whether their tax affairs are in order — those who are no longer compliant have their tax clearance status rescinded (withdrawn).
- 16.6** In March 2020, as part of its response to Covid-19 restrictions on businesses, Revenue suspended its automated 'periodic reviews' of TCCs. At that time, approximately 324,000 TCCs were in place. Taxpayers who held tax clearance at that point retained it and the tax clearance status was not subject to the six-monthly periodic review that would apply in normal circumstances. Revenue stated that this was a policy decision at the outset of the pandemic as it was expected that businesses would be subject to restrictions and face difficult trading circumstances.
- 16.7** The requirement to hold and maintain tax clearance status was relied upon for a number of Revenue administered Covid-19 support schemes introduced in response to the Covid-19 pandemic (as shown in Figure 16.1). Entry on to the Covid-19 support schemes was permitted (providing that all other relevant criteria were met) for those taxpayers whose tax clearance status was extended without review. Those who did not already have tax clearance had to apply for it, in order to qualify for access to the schemes. A total of just under 240,000 new TCCs were issued in the period 13 March 2020 to the end of June 2022.

¹ Revenue may issue a TCC to a taxpayer who has tax arrears where the tax arrears are covered by an instalment arrangement.

² ROS provides taxpayers with a secure facility to file tax returns, pay tax liabilities and access their tax details.

³ Government Networks is a private, managed, wide area network connecting public service bodies on a data, voice and video capable network.

Figure 16.1 Covid-19 support schemes administered by Revenue^a

Scheme	Operated from	Number of recipients	Average payment €	Total payments €m
Employer Wage Subsidy Scheme (EWSS) ^{b,c}	September 2020 to May 2022	51,800	131,973	6,836
Covid-19 Restrictions Support Scheme (CRSS) ^c	October 2020 to January 2022	22,108	32,533	719
Business Resumption Support Scheme (BRSS) ^c	September 2021 to November 2021	1,988	3,960	8
Total		75,896	—	7,563

Source: Revenue Commissioners

Notes: a Figures provided by Revenue are as at 23 June 2022.

b The Temporary Wage Subsidy Scheme (TWSS) was in place from March 2020 and was replaced by the EWSS in September 2020. TWSS did not require claimants to hold tax clearance. An examination of the controls over the TWSS is included in the Comptroller and Auditor General's *Report on the Accounts of Public Services 2020*, chapter 12.

c The EWSS was provided for under the Emergency Measures in the Public Interest (Covid-19) Act 2020. The CRSS and BRSS were provided for under the Finance Act 2020 and the Finance (Covid-19 and Miscellaneous Provisions) Act 2021, respectively.

16.8 Revenue also administered the 'stay and spend' scheme. This scheme made a tax credit available to taxpayers who incurred 'qualifying expenditure' from 1 October 2020 to 30 April 2021, subject to certain limits and conditions being met. Qualifying service providers — mainly holiday accommodation and 'eat-in' food and drink businesses — were required to register with Revenue and to hold a TCC throughout the duration of the eligibility period.

16.9 Exceptional arrangements introduced in May 2020 allowed all businesses dealt with by Revenue's Business Division to file their tax returns in the normal way, but to 'park' their VAT and PAYE liabilities, interest free. Revenue has stated that the purpose of the arrangement was to promote the filing of returns, without the obligation of payment. This was referred to as debt warehousing.¹

16.10 Revenue carried out three targeted campaigns in 2021 in order to identify and engage with cohorts of taxpayers with tax return compliance issues. The first two campaigns focused on businesses that were registered for EWSS and CRSS with the third campaign focusing on a broader cohort.² Revenue stated that the key aim of these three campaigns was to get taxpayers to file their tax returns, leading to visibility, for both Revenue and the taxpayers concerned, of the full extent of any debt being warehoused.

16.11 Figure 16.2 shows the outcome of the two tax clearance campaigns undertaken in 2021 that targeted businesses in receipt of payments under EWSS/CRSS.

1 Interest on late payment of VAT and PAYE (employer) was suspended for small enterprises automatically and for medium and larger businesses on request. VAT and PAYE (employer) debts associated with Covid-19 could also be warehoused.

2 The focus of the third campaign was on the cases dealt with by Large Corporates Division, Large Cases - High Wealth Individuals Division and Medium Enterprises Division.

Figure 16.2 Reviews of tax clearance status of EWSS/CRSS recipients, 2021

Review period	2021	
	February to May	July to September
Number of recipients	39,580	36,397
Number of recipients identified as non compliant for filing	11,064 (28%)	6,768 (19%)
Number of recipients where tax clearance rescinded	2,292 (6%)	2,547 (7%)

Source: Revenue Commissioners

- 16.12** In each round, a proportion of claimants were found not to be up to date with their filing of returns. Where this was found to be the case, Revenue engaged with the claimants to request that their returns be brought into compliance by a specified date. Where this engagement did not result in the required compliance, the tax clearance status was rescinded and no further Covid-19 support scheme payments were made.
- 16.13** In the first round of testing (5 February 2021), a total of 11,064 claimants (28%) were identified as no longer being compliant in relation to their returns. These claimants were contacted by Revenue and asked to bring their outstanding returns up to date, at the latest by 21 May 2021. A total of 8,772 were able to do so by the specified date, but 2,292 claimants (6%) were identified as still having outstanding returns and had their TCCs rescinded. At that point, their Covid-19 support payments also ceased.
- 16.14** In the second round of testing (30 July 2021), a total of 6,768 claimants (19%) were identified as no longer being compliant in relation to their returns. These claimants were also contacted by Revenue and asked to bring their outstanding returns up to date, at the latest by 14 September 2021. A total of 4,221 were able to do so by the specified date, but 2,547 claimants (7%) were identified as still having outstanding returns and so also had their TCCs rescinded. Their Covid-19 support payments also ceased.

- 16.15** Revenue has stated that all of the claimants identified as non-compliant in terms of their returns in 2021 had TCCs when they first claimed EWSS/CRSS payments, and (subject to other criteria also being satisfied) would have been eligible for the payments they received while their TCCs remained valid. A period of forbearance was extended, to allow non-compliant taxpayers to file returns and thus renew their compliance, and those still non-compliant at the end of that period had their tax clearance rescinded. Revenue is satisfied that none of the payments made under the schemes represented ineligible expenditure.
- 16.16** Revenue re-commenced the periodic review of TCC holders on a rolling basis from May 2022. The review process will be completed for all TCC holders by the end of September 2022.
- 16.17** Revenue has not undertaken a retrospective review to identify the date when holders of TCCs became non-compliant in relation to their tax returns and could have had their TCCs rescinded. Revenue stated there is no legal basis to estimate the amounts of any EWSS and CRSS payments that were made to claimants whose TCCs were rescinded. Revenue did not process any payments under these schemes once tax clearance was rescinded.

Views of the Accounting Officer

- 16.18** At the outset of the COVID-19 pandemic in March 2020, Revenue took some key policy decisions to assist businesses to cope with unprecedented cash flow and trading difficulties arising from the public health restrictions introduced at the time. One of those policies was to allow what were at that stage tax compliant businesses retain their tax clearance status. This decision was in line with overall Government direction and policy at the time to optimise support for businesses in what was an unprecedented challenge facing the country and most businesses. This was one of several administrative policy decisions in relation to debt collection, interest and enforcement. At the same time, and later into 2020 and 2021, the Government introduced and legislated for the various COVID-19 support schemes which were administered by Revenue — the TWSS, the debt warehouse scheme, CRSS, EWSS and BRSS — to enable taxpayers avail of vital financial supports throughout the pandemic, mitigating the risk of significant business closures and loss of employment.
- 16.19** It is important to note that what was delivered was not a suspension of tax clearance but rather an extension of the then existing tax clearance status as of a specific time i.e. March 2020. It is also important to have regard to the fact that the debt warehouse scheme introduced on an administrative basis from May 2020 and subsequently legislated for, specifically provided for the non-payment of certain current taxes as they arose and the parking of those debts in the warehouse initially on an interest free basis. The retention of tax clearance status was, therefore, a pragmatic and administratively straightforward approach by Revenue that aligned fully with the provisions of the debt warehouse scheme, designed to support business during the pandemic when businesses were subject to restrictions and faced extremely difficult trading circumstances.
- 16.20** To summarise, the subsidy and support schemes were payable to eligible businesses holding a TCC under the provisions of the relevant legislation namely the Emergency Measures in the Public Interest (Covid-19) Act 2020 in respect of the EWSS and the Finance Act 2020 in respect of the CRSS. Revenue did not pay a subsidy or a support to any business that did not hold a TCC.

Conclusions

- 16.21** Revenue suspended its established control of six-monthly automated checks of the tax clearance status of businesses in March 2020, in recognition of the very significant trading difficulties resulting from Covid-19 related restrictions.
- 16.22** When EWSS and CRSS were introduced in September 2020 and October 2020 respectively, there was a requirement for claimants to hold and maintain tax clearance status. The introduction of the debt warehousing scheme during Covid-19 meant that being tax compliant was much less onerous than it had been previously. Taxpayers who availed of debt warehousing could remain tax compliant by filing their tax returns on time with no immediate obligation to pay any tax liability associated with the returns.
- 16.23** In February 2021 and July 2021, Revenue undertook two targeted campaigns focused on CRSS and EWSS recipients with a view to identifying and engaging with claimants with tax return compliance issues. Where Revenue identified there was a non-compliance issue, it extended forbearance for a significant period to allow claimants to file required returns. Claimants who failed to come into compliance by the end of the forbearance period had their claims suspended. Revenue is satisfied that there were no payments made under the two schemes to businesses whose tax clearance status was rescinded on foot of these campaigns and that therefore no ineligible payments took place.
- 16.24** After Revenue's engagement with claimants whose tax returns were not up to date, there remained a significant number of claimants who had their tax clearance rescinded. On that basis, I have a concern that a significant number of claimants of EWSS and CRSS continued to receive financial support under the schemes when they were not up to date with their tax returns. Had they presented as new claimants in those circumstances, they would not have been admitted to the schemes, and would not have received the payments they did receive.

