

11 VAT on Intra-Community Trade

- 11.1** Over the period 2007 to 2011, Value Added Tax (VAT) has accounted for just over 30% of total tax receipts in Ireland. Approximately 90% of Irish VAT receipts relate to domestic transactions with the remainder relating to imports from countries outside the EU.
- 11.2** Under arrangements introduced in 1993, as part of the creation of the Single Market, VAT registered traders in one member state are permitted to transfer goods to VAT registered traders in other member states, at effectively a zero rate of VAT. The trader receiving the goods must account for VAT on the acquisition, even though there is likely to be no net liability to pay VAT.¹ The trader must also account for VAT when goods are subsequently sold on in the local market.
- 11.3** It was envisaged that the arrangements introduced in 1993 would be transitional, to be replaced in the future by a new system whereby VAT on transactions of this type would be levied in the member state in which the supply originated. However, agreement has not been reached in this regard and, in general, the arrangements introduced in 1993 continue in force.
- 11.4** Prior to 2010, the general rule in respect of the supply of services to customers in other member states was that VAT was payable in the member state where the supplier was established. Since 1 January 2010, VAT is no longer payable by the supplier on the supply of services to business customers in other member states.²
- 11.5** A fundamental aspect of the zero-rating provisions for intra-community trade is that VAT is subsequently payable in the member state where the goods or services are consumed. There are a number of risks of non-compliance associated with the current system which could have implications for the level of VAT actually received by Revenue. These include the risk that traders
- fail to comply with timelines set for submission of returns to Revenue in respect of intra-community trade
 - report to Revenue that an intra-community supply was made, at a zero rate of VAT, when in fact the goods or services were released to the Irish market
 - avail of the intra-community trade provisions to import goods or services, at a zero rate of VAT, but fail to pay the VAT due when the goods or services are released to the market
 - engage in missing trader or carousel fraud.
- 11.6** Controls over intra-community acquisition and supply rely on data matching and the auditing of traders' commercial records (such as accounts, transport documents, invoices, settlement documents, etc.) and on co-operation arrangements between member states.
- 11.7** This chapter reviews the processes that the Revenue Commissioners have in place to manage the risks associated with VAT on intra-community trade.

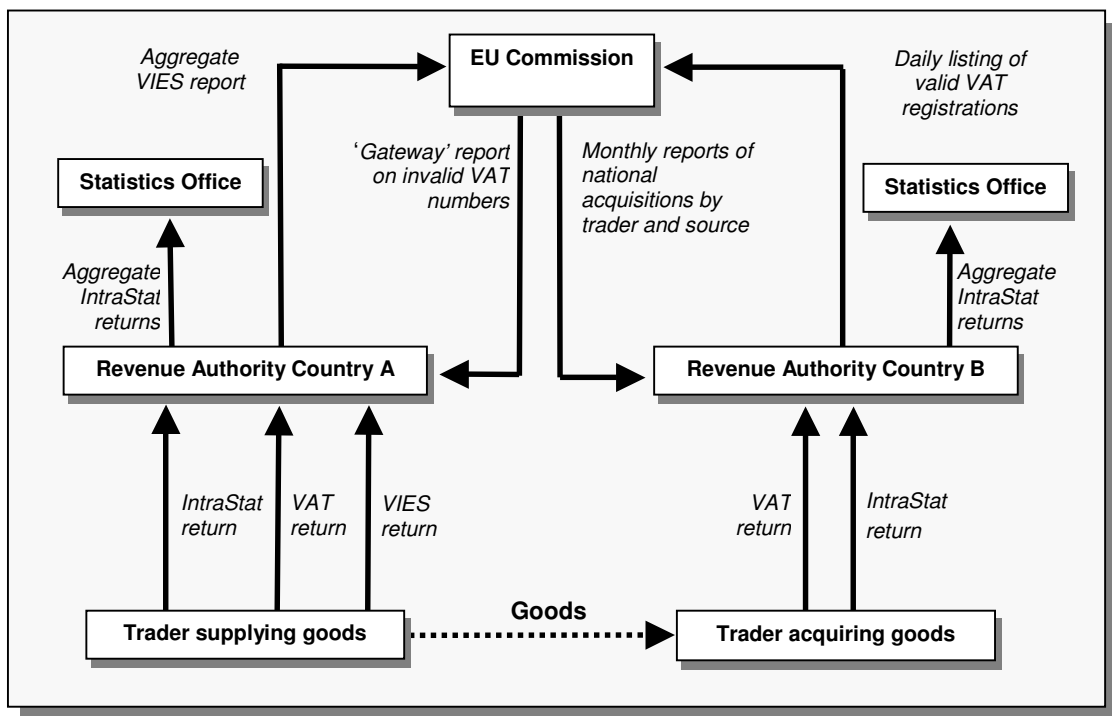
1 There will be no net liability to pay VAT if the trader is entitled to full deductibility of input credits.

2 As is the case with intra-community acquisitions of goods, the customers must account for VAT (in their own countries) on the acquisition of services.

Control System

- 11.8** A range of controls is required in respect of intra-community trade to minimise the risk that VAT due may not be received. Figure 11.1 illustrates the system currently in operation for intra-community trade in goods.
- 11.9** The main documentation requirements at EU level are
- **a VAT Information Exchange System (VIES)** — VAT registered traders supplying goods or services to traders in other member states, at a zero rate of VAT, must submit a periodic VIES return to the national revenue authorities in their own country. The VIES return must include VAT registration numbers for each customer and the aggregate value of supplies to each.
 - **IntraStat returns** — Traders are obliged to submit a monthly IntraStat return, for statistical purposes, to their national revenue authorities if the annual value of goods supplied to other member states exceeds €635,000 or the annual value of goods acquired from other member states exceeds €191,000.
- 11.10** In addition, all VAT registered traders in Ireland must complete periodic VAT returns (VAT3 form). Where Irish registered traders engage in trade with persons or companies in other EU countries, they must provide figures on their VAT return for total intra-community supplies and total intra-community acquisitions of goods.
- 11.11** The majority of traders submit their VIES returns via Revenue's On Line System (ROS). However, due to limitations on the volume of data that can ordinarily be submitted via ROS, some large companies operating in Ireland have, since January 2010, furnished VIES returns through a separate facility created within ROS, called Connect Direct.³

Figure 11.1 VAT System for Intra-community Trade in Goods



³ Council Directive 2008/8/EC added the requirement to report business-to-business supplies of services under the VIES reporting provisions, with effect from 1 January 2010. The new requirement has significantly increased the size of the VIES return for some traders.

- 11.12** Two levels of control are in place to check whether the VAT numbers quoted on VIES returns are correct.
- The first-level check is of whether the VAT number submitted on the VIES return is valid i.e. compliant with an algorithm specific to the member state in question. Where VIES returns are submitted by traders directly through ROS, the first-level check is carried out automatically in that only VAT numbers that comply with the appropriate algorithm are accepted by the ROS system.
 - The second-level check, carried out at EU level, focuses on whether the VAT number quoted is active and in use in the member state in question.
- 11.13** On a monthly basis, all VIES returns received by national revenue authorities are submitted to the EU Gateway system. This system compares the information in VIES returns to the VAT registration databases of individual member states. It produces a report of all cases where the VAT number quoted on a supplier's VIES return does not match the relevant database — this may arise where a VAT number has yet to be allocated to a taxpayer or was allocated but subsequently cancelled. Each national revenue authority is supplied with its own monthly 'Gateway' report detailing instances where traders in that member state have included (apparently) incorrect VAT registration numbers in their VIES returns.
- 11.14** The guidance material on VIES, produced by Revenue for traders, advises that if the supplier is unable to satisfy Revenue that a particular consignment of goods or services has been sold and delivered to a VAT registered person in another member state, the supplier will be liable for the payment of Irish VAT on the transaction. Revenue does not have specific systems in place to pursue this VAT and does not analyse the value of transactions in respect of which inaccurate VAT numbers are submitted.

Filing Compliance

- 11.15** Revenue estimate that 55% to 60% of VIES returns are received by the due date. The return rate rises to 80% to 85% within two months of the due date.
- 11.16** The traders manual on VIES, produced by Revenue, states that the current penalty for non-compliance with VIES reporting obligations is a €4,000 fine and that Revenue has an active prosecution policy in this regard. The risk factors taken into account by Revenue when considering whether to prosecute cases of non-compliance with VIES reporting requirements include
- whether the non-compliance continued despite repeated requests by Revenue staff
 - the size of the trader
 - traders dealing in zero-rated or exempt goods
 - traders with a history of submitting nil returns.
- 11.17** Figure 11.2 sets out the number of prosecutions taken by Revenue since 2007 and the outcome in terms of fines or settlements.

**Figure 11.2 Prosecutions for Non-Compliance in VIES Reporting
2007 to 2011**

| Year | Number of prosecutions | Fines/Settlements €'000 |
|------|------------------------|----------------------------|
| 2007 | 43 | 74 |
| 2008 | 29 | 49 |
| 2009 | 22 | 44 |
| 2010 | 13 ^a | 33 |
| 2011 | 1 ^a | 2 |

Source: Revenue Commissioners

Note: a Prosecutions commenced during 2009.

- 11.18** Revenue stated that, during 2010, it temporarily ceased referring cases of non-compliance with VIES reporting requirements for prosecution, due to the need to update prosecution material and reword VAT documentation. The updates were required to reflect legislative changes including an increase in the fixed penalty for non-compliance, the introduction of monthly VIES filing for certain categories of trader and the extension of VIES reporting to cover the supply of services from business to business. The referral of cases for prosecution resumed in March 2012.
- 11.19** The Accounting Officer stated that since Revenue recommenced referring cases for prosecution in March 2012, a total of 85 cases have been forwarded for consideration by the Revenue prosecution team.

Underreporting

- 11.20** It was noted during this examination that the volume of transactions reported in VIES returns by one large company decreased by 74% between January 2010 and December 2011.⁴ This suggests that the company might no longer have been fully reporting intra-community supplies in its VIES returns.
- 11.21** Revenue subsequently conducted a meeting with the company in question to discuss its VIES reporting. The company stated that the reduction in the volume of transactions reported for VIES purposes was due to a technical issue related to the introduction of a new billing platform in 2010. It is not clear whether the technical issue resulted in understatements of exports in other returns made by the company to Revenue e.g. VAT return and IntraStat return.
- 11.22** Revenue stated that it has now requested the company to submit backdated VIES returns in respect of the period from January 2010 to December 2011 and that the company has undertaken to do so by 31 August 2012. In order to comply with Revenue's request, the company in question will need to supply VAT registration numbers for all customers to whom intra-community supplies were made during the two year period.

Follow up on Incorrect VAT Numbers

- 11.23** The VIES return of supplies to other member states submitted by Irish traders must include a VAT registration number for each export customer. Where a VAT number quoted is subsequently found to be incorrect (i.e. invalid or inactive), there is a risk that
- the goods or services were not supplied to a trader in another member state but were instead supplied in the home market and VAT was not paid, or
 - the goods or services were supplied VAT free to a person or trader in another member state that was not registered for VAT in that member state.

VIES Returns through Connect Direct

- 11.24** In the case of some large companies that submit VIES returns to Revenue through Connect Direct, it was noted that a significant proportion of the VAT numbers quoted were failing at either the first level check (i.e. not compliant with the relevant algorithm) or the second level Gateway check (i.e. the number was not active).

⁴ The company in question uses the Connect Direct facility to submit VIES returns.

- 11.25 Figure 11.3 provides an overview of returns submitted by the companies using Connect Direct over a two year period.

Figure 11.3 Returns through Connect Direct, 2010 to 2011^a

| | Returns | |
|------------------------------|--------------|---------------|
| | Number | Value |
| | '000 | €m |
| All transactions | 1,533 | 17,148 |
| Incorrect VAT numbers | | |
| First level check | 141 | 550 |
| Second level check | 129 | 717 |
| Total incorrect | 270 | 1,267 |
| % incorrect | 17.6% | 7.4% |

Source: Revenue Commissioners

Note: a Due to a delay in the submission of returns, the figures included for one of the companies only cover up to the end of September 2011.

- 11.26 Between January 2010 and December 2011, the companies reported intra-community supplies totalling €17.1 billion. The value of transactions for which the VAT number quoted failed at either the first or second level check was nearly €1.3 billion. If (as provided for in guidance to traders) Revenue was to pursue the VAT in respect of these transactions, on the basis that the companies have not provided evidence of supply to a VAT registered person, the estimated liability would be in excess of €200 million.⁵
- 11.27 Revenue stated that where VAT numbers submitted through Connect Direct fail the first level check, its policy is to send a report to the individual trader, requesting that correct numbers be submitted. It stated that, due to system failures, no error reports were sent to these companies during 2010 and 2011. When the issue was resolved in early 2012, all of the outstanding reports were issued to the companies. To date, the level of corrections received by Revenue from these companies has been negligible.

VIES Returns through ROS

- 11.28 As ROS will only accept VAT numbers that comply with the appropriate algorithm, all VIES returns submitted directly through ROS are forwarded to the EU Gateway system, where the second level check is carried out.
- 11.29 As part of this examination, an assessment was made of the results of the follow-up action taken by Revenue in respect of a sample Gateway report received by Revenue in May 2011. That report identified 3,450 cases, with transactions totalling €65 million, where incorrect foreign VAT numbers had been reported by Irish traders on VIES returns submitted directly through ROS. Analysis of the list showed that 30% of the problem transactions dated back to periods before 2009.

⁵ The estimated VAT liability was calculated using a notional rate of 17.25%, being the mid point between the standard rate (21%) and the reduced rate (13.5%) applicable during 2010 and 2011.

- 11.30** The Accounting Officer stated that old transactions highlighted in Gateway reports are typically in the range of 2% to 3% and are normally the result of late VIES returns, amendments to earlier returns and retrospective filings relating to new VIES registrations. She stated that Revenue had examined a sample of ten of the older transactions in the May 2011 report and found that nine related to transactions from 2007 that had been reported at the proper time (i.e. in 2007) and for which no previous error report had been received. The reason they did not appear on any Gateway report until May 2011 is not clear, and the Accounting Officer stated that further analysis of this matter will be carried out by Revenue.
- 11.31** Revenue's policy in respect of incorrect VAT numbers identified in Gateway reports is to inform the Irish supplier that the VAT number submitted was found to be incorrect and to request the supplier to submit the correct number. Letters are dispatched on a batch basis, three to four times per year, requesting traders to submit correct VAT numbers.
- 11.32** A sample of 30 cases arising from the May 2011 Gateway report was examined to establish the level of response received to the letters issued by Revenue. Responses had been received in 17 of the 30 cases, accounting for 88% of the value of transactions in the sample (see Figure 11.4).

Figure 11.4 Response to Revenue Follow-up on Gateway Report for May 2011

| | Response received | | Total |
|----------------------------|-------------------|-----|-------|
| | Yes | No | |
| Number of cases | 17 | 13 | 30 |
| Value of transactions (€m) | 13.2 | 1.7 | 14.9 |

Source: Analysis by Office of the Comptroller and Auditor General

- 11.33** Revenue stated that, in general, no further correspondence is issued in cases where no response is received to the follow-up letter sent. Cases are not forwarded to district or regional offices for additional case-work.
- 11.34** The Accounting Officer stated that if a trader fails to provide the corrected VAT number when requested, this will raise the trader's risk rating on Revenue's risk analysis system (REAP) and will increase the probability of further intervention by Revenue. The REAP system, which is used to rank cases by risk according to a range of over 400 specified rules, contains nine rules relating to VIES data. One of the rules identifies cases where at least one incorrect foreign VAT number has been submitted on a trader's VIES return.
- 11.35** In addition, the Accounting Officer stated that Revenue has developed a new risk programme which will ensure that VAT returns received are risk assessed on a nightly basis. One of the risk factors considered will be whether more than 5% of the VAT numbers submitted on a trader's VIES returns over the last 12 months are incorrect.
- 11.36** The receipt of a response to a Revenue query does not, in itself, indicate that the issue has been resolved, because any new VAT number supplied must also be checked. The Accounting Officer stated that there are no specific reports generated by Revenue to identify traders that repeatedly submit incorrect VAT numbers in respect of the same transaction.

Data Matching and Audit Follow Up

- 11.37** The Commission supplies each national revenue authority with a monthly report of all intra-community acquisitions made by traders in that member state. Revenue stated that it compares this report to data contained in VAT returns, with the aim of identifying cases where VAT has not been paid. Indicators that VAT liabilities may not have been fully declared include cases where
- the monthly report of intra-community acquisitions shows that goods or services have been acquired by an Irish company, but the quoted VAT number does not relate to a company registered for VAT in Ireland
 - VAT due, as indicated on the monthly report of intra-community acquisitions, is greater than declared VAT on domestic returns, which would suggest that VAT is not being accounted for by the trader that received the goods or services.
- 11.38** In May 2011, Revenue matched data from the monthly report on intra-community acquisitions with its own data. This exercise identified 3,005 instances where the quoted VAT number was not a valid Irish VAT number, and the reported intra-community acquisitions exceeded €10,000.
- 11.39** As part of this examination, samples of 25 of those cases were reviewed for each of three Revenue districts in the East and South-East region, to establish what action had been taken to follow up on the outcome of the data matching exercise.
- 11.40** It was found that in Wexford and Kilkenny Revenue districts, none of the cases in the sample had been selected for audit intervention as a consequence of the data matching exercise. Two of the cases in Wexford and one in Kilkenny had been subject to audit but these were selected for reasons other than the data matching exercise.
- 11.41** Waterford Revenue district is currently finalising a regional project to match VIES data with Revenue's own data with the aim of identifying and rectifying anomalies and highlighting risks of under declaration of taxes. Analysis of the results of the project would suggest that audit selection projects using VIES data are a good tool in detecting unpaid VAT. Figure 11.5 sets out details of the project being undertaken in Waterford Revenue district and the results of the sample reviewed.

Figure 11.5 Case Study - Waterford Revenue District VAT on Intra-Community Acquisitions Project

The intra-community acquisitions project conducted by Waterford Revenue district is focused on

- traders making acquisitions from traders in other EU member states, at a zero rate of VAT, to ensure that VAT is paid when the goods or services are released to market
- unregistered traders making intra-community acquisitions.

Revenue staff developed a template to identify cases with the highest risk of under declaration of VAT. District staff stated that the template enabled initial screening work to be carried out relatively easily by non-audit staff.

In total, approximately 600 cases were selected for review as part of the project conducted by Waterford Revenue district. About 500 cases were subsequently discounted, mainly on the basis of materiality. As at April 2012, the following results have been recorded in relation to the approximately 100 remaining cases

- 32 cases have been closed following correspondence with traders, yielding a total of €9,516.
- Seven audits have been closed, yielding €63,217.
- The district anticipates that a further eight audits still in progress are likely to yield a total of €1 million.
- At least two further cases with potentially significant yields have been identified for audit, but work has not yet commenced.
- The balance of cases have yet to be finalised.

In relation to the sample of 25 cases reviewed for this examination, where Revenue had identified that Irish VAT numbers submitted on VIES returns made by companies in other member states were not valid, it was found that all of the cases in the sample had been considered for intervention. Twelve had subsequently been discounted because reasonable explanations for the anomalies were identified. The majority of the cases discounted related to situations where a sole trader had moved to company status but had purchased goods or services using the sole trader VAT number. Of the other thirteen cases, nine were being further examined by issuing queries to the trader and four had been selected for audit.

Countering Carousel and Missing Trader Fraud

- 11.42** So called 'carousel' and 'missing trader' fraud are characterised by companies registering for VAT, conducting a period of intense trading with companies in other member states and then closing down or disappearing before paying the tax due. This type of fraud is typically carried out through the repeated acquisition and supply of small expensive goods such as computer chips, mobile phones, precious metals and games consoles.
- 11.43** An example to illustrate how a carousel fraud would work, involving (notional) Irish companies and a company in another member state is outlined in Figure 11.6.

Figure 11.6 Operation of Carousel and Missing Trader Fraud

| | Companies involved | VAT paid if no fraud occurs |
|-----------------------|--|-----------------------------|
| Member State X | Company A – supplies goods to Irish trader (Company B) at a price of €1,000,000 | None |
| | ↓ | |
| | Company B – sells goods to Irish Company C at €1,100,000 plus VAT of €253,000 | €253,000 |
| | ↓ | |
| Ireland | Company C – buffer company sells goods to Company D at a cost of €1,200,000 plus VAT of €276,000 | €23,000 |
| | ↓ | |
| | Company D – sells goods to foreign Company A VAT-free and is entitled to reclaim VAT of €276,000 incurred on input costs | (€276,000) |
| | ↓ | |
| Member State X | Company A – Purchases goods from Company D to complete the carousel | None |
| | Net result | €0 |

Note: All VAT liabilities are assumed to be at standard rate

Carousel Fraud

Since the goods are released to the market in member state X, the net tax effect in Ireland (where all of the transactions are business to business) should be neutral. However, when a carousel fraud is being committed, Company D collects the VAT repayment and Company B disappears without paying its VAT liability. The net effect for Revenue of the carousel fraud in the above example is a loss of €253,000. Since Company D and Company B are separated by a buffer company, it is difficult for Revenue to prove that a link exists and to refuse to refund the VAT paid by Company D.

Missing Trader Fraud

The term 'missing trader' is used to describe any scenario where a trader acquires goods VAT free from another EU member state, sells on the goods domestically at VAT inclusive prices and then disappears without paying over the VAT to the Revenue authorities. The 'carousel fraud' version, as outlined above, is a particular form of 'missing trader' fraud where the goods acquired from another member state are sold on through a series of domestic transactions before being re-exported (possibly back to the original supplier).

- 11.44** Revenue has not tried to estimate the scale of missing trader and carousel fraud in Ireland or the associated cost in terms of foregone VAT. In the UK, the Revenue authorities estimate that the unpaid VAT in respect of this type of fraud, at approximately £1.5 billion in 2009/2010, represents about 13% of all unpaid VAT.

Controls at Registration Stage

- 11.45** Revenue carries out what it refers to as commonality checking in respect of all applications for VAT registration, with the aim of identifying businesses linked through principals who are involved with other businesses with existing debt or failed businesses where the protection of limited liability may have resulted in non-payment of fiduciary taxes.
- 11.46** As part of this examination, an assessment was made of the adequacy of the commonality checks undertaken during the tax registration process for 21 traders who had made in excess of €0.5 million worth of intra-community acquisitions in the first 12 months after registration. It was found that the commonality checks were not fully effective in over half of the cases. Only some of the relationships that existed had been identified in four cases and none were identified in seven cases.
- 11.47** In relation to the sample test results, Revenue stated that the automated checking system (auto commonality) used for commonality checking has been enhanced since its first release in 2009. It stated that in the eleven cases where some relationships had not been identified, the checks had been carried out prior to the full release of the system. Revenue re-tested these cases during the course of this examination using the enhanced automated system and stated that all of the appropriate links were identified in the re-tests.

International Co-operation Arrangements

- 11.48** EUROFISC is a network established under Council Regulation (EU) No. 904/2010 to enhance administrative cooperation between member states in combating organised VAT fraud. It allows for targeted sharing of information between all member states on suspected fraudulent activities.
- 11.49** Where another member state has concerns in relation to the activity of an Irish trader, it can request Revenue to actively monitor the trader and to submit details of its trading activity through EUROFISC. In some cases, concerns arise in respect of Irish traders through Revenue's own activity e.g. risk factors noted at VAT registration stage or during audits. Regardless of whether concerns in relation to traders originate internally or from other member states, Revenue carries out a risk assessment before making a decision as to whether monitoring is justified.⁶
- 11.50** There are currently 26 traders being monitored by Revenue, 17 of which arose from requests received from a foreign administration and nine as a result of referrals from Revenue registration or audit units.
- 11.51** The information logged by Revenue on EUROFISC in respect of monitored traders includes the name and VAT number of the Irish trader, the name and VAT number of their EU customers, the value of the goods or services supplied during the period and the currencies involved. Revenue obtain this data from the VIES returns submitted by the relevant traders.

⁶ Factors considered as part of the risk assessment include whether the trader has any previous known involvement in fraud or any relationships with others known to have been involved in fraud, the trader's tax return compliance and whether the trading relates to targeted goods (e.g. mobile phones, computers, games consoles etc.)

- 11.52** Under the mutual assistance arrangements, Revenue is entitled to request that foreign traders be monitored in cases where it considers that there is a risk to the payment of VAT, but there are currently no cases being monitored in other member states at the request of Revenue.

Special Investigation Teams

- 11.53** A number of national authorities have established dedicated units to tackle missing trader and carousel fraud. These units analyse VIES data on intra-community supplies and acquisitions with the aim of identifying unusual transactions. Suspicious cases are investigated and referred for audit if necessary.
- 11.54** There is a carousel fraud team within Revenue. The team's work involves intelligence gathering for other jurisdictions under EUROFISC. There have been no prosecutions in Ireland in relation to carousel fraud in the last five years.

Other Control Options

- 11.55** Revenue authorities across Europe have implemented a variety of other control measures aimed at managing the risk of carousel fraud.
- EU rules permit member states to apply a reverse charge system for high risk goods, which involves only the last retailer in the chain levying VAT, thereby removing the potential for fraud in respect of business-to-business transactions. In common with the majority of EU countries, Ireland has adopted a reverse charge system in respect of carbon credit trading. Ireland also applies a reverse charge system in respect of the supply of construction services and scrap metal. Reverse charge systems have been introduced in Austria, Germany, Italy and the UK in relation to business-to-business supplies of mobile phones and computer chips.
 - Conditions can be attached to VAT registration in instances where there are concerns about an application but not sufficient grounds for refusal. Revenue stated that where it is considered necessary, it may require companies registering for VAT to provide financial security for the payment of any tax which is, or may become due. In the UK, the conditions that can be attached include requirements for traders to provide financial security or to file their first VAT returns early and the suspension of VAT repayments without further checks.
 - Joint and several liability can be applied for unpaid VAT. In the UK, a VAT registered trader can be held liable for the net unpaid VAT on certain communications and electronic goods received from another VAT registered business where the trader 'knew' or 'had reasonable grounds to suspect' that the VAT on the supply, or any previous or subsequent supply, of those goods would go unpaid.⁷ Revenue stated that the application of joint and several liability in the UK has led to a significant number of appeals and the courts have ruled against HM Revenue and Customs in a number of cases. Revenue has stated that it will continue to monitor developments in the UK and in due course will consider whether to seek a change in Irish VAT law to enable the application of joint and several liability.

⁷ Applies to any equipment made or adapted for use in connection with telephones or telecommunication, computers or computer systems, or any electronic equipment made or adapted for use by individuals for the purposes of leisure, amusement or entertainment.

Conclusions and Recommendations

- 11.56** Unlike domestic trade, VAT is not payable by the supplier on cross border trade of goods and services between VAT registered traders within the EU. Instead, a VAT liability arises when the recipient sells the goods and services in their domestic market. An EU-wide system of notification of trade flows (VIES) is in place, with the EU coordinating and matching the data supplied by the revenue authorities in individual member states, and reporting back data anomalies.
- 11.57** The difficulty for Revenue in targeting potential VAT fraud is increased where reports on transactions are received late or not at all. Only a little over half of Irish traders submit their VIES returns on time. 15% to 20% of returns are still outstanding two months after the due date.
- 11.58** According to Revenue guidance issued to traders, the current penalty for non-compliance with VIES reporting obligations is €4,000. Prosecutions for non-filing of returns, which in any event were few in number, were suspended for two years between 2010 and 2012. Prosecutions have now resumed.
- 11.59** For VIES returns submitted using the Connect Direct system during 2010 and 2011, the value of transactions for which incorrect VAT numbers were quoted is €1.3 billion, with potential associated VAT estimated at over €200 million. Although it is Revenue policy to send details of invalid VAT numbers back to individual traders, it stated that no reports were sent during 2010 and 2011 due to system failures. Revenue stated that the amount of corrected data received from large traders submitting VIES returns through Connect Direct has been negligible.
- 11.60** A sampling exercise carried out on the Gateway report for May 2011 showed that while follow-up letters were issued by Revenue in respect of all incorrect VAT numbers submitted, no response was received in relation to 12% of the value of transactions. No follow up action was taken by Revenue in these cases.
- 11.61** Revenue guidelines state that Irish VAT becomes payable on intra-community supplies in instances where an Irish trader cannot satisfy Revenue that goods or services have been supplied to a VAT registered person in another member state. However, little analysis has been carried out by Revenue since 2010 in relation to significant levels of inaccurate reporting and apparent under-recording of trade in VIES returns. Revenue does not pursue the collection of VAT in situations where evidence has not been provided by the trader that goods and services have been delivered to a VAT registered person.
- 11.62** The Accounting Officer has stated that any tax due in such circumstances would be collected by way of an assessment under Section 111 of the VAT Consolidation Act 2010. To raise an assessment, an inspector of taxes must have reason to believe an amount of tax is actually due and is payable to the Revenue. The failure of a VAT number validation would not, in itself, be sufficient to justify an assessment.

Recommendation 11.1: Revenue should adopt a clear policy and strategies in relation to the monitoring and management of traders' compliance with their obligations under VIES legislation.

Accounting Officer's Response: Agreed in part. Revenue's policy is to ensure maximum compliance with VIES legislation at least possible cost and administrative burden for businesses. The strategies are to make it as easy as possible for traders to comply with their obligations and to take proportionate measures where they do not do so. Revenue will review the details of this approach in light of the findings of this audit report.

11.63 Combining VIES data with Revenue's own data is potentially useful in identifying cases where VAT has not been accounted for. While VIES data informs Revenue's overall risk rating system, VIES risk criteria alone are not, in general, used to select cases for further intervention.

11.64 A pilot project conducted in Waterford Revenue district used VIES data to select cases for intervention. District staff found that cases were screened relatively easily by non-audit staff using a template devised in the district.

Recommendation 11.2: Revenue should examine the results of the data matching project undertaken in the Waterford district, in terms of actual and expected audit yield, and consider the potential for extending the project to other districts.

Accounting Officer's Response: Agreed. Revenue will analyse the results of the Waterford district project and this analysis will inform its new real time risk programme for VAT.

11.65 Missing trader and carousel fraud is regarded across Europe as a significant risk to the payment of VAT. There is scope for Revenue to undertake more in-depth analysis of data on intra-community supplies and acquisitions, with the aim of identifying and investigating unusual transactions and suspicious patterns.

Recommendation 11.3: Revenue should review the control measures in place in other member states and assess the case for their introduction here.

Accounting Officer's Response: Agreed. There is acceptance at EU level that a uniform approach to combating VAT fraud is required. Ireland, together with other members of EUROFISC, is participating in a project group that has been formed to identify best practice and produce an updated guide to cover operational aspects of dealing with intra-community fraud. The project group's report is due to be completed by 2013.

11.66 Checks carried out at the VAT registration stage are an important control in identifying companies involved in this type of activity. Commonality checks carried out by Revenue as part of the application process aim to identify links between the company applying for registration and existing entities of interest to Revenue and the automated checking system (auto commonality) used for commonality checking has been enhanced in recent years. In more than half of the 21 cases examined, the checks carried out had not identified all of the relationships that existed.

11.67 When Revenue subsequently carried out re-testing using the enhanced automated system, all of the appropriate links were identified.

Recommendation 11.4: Revenue should use the enhanced automated system to repeat the commonality checking carried out for all VAT registrations processed during periods before the enhanced system was available, to ensure that all appropriate relationships have been identified.

Accounting Officer's Response: Agreed. Revenue will examine the feasibility of repeating the commonality checking carried out during the period before the enhanced system was available.