Chapter 3

Revenue

3.1 Revenue Account

Basis for Audit

An account showing all revenue received and paid over to the Exchequer by the Revenue Commissioners is furnished to me annually. I am required under Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993 (the Act) to carry out such examinations of this account as I consider appropriate in order to satisfy myself as to its completeness and accuracy and to report to Dáil Éireann on the results of my examinations. The results of my examinations have been generally satisfactory.

I am also required under Section 3 of the Act to carry out such examinations as I consider appropriate in order to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenue of the State and to satisfy myself that the manner in which they are being employed and applied is adequate. Sections 3.7 to 3.10 refer to matters arising from this examination.

Revenue Collected

Revenue collected under its main headings in 2006 is shown in Table 8.

Table 8 Revenue Collected[10]

	2006 Gross Receipts €m	2006 Repayments €m	2006 Net Receipts €m	2005 Net Receipts €m
Income Tax	15,450	3,075	12,375	11,340
Value Added Tax	17,809	4,358	13,451	12,126
Excise	5,834	138	5,696	5,391
Corporation Tax	7,271	586	6,685	5,503
Stamp Duties	3,674	42	3,632	2,673
Custom Duties	261	6	255	226
Capital Acquisitions Tax	355	12	343	249
Capital Gains Tax	3,134	35	3,099	1,982
Total	**€53,788m**	**€8,252m**	**€45,536m**	**€39,490m**

Of the net receipts of €45,536m, a total of €168m was paid during 2006 under Section 3 of the Appropriation Act, 1999, as amended, from the proceeds of tobacco excise to the Vote for the Health Service Executive. €45,536m was paid to the Exchequer which represented a prepayment of €418m. The amount prepaid at the end of 2005 was €250m.

[10] Total gross collection amounted to €62.3 billion as levies and fees such as PRSI (€8.4 billion), Health Levy (€169m) and Environmental Levy (€19m) are collected for other Departments.

3.2 Tax Written Off

The Revenue Commissioners have furnished me with details of the €120m of taxes and PRSI written off during the year ended 31 December 2006. Details of the total amount written off and the distribution according to the grounds of write-off are shown in Table 9 and Table 10.

Table 9 Taxes Written Off

Tax	2006 €000	2005 €000
Value Added Tax	45,253	48,433
PAYE	21,623	23,992
Corporation Tax	3,505	15,431
Income Tax	14,181	23,839
Capital Gains Tax	799	2,264
Other Taxes[11]	10,486	4,653
PRSI	23,799	24,689
Total (€000)	**119,646**	**143,301**

Table 10 Grounds of Write Off

Grounds of Write Off	2006 No. of Cases	2006 €000	2005 No. of Cases	2005 €000
Liquidation/Receivership/Bankruptcy	592	46,313	1,263	69,928
Ceased trading – no assets	2,106	44,438	2,032	34,981
Deceased and Estate Insolvent	162	1,762	132	1,340
Uneconomic to pursue	4,644	8,829	60,911	19,358
Unfounded Liability	120	686	187	2,160
Cannot be traced / Outside Jurisdiction	644	12,391	588	9,680
Compassionate Grounds	179	1,865	206	1,627
Uncollectible due to financial circumstances of taxpayer	306	3,177	439	4,225
Examinership	6	185	4	2
Totals	**8,759**	**€119,646**	**65,762**	**€143,301**

In 2006, approximately €1m, consisting of cases with balances of less than €1,000 which were considered uneconomic to pursue, was written off on an automated basis. Cases under general investigation, potential

[11] The other taxes heading includes Relevant Contracts Tax of €9.5m and automatic write off under all taxheads of €1m.

Ansbacher cases and cases under the control of the Criminal Assets Bureau are excluded from all write off procedures. The largest single amount written off in 2006 was €2.3m in respect of Employer's PAYE/PRSI and Relevant Contracts Tax owed by a construction company which had gone into liquidation. There were four other cases where the amount written off was greater than €1m.

The Internal Audit Branch in Revenue undertakes an annual examination of tax write offs. The 2006 audit examined a sample of 204 cases representing 33% (€39m) of the value of non-automated write offs (€118m). Internal Audit was satisfied that all amounts were written off in accordance with the criteria prescribed with one exception. In this case, a repayment of VAT of €39,679 on a property lease transaction was made to the lessee prior to the write off of a matching liability of the lessor. In the particular circumstances the correct procedure should have been to offset the repayment due to the lessee against the liability of the lessor. The repayment has since been recovered and the write off reversed. Internal Audit also examined the results of the five automated write off runs and confirmed the correct application of the authorised selection criteria for each run.

I have examined a sample of cases representing over 12% of the value written off through a review of the procedures followed and of supporting reports and records with a focus on high value cases. The results indicated that, in general, the authorised procedures were followed.

3.3 Outstanding Taxes and PRSI

Table 11 reflects activities and transactions in the twelve month period ended 31 March 2007. Table 12 sets out an aged analysis of the balance outstanding at 31 March 2007. The tables were prepared on the basis of information furnished by the Revenue Commissioners.

Table 11 Outstanding Taxes and PRSI

						Analysis of Balance at 31 March 2007	
Balance at 31 March 2006	**Tax or Levy**	**Net Charges Raised**	**Paid**	**Written Off**	**Balance at 31 March 2007**	**Under Appeal**	**Available for Collection**
€m		**€m**	**€m**	**€m**	**€m**	**€m**	**€m**
227	VAT	12,288	12,279	40	196	74	122
137	PAYE	10,282	10,269	15	135	7	128
165	PRSI	7,775	7,764	16	160	2	158
276	Income Tax (excluding PAYE)	3,030	3,017	12	277	68	209
–	DIRT	306	306	–	–	–	–
161[12]	Corporation Tax	5,202	5,217	2	144	65	79
141	Capital Gains Tax	3,393	3,375	1	158	89	69
3	Capital Acquisitions Tax	343	343	–	3	–	3
8	Abolished Taxes	–	–	–	8	–	8
37	Relevant Contracts Tax	64	66	9	26	10	16
1,155	**Total Debt**	**42,683**	**42,636**	**95**	**1,107**	**315**	**792**
2%	**Debt as a % of gross collection** [13]				**1.8%**	**0.5%**	**1.3%**

[12] This opening balance is €70m greater than the closing balance shown in Table 5 of my 2005 report owing to the necessity for a technical adjustment.

[13] Gross collection in 2005 was €54,157m and in 2006 was €62,330m.

Table 12 Aged Analysis of Debt at 31 March 2007

Tax	Total tax outstanding at 31 March 2007	Amounts outstanding for 2006	Amounts outstanding for 2005	Due for 2002 to 2004	Due for earlier periods (i.e. > 5 yrs old)
	€m	**€m**	**€m**	**€m**	**€m**
VAT	196	23	26	126	21
PAYE	135	77	17	27	14
PRSI	160	99	22	27	12
Income Tax	277	3	75	71	128
Corporation Tax	144	52	6	35	51
Capital Gains Tax	158	10	30	21	97
Capital Acquisitions Tax	3	–	–	–	3
Abolished Taxes	8	–	–	–	8
Relevant Contracts Tax	26	7	3	16	–
Total	**€1,107m**	**€ 271m**	**€179m**	**€323m**	**€334m**

3.4 Revenue Audit Programme

Overall Audit Programme

In a self-assessment system, returns filed by compliant taxpayers are accepted as the basis for calculating tax liabilities. The validity of returns is established by the auditing of a selection of cases either through reviewing and seeking further verification of particular details or by the examination of documents and records at a taxpayer's premises. The type of intervention by Revenue depends on whether the risk is perceived to relate to one or more tax or duty headings or to specific issues or transactions. Assurance Checks are not audits but interventions that may involve tests, verification checks, desk examinations, visits to premises, searches, site visits and telephone contacts for supporting documentation.

The outcome of the 2006 programme of Revenue audits together with assurance activity is summarised in Table 13.

Table 13 Revenue Audit and Assurance Activity

Category	2006		2005	
	Number completed	Yield €m	Number completed	Yield €m
Comprehensive Audits	4,127	436.2	5,077	323.3
Multi Tax/Duty Audits	1,757	56.2	1,220	52.3
Single Tax/Duty Audits	6,305	133.5	6,173	122.8
Single Issue/Transaction Audits	1,437	23.8	1,744	26.6
Total Audits	**13,626**	**649.7**	**14,214**	**525.0**
Assurance Checks	176,064	42.1	98,981	50.4
Total Interventions	**189,690**	**€691.8m**	**113,195**	**€575.4m**

A significant feature of the 2006 programme was a national compliance project in the construction sector. A total of 3,872 audits with a yield of €116m and 45,423 assurance checks with a yield of €21m were completed as part of the project. Included in these assurance checks were 1,615 site visits which identified 1,188 individuals who were not registered with Revenue, 447 sub-contractors who were re-classified as employees and 2,479 additional VAT or employer registrations. 55 cases were identified for possible prosecution activity.

Comprehensive Audits

The yield of €436m from the 4,127 comprehensive audits completed includes interest charges of €187m and penalties of €110m. The highest settlements were €6.4m for Income Tax and €22.17m for Corporation Tax. Comprehensive audits were completed in 217 bogus non-resident account cases with settlements totalling €29m, in 595 offshore assets cases with settlements totalling €92m and in 766 life assurance product cases with settlements of €89m[14].

[14] Some of the yield in these special investigation cases was collected in earlier years.

Risk Analysis System

A risk analysis system (REAP) was piloted in four Revenue Districts in 2005 and was introduced in all Districts in 2006. The system analyses the information available on taxpayers by running a set of queries or rules through a database of taxpayer information, scoring the results and ranking the cases according to those scores. The rules have been derived from the knowledge and experience of Revenue auditors and are refined to take account of new risks and data sources. Based on the system ranking, District officers analyse and assess the risk in each case to select suitable cases and decide on the appropriate intervention. The facility to record that a case was selected for audit using the REAP system only became available during 2007 and therefore the results of such audits for 2006 are not separately available.

Random Audits – Taxpayer Compliance Testing Programme

Revenue introduced the Taxpayer Compliance Testing Programme in 2005 to replace the Random Audit Programme. The purpose of the programme is to measure and track compliance with tax legislation and to ensure that all taxpayers run the risk of being selected for audit. 410 cases were selected for audit under the 2005 programme. 62 cases were dropped where the taxpayer had ceased trading, had never traded, was deceased or not available for health reasons or where the case was under enquiry or had recently been audited.

Over 99% of the 348 caseload has been finalised. While no additional liability was established in 232 of the 346 cases finalised, settlements totalling €1.4m were agreed in the other 114 cases. The average yield from all the cases finalised was therefore €4,100. Audits have not yet been finalised in 2 cases. The outcome of the cases finalised to date is summarised in Table 14.

Table 14 Taxpayer Compliance Testing Programme 2005 - Finalised Cases by Size of Additional Liability

Additional Liability	Number of Cases Finalised	% of Finalised Cases
Nil	232	67%
< €2,000	27	8%
€2,001 to €5,000	31	9%
€5,001 to €10,000	21	6%
€10,001 to €20,000	18	5%
€20,001 to €50,000	13	4%
> €50,001	4	1%
Total	**346**	**100%**

402 cases have been selected for audit under the 2006 programme. 274 of these have been finalised as at 30 June 2007, 196 of which had no additional liability and 78 had additional liabilities totalling €431,905. An additional €158,410 was recovered for periods other than the period targeted for audit. The outcome of the cases finalised to date under the 2006 programme is summarised in Table 15. 401 cases have been selected for audit under the 2007 programme.

Table 15 Taxpayer Compliance Testing Programme 2006 - Finalised Cases by Size of Additional Liability

Additional Liability	Number of Cases Finalised	% of Finalised Cases
Nil	196	71%
< €2,000	36	13%
€2,001 to €5,000	18	7%
€5,001 to €10,000	13	5%
€10,001 to €20,000	7	2%
€20,001 to €50,000	3	1%
> €50,001	1	1%
Total	**274**	**100%**

It is too early to draw conclusions from the results of the programme to date about levels of underpayment of tax among the taxpayer population as a whole. The fact that the selection methodology is still being refined to ensure that it can be used as a sound basis for extrapolation also militates against the validity of any such exercise at this time. Firm conclusions must await the bedding down of the methodology and emerging trends over a number of years.

3.5 Prosecutions

Under Revenue's prosecution strategy, Regions and Divisions forward cases to Investigation and Prosecutions Division (IPD) for investigation with a view to criminal prosecution where there is prima facie evidence of serious revenue offences having been committed. Within IPD, these cases are further evaluated by the Prosecutions Admissions Committee before commencement of the resource intensive criminal investigation work that can take several years before reaching the Courts. In 2006, 33 cases of serious tax evasion were referred to the Division for consideration and 16 were accepted for investigation with a view to prosecution. The comparable figures for 2005 were 91 referred and 30 accepted.

Convictions were obtained in the three cases decided in court in 2006

- A building contractor received a six months sentence (which was suspended for two years) and a fine of €3,200 for submission of incorrect VAT returns.
- A ground works contractor was fined a total of €2,040 for various offences relating to VAT and Income Tax returns.
- Fines of €33,782 were imposed on a petrol station owner for submitting incorrect VAT returns and evading excise duty on oil.

81 cases of serious tax evasion were on hands in the Investigations and Prosecutions Division at the end of 2006. The status of those cases at the end of May 2007 is shown in Table 16.

Table 16 Status of Serious Tax Evasion Cases

Status	Number of Cases
Under investigation	28
Decision not to prosecute	7
With the Revenue Solicitor's Office	4
Submitted to the DPP	10
Directions issued by DPP to prosecute	14
Bench warrant issued	1
Cases before the court	13
Convictions obtained	4
Total	**81**

In addition, there were 3 convictions for serious Customs and Excise evasion in 2006.

3.6 Special Investigations

Table 17 sets out the payments made to the end of May 2007 as a result of each of the Special Investigations being carried out by Revenue. A short summary of progress to date in the investigations follows.

Table 17 Payments arising from Special Investigations

Investigation	Cases Involved	Payments to Date €m
DIRT — Look Back Audits (financial institutions)	37	225
DIRT — Underlying Tax		
Voluntary Disclosure Scheme	3,675	227
Post Voluntary Disclosure Investigations	c. 8,500	402
NIB	465	59
Ansbacher	289	76
Pick Me Up Schemes	71	0.8
Mahon Tribunal	27	32
Moriarty Tribunal	18	8
Offshore Assets	14,374	870
Undisclosed Funds – Life Assurance Products	5,276	430
Total		**€2,329.8m**

Underlying Tax on Bogus Non-Resident Accounts

A total of 3,675 taxpayers paid €227m under the Voluntary Disclose and Pay Scheme whereby underlying tax relating to funds deposited in bogus non-resident accounts was required to be paid by 15 November 2001 to avail of the incentives of a cap of 100% on interest and penalties and an undertaking not to prosecute or publish details of the settlement. Revenue selected 268 of these cases for liability review. 210 of these were accepted as being correct, additional payments of €6,184,408 were required in 55 cases. Payments on account of €847,749 have been received in the remaining three open cases. All cases were reviewed for eligibility and 18 cases have been deemed to be ineligible. 15 of these have been settled with additional liabilities of €2,101,260. One of these cases was prosecuted and received a two year suspended sentence. The remaining three cases are at various stages of investigation.

Revenue used their powers under Section 908 of the Taxes Consolidation Act, 1997 to obtain information from financial institutions to help identify bogus non-resident account holders who did not avail of the Voluntary Disclose and Pay Scheme. Eighteen orders under Section 908, seeking information on account holders from 26 financial institutions, were granted. At the end of May 2007, payments of €402m had been received from bogus non-resident account holders over and above the proceeds of the voluntary scheme.

Revenue estimates that the likely future yield from the DIRT underlying tax investigation will be of the order of €20m and will arise over the next couple of years.

Offshore Investments via National Irish Bank

Investigations have concluded in 432 of the 465 cases identified as having invested in an offshore investment scheme operated by National Irish Bank. Settlements totalling €52.4m have been made in 309 of these cases while the other 123 cases had no liability. Investigations are continuing in the remaining 33 cases and payments on account of €3m have been received from 11 of these. Over and above these amounts, National Irish Bank has paid €3.5m in respect of Capital Gains Tax on compensation it paid to certain investors. Revenue estimates that a further €2m should be paid and that the investigation will be concluded by the end of 2007.

Ansbacher Investigation

Cases directly involving Ansbacher type arrangements, as well as other cases involving offshore funds and deposits, are being investigated. There are 289 cases, comprising 179 cases on the High Court Inspectors' Report and 110 similar cases discovered by Revenue or listed in the Authorised Officer's Report.

Thirteen High Court orders have been obtained against financial institutions and third parties requiring the production of books, records and documentation. Over 250,000 documents have been received under the terms of the High Court Orders. Also, documentation has been received on foot of the June 2004 High Court order which allowed for access to certain documentation relating to clients of Ansbacher named in the High Court Inspectors' Report and those persons found by the High Court Inspectors to have failed to co-operate with their enquiry.

A total of 248 cases have been settled to date, 106 of which had total liabilities of €68.44m. This includes a settlement of €7.5m with a Cayman Islands based bank. The other 142 cases settled had no liability and include 69 non-resident cases covered by the provisions of Double Taxation Agreements, as well as 20 cases covered by the 1993 Amnesty provisions. Payments on account of €7.73m have been received in 16 of the 41 on-going cases. As some of the cases are likely to proceed to the Courts, it is not possible for Revenue to predict either the potential yield or the time frame to completion.

Pick-Me-Up Schemes

Pick-me-up schemes involved expenses for goods or services incurred by a political party being invoiced by the supplier to another trader who paid the supplier as a means of supporting the party. Such payments were not deductible for tax purposes, the VAT was not reclaimable and the invoices issued were not in accordance with the legal requirements. The investigation found a total of 71 cases that apparently avoided tax by engaging in "picking up" expenses, which were proper to political parties. 46 cases have been settled for a total of €562,328 including interest and penalties. Payments totalling €226,165 have been received in connection with ten other cases including Tribunal cases which are still to be finalised. It is proving difficult to conclude certain cases because of the age of the payments, which were made in the 1980s or early 1990s, and the lack of documentation and records gives rise to difficulty in confirming liability. It is not possible for Revenue to estimate with any degree of accuracy the final yield. However, it is not expected to amount to substantially more than has been received to date.

Tribunals

Matters disclosed at the Moriarty and Mahon Tribunals, which suggest that tax evasion may have occurred, are being investigated as they come to notice. Eighteen cases are being investigated as a result of the Moriarty Tribunal and three cases have been settled for a total of €7m. Payments on account of €1.4m have also been received in respect of two cases. Twenty-seven cases are being investigated as a result of the Mahon Tribunal and four of these have been settled for €26.5m; payments on account of €5.5m have also been received in respect of 12 cases.

The Moriarty Tribunal is nearing completion and it is not expected that further cases will arise. Revenue does not know if any additional cases will arise from the Mahon Tribunal or when that Tribunal will conclude.

Offshore Assets

This investigation is concerned with those who have not paid tax due on funds held in offshore accounts and investments. The voluntary phase of the investigation required taxpayers to give Revenue notice of their intention to make a qualifying disclosure by 29 March 2004 and submit a statement of disclosure and any payment due by 10 June 2004. The benefits of meeting these deadlines were mitigation of penalties, settlement details would not be published and there would be no prosecution. Disclosures were received from 13,651 taxpayers and €650m was received both from this phase of the investigation and from two earlier investigations.

As a follow-up to the voluntary phase, 14 High Court orders have been obtained requiring financial institutions to supply details of transactions by their customers relating to offshore operations. The information received has been analysed and those who availed of the voluntary disclosure scheme are excluded from further investigation provided their disclosure is compatible with the information obtained from the financial institutions. Challenge letters have been issued to over 1,500 taxpayers who failed to avail of the voluntary disclosure scheme. A further €220m has been received since the voluntary scheme, arising from reviews of the voluntary submissions and payments from some 723 taxpayers who did not avail of the voluntary scheme. A further series of High Court orders is to be sought in 2007 and 2008. The final yield from the investigation may approach €1 billion.

Life Assurance Products

Investigations into the use of life assurance investment products to hide undisclosed income or gains began in 2004. The voluntary disclosure phase of the investigation set a deadline of 23 May 2005 for those who invested undisclosed funds greater than €20,000 in such products to give notice to Revenue of their intention to make a voluntary disclosure. Full disclosure and payment was then required to be made by 22 July 2005. The benefits to the taxpayer in availing of the voluntary scheme were that the settlement details would not be published, there would be no prosecution and penalties would be mitigated in accordance with the Code of Practice for Revenue Auditors. About 10,000 notices of intention to make disclosures were received and some 5,150 taxpayers made payments of €417m under the voluntary scheme.

The second phase of the investigation involves identifying those who did not avail of the voluntary scheme. Revenue used new powers provided in section 140 of the Finance Act 2005 which allows it to sample the information held by a life assurance company that relates to a class or classes of policies and policyholders, where there are circumstances which suggest that such policies have been used to invest untaxed funds. The information obtained can only be used to assist in making an application to the High Court for an order to have wider access to the information. Revenue has completed the sampling work in 14 assurance companies. The information gathered from that work and from the voluntary disclosures is being used to assist in applications to the High Court for orders directing assurance companies to furnish details on individual policyholders and policies to Revenue (11 orders were applied for and granted in July 2006 and a further three in March 2007). The information received on foot of these orders is being used to target taxpayers for enquiry. The first tranche of 5,300 enquiry letters issued in March 2007 and a further tranche of letters is scheduled for issue in September 2007. Revenue has received €13m from 126 taxpayers in the course of these follow up enquiries. Revenue expects this investigation to be substantially progressed by the end of 2007 and the final yield is estimated at €500m.

3.7 Control of Alcohol Tax Warehouses

Introduction

Excise duty is levied on excisable products – alcohol products, mineral oils and tobacco products. The rates of duty are set nationally. Total excise duties collected in 2006 on alcohol products amounted to €1,078m (€1,038m in 2005).

Excise duty is payable at the time of production in Ireland or importation into Ireland. However, if the product is held in a tax warehouse, payment of the duty is suspended until it is released for consumption onto the home market. A tax warehouse is a premises approved by Revenue where excisable products can be produced, processed, held, received or dispatched under a duty suspension arrangement by an authorised warehousekeeper in the course of business. There are 177 approved tax warehouses in Ireland and 122 of these are authorised to operate duty suspended arrangements for alcohol products. Revenue also grants approval to traders who operate as tenants in tax warehouses thereby allowing them to operate the duty suspension system. There are 286 traders approved as tenants and 247 of these deal in alcohol products.

European Union

With the introduction of the Single European Market in 1993, an EU-wide control and movement system for excisable products was introduced. Each Member State determines the rules for the production, processing and holding of excisable products subject to the provisions of EU directives. As excise duty does not become payable until goods are released onto the market for consumption, duty is suspended on goods sent from a tax warehouse in one Member State to a tax warehouse in another. Goods moving between Member States under these arrangements must be accompanied by a document known as an AAD (Administrative Accompanying Document). This document is completed by the dispatching warehouse. The receiving warehouse signs the document and returns it to the dispatching warehouse as proof that the goods were received. Similarly, duty is not payable on goods transferred between tax warehouses in Ireland.

The System for Exchange of Excise Data (SEED) is an EU wide database of excise warehouses. Each approved warehouse is given a reference number by the Revenue administration of the country in which it is situated. The dispatching warehouse can therefore check whether the receiving warehouse is an authorised tax warehouse. Its usefulness as a control depends on it being kept up to date by all Member States.

Revenue System of Control of Tax Warehouses

The warehousekeeper is responsible for the control and security of products stored or being moved under duty suspension. Revenue controls the operation of tax warehouses by means of

- An approval process for warehouses, warehousekeepers and tenants
- On-going administrative control including supervisory visits and checks and review of monthly stock returns
- Regular audits.

Approval

To obtain approval, applicants must satisfy a number of specified criteria, for example that there is an economic need for the warehouse, that it is secure, complies with Health and Safety requirements and will be operated in a way which will enable Revenue to achieve satisfactory levels of control. In all cases Revenue officers visit the applicant at the proposed premises.

Checks are also carried out of the applicants' tax compliance history, of Company Registration Office records, enquiries are made with Revenue's Investigation and Prosecution Division and tax clearance certificates are sought. Revenue does not seek Garda clearance for applicants.

I enquired why no Garda clearance checks were carried out. The Accounting Officer informed me that Revenue carried out detailed checks on applicants drawing on the extensive information it holds. In the case of non-residents, tax administrations in other countries were consulted. He stated that, given the depth of information that Revenue already obtained, the usefulness of Garda checks was not certain. However this was something that would be looked at in the context of a current review of the tenant warehousekeepers approval system.

I also asked whether control would be improved if approved warehousekeepers and tenants were required to provide tax clearance certificates on an on-going basis. I was informed that, in addition to formal authorisation, every warehousekeeper must hold an excise licence for the activity in the warehouse and that the granting of these annual licences was subject to tax clearance. Formally specifying tax clearance as a requirement for warehousekeeper approval, and making failure to obtain tax clearance a ground for revocation of authorisation, was one of a number of options for strengthening of the law on warehousing that was being considered.

Administrative Control

A Revenue control officer is assigned responsibility for the supervision of each approved warehouse.

Each warehousekeeper is required to submit a monthly stock return to Revenue detailing all goods movements. Control officers examine returns for accuracy and any deviations from normal activity. Dutiable deliveries are checked to the supporting documentation and spot checks are carried out on duty suspended movements to other EU countries and on third country movements.

Supervisory visits by control officers may entail physical inspection of the premises and procedures. In general, storage and distribution warehouses are visited at least quarterly and manufacturing warehouses at least monthly. Instructions to control officers provide for a full stocktaking to be carried out every 12 months but they can be carried out less frequently having regard to staff resources. However, they must be carried out every three years.

Warehouse Audits

Periodic audits of warehouses by Revenue officers, other than the control officer, are also an important control. Audits involve

- Ensuring proper records are maintained and the conditions of approval are being complied with
- Statistical checking of volume of trade with duty declarations and stock levels
- Sample checking of transactions between accounts records and duty declarations
- Physical stock checks and challenges
- Checking warehouse records for a sample of tenants to the tenants' own commercial records.

The Drinks, Tobacco and Multiples Unit (DTM) of Revenue's Large Cases Division (LCD) is responsible for the major warehouses dealing in alcohol products. A separate audit section of the DTM Unit carries out audits of the warehouses controlled by the Unit. Warehouses are selected for audit based on an assessment of risk. When the audit based system of control of warehouses was introduced the intention was that each warehouse would be audited every 6 months. The current general objective is that each warehouse be audited every two years. There were 53 audits carried out in the period 2004-2006 by the Large Cases Division, from which there was no yield.

In 2005 the audit section of DTM took on responsibility for customs audits for other LCD Business Units as well as providing a mentoring services to other units in relation to customs. The provision of mentoring is due to end in 2007. This diversion of resources to other activities has reduced the number of audits of tax warehouses. Of the 33[15] warehouses authorised for alcohol products and controlled by DTM Unit, 17 were audited in 2004, 15 in 2005 and 8 in 2006. In the years 2004 to 2006, 16 of the 33 warehouses had not been audited within the planned two-year cycle.

The Accounting Officer informed me that operational policy on audit frequency and coverage is reviewed on an ongoing basis, and, based on current risk analysis, risk assessment and risk management techniques, the current level of audit was considered to be satisfactory. Full stock takes were carried out at least every three years and, in the case of some of the larger warehouses, more frequently. He also stated that, unlike some other jurisdictions that rely solely on audit as a form of control, the Irish system incorporates control officers who scrutinise and supervise activities on an ongoing basis. Given these safeguards, and the low levels of risk as evidenced by the minimal yields from audits, he was generally satisfied as to the frequency with which audits are carried out.

Bond

A bond is required to cover the duty perceived to be at risk rather than the total potential duty liability. Warehousekeepers can provide separate bonds or guarantees to cover specific procedures such as goods dispatched to tax warehouses in other EU countries. A minimum bond level of €127,000 is required for storage and distribution warehouses. Bonds are not usually required for tenant warehousekeepers as the risk is considered to be covered by the warehousekeeper's bond.

While regard is had to various criteria in setting bond levels, there is no risk based formula with weightings for different risk factors used to calculate bond levels. Such a method of setting bond levels would be more transparent and allow for a more structured periodic review of bonds. Revenue considers that current bond levels are adequate based on knowledge of traders and assessment of risk and taking account of the well-established record of tax compliance that most of them possess.

The Accounting Officer informed me that the role of bonds as a mechanism for excise control is also to be reviewed. He stated that many low-tax Member States pitch the level of their bonds to their own rates, with the result that they are completely inadequate to cover the risk for consignments moving to this country. Revenue was conscious of the important role that the provision of appropriate financial security played in the overall system of monitoring and control of excisable products under duty suspension. While providing appropriate safeguards against default or fraud, a bond system must also avoid imposing excessive financial burdens on excise traders, the vast majority of whom were tax compliant.

[15] Responsibility for the administrative control of 5 of these warehouses has been devolved to other Revenue Divisions.

Risks

As duty on goods held or moved under duty suspension arrangements has yet to be paid, there is a risk of loss of revenue. Duty will not be collected if goods are fraudulently removed from the duty suspension system. There is a loss to the Irish Exchequer if such goods are released onto the Irish market. If goods are fraudulently released onto the market in another EU country, there is a loss of revenue in that country. There are several types of fraud that can occur when goods are held or moved under duty suspension, including

- Outward Diversion Fraud – duty suspended goods being purportedly transferred to a tax warehouse in another EU country but are diverted onto the market without payment of duty
- Inward Diversion Fraud – duty suspended goods being purportedly transferred from a tax warehouse in another EU country to an Irish tax warehouse but are diverted onto the market without payment of duty
- Inland Diversion Fraud – duty suspended goods moving between warehouses in Ireland but diverted onto the market.

Administrative Accompanying Document (AAD)

The system of movement between EU countries is underpinned by the AAD document. The dispatching warehouse satisfies itself that the receiving warehouse is an authorised warehouse and completes the AAD. This is not discharged until the dispatching warehouse receives a signed copy from the warehouse in the other Member State as proof that the goods arrived. The AAD system is open to abuse in a number of ways, not all of which require collusion between the parties to the movement of goods.

As even genuine AADs can take some time to be returned to the dispatching warehouse, it can take a considerable time to identify fraud.

Another control is the issue of a movement verification request to the Revenue authorities of another Member State. This involves Revenue requesting the relevant authorities to confirm that a consignment dispatched from a tax warehouse in Ireland arrived at the tax warehouse in the other Member State. This is a useful control but is dependent on a speedy response. Even when a prompt response is received it may be too late, as the goods and the perpetrators of the fraud may have disappeared.

I enquired as to the number of undischarged AADs and the related value of duty involved in each of the years 2004, 2005 and 2006 and whether the duty had been recovered from the dispatching warehousekeeper in all of these cases. In his response the Accounting Officer informed me that at present no actual records of undischarged AADs was maintained by Revenue. However with the introduction of a planned new electronic system, EMCS, a database register of all electronic AADs showing their current status will be created.

Electronic Movement and Control System (EMCS)

Due to the high level of fraud in Member States and the corresponding loss of revenue, especially in the case of tobacco and alcohol, the EU Council of Economic and Finance Ministers in 1998 endorsed a report recommending the setting up of a computerised trader-to-trader link via member states' tax administrations. A feasibility study concluded that the computerisation and replacement of the AAD with an electronic system was feasible. A 2003 decision of the European Parliament and the Council of the EU provided the legal basis for the development of the system known as the Electronic Movement and Control System (EMCS). Each member state is developing its own system based on EU standard requirements. The EMCS is expected to be operational by mid 2009 and is intended to improve the monitoring of movements of duty suspended goods by

- Simplifying duty suspended movements by electronic transmission of the AAD rather than as a paper document
- Securing the movements of goods by checking traders' data before the goods are dispatched and ensuring a quicker return of evidence that goods arrived at their intended destination
- Monitoring the movement of excisable goods by providing real time information and allowing checks during movements.

The system will be capable of computerising domestic movements.

The Accounting Officer informed me that experience shows that the intra-Community movement system had been reasonably effective and it is expected that it will be significantly improved when it is fully computerised in 2009.

Alcohol Duty Frauds in the UK

From the mid 1990s diversion fraud began to be recognised as a growing problem in the UK. Between 1993 and 2000, it was estimated that revenue lost in fraud cases investigated amounted to stg£668m[16], representing 1.45% of total alcohol duty over the period. The UK was particularly susceptible to diversion fraud because it, like Ireland, had a high excise duty regime, unlike many other EU countries. The removal of a Customs presence in tax warehouses was identified as an important factor in failing to prevent the frauds. In the majority of the frauds, the receipting stamps on AADs were forged.

Frauds Identified in Ireland

Case details

In 2003, two diversion frauds, perpetrated by tenant warehousekeepers, were discovered. In the first case, the ownership of a company, which had approval as a tenant, changed. In response to a movement verification request, the Spanish authorities informed Revenue that a consignment of goods was not received in a Spanish warehouse. Subsequent verification requests established that 9 out of 25 consignments were not received in the Spanish warehouse. It also came to light that the Spanish warehouse had a previous history of infringements. Revenue was not notified of the change of ownership of the tenant company, despite a requirement that it be advised when there is a change of effective ownership or controlling interest where the warehousekeeper is a limited company. The Alcohol Products Tax, Regulations, 2004, introduced a regulation that, where there is a change of ownership or control, the approval ceases.

In the second case, approval was granted to a tenant, about whom Revenue had suspicions, because legal advice was obtained to the effect that approval could not be refused solely on the grounds that a person might commit fraud. The Spanish authorities, in response to a movement verification request, informed Revenue that a consignment had not arrived at a Spanish warehouse. The following day, the UK authorities contacted Revenue to state that they had detained a consignment sent by the Irish tenant to a Spanish warehouse and sought confirmation that the Irish warehouse was approved. The UK authorities also informed Revenue that the Spanish warehouse was no longer authorised. However, it was still showing as authorised on the Irish SEED database. Further movements from the tenant were stopped. Copies of all AADs relating to 55 shipments by the tenant to two Spanish warehouses were sent to the Spanish authorities for confirmation and investigation. None of the consignments were received.

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[16] Source: UK National Audit Office Report *Losses to the Revenue from Frauds on Alcohol Duty* July 2001.

Outcome

Revenue considers that none of the goods involved in these frauds were diverted onto the Irish market but, if they had been, the loss to the Irish exchequer would have been approximately €16.3m. However, there was a loss of duty in the country in which the goods were ultimately sold, which Revenue considers was most likely to be the UK. In neither of the two cases of fraud was the duty on the missing consignments paid or the bond estreated. The investigation is effectively closed in Ireland. No duty has been recovered. There are unlikely to be any prosecutions in this jurisdiction because of lack of evidence. However, Spanish authorities have taken criminal proceedings against the directors of the Spanish company involved.

I have been informed that developments to the SEED system were implemented in July 2006 and that Revenue regularly reviews and updates the database from an Irish perspective. As the database is a Community one, it is also dependent on other Member State administrations for input, and delays can occur that are outside Revenue's control. A one-week delay in updating the system presently applies but this is an improvement from the monthly EU updates previously available. A further development of the system is scheduled for May 2008. This will reduce the delay to a few days at most.

I enquired why the bond in both fraud cases was not estreated and whether it was considered that the effectiveness of bonds in securing revenue at risk and acting as a deterrent was undermined if bonds are not estreated in cases of fraud. The Accounting Officer informed me that the traders involved in the frauds were given warehousekeeper approval, despite Revenue's reservations as to their suitability, because the legal advice was that there were insufficient grounds for refusal. The landlord warehousekeeper was not informed of those reservations, because to do so would have left Revenue exposed to a claim for defamation. The landlord, therefore, assumed the tenant's bona fides on the basis of the Revenue approval.

In the circumstances, and taking considerations of natural justice into account, it was considered draconian to penalise a legitimate trader who was innocent of any knowledge or involvement and had derived no financial benefit from the frauds. Furthermore, it was considered that estreating the bond in these cases would, at best, have recovered only a part of the tax liability and could have put the business of the landlord warehousekeeper at risk.

Finally he informed me that the practice of giving warehousekeeper approval to tenants in a tax warehouse, and the control requirements imposed on persons who receive such approval, are currently being reviewed.

Revenue Response to the Frauds

Arising from concerns in relation to these frauds, a number of proposals will be made in 2007 to Revenue's Management Advisory Committee. Under these proposals there will be no tenants as they now exist. Instead, approved warehousekeepers will be required to risk rate owners of goods who want to store them in their warehouse, advise their bond provider and provide evidence to Revenue that the bond provider has been informed of the full details and that the underwriter accepts the liability. The owner of the goods will be required to formally register with Revenue and will normally be restricted to storing goods to be released for home consumption only. The implementation of these proposals would require legislative change.

I have been informed that a number of options for the modification of the system of approving tenant warehousekeepers are under consideration. A decision as to any action to be taken will be made in the near future. It is likely that any change to the existing system would require the amendment of section 109 of the Finance Act, 2001. This would be undertaken in tandem with the envisaged strengthening of the provisions for approvals and revocations.

Revenue established an Excise Risk Group in September 2005 to identify the risks to revenue in relation to excise duty and to make recommendations on the level of excise checks. The Group reported in January 2006. The main risks identified in relation to duty on excisable products were the approval process and the scope for fraud in the AAD system. The report is currently being implemented on a phased basis in all Regions and appropriate Divisions of Revenue.

I asked the Accounting Officer if consideration been been given to introducing a system of tax stamps for spirits as provided for by EU Directive. He informed me that tax stamping of spirits was introduced in the UK in July 2005 despite strong opposition from the trade. This was in response to significant excise losses from smuggled spirits on the UK market. However he stated that there was no evidence that the threat posed to tax receipts in Ireland by illegal sales of untaxed spirits was such as would warrant the introduction of tax stamps. While a number of publicans have been successfully prosecuted for such offences in the last few years, there was no indication that the problem is widespread or increasing. In current circumstances the introduction of tax stamps was considered to be disproportionate in terms of the risks involved and the burden to the legitimate trade in operating a stamping system.

Accounting Officer – General Observations

The Accounting Officer informed me that

- Despite fears that the abolition of customs control of imports in 1993 would lead to widespread fraud, the warehousing system had continued to be effective and there had been very few instances of fraud over the years. The vast majority of tax warehousekeepers were compliant and their number small enough to allow for adequate monitoring and control.
- He believed that the system of control was satisfactory and struck a reasonable balance between protection of revenue and facilitating legitimate trade. While there was no single corporate performance indicator for monitoring the effectiveness of the system, its effectiveness was evidenced by the nil yield on 53 audits carried out by our Large Cases Division between 2004 and 2006 and by the rarity of instances of fraud.
- There would, however, always be a risk of fraud where excisable products were being moved under duty suspension. For that reason, Revenue was committed to reviewing control systems and processes on an ongoing basis, taking account of best practice throughout the EU, and would effect modifications or enhancements where the need arose.
- The two frauds referred to had prompted a re-examination of certain aspects of control requirements and procedures. In particular, the practice of authorising tenants as warehousekeepers in a warehouse, and the responsibilities to be imposed on them, were being reviewed and proposals for change, with supporting legislation as required, would be made in the near future.

3.8 Stamp Duty on Property Transactions

Introduction

Stamp Duty is a duty payable on a wide range of legal and commercial documents, referred to as instruments, including conveyances of property. The rate may be either *ad valorem* or fixed. The First Schedule to the Stamp Duties Consolidation Act, 1999 lists the types of instruments liable to duty and the rate applicable. The Act also sets out how Stamp Duty is to be collected and denoted and the person liable to pay the duty. The legislation is premised on a self-certification approach to drafting instruments for presentation to Revenue's Stamping Offices. The self-certification approach is reinforced by the provision in the Act that instruments not properly stamped are not admissible in evidence in civil proceedings.

Instruments which must be stamped are presented, accompanied by the correct amount of stamp duty due, to a Stamping Office and examined by a Revenue officer to establish the particulars therein affecting stamp duty. In general, stamp duty is assessed and calculated and reliefs granted based on the information and certification contained in the instrument. Assessment/calculation and stamping (receipting) for stamp duty is processed by and recorded on Revenue's Stamp Duty Administration System (SDAS).

In the vast bulk of cases, copies of instruments are not retained and the SDAS electronic record is the only data retained. Roughly half of the entire number of stamp duty transactions is conducted over the public counter and the other half by post. Paper files are only retained in relation to adjudication or complex cases, refund cases, penalty mitigation cases and for all postal cases in which there were issues to be addressed.

In 2006, stamp duty relating to property transactions accounted for approximately 82% of total net stamp duty receipts of €3,632m.

Stamp duty receipts from property transfers in the period 2001-2006 are set out in Table 18.

Table 18 Total Stamp duty receipts from Property Transfers (€m)

2001	2002	2003	2004	2005	2006
671	666	1,075	1,461	2,002	2,989

In the case of property transactions, the rate and amount of duty payable is determined by

- The price paid for the property or the assessed market value
- Whether the purchaser is a first time buyer, an owner occupier or investor
- Whether the property is new or second-hand
- Whether the property is residential or non-residential
- Whether the size of the total floor area exceeds 125 square metres and
- Whether, in relation to new property, a building agreement exists.

Revenue Audit of Compliance in Dublin

A dedicated stamp duty audit section was established in 2002. This carries out audits relating to stamp duty in respect of properties purchased by Dublin-based taxpayers. There were 10 staff deployed in the section at the end of April 2007.

In 2006 the section carried out an audit project in relation to stamp duty on property transactions conducted in 2003. The audit sought to establish whether those availing of owner/occupier full or partial exemption had rented the property within 5 years of purchase or were investors. In such cases the purchaser is liable to pay Revenue the difference between the duty paid, if any, and the duty liable had the relief not applied, along with any interest that may be due. The project examined a database containing in excess of 65,000 cases. Incomplete records were excluded. The data was specific to new house purchases only.

A matching exercise was carried out between the SDAS and Revenue's Common Registration System (CRS). A total of some 5,500 cases from the Dublin region was extracted where the purchaser's recorded address differed between the SDAS and CRS and where the purchasers availed of full owner/occupier relief on stamp duty for new property.

A random sample of 1,000 of these cases was selected. An inquiry letter issued to each purchaser requesting information on all property owned within the previous five years. Revenue received a reply in approximately 90% of cases. Where no reply was received, Revenue visited the addresses in question - 102 visits were necessary. Further enquiries were necessary in 35 of these cases. On examination of the 898 replies received, further investigation was necessary in 105 cases making a total of 140 requiring further audit. A total of 31 of these cases were later found to be satisfactory.

An estimated €1.2m in stamp duty, penalties and interest charges was assessed in respect of the remaining 109 cases, comprising 94 clawback cases as the property had been rented within five years of purchase and 15 cases where investors had incorrectly claimed relief.

As results in approximately 11% of the sample of 1,000 cases selected for the purposes of the stamp duty audit project were found to be unsatisfactory, I asked was consideration given to increasing the sample size and, if not, why not. I also asked if consideration had been given to conducting a similar exercise for more recent years. The Accounting Officer informed me that the results of the pilot sample were analysed and reported upon by the Capital Accounts and Audits Division (CAAD). This report was submitted to the Operations Management Group (OMG) in May and a steering group had been set up to scope a potential risk focussed national project taking account of the Dublin claw back cases, data matching possibilities to narrow the target range and resource implications. This group had very recently furnished recommendations to the OMG which is now considering the matter.

He also informed me that, in Dublin, CAAD carries out post-stamping audits to support the stamp duty compliance programme. In other regions, stamp duty compliance issues were addressed if they arose in the course of general audit programmes. Most Revenue audits were carried out as a result of risk-profiling the taxpayer looking at all available risk factors as opposed to focusing in the first instance on a particular tax or scheme of exemption/relief within that tax.

In 2003, a working group in Revenue was convened to devise suitable audit triggers for stamp duty risk assessment. As a result, a list of 31 triggers was agreed that would form the basis for risk profiling, risk analysis and an audit programme for stamp duty in the future. 10 were identified as occurring most frequently and/or carrying the greater risk of loss of stamp duty. Certain triggers were checked at the processing stage (when deeds are presented for stamping) while others were checked in post-stamping audits.

The audit undertaken by Dublin Region's CAAD was a logical follow on from this work to target those who claimed owner occupier exemption on new residential properties.

I also asked what action was taken by Revenue to validate replies received in response to questionnaires issued. I was informed that, in the first instance, Revenue applies the presumption of honesty to all responses unless there is reason to believe otherwise. Where any suspicions arose they were fully pursued.

At the time of my audit examination it was noted that there was a proposal to devolve responsibility for stamp duty audit from CAAD to Districts in the Dublin region.

Data Management

A form ST21 (an abstract of the instrument) must accompany deeds of transfer of land and buildings only. The ST21 contains details of the parties concerned, including Personal Public Service (PPS) numbers and addresses, the location and a description of the property and the consideration paid. There is no provision on the form to record the amount of duty paid.

This form's main purpose is to provide certain specific data from property transfers for other Revenue areas. It is not used to calculate the stamp duty payable or to establish any particulars, which may affect stamp duty.

ST21 forms are forwarded to a private company for entry on the SDAS.

An analysis of the SDAS database for 2005 carried out by Revenue, at the request of this Office, in May 2007 noted that there were 268,606 purchasers in total. Of these

- 3,720 had no name included
- 75,074 had no address
- 22,865 had an invalid PPS number
- 49,931 had no PPS number.

Revenue did point out that names, addresses and PPS numbers are not required in all cases to assess duty.

Moreover, in a recent report, on an unrelated subject, provided to Revenue, consultants noted that, of 400 randomly selected ST21 forms, no information was available on 50 of the transactions.

In the light of the results of the analysis of the ST21s for 2005, I asked the Accounting Officer if he was satisfied with the accuracy and completeness of information on the SDAS. He informed me that SDAS records all the relevant information on which stamp duty is calculated and assessed in respect of every document presented. He was satisfied that the information on SDAS accurately and completely reflects the processing casework in each record.

He stated that Revenue practice was to check ST21s for completion of relevant fields as well as validity of tax reference numbers since January 2006. Furthermore in 2005, Revenue issued instructions and advised the legal profession that incomplete or illegible ST21s would no longer be accepted. While it was accepted that all of the information that was required on the form may not have been accurate and complete for 2005 and prior years, Revenue did not consider that this posed any high level risks. The data was informational only and had no role to play in the assessing and collection of stamp duty. He stated that at present Revenue had no plans in place to identify and capture valid PPS numbers for 2005 where none were presently available. Since 2006, a system had been put in place to ensure that the PPS number is on

the ST21 and was valid. Initiatives had been put in place to address some of the concerns regarding the completeness of ST21s.

He informed me that the data was captured and made available to other areas in Revenue who were obviously interested in such financial information from a risk profiling point of view. Finite resources meant that a 100% check was not always possible. Nonetheless it was considered that the checking level was adequate. The primary focus of the Stamping Offices was to ensure that the relevant instruments were correctly stamped and the correct amount of duty was assessed and paid.

Returned ST21 Forms

Forms that cannot be processed by the private company are returned to Revenue. These are referred back to the relevant stamping areas for attention.

The main reasons given for the return of documents to Revenue by the company are the absence of or duplicate identification numbers. In the absence of the numbers it is not possible to link the information on the ST21 with the SDAS.

The number of documents returned in recent years was

- 2003/4 – 6,500 documents returned
- 2005 – 4,360 documents returned
- 2006 – 334 documents returned (to May 2007).

In view of the potential value to Revenue of the information contained in ST21 forms, I asked what action is taken with documents returned by the contract company to Revenue. I was informed that, due to pressure of work and other priorities in Revenue, no action had yet been taken to address the ST21s returned by the company. The main priority for staff involved in what essentially was a customer service activity was to assess the liability by reference to the information provided in the deed. The risks associated with not processing this small number of forms were considered to be low.

Improvements Made or Planned

The Accounting Officer stated that some central points and issues raised by my staff had already been identified within Revenue and improvements made

- Data capture of ST21s was fully operational with ongoing improvements
- Districts had better access to IT systems to assist in identifying the correct PPS numbers
- An updated audit capability had been introduced
- Significant progress had been achieved in the elimination of deposits.

In addition, improvements have been made in response to concerns expressed by solicitors at the proliferation of Revenue certificates that can apply. Inclusion of incorrect certificates results in a high percentage of deeds being rejected at processing or indeed, being processed incorrectly. Dublin Stamping District has designed an intuitive, user-friendly web routine that allows solicitors to navigate to the correct certificates to be included in deeds, depending on the nature of clients' transactions. The web routine was launched in April 2007 and has been well received by the Law Society. Increased usage of this web routine will result in fewer incorrectly certified deeds being presented for stamping.

The following improvements were planned

- Revenue was continually reviewing its compliance intervention programmes and planned to extend compliance checking of elements of stamp duty that appeared to show the biggest risks using better risk triggers
- Revenue was currently engaged in a process of planning the introduction of a self-service e-stamping system that would simplify and modernise the entire administration of stamp duty. As part of this project, a stamp duty return would be designed and would be required for every stampable instrument. Completion of the proposed stamp duty return would be mandatory while simplicity of design would assist in the processing of the information. Inclusion of stamp duty in the Integrated Taxation Systems (ITS) would also ensure that the data captured through the e-stamping process would be available to other Revenue systems to assist whole case management audit and compliance operations.

Some issues arising from Revenue's Dublin audit and my audit had signalled the need for procedural improvements and the following would now be introduced

- Floor area certificates would be sought as part of the standard approach to audit enquiries where relevant to exemption claims made
- Publicity and information around owner/occupier reliefs and clawback situations would be extended.

Accounting Officer's General Comments

Management and control over the stamp duty system must take the following into consideration

- There is a large necessary element of reliance on honest reporting in all taxes and duties.
- The customer service and collection system works efficiently and effectively and delivers a quick turnaround of cases with relatively low staffing.
- Customer Service principles and the accurate assessment and accounting for stamp duty receipts are the priorities in the Stamping Offices. This has been achieved, during periods where there has been huge volume of transactions in the unprecedented booming property market and a buoyant economy, with finite resources.
- Resources were allocated to areas of highest risk but efforts were made to cover all risk areas to an appropriate level. Stamp duty audit of residential property transactions fell, in general, into the low risk category. Audit results backed this up. There were some particular issues of concern, for example, around clawback situations, that are by their nature difficult to police. But these had to be addressed in a proportionate way. A balanced view needed to be taken between a necessarily limited compliance resource and risk based prioritising of taxpayers with higher tax yields.
- In the case of stamp duty on property, the purchasing taxpayer had the added incentive to report and self-certify honestly because title to property depends on the instrument being properly stamped. Insufficiently stamped instruments are not admissible in evidence.
- Realistic and worthwhile improvements to control and audit stamp duty were planned. E-stamping, a major strategic project in which internet technologies and solutions would be employed to re-engineer all aspects of the assessment and collection of stamp duty, was part of that solution. This would streamline processing, provide an electronic record of each case within ITS for better risk analysis and would free staff from processing for control.

3.9 Passenger Controls at Airports

Persons arriving in Ireland from another country may be liable to pay duties and tax on goods purchased abroad. Customs duties may be charged on goods imported from outside the European Union. The rate of duty depends on the precise nature of the goods and is set by the EU. The Customs and Excise Tariff of Ireland sets out customs duties chargeable. Subject to certain exceptions such as goods for personal consumption, excise duty is payable on all excisable products imported into Ireland regardless of origin. Rates of duty are set nationally and different rates apply to each category of excisable product. As a general rule, imported goods are liable to VAT at the point of entry into Ireland at the same rate as applies within Ireland.

The amount, if any, of duty and tax to be paid by persons arriving in Ireland with goods purchased abroad depends on whether

- The goods were purchased in an EU Member State or in a country outside the EU - a third country [17]
- The goods are for personal or commercial use.

Goods imported for commercial purposes are liable to customs duty (if imported from outside the EU), excise duty (depending on type of goods) and VAT.

There is a wide range of goods that cannot be brought into Ireland and other goods can only be brought in subject to certain restrictions. Examples of prohibited goods include controlled drugs, explosives, firearms, obscene books and videos and certain animals and plants.

Passengers Arriving from EU Countries

Since the establishment of the Single European Market in 1993, passengers arriving from countries within the European Union do not have to make a customs declaration on arrival in Ireland as tax and duty are not payable on goods brought in provided they are for the passenger's personal use. In the case of alcohol and tobacco products, Revenue have set indicative quantities of these products that, if not exceeded, will be regarded as for personal use provided there is no indication or suspicion of commerciality. If these quantities are exceeded, the passenger must prove that the goods are for personal use.

There are separate limits on the amount of tobacco products that can be brought into Ireland for personal use that have been purchased in certain EU countries.

Persons travelling between EU countries cannot purchase goods duty and tax free except for immediate consumption on board ferries or aircraft. Duties and/or taxes must be paid on any such goods still held on arrival in Ireland.

Passengers Arriving from Third Countries

Passengers arriving in Ireland from a third country are obliged to make a customs declaration at the point of entry. Passengers are permitted to bring in goods for personal use free of duty and tax provided the combined value of the goods does not exceed €175 (€90 in the case of persons under 15 years). In addition, tobacco products, alcohol and perfumes can be brought in free of tax and duty subject to certain limits.

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[17] Although the Canary Islands and the Channel Islands are part of the customs territory of the EU, they are outside the EU fiscal territory and the customs allowances for outside the EU apply. They are treated as third countries throughout the rest of this document.

Customs Declaration effected by Colour of Exit Channel

Three Irish airports have been authorised by Revenue and approved for air traffic with third countries and in which customs controls on baggage can be carried out – Dublin, Shannon and Cork. There are three customs channels at each of these airports and the functions of each are

- Red Channel – passengers go through this channel if they are arriving from outside the EU and have goods to declare on which tax and/or duty is payable. By entering this channel they are making a customs declaration to that effect and Customs officers will collect the amount due.
- Green Channel – by entering this channel, passengers arriving from outside the EU are making a declaration that they have no goods on which duty and/or tax is payable. Customs officers may stop passengers going through the green channel and examine their baggage.
- Blue Channel – this channel is for passengers arriving from a country within the EU. They are not required to make a customs declaration. Customs officers may not stop passengers going through the blue channel unless they suspect they are not arriving from an EU country or that they have prohibited goods or are involved in commercial smuggling of goods. Passengers' baggage on intra EU flights is given a green-edged label to assist in identifying it as arriving from another EU country.

Passengers who exceed the relevant limits are liable to have the goods seized and are also liable to be prosecuted. Except in the case of prohibited goods, the goods may be released on payment of the taxes and duties due as well as any penalty imposed.

Transfer Passengers

Passengers who arrive in Ireland from a third country via an EU country must make a customs declaration by entering either the green or red channel unless all of their baggage was cleared by the Customs Authorities at the first point of arrival in the EU.

Growth in Air Travel

Table 19 shows the dramatic increase in air travel which has occurred in recent years. It also shows that over 75% of all air passengers travel through Dublin Airport. In 2006, approximately 10.7m passengers (9.3m in 2005) arrived in Dublin Airport. The predominant importance of Dublin Airport, from a customs compliance perspective, is also demonstrated by the number of Revenue seizures at airports which show that in 2006 over 80% of these were in Dublin Airport and represented approximately 90% by value of airport seizures.

Table 19- Airport passenger (arrivals and departures) numbers 2001-2006 (millions)

Airport	2001	2002	2003	2004	2005	2006
Dublin	14.33	15.08	15.86	17.14	18.45	21.20
Cork	1.78	1.87	2.18	2.25	2.73	3.00
Shannon	2.40	2.35	2.40	2.40	3.30	3.60
Total	**18.51**	**19.30**	**20.44**	**21.79**	**24.48**	**27.80**

Accordingly my audit examination focused primarily on Dublin airport.

Revenue Presence at Dublin Airport

Revenue's Dublin Airport District (the District) is responsible for the enforcement of customs regulations for both passengers and cargo arriving in the Airport and for the facilitation of trade. The District currently has a staff complement of 71. 39 staff are involved in enforcement activities – 3 of whom deal with management and administrative duties – and 32 deal with trade facilitation and the control of commercial cargo. Most enforcement staff operate in the passenger terminal. An extra 14 staff are to be appointed shortly who will increase regular enforcement operational resources to 50. New rosters are to be implemented to allow for greater customs presence at highest passenger throughput times.

The responsibilities of the District are, in relation to Dublin Airport, to

- Collect all import duties
- Enforce prohibitions and restrictions
- Prevent, detect and seize controlled drugs at importation/exportation
- Implement import and export controls
- Facilitate trade and commercial cargo.

The District is also responsible for Revenue activity at 3 aerodromes in the Dublin area, Weston, Newcastle and Trim.

The Accounting Officer informed me that he was satisfied that the level of resources now available in Dublin Airport (and indeed in Cork and Shannon) was sufficient to implement the necessary controls at passenger terminals in an effective and efficient manner. This was kept under regular review. He stated that Revenue had recently carried out a review of enforcement staff numbers and that extra staff were in the process of being assigned to the areas of greatest risk.

Activity Levels

Precise figures are not available but it is estimated that approximately 790,000 or 7.4% of passengers arriving in Dublin Airport in 2006 arrived from third countries and were required to make a customs declaration *i.e.* exit through the green or red channel.

In 2006, tax, duty and penalties of €38,202 (€18,441 in 2005) were collected at Dublin Airport from passengers arriving from third countries who either declared personal goods at the red channel or were stopped at the green channel and found to be in excess of the relevant limits. Details of seizures at Dublin Airport in 2005 and 2006 are set out in Table 20.

Table 20 Dublin Airport seizures 2005 and 2006

Type	2005		2006	
	Number	Value €	Number	Value €
Tobacco	1,794	5,577,179	1,951	6,875,776
Drugs	181	4,842,933	178	7,225,480
Alcohol	4	773	2	9,013
Cash	9	258,684	6	605,315
Prohibited/Restricted Goods	37	n/a	47	n/a
Counterfeiting (cheques, etc.)	n/a	n/a	6	619,464
Total	**2,025**	**€10,679,569**	**2,190**	**€15,335,048**

Focus of Work of the District

In practice, staff attention is prioritised to detect smuggling of drugs and other prohibited goods, tobacco/cigarette smuggling and cash imports and exports under the Proceeds of Crime Act, 2005.

I asked the Accounting Officer if the emphasis on the targeting of drugs and tobacco smuggling posed a risk that the abuse of the personal goods limits might not be adequately monitored. In reply, he informed me that the EUROPOL Organised Crime Threat Assessment (OCTA) urges all Member States to direct their law enforcement resources at tackling organised criminality and therefore, Revenue's enforcement resources were rightly primarily directed at addressing the two major threats specific to Dublin Airport, namely drug smuggling and organized cigarette smuggling. He also stated that the tax at risk due to organized cigarette smuggling dwarfed any slippage on small-scale personal smuggling. Historically, Dublin Airport was always considered high-risk in respect of both drug and fiscal smuggling. The detection record over the years clearly proves the significance of Dublin Airport as a prime enforcement location which targets the highest risk in respect of passenger movements.

However, Revenue did mount periodic examinations of flights where the abuse of personal goods limits may arise and the results of these indicated that there was no major risk involved. It was not a major risk to revenue or to society compared with the social and fiscal impacts of drug trafficking and organized cigarette smuggling.

Operational Controls

The Blue and Green Channels are simultaneously manned by Customs officers dependent on passenger levels, perceived risk and resource levels with separate interview rooms available if more rigorous interventions are required. There is an unmanned gate midway through the Red Channel that is locked and passengers with something to declare press a bell to get officer assistance. All channel partitions are transparent and officers can easily spot suspicious movements at each channel. Other physical controls include dedicated storage rooms for seizures, specialist baggage and undercover officers and trained sniffer dogs. Broad surveillance is maintained through a CCTV system, strategic location of officers and viewing rooms with mirrored glass panels. The experience of Customs officers is important in identifying suspicious passenger activity. There is an administrative support unit to allow officers concentrate on core activity.

Certain activities and routes are prioritised and targeted. This is done by collection of intelligence from many sources (e.g. Interpol bulletins, the Investigations and Prosecutions Division (IPD) of Revenue, Revenue staff nationally and in other jurisdictions) and risk profiling of individual flights and passengers.

Such profiling is also informed by periodic targeted blitzes on certain routes. However, my review noted that these activities and their outcomes were not systematically recorded.

A blitz was carried out in relation to passengers returning from shopping trips to the USA in the period September to December 2006. The District estimated, as a result of this and on-going interventions, that there was no significant revenue evasion issue. Interventions by officers in the green channel in November and December 2006 resulted in the identification of only four passengers from transatlantic flights carrying goods in excess of the limits. One of these cases involved the confiscation of 2,400 cigarettes. In the other three, goods (clothing and a musical instrument) with a total of value of €3,484 were detected and duty, VAT and penalties of €2,062 were collected. However no records are currently maintained of the numbers of passengers challenged by Customs officers in the Green Channel. In the same period, 12 transatlantic passengers declared goods (value €15,740) in the Red channel in excess of the limit and paid €4,180 in tax and duty.

I asked the Accounting Officer if he considered that collection of data on the number of customs challenges and its analysis would assist in improving control and facilitate the targeting of scarce resources. In his response he informed me that, since my audit review, Revenue had commenced keeping detailed data on passenger challenges as part of a risk testing exercise. These are controlled exercises set up to test whether certain flights and passengers from certain locations pose a significant risk of smuggling. These exercises are conducted as part of planned periodic controls or on receipt of information indicating an increased risk from identified locations. However, Revenue did not consider that the collection and analysis of data on every single challenge conducted would improve effectiveness in better identifying risk and improving control. He felt that such activity would lack focus and could be considered to be wasteful of a very scarce and valuable enforcement resource. He also stated that Revenue kept detailed data on passenger challenges where detections have been made or where the officer is still suspicious despite the lack of a success on a specific intervention.

He felt that Revenue's approach had proven to be a very effective risk analysis method in improving the quality of targeting and had proven to be an efficient use of scarce enforcement resources. Analysis of the outcomes of Revenue's successes, combined with the strategic and tactical intelligence garnered from other sources both nationally and internationally, completed the intelligence cycle. It was only through systematically doing this that Customs could seek to keep up with the constantly changing facets (routings, modus operandi, concealments) of smuggling and organised crime. Best international practice in improving the quality of targeting is to constantly refine risk analysis and profiling through regular risk testing and evaluation.

Opportunities for Enhancing Controls

As in other areas of revenue collection, preparation of estimates of losses from fraud, evasion and non-compliance enables risks to be assessed, strategies developed to tackle those risks and the success of those strategies to be measured. The preparation of such estimates is difficult and a relatively untested area, although estimates of indirect tax losses have been prepared in the UK for some years now. The preparation of such estimates would make many of the targets set in the District business plan more meaningful. The Accounting Officer informed me that such estimates are inherently difficult and untested. While they would be informative, there would be little point in attempting to produce them if, at best, they would be unreliable and, at worst, misleading.

Risk identification and targeted actions are the most effective use of resources. However, as the results of targeted actions have not, to date, been formally documented and analysed, their use in informing future risk identification is not being fully exploited. Dissemination of the results has to date been dependent on verbal communication and the retained knowledge of individuals.

Flight and passenger numbers are an essential source of data for risk identification and targeting. Flight schedules and aircraft capacity are supplied by the Airport Authority on a weekly basis. Actual passenger

numbers and names are not automatically available. The District is not routinely entitled to information on passenger names due to data protection issues. Such information would provide useful management data to inform risk profiling.

I asked whether the Accounting Officer considered that the receipt of enhanced passenger data would improve control. In reply he informed me that passenger data was an essential tool for risk analysis of passenger behaviour patterns that could be an indicator of possible smuggling activity. Timely routine access to the enhanced passenger data, in airline systems, including historic data, would certainly enable more targeted and better quality interventions. The provision of pre-arrival information to Customs for the purposes of preventing, detecting or investigating (smuggling) offences etc. met the requirements of Section 8, Data Protection Act 1988 in full. However the provision of such information was not obligatory. This matter was being considered as part of the e-Borders directive, currently being progressed at EU level.

I enquired whether formal streaming of flights, perceived to represent a greater than usual risk, through customs would improve control. In response, the Accounting Officer agreed that it would but also stated that controls need to be balanced against the facilitation of the legitimate traveller and the efficient running of the Airport. Currently Revenue had a very good working relationship, which is reinforced by Memoranda of Understanding, with the Airport Authority, airlines, and other service providers. They co-operated fully with requests from Revenue staff regarding delivery of baggage on particular carousels when such action was required. He felt that the implementation of a system for the streaming of passengers was not practical in Dublin Airport due to the volume of concurrent flight arrivals and the open aspect of the baggage collection hall.

Intelligence, Risk Analysis and Profiling (IRAP) Unit

The District established this Unit in March 2007. Its main functions are to introduce a risk management structure to evaluate and maximise the use of all information in order to target smuggling, fraud and other areas of non-compliance.

I enquired when it was considered that the results of the improved targeting of resources, arising from the establishment of the IRAP Unit, would become evident and how it was proposed to measure the improvement. In response, the Accounting Officer informed me that, since its establishment, it had already had considerable success in the area of cigarette smuggling at Dublin Airport. It had identified a recent major organised cigarette smuggling attempt from a Baltic State and developed a robust and successful strategy for countering it. The result of this IRAP led intervention was the seizure over a two week period of cigarettes with a value in excess of €600,000, the disruption of the organised supply in the state and the arrest, prosecution and conviction of the two principal organisers. The measure of IRAPs success would be the number of serious smuggling threats, especially organised threats, it identified and succeeded in eliminating. The unit would achieve this through employing better intelligence gathering and dissemination methods, employing better and more imaginative profiling and risk analysis methodologies. It would also ensure that enforcement resources were better focussed on eliminating the most serious risks.

It was intended that all targeted actions would in future be fully documented and employed by the IRAP unit in shaping future risk actions.

Also in current development was a risk template. The purpose of this template would be to aid risk profiling so that resources could be appropriately applied. It would consolidate all risks for Customs activity at Dublin Airport and it was expected that this would be constantly reviewed and updated to maintain its relevance as a result of changing circumstances.

Other Airports and Aerodromes

Revenue approval is required for aerodromes[18] that handle intra-EU and third country traffic. The terms of approval for aerodromes handling third country traffic require that 24 hour prior notice be given to Revenue of each intended departure to or arrival from a third country. At July 2007 there were 24 licensed aerodromes in the State.

Control over aerodromes is exercised by means of risk assessed inspection visits. Table 21 shows the number and results of such inspection visits in the years 2005 and 2006.

Table 21 Inspection Visits 2005 - 2006

	2005	2006
Visits	243	280
Cigarettes seized[19]	13,670	1,780
Value of drugs seized[20]	€57	€140
Value of other seizures[21]	€18,028	€54,694

The Dublin Airport District makes visits (both routine and surprise) to the 3 aerodromes for which it is responsible on the basis of passenger activity and perceived risks. In 2006 fifteen visits, twelve planned and three unplanned (ten and six respectively in 2005), were made to the largest of the aerodromes and one annual visit was made to each of the others in 2005 and 2006.

A review of customs controls in place at licensed aerodromes was carried out in January 2007. The principal focus of the review was to examine the controls in place at smaller public licensed aerodromes to prevent the smuggling of prohibited goods, particularly drugs. The review team made several recommendations for improving controls that were accepted and these are currently being implemented. Following on from these, Revenue had drawn up an implementation plan covering diverse areas including visits to aerodromes, risk rating, the issue of approvals, guidance for staff, training and deepening of co-operation with other agencies. I was informed that Revenue regions are giving the control of smaller aerodromes specific attention in their business plans for 2007.

Summary

In summary, the Accounting Officer stated that the review of Customs controls initiated in late 2006 had found that

- The risk based approach being adopted was a sound one, and indeed the only appropriate one, in the circumstances
- Intelligence and related risk ratings rely on timely information and need to be reviewed regularly
- Ireland's approach is in line with the methodology adopted by other EU administrations in similar circumstances and

[18] Revenue use the term aerodrome to include all airports and aerodromes other than Dublin, Cork and Shannon.
[19] All seized in Kerry airport.
[20] All seized in Waterford airport.
[21] All seized in Knock airport.

- The increase in the volume of international air traffic requires a corresponding increase in Revenue activity.

He was satisfied that the information gathered from controlled test exercises and from passengers, where detections were made, combined with the strategic and tactical intelligence garnered from other sources both nationally and internationally provided a good quality intelligence for identifying smuggling threats which in turn enabled Revenue to target resources in the right areas.

3.10 Aspects of Rental Income Taxation

Background

Under various provisions of the Taxes Consolidation Act 1997 (the Act), income earned by individuals from the letting of residential property is taxable under self-assessment. Rental income earned by companies is assessable for Corporation Tax. The taxation yield on rental income from individuals and companies from 2000 to 2003 is shown in Table 22 below.

Table 22 Taxation Yield on Rental Income 2000 - 2003

Tax Year Ended	Individuals €m	Companies €m	Total €m
05/04/2000	137	80	217
05/04/2001	152	88	240
31/12/2001	140	103	243
31/12/2002	204	117	321
31/12/2003[22]	255	120	375

Information Shared by Government Departments with Revenue

Under section 910 of the Act, Revenue is entitled, for the purpose of the assessment and collection of taxes, to request in writing from Ministers details of payments made by that Minister's Department to persons or groups of persons that Revenue specify. This section was subsequently amended by section 208 of the Finance Act 1999, to empower Revenue to request information from any body established under statute. Currently, Revenue receives information regarding rental income from, amongst others, the Department of Social and Family Affairs and the Department of Environment, Heritage and Local Government in respect of the rent supplement scheme and the rental accommodation scheme.

Rent Supplement

Rent supplements are payments to assist in the provision of accommodation to eligible persons living in private rental accommodation who are unable to meet the cost of accommodation from their own resources and do not have alternative sources of accommodation available. Community welfare officers in each Health Service Executive (HSE) administrative area carry out assessments of claimants' eligibility for the scheme. While claims for payment of rent supplement are processed and administered by HSE staff, the Department of Social and Family Affairs is responsible for policy, legislation, the provision of funding and payment to recipients. Payment is either made directly to tenants or to a nominated payee, *i.e.* the landlord or the landlord's agent for the property.

Each year Revenue requests and receives a file from the Department containing details of rent supplements paid during the previous tax year. The file received contains the following information

[22] 2003 is the latest year for which details are available.

- Tenant's PPS number
- Tenant's name and address
- Landlord's name, address, and telephone number or agent's name, address and telephone number
- Amount of rent supplement paid
- HSE administrative area handling the tenant's claim.

When the file is received, a programme is run that attempts to match the data provided with existing Revenue taxpayer information. A match is sought on landlord name and address. The entire file of both matched and unmatched records is then stored onto Revenue's Integrated Business Intelligence (IBI), a stand-alone system containing various databases.

Information was provided to my Office by both the Revenue Commissioners and the Department of Social and Family Affairs in respect of their exchange of data relating to rent supplement payments for the year 2005. This information is summarised in Table 23.

Table 23 Data Exchanged in respect of Rent Supplement Payments 2005

No of Records Exchanged	Representing	Number of Landlords/Agents	Expenditure €m
77,633	Landlords resident in Ireland	43,215	302
1,465	Landlord outside Ireland	916	3
12,635	Agents Recorded[23]	5,276	49

The information supplied by the Department to Revenue did not specify whether payments were made directly to tenants or to a nominated payee.

Although 2005 scheme expenditure amounted to €368m, the file initially forwarded by the Department only detailed payments amounting to €354m. Data in respect of the balance of €14m was incomplete and clarification had to be subsequently sought by the Department from the HSE. Details were later forwarded to Revenue.

As no landlords' PPS numbers are provided on the file received, Revenue attempts to match landlords' names and addresses to existing taxpayer details held on its systems. I requested details of the number and value of payment records received from the Department of Social and Family Affairs for 2005 that were not matched to taxpayer records on Revenue's systems. The Accounting Officer informed me that there were 52,792 records with a value of €197,472,733 not matched to taxpayer records. This amounts to approximately 56% in monetary terms. He stated that Revenue was currently in the process of putting a project in place that will examine the best approaches to take in dealing with unmatched cases.

Revenue has informed me that the 2006 data had only been received in mid June and that the matching of payments to records would now be scheduled. It would not be possible to risk assess this data until the details of the 2006 Income Tax returns have been loaded into the Risk Evaluation Analysis and Profiling system (REAP). This process would not be finished until approximately May 2008.

I asked the Accounting Officer if Revenue had requested landlords' PPS numbers be supplied by the Department of Social and Family Affairs when making a request for information under sections 910 and

[23] Landlord detail not shown on record.

208 of the Finance Act, 1999 and, if so, what had been the Department's response. He informed me that, as the requirement that certain public bodies request tax reference numbers was only introduced in the 2007 Finance Act, the information had not been requested for 2006 payments. However landlord's PPS numbers would be requested for 2007 payments under Section 910.

The Accounting Officer of the Department of Social and Family Affairs stated that the application form for rent supplement does not currently seek details of the landlord's PPS number as this information is not germane to the decision making process related to the qualification criteria for entitlement to this payment. He also stated that the new legislative provisions present a number of operational issues for the HSE who administer the scheme and that there may also be IT development issues for the Department in capturing landlord/agent PPS data. In that regard, officials from the Department had recently met with Revenue to commence discussions on these and other matters arising in complying with the proposed arrangements in the future.

Section 1041 of the Act requires tax be deducted at the standard rate from rent payable directly to non-resident landlords. However the Department of Social and Family Affairs does not deduct any tax from such payments. When I queried this, the Accounting Officer of the Department informed me that initial enquiries indicated that, to provide for tax deduction on the Department's computer system at source for rent supplement payments, would involve considerable development work and would need to be considered in the context of the Department's future programme of IT modernisation and development. In addition, operational issues that would arise for the community welfare service who administer the scheme would also need to be considered. He stated that the Department provided Revenue with payment details relating to rent supplement on an annual basis and in the format requested by them. Revenue had not indicated until recently that it found the current arrangements unsatisfactory. Revenue is in ongoing discussions with the Department on this matter.

I enquired what policies and procedures are employed by Revenue to ensure compliance by Government Departments, State Agencies and individuals with the provision of section 1041 of the Act which requires that tax be deducted from rent payable to a non-resident landlord. The Accounting Officer informed me that these procedures were specified in a December 2000 Revenue publication and staff instructions. He also stated that the obligation is on the tenant or agent (as the case may be) to make the required deduction and payment to Revenue. Where non-compliance is detected, tax is recovered together with interest/penalties, where appropriate.

Rental Accommodation Scheme

The Rental Accommodation Scheme commenced in 2005. Its aim is to transfer rent supplement recipients who have long-term housing needs to local authorities over a four-year period. The scheme is administered by local authorities and is a collaboration between the Department of the Environment, Heritage and Local Government and the Department of Social and Family Affairs. The local authority pays the rent. In order to be eligible for the scheme, the landlord must be tax compliant.

The Department of Environment, Heritage and Local Government forwards an annual file to Revenue containing details of rent allowance scheme payments made by each local authority in the previous tax year. The information provided consists of

- Landlord/agent's name
- Landlord/agent's PPS number
- Landlord/agent's contact address
- Address of rented property
- Total paid.

The data file of payments for 2006 was sent to Revenue. It was incomplete in that it did not contain information from six local authorities.

Payments under the scheme are made to charitable organisations, housing associations and landlords, a small percentage of whom are non-resident, agents and companies. An analysis of the payments is shown in Table 24 below.

Table 24 Analysis of Payments made under Rental Accommodation Scheme in 2006

Payment Details	Amount €	Amount as % of Total Payments
Payments made to charitable organisations	1,098,753	30%
Payments for which PPS details are not provided or incomplete	893,892	24%
Payments with valid PPS details provided	1,674,270	46%
Total	**€3,666,915**	

I asked the Accounting Officer for details of the number and value of 2006 payment records received from the Department that were not matched to taxpayer records on Revenue's systems. In reply I was informed that a matching exercise had not been carried out on this data. Details of 2006 payments submitted by the Department could not be referred to Revenue's computer systems division, as the data was not received in a standard format.

I also asked him what action Revenue had taken to obtain information from the Department in respect of those local authorities that did not submit a return of payments made under the scheme for 2006. He informed me that Revenue has pursued the Department for the outstanding returns and had since received returns for three of the local authorities, via the Department.

It is recognised that the Rental Accommodation Scheme is in its early stages and that the extent of tax at risk might not merit prioritisation by Revenue at this juncture. However, it is important that proper matching and follow-up mechanisms are put in place to make full use of the information provided as resort to the scheme is scheduled to increase in the coming years.

Third Party Returns Made by Letting Agents

If a landlord appoints an agent to manage property and collect rent, the agent is a collection agent on behalf of the landlord and, as such, is chargeable to tax on the rents received. The agent must account for the tax due under self-assessment. Under section 888 of the Act persons who, as agents, are in receipt of rents are required to submit an annual return to Revenue (form 8-3) unless the beneficiary is not resident in the State. Such a return is known as a third party return. On this form the agent provides the address of the rented premises, the name, address and PPS number of the owner and the amount of rent received.

I asked the Accounting Officer how Revenue utilised the information received from agents on form 8-3. In reply he stated that this information is gathered at district level and how it is used is a local decision dictated by work priorities. There is no formal cross-referencing but matched information is available through IBI and can be cross-checked on a case-by-case basis as required.

Private Residential Tenancies Board

Section 11 of the Finance Act, 2006 amended the Taxes Consolidation Act, 1997 to allow landlords to treat mortgage interest on rental properties as an allowable expense for tax purposes. Entitlement to this relief is conditional on compliance with the registration requirements of the Private Residential Tenancies Board (PRTB) Act 2004. This Act requires landlords to register details of all tenancies within one month of commencement. Certain types of dwelling are exempt from registration. The registration form requires the provision of landlord and agent PPS numbers.

Interest relief on borrowings is netted against rental income to arrive at net rental profit for each year. As only the net rental profit is recorded on Revenue's computer systems, no statistics are available on the number of landlords claiming mortgage interest relief and the total cost of this relief. I asked why Revenue did not have this information available. I was informed that figures on loan interest in respect of borrowings employed for the purchase, improvement or repair of rented residential properties are not separately identified from other allowable loan interest which can be set against other rental income and for this reason the information referred to cannot be accurately assessed.

Revenue requests and receives information from the PRTB on tenancies on a case-by-case basis only. Section 127 of the Residential Tenancies Act 2004 precludes the disclosure of the register to any person or body and has not been updated to reflect the registration requirements of section 11 of the Finance Act 2006. Legislation is currently at committee stage to allow for information sharing.

Maximising the Value of Information Received

In response to my general inquiries about maximising the value of the data received from other State agencies on rent payments to landlords and related information under various schemes, the Accounting Officer made the following points

- Revenue decided on a particular course of action to manage compliance risks at a time of rapid expansion of the case base. Resources were directed at cases where evidence suggested the risk of tax evasion was greatest.
- This had led to the establishment of a computerised risk ranking of its self-employed and corporate base – REAP.
- The fourth REAP run has just been completed.
- REAP is now being enhanced with the addition of data from Revenue's own records and from third party sources. Rental information is part of this process and is a priority. Matched data from the rent supplement scheme was included in the latest risk run.
- As regards unmatched cases, Revenue's intention is to seek legal authority to require tax identifiers on the most valuable returns – where such a requirement does not place an unreasonable or disproportionate burden on the provider. The process now underway, of evaluating all third party returns in the light of their potential contribution to REAP, or other systems-driven intervention, will identify the most valuable returns. In the meantime, the most significant unmatched cases can be screened and matched using long-standing manual processes. Revenue plans to look at more systematic ways of doing this over the next couple of years.
- Two recent pieces of legislation were relevant to the future of third party information provision and processing. The first of these is Section 125 of the Finance Act 2006 which is enabling legislation for the automatic reporting of certain payments made by or through financial institutions, Government Departments and other public bodies, including the provision of a tax reference number in appropriate circumstances. Regulations under this section will require the consent of the Minister for Finance. Section 123 of the Finance Act 2007 provides that certain public bodies making payments in

the nature of rent or rent subsidy will be required to include the landlord's tax reference number when making information returns to Revenue. The section also provides that a broad range of third party information returns (including rent returns by letting agents) can be required to be supplied in an electronic format specified by Revenue.

- Revenue wants a system that will get third party data in a format that can be readily used.
- This approach would allow Revenue to create rules and scores around the most useful third party data in the REAP system.
- The Operational Policy and Evaluation Division had included this project in its business plan for 2007. Delivering this strategy would spill over into 2008 and beyond.
- Revenue can get most value from third party information to the extent that it enriches its REAP profiles or can be part of resource-efficient, systems-driven compliance programmes based on apparent mismatches *vis-à-vis* its assessing or PAYE data for returned income or gains.