



Cathaoirleach
Chairman

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Irish Tax and Customs

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CRMS 100147/15

28 May 2015

Ms Tara Kelly
Clerk to the Assembly
British Irish Parliamentary Assembly
Leinster House
Kildare Street
Dublin 2

Dear Ms Kelly,

I refer to your letter of 7 April 2015 enclosing a copy of the British-Irish Parliamentary Assembly Report from Committee A (Sovereign Matters) on Cross-border Police Cooperation and Illicit Trade.

Firstly, I want to welcome the report and express my appreciation for the opportunity afforded to Revenue to discuss with the Committee our strategy for combatting cross-border fraud. I was very pleased to see the Committee's endorsement of the work of the various agencies on both sides of the border involved in tackling cross-border fraud and of the excellent cooperation between the agencies concerned. The Report drew particular attention to the cooperation between Revenue and Her Majesty's Revenue and Customs in undertaking a joint initiative to find a more effective fiscal marker for use in marked fuels. I am pleased to inform you that the new marker was implemented in Ireland and the United Kingdom from 31 March and that an intensive sampling programme is now underway to test for the presence of the marker in road diesel. The sampling focuses on the distribution chain and any supplier found to have road fuel containing the marker will be liable to prosecution, revocation of their licence to deal in mineral oils, as well as seizure of the product in question. This puts Revenue and HMRC in a very strong position to consolidate the progress already made in tackling the problem, which was acknowledged in the Report, and tackle remaining incidences of fuel laundering.

The Committee expressed concern at what it characterised as "the ease at which fuel fraud operations can be transferred from one legal entity to another upon detection". This is also a major concern for Revenue and accordingly new measures were enacted in the Finance Act 2014 to require licence holders and licence applicants to show to the satisfaction of the Revenue Commissioners where required: that the business is for the purpose of realising legitimate profit; that the business is solely for the benefit of the licence holder or applicant; that the business is or is capable of complying with excise law; and that the systems and procedures of the business provide a full record of all transactions. These new measures in



our primary legislation will provide Revenue with a much stronger basis on which to challenge persons fronting for a principal that would not qualify for a licence and to challenge operations with inadequate business plans, finance and operating systems.

The Committee also recommended further legislative efforts to dis-incentivise the supply and sale of illicit commodities, including examination of the feasibility of imposing on-the-spot fines. Very significant progress has been made in Ireland to provide for severe penalties for offenders and to provide that offenders are liable to lose their mineral oil licence where a failure to comply with excise law is established. As outlined to the Committee, over 130 filling stations were closed in recent years for non-compliance with licensing law. Currently the provisions for penalties on conviction for an excise offence range up to a maximum of €126,970 or, where the value of the excisable products concerned is greater than €250,000, three times the value of those products, and/or imprisonment up to a maximum of 5 years. Revenue will continue to keep penalty levels under review and to assess the costs and potential benefits of on-the-spot fines for knowingly purchasing illicit commodities. However, we would need to be satisfied that the evidential burden to sustain a prosecution for 'knowingly' purchasing illicit products was manageable and proportionate to the penalty that a court would be likely to impose. Unless prosecutions cases were clear cut, there is a risk that on-the-spot fines would be ineffective.

The Committee acknowledged the excellent cooperation on a cross-border basis of all the agencies involved in tackling fiscal fraud on both sides of the border, but recommended the establishment of a permanent cross-border agency to undertake this task. Revenue is satisfied with the existing structures for coordinating the work of the agencies concerned and for managing joint investigations across the two jurisdictions but, obviously, would cooperate with any evaluation of the proposal and will work with whatever structures are agreed between the two governments.

Finally, I would like to reiterate my appreciation for the opportunity for the very good discussion my official had with the Committee and for the opportunity to comment on the Report.

Yours sincerely,


Niall Cody
Chairman