



Electronic Commerce and the Irish Tax System

A Joint Seminar hosted by

Revenue and the Irish Internet Association

**Wednesday 21 July 1999
Bedford Hall Suite, Dublin Castle**

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It is our pleasure to welcome you here this evening to a seminar on the tax implications of electronic commerce. This event marks an important first for us in this area and we would like to thank our co-hosts here tonight, the *Irish Internet Association*, for all their efforts in organising what we are sure will prove to be a useful and informative event for us all.

E-commerce has undoubtedly the potential to rapidly transform the way business is conducted throughout the world. As tax administrators we are monitoring these changes and are ready to respond to them quickly and effectively. By doing so, we hope to fulfil our core mission of collecting and administering taxes and duties in a fair and equitable way whilst at the same time keeping to a minimum the compliance burden faced by the business community. Our aim is to provide regulatory certainty to business and to tax e-commerce in a fair and neutral way vis-a-vis ordinary business.

This seminar builds on the recently published Revenue Report *Electronic Commerce and the Irish Tax System* launched in June of this year. A key recommendation or action plan in that Report was the stated intention for Revenue to consult widely with Irish business interests on this issue. This we have begun by widely circulating the Report to representative associations and leading companies. This seminar represents the next step in that process and we see it as a particularly invaluable and significant step involving as it does a high degree of partnership between the public and private sectors. However, it is very much still the start of what we see as an ongoing process. A process which we know will provide tangible benefits for all who participate.

Dermot B. Quigley
Chairman

Frank M. Daly
Commissioner

Josephine Feehily
Commissioner



21 July 1999

Welcome to this event which is a significant first for the IIA, marking as it does a joint sponsorship with the Revenue Commissioners.

The IIA welcomes the Revenue Report- and this associated seminar- with which we were delighted to become involved on this joint basis.

Taxation is a very important issue generally, and any elucidation with regard to taxation and the internet in particular, is a very welcome one. Therefore I must praise the Revenue for their Report and businesslike attitude in this regard. It is now up to us as business people to explore this new approach and to make our contribution....it is in our own interests after all. The Revenue Commissioners want to listen to our views so lets tell them what we think!

I am sure the quality of the speakers here tonight will generate an interesting amount of debate and I urge you to put your queries to our panellists here this evening, and to express your views via the Irish Internet Association website <http://www.ia.ie>.

Fred Crow
Chairman IIA.

Tonight's Speakers

Norman Gillanders is Assistant Secretary in charge of customer service and tax compliance in the Chief Inspector of Taxes Office. Norman headed up the Revenue Working Group on E-Commerce which produced the Revenue discussion document *Electronic Commerce and the Irish Tax System* and is currently overseeing the implementation of ROS (Revenue On-Line Service) Revenue's e-filing initiative.

Norman can be contacted by e-mail at ngilland.setanta@revenue.irlgov.ie

Denis Cremins is Partner-in-Charge of VAT Services with *PriceWaterhouseCoopers*. Denis is a former Council Member of the Institute of Taxation and is currently a member of the TALC (Tax Administration Liaison Committee) sub-committee on indirect taxes. Denis has spoken extensively at e-commerce events both in Ireland and at international level.

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John Kelly is Principal Officer in the Competitiveness, Information Society and Services Division of the Department of Enterprise Trade and Employment. John's main responsibility is the promotion of the e-commerce and information society agenda within Ireland.

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Frances Buggy is vice-chair of the *Irish Internet Association*, and has particular responsibility for Public Sector liaison, and the development of position papers for the IIA. Creator of the Irish Business Website Awards, Frances is Web Marketing Specialist for OCEAN- the communications business of BT and ESB

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Electronic Commerce and the Irish Tax System

Some Questions and Answers

1. What is the Revenue Report *Electronic Commerce and the Irish Tax System* all about?
2. What is the status of this Report?
3. How will e-commerce be taxed in Ireland?
4. What are the international taxation implications of e-commerce?
5. Do Revenue intend to consult interested parties?
6. Will goods and services be taxed the same way?
7. How will 'digital or 'virtual' goods be taxed?
8. Will customs duties be payable on goods and services purchased over the internet?
9. Will Revenue accept Electronic Invoices?
10. What about Electronic Filing of tax returns?

Note: The answers to these questions are not to be regarded as a legal interpretation of the tax code. They are merely a brief guide to specific taxation issues related to e-commerce. More detail is available in the Revenue E-Commerce Report or by contacting the secretary to the E-Commerce Working Group at info@indirect-taxes.ie

Q.1 What is the Revenue Report *Electronic Commerce and the Irish Tax System* all about?

ANSWER: The Revenue Report published in June of this year is intended to inform and stimulate the national debate on the taxation implications of e-commerce. It is a digest of where the debate stands in June 1999 summarising as it does the position under each tax head. It also contains an analysis of how the main tax issues are likely to progress over the next few years and gives an indication of Ireland's likely preliminary position on these issues.

The report looks at e-commerce primarily in terms of business carried out over the internet and the taxation treatment for this business, specifically the on-line ordering of goods, services and digitised products between businesses and from businesses to individual customers. The Report can be divided into four parts:

- A general look at the internet, e-commerce and Government policy in this area (Chapters 1-3).
- A look at the international debate and the tax questions that e-commerce provokes (Chapters 4-5).
- An analysis of specific taxes and their effect on e-commerce (Chapters 6-9).
- A review of tax administration in the age of the internet (Chapters 10-11).

The report has been widely circulated since its launch. Revenue welcome views on it. Comments can be e-mailed to the Secretary of the Revenue Working Group at info@indirect-taxes.ie. The reaction obtained will be used, for example, in the shaping of the Irish input at the technical discussions in Brussels on how the VAT system is to be applied to e-commerce.

2. What is the status of the Report?

ANSWER: The Report is a discussion document with analysis with analysis and information on the national and international position as at June 1999. Apart from re-stating the broad principles agreed at international level it does not bind Revenue or other Government Bodies to specific solutions in terms of future taxation decisions.

3. How will e-commerce be taxed in Ireland?

ANSWER: The short and simple reply to this question is that e-commerce will be taxed in exactly the same way as other forms of commerce. In fact neutrality of treatment between different types of commerce is the primary principle underlying Revenue's approach in this area. Revenue fully endorses the approach agreed at international level whereby existing taxes will be adopted to meet the demands of e-commerce but adapted where necessary to fit the specific environment that e-trade operates in. What specific rules (if any) will be needed to cater for e-trade remains to be seen.

But isn't the internet a tax-free zone in the US?

ANSWER: No it is not. This is a popular misconception. Internet transactions are subject to sales taxes (analogous to VAT) in the US in much the same way as transactions carried out in the EU are subject to European VAT.

The *Internet Tax Freedom Act* passed by Congress in October 1998 gave a 3 year moratorium on

- the taxation of internet access i.e. the fee a user pays to an ISP to get on-line
- multiple and discriminatory taxes on e-commerce i.e. an internet transaction will only be taxed in one State or tax jurisdiction only, and
- the federal taxation of internet access and e-commerce.

Thus, the only real difference between the US and Ireland is that internet access is tax-free until October 2001 (when the situation will be reviewed). In fact given the large number of taxing jurisdictions in the US, the complexity of taxation rules in the US could be viewed as being far more excessive than those in the EU.

4. What are the international taxation implications of e-commerce?

ANSWER: There is a consensus amongst international taxation authorities that because of the global nature and potential for e-commerce that there will be a need for global tax solutions. A high level of international agreement and co-operation is needed in order to provide legal certainty for firms trading across borders via e-commerce and in order to maintain the tax base. Revenue has been particularly active at EU and OECD level helping to shape the direction of the future international tax system for e-commerce. The guidelines agreed at EU and OECD level are listed below.

- **Neutrality** - similar transactions should be taxed in similar ways regardless of the delivery channel
- **Efficiency** - compliance costs for taxpayers should be kept to a minimum.
- **Simplicity and certainty**- tax rules should be clear and as simple as possible.
- **Effective and fair**- tax rules should deliver the right amount of tax at the right time with the potential for evasion and avoidance minimised
- **Flexibility** - the tax system must keep pace with technology.

5. Have Revenue consulted outside interests in regard to tax and e-commerce?

ANSWER: Yes. Revenue are fully committed to extensive consultation in this area. We recognise that only by talking to business, tax practitioners, other

Government Departments/ Bodies can we accurately and effectively represent Ireland's national interests at international fora.

During the drafting of the Revenue Report we consulted with tax practitioners via the TALC indirect taxes sub-committee. We also engaged in discussions with individual business representative associations and other Government Departments/ Bodies e.g. Dept. Of Finance, Dept. Of Enterprise, Trade and Employment, the Dept of the Taoiseach and IDA Ireland.

The publication of the Report represents the next significant step in Revenue's consultation process and underlies Revenue's stated intention to consult as widely as possible. The Report has been widely circulated and has been very favourably received at home and abroad. The Institute of Taxation have recommended it as essential reading for all tax professionals with an involvement or interest in e-commerce matters. IDA Ireland feel that it is an excellent marketing tool for 'Ireland Inc.' and have circulated a large number of copies to their offices in the US and Europe. The EU Commission and other EU Member States have also commented most favourably on the Report.

The next level of consultation is group discussions with business representative bodies like IBEC, ISME and the IIA. This is also a process on which we have made much progress. Of course, all comments or queries on the Report are most welcome.

6. Will goods and services be taxed the same way?

ANSWER: Goods and services purchased over the internet but physically delivered will be subject to tax in much the same way as goods and service purchased through other mediums are at the moment. VAT and customs duties (if shipped from outside the EU) will be levied on such supplies. It is the electronic delivery of goods and services that presents a difficulty for taxing authorities. For example, how can Revenue force a small US supplier of online music to account and pay for VAT in Ireland? This is an issue faced by all revenue authorities around the world and is not a problem unique to Ireland. It is a global problem requiring global solutions and is being worked at international level at the moment.

7. How will digital or 'virtual' goods be taxed?

ANSWER: The supply of digital or virtual goods online is growing in size and importance. The online supply of music CDs, CD-Roms, Books and magazines and computer software will soon be big business. The EU have decided that online supplies of such products should be treated as supplies of

services and therefore free of customs duties. This treatment is a practical response to a difficult issue. However, it is not set in stone and is reversible and subject to review. Of course, such supplies are still subject to VAT in certain circumstances (see chapter 7 of the Revenue Report for a more detailed explanation).

8. Will customs duties be payable on goods and services purchased over the internet?

ANSWER: Yes and No. At the moment customs duties are payable (along with VAT) on goods imported and physically delivered from outside the EU. This will also be the case for goods ordered online but physically delivered to an address in Ireland. So a person buying computer software online which will be delivered on a physical CD-ROM from a US based supplier will be liable to pay customs duties on the goods.

At present no customs duties are levied on services for obvious reasons—customs duty is a tax on physical goods only. This will of course continue to be the case for online supplies of services such as for example, consultancy advice or online delivery of computer software (see also Question 7)

9. Will Electronic Invoices now be acceptable to Revenue?

ANSWER: Revenue were among the first Revenue authorities in Europe to put legislation for EDI on a statutory footing. When the VAT EDI regulations were enacted in 1992, e-commerce was in its infancy in Ireland. The Regulations allow for electronic issues to be issued between Irish based businesses. Revenue recognises that with the growth of the internet e-invoicing will become more and more accessible to more firms. We are committed to working at EU level to secure agreement for the development of a legal framework for a cross-border e-invoice. The EU Commission are due to publish a proposal in this regard before the end of the year and Revenue will be pushing the view that early agreement is essential.

One step that we are taking in the short-term is that we are committed to investigating the current requirement for every trader who store their business records electronically to get formal approval from Revenue to do so. In this fast changing business environment this may be an unnecessary burden for traders. We will look benignly on replacing this system with a less formal approach.

10. What are Revenue doing about electronic tax administration issues?

ANSWER: Revenue has long recognised the power and potential of information technology in improving the delivery of our services. We began to use large scale computing almost 30 years ago and a number of successful initiatives have been implemented by us in recent years. The next significant step in Electronic Tax Administration is now being taken by us. This is the

planned Revenue On-Line Service or 'ROS'. ROS means that tax returns are going electronic. The familiar brown envelope which drops through the letterbox containing the latest VAT or income tax return will become a thing of the past. Starting from the middle of next year businesses will be able to file some of their tax returns over the internet using ROS. E-filing of returns will start with monthly or bi-monthly VAT, PAYE and PRSI returns. Electronic income tax and corporate tax returns under self-assessment will follow from early 2001. Our target is to have at least half of all business tax returns filed electronically over the internet by the year 2005.

Further Information and useful reference Sources

Other Government Websites

UK- HM Customs published a position paper with the Inland Revenue on VAT and e-commerce in October 1998. This can be accessed on www.hmce.gov.uk. A more comprehensive document along the lines of the Irish Report is due to be produced by the end of the year.

Canada- www.rc.gc.ca/ecom- Contains a comprehensive report to Canada's Minister of National Revenue from the Minister's Advisory Committee on Electronic Commerce. The Report entitled *Electronic Commerce and Canada's Tax Administration* was published in April 1998 and is particularly strong on direct taxation issues.

Australia- www.ato.gov.au- See for example *Tax and the Internet* a discussion paper produced by the Australian Tax Office in 1996 - one of the earliest and strongest contributors to the e-commerce tax debate. A revised version of this Report is due to be published by the end of 1999.

US- www.ustreas.gov/treasury/tax- Contains a detailed document entitled *Selected Tax Policy Implications of Global Electronic Commerce* published originally in 1996. Particularly strong on corporation tax issues.

International Organisations Websites

EU Commission- www.europa.eu.int/en/comm/dg21/dg21.html. This site is operated by the Directorate-General XXI who are responsible for tax and customs matters within the EU. The EU have concentrated heavily on VAT issues and have produced two comprehensive working papers on indirect taxes and e-commerce- the first in April 1998 and the second in June 1999. It is understood that concrete proposals on a framework for EU VAT and on cross-border electronic invoicing will issue by the end of the year.

OECD- www.oecd.org. This website contains large amounts of information on tax and e-commerce. All the deliberations of the OECD Ottawa Conference (October 1998) can be accessed here as well as lots of materials on direct taxation issues.

Other useful websites

Nua Internet Surveys- www.nua.ie/surveys- Irish based international survey company. Numerous tax surveys available online.

Forrester Research- www.forrester.com- US based Research firm that covers a lot of EU Studies

E-Commerce Tax News- www.ECommerceTax.com- an American based commercial organisation with strong coverage of US Sales tax issues.