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PAYE Modernisation
Revenue Commissioners
Bishop's Square
Redmond's Hill
Dublin 2

To: payemodernisation@revenue.ie.

12 December 2016

Dear Sir/Madam

The members of the Irish Tax Institute interact with the PAYE system daily in their capacities as employers, payroll service providers and tax advisers. As such, they have a broad and unique perspective on its operation.

The Institute welcomes the opportunity to comment on Revenue's proposal to introduce a new real-time reporting regime for PAYE information from January 2019. We note that Revenue's stated objective in introducing this new regime is to ensure that "Revenue, employers and employees will have the most accurate, up to date information relating to pay and tax deductions" and to ensure that the correct tax is deducted at the correct time.

We look forward to further engagement with you over the next two years and beyond as the planning and implementation of this significant project evolves.

Key Guiding Principles

There is limited detail in the Consultation Paper as to how a real-time reporting regime for PAYE might operate in Ireland. In the absence of this detail, we have set out below what we believe to be the important guiding principles for the design and implementation of any new regime.

In preparing this response, we have reviewed the UK's *PAYE real-time information (RTI) post implementation review* and considered the feedback provided by businesses in the UK. Their feedback provides a useful insight into some of the issues that could arise in an Irish context and some ways in which possible difficulties could be addressed or avoided.

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1. *Minimising employer costs*

It is clear from the proposal that there will be significant costs for businesses in migrating to a real-time PAYE reporting regime. These initial costs will include investment in technology, staff training, updating employee data and a revision of payroll procedures. The UK experience is that there are also significant ongoing operational costs with real-time reporting, due to more regular interaction with HMRC and dealing with errors in the processing of payroll information.

The Institute would like to see a full cost/benefit analysis undertaken which addresses the costs and benefits for taxpayers as well as for Revenue in moving to a real-time regime. If the project proceeds after the analysis has been completed, then every effort should be made to minimise additional compliance costs for business and to counterbalance these costs with tangible and measurable benefits such as faster PAYE refunds and fewer errors in tax credits.

Exemption for micro-businesses

The increased frequency of PAYE reporting envisaged in Revenue's proposal will create a significant additional administrative burden, particularly for micro-businesses with one or two employees. Many of these micro-businesses have limited or no assistance in dealing with their payroll. Real-time reporting will significantly increase the amount of time that they will need to spend on PAYE administration. A micro-business that currently files returns four times a year under quarterly filing arrangements could be required to file up to 53 returns with Revenue.

In addition, there are many small businesses in rural areas with limited broadband access that will not be able to easily comply with the digital requirements.

Considering these factors, our view is that micro-businesses should be completely excluded from any requirement compelling them to participate in real-time reporting.

2. *Careful on-line design with full agent access*

The main difficulty experienced by employers in implementing RTI in the UK has been dealing with erroneous underpayments of PAYE on HMRC's records. These underpayments have often arisen because of incorrect processing by HMRC of the data submitted to them. This includes the allocation of payments to the wrong period, duplicate employment records arising when employees change jobs or marital status and mismatches between HMRC records and employer records. It would also seem that inadequate IT specifications by HMRC also contributed to the high error rate.



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Considerable time and costs have been incurred by HMRC, employers and advisers in rectifying these errors and we believe that the best way to minimise such errors in any Irish regime would be to develop ROS so that:

- Revenue, employers and tax agents can all view the same information contained on the real-time returns
- There is scope to review and amend PAYE data before it is submitted
- There is a mechanism for self-correcting errors. In the current regime, employers have up to 15 February in the following tax year to review and amend their PAYE returns, through the P35
- Employers and tax agents can allocate PAYE payments to the appropriate PAYE periods
- Revenue develops functionality to eliminate the risk of duplicate records. This could include enabling employers to notify Revenue of leavers in advance of their departure or developing system checks to identify duplicate data.

Tax agents play a critical role in the operation of the PAYE regime, both in assisting employers to deduct and return the correct tax due and in completing employee tax returns. This role will become even more important in a real-time environment when there is a shorter period to report to Revenue and when inaccuracies may trigger a Revenue query or intervention. For agents to be able to perform this work in the new regime, they will need full access to a client's PAYE employer/employee online records.

Currently the range of PAYE services accessible to agents is limited. For example, agents cannot access the online Jobs and Pensions system to register a new employment with Revenue nor can they submit a paper-based registration application for an employee. Tax agents do not receive a copy of the employee Balancing Assessment (P21) even though this is an essential piece of information in preparing the employee's tax return.

The Institute would like to see a review and enhancement of PAYE tax agent services undertaken as part of this project.

3. Flexibility to cater for differing work and employment patterns

The consultation paper proposes that PAYE information will have to be reported to Revenue at the same time as employees are paid. While this may be straightforward where all employees are paid at fixed intervals, it is likely to prove difficult for employers with non-standard pay arrangements, for example:

- Casual workers are often paid at the end of their shift, based on the hours that they have worked
- Employee bonuses earned in a given year are often paid after that year has ended. Currently, these payments are treated as prior year income as required under Section 112, Taxes Consolidation Act 1997 and included in the P35 as an adjustment to the prior year PAYE liability



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- Expatriate and international assignee arrangements. Where an employee of a foreign company is working in an Irish entity there may be an Irish PAYE reporting requirement. However, Irish payroll providers are very unlikely to be aware of the payment at the time it is paid and therefore could not report it, at the point of that payment. This could also occur where an outbound employee may be paid in the host country but remain on the Irish payroll for PRSI purposes. Where an employee is liable to payroll taxes in two jurisdictions simultaneously, a credit can often be claimed for the foreign PAYE liability in “real-time”. Consideration will need to be given as to how this facility will interact with the new regime.

In addition to the difficulties in applying the regime to employments with varied payment patterns, many small employers may find the reporting requirements challenging. Many small businesses do not have the resources to engage full-time payroll assistance and often provide their payroll information to their agents every 8 weeks or more to enable them prepare their payroll records and returns.

The new regime will need to have flexibility in the reporting deadlines to accommodate the practical issues outlined above.

4. A simple and transparent mechanism to deal with disputes

In the new regime, Revenue will be able to check the accuracy of PAYE returns earlier and on a more frequent basis. This is likely to lead to more queries from Revenue and thus more disputes in relation to PAYE matters. A mechanism needs to be put in place to enable matters to be resolved in a timely and efficient manner.

Currently the main channel to deal with queries on PAYE matters is MyEnquiries. Feedback from our members has been that queries directed through MyEnquiries are not always resolved in a timely manner. We would like to see clear published procedures for dealing with disputed payments and a fast track mechanism put in place to deal with PAYE issues.

5. Phased introduction

Revenue has consistently applied a phased approach to the implementation of new mandatory filing requirements, such as mandatory e-filing and iXBRL. This approach should be continued with the introduction of any new PAYE regime. Notwithstanding that software may be able to automate the reporting process, employers will need time to adapt to the new regime and invest in personnel, training and the development of new payroll procedures. Larger businesses may have greater resources to adapt more quickly but they will also have unique challenges, particularly if they operate their own payroll in-house.



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Migrating all employers to the new regime at the beginning of 2019 would also coincide with the normal year end requirements for 2018, putting unsustainable pressure on employers, payroll providers and Revenue alike.

It is clear from the UK feedback that small businesses have struggled with their obligations under RTI. HMRC has relaxed the rules for small businesses submitting reports on several occasions since 2013. It has also introduced dedicated supports for small business such as a free Basic PAYE reporting tool. Introducing the Irish regime on a phased basis would ensure that smaller business do not have to implement the regime until it has fully bedded down. This would also provide time for Revenue to identify and develop the supports that will be needed for small business such as a free PAYE reporting tool, and tailored guidance.

6. *A full pilot programme*

The regime should be piloted for a year in advance of becoming fully operational. This would give both employers and Revenue sufficient time to fully test and develop confidence in its operation. The payroll process is a critical function within any business. Employees need to be able to rely on being paid on a consistent basis without delays and errors arising from incorrect processing of payroll information. Piloting the regime would also assist in identifying any teething issues and ways to streamline the reporting process.

Ideally, the pilot should involve a variety of employers from a broad cross section of businesses to ensure that all aspects of the system are fully tested.

Applying the correct tax deduction is dependent on having the correct data for the employee. It will be necessary for both employers and Revenue to review the quality and completeness of employee data and this exercise would need to be carried out in advance of the pilot.

7. *A well-planned communication and support strategy*

A well-planned strategy for communicating with stakeholders and a package of Revenue supports will be required. Businesses will need time to prepare for the real-time regime including investment in IT, training of staff and the revision of payroll procedures. The communication plan should commence at least one year before the regime becomes operational and could include:

- Written communication from Revenue to every employer in the State about the new regime
- Increased resourcing of the Employer Helpline to deal with employer queries about the preparations required
- Open and ongoing engagement with the profession
- Tailored communications and supports for small businesses as the regime is rolled out to assist them comply with the requirements



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The Institute is available to engage with Revenue at any stage throughout this consultation and beyond. In the meantime, if you wish to discuss any aspects of this submission please contact Cora O' Brien or Mary Healy in the first instance.

Your sincerely

A handwritten signature in blue ink, reading "Mark Barrett".

Mark Barrett
President