

Ms Niamh Maguire,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
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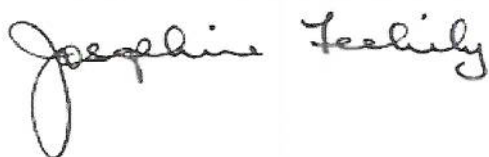
12th March 2014

Dear Niamh,

I refer to your letter of 3 March 2014 and I attach herewith the information requested.

Please do not hesitate to contact me if you require any further information.

Yours sincerely



Josephine Feehily

Accounting Officer

1. *A breakdown of the total tax settlements, which were published and the corresponding figure in relation to these settlements that was collected in 2012.*
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Publication 2012

Total settlements Published 2012 - €98.46m

Total Paid or Subject to robust instalment arrangement - €57.84m (59%)

Sent to Enforcement- €19.58m (20%)

Inability to Pay/Not pursued - €21.04m (21%)

2. *A breakdown of the top ten highest payments for property tax in 2013 including*
 - a. *The highest payment for one single property*
 - b. *The number of properties listed over €5 million and above*
-

- a. The highest payment for a single property is treated as confidential as it could be used to identify the taxpayer concerned.
 - b. 56 properties have a self assessed valuation of €5m or more as at the valuation date of 1 May 2013.
3. *Confirmation of the percentage of the overall tax yield that the large cases division accounts for.*
-

Overall Tax Yield from LCD Case Base

2013: €22.0 billion or 58% of total net tax of €37.8 billion (60% in 2012)

4. *A breakdown, by distribution areas, of the number of people employed who are liable for tax and the number of people employed who are exempt from paying tax and/or USC for the years 2008 to 2013. A breakdown of the total tax paid by higher earners, as a percentage of the total tax paid to Revenue, also to be included.*
-

Note that numbers of cases in employment shown below also include those in receipt of occupational pensions; a married couple or civil partners, who have elected or have been deemed to have elected for joint assessment are counted as one tax unit.

Tax Year	All Cases	Paying at Higher Rate	%	Paying at Standard Rate	%	Number Exempt	%
2008	2,459,240	397,368	16.2	1,031,661	42.0	1,030,211	41.9
2009	2,267,756	325,378	14.3	945,408	41.7	996,970	44.0
2010	2,203,605	292,494	13.3	913,193	41.4	997,918	45.3
2011	2,163,660	374,158	17.3	918,074	42.4	871,428	40.3
2012	2,150,609	357,895	16.6	910,772	42.3	881,942	41.0
2013*	2,166,412	371,293	17.1	920,068	42.5	875,051	40.4

*2013 data are provisional

Of the 41.1% exempt for Income Tax in 2012, 15.1% paid USC so 25.9% were exempt from both Income Tax and USC.

Of the 40.4% exempt for Income Tax in 2013, 16.1% paid USC so 24.2% were exempt from both Income Tax and USC.

2013 (provisional)

Income Tax excluding USC

- the top earning 1% of total numbers account for approximately 21% of total tax
- the top earning 10% of total numbers account for approximately 59% of total tax
- the top earning 25% of total numbers account for approximately 83% of total tax

Income Tax including USC

- the top earning 1% of total numbers account for approximately 19% of total tax
- the top earning 10% of total numbers account for approximately 55% of total tax
- the top earning 25% of total numbers account for approximately 80% of total tax

2012

Income Tax excluding USC

- the top earning 1% of total numbers account for approximately 21% of total tax
- the top earning 10% of total numbers account for approximately 60% of total tax
- the top earning 25% of total numbers account for approximately 83% of total tax

Income Tax including USC

- the top earning 1% of total numbers account for approximately 19% of total tax
- the top earning 10% of total numbers account for approximately 56% of total tax
- the top earning 25% of total numbers account for approximately 79% of total tax

2011

Income Tax

- the top earning 1% of total numbers account for approximately 22% of total tax
- the top earning 10% of total numbers account for approximately 61% of total tax
- the top earning 25% of total numbers account for approximately 83% of total tax

2010

Income Tax

- the top earning 1% of total numbers account for approximately 22% of total tax
- the top earning 10% of total numbers account for approximately 62% of total tax
- the top earning 25% of total numbers account for approximately 87% of total tax

2009

Income Tax

- the top earning 1% of total numbers account for approximately 22% of total tax
- the top earning 10% of total numbers account for approximately 62% of total tax
- the top earning 25% of total numbers account for approximately 87% of total tax

2008

Income Tax

- the top earning 1% of total numbers account for approximately 23% of total tax
- the top earning 10% of total numbers account for approximately 63% of total tax
- the top earning 25% of total numbers account for approximately 83% of total tax

The Table below shows a breakdown by income range for 2013 of incomes, numbers of cases and payment of USC & Income Tax.

Gross Income Range €	Gross Income €	Numbers	Tax & USC €	% of Income	% of Cases	% of Tax/USC
10,000 or less	1,701,125,991	386,113	413,033	2.08	17.82	0.00
10,001 - 20,000	5,991,247,957	394,547	170,418,009	7.34	18.21	1.11
20,001 - 30,000	9,894,189,836	398,715	712,843,123	12.12	18.40	4.66
30,001 - 40,000	10,526,536,676	302,643	1,207,942,302	12.89	13.97	7.90
40,001 - 50,000	9,188,240,494	205,698	1,474,787,577	11.25	9.49	9.64
50,001 - 60,000	7,439,955,833	136,170	1,430,470,288	9.11	6.29	9.35
60,001 - 70,000	6,111,257,479	94,391	1,286,675,262	7.48	4.36	8.41
70,001 - 80,000	4,885,203,793	65,408	1,121,062,909	5.98	3.02	7.33
80,001 - 90,000	3,791,883,977	44,761	936,146,439	4.64	2.07	6.12
90,001 - 100,000	2,974,203,171	31,396	779,660,429	3.64	1.45	5.10
100,001 - 125,000	5,083,135,796	45,853	1,436,133,645	6.22	2.12	9.39
125,001 - 150,000	2,866,266,063	21,073	873,591,862	3.51	0.97	5.71
150,001 - 175,000	1,871,791,838	11,601	597,514,342	2.29	0.54	3.91
175,001 - 200,000	1,295,536,585	6,944	425,040,042	1.59	0.32	2.78
200,001 - 250,000	1,714,547,953	7,718	577,851,352	2.10	0.36	3.78
250,001 - 300,000	1,155,249,712	4,237	398,697,955	1.41	0.20	2.61
300,001 - 350,000	815,682,198	2,530	287,944,162	1.00	0.12	1.88
350,001 - 400,000	591,932,771	1,585	209,965,483	0.72	0.07	1.37
400,001 - 450,000	436,035,890	1,028	160,289,753	0.53	0.05	1.05
450,001 - 500,000	352,328,419	743	130,186,417	0.43	0.03	0.85
500,001 - 750,000	1,157,652,860	1,927	426,339,375	1.42	0.09	2.79
750,001 – 1m	554,709,996	648	202,281,853	0.68	0.03	1.32
1,000,001 – 2m	733,261,467	549	262,658,592	0.90	0.03	1.72
Over 2m	527,352,863	130	186,598,561	0.65	0.01	1.22
Total	81,659,329,618	2,166,408	15,295,512,765	100.00	100.00	100.00

5. A note on the percentage of tax take that arises from direct taxation and whether that has changed in recent years and the way in which this figure compares to other similar jurisdictions.

The Table below shows the total net receipts for direct taxes collected between 2009 and 2013 (direct taxes includes income tax, corporation tax, CGT, CAT and LPT) The proportion of total taxes accounted for by direct taxes has increased from 49.7% in 2009 to 55.4% in 2013. As outlined in the second Table, which shows the composition of income tax for the same period, the increase is largely due to the introduction of the USC in January 2011.

Direct Taxes & Total Taxes, 2009 – 2013

Year	Income Tax		Corporation Tax		Other Direct Taxes		Direct Taxes as % of Total Taxes
	Amount €m	% of Total Taxes	Amount €m	% of Total Taxes	Amount €m	% of Total Taxes	
2009	€11,839.39	35.6%	€3,889.46	11.7%	€800.28	2.40%	49.67%
2010	€11,265.58	35.3%	€3,943.60	12.4%	€581.62	1.82%	49.47%
2011	€13,814.13	40.4%	€3,500.38	10.2%	€659.28	1.93%	52.52%
2012	€15,151.20	41.3%	€4,214.74	11.5%	€696.17	1.90%	54.73%
2013	€15,749.71	41.6%	€4,271.35	11.3%	€964.97	2.55%	55.39%

Composition of Income Tax, 2009 – 2013

Year	PAYE		Non-PAYE		USC		Income Levy	
	Amount €m	% of Total IT	Amount €m	% of Total IT	Amount €m	% of Total IT	Amount €m	% of Total IT
2009	€8,488.22	71.7%	€2,213.25	18.7%	€0.00	0.0%	€1,137.92	9.6%
2010	€7,777.43	69.0%	€2,042.45	18.1%	€0.00	0.0%	€1,445.70	12.8%
2011	€8,496.29	61.5%	€2,019.23	14.6%	€3,114.45	22.5%	€184.16	1.3%
2012	€9,058.00	59.8%	€2,257.82	14.9%	€3,790.24	25.0%	€45.14	0.3%
2013	€9,507.99	60.4%	€2,307.62	14.7%	€3,929.71	25.0%	€4.39	0.0%

It is possible to compare direct taxes across jurisdictions using Eurostat data. The Tables below show the proportion of the total tax take from direct and indirect taxes, as well as Social Security Contributions (SSC) in Ireland in comparison to other European countries.

Direct Taxes (Excluding SSC) as a % of Total Taxes in Selected European Countries

Country	2006	2007	2008	2009	2010	2011
Germany	30.7	31.6	32.0	29.8	29.3	30.0
Ireland	41.0	41.0	39.3	38.7	38.2	43.4
Spain	33.4	36.4	33.8	32.8	30.8	31.6
France	27.7	27.6	27.7	24.5	25.8	26.9
Italy	34.4	35.2	35.7	36.0	34.8	34.7
UK	46.5	46.3	49.0	46.1	44.4	43.9
EU-27 Average						
weighted	34.6	35.1	35.1	33.2	32.8	33.2
arithmetic	31.7	32.8	32.8	31.2	30.4	30.6

SSC as a % of Total Taxes in Selected European Countries

Country	2006	2007	2008	2009	2010	2011
Germany	41.3	39.3	39.1	40.3	40.9	40.1
Ireland	14.9	15.8	18.1	20.5	20.5	17.2
Spain	32.9	32.7	37.3	40.5	38.5	38.6
France	37.4	37.5	37.7	39.9	39.2	38.4
Italy	29.6	30.0	31.4	31.8	31.6	31.5
UK	18.4	18.3	18.1	19.5	18.7	18.5
EU-27 Average						
weighted	31.3	31.0	31.8	33.5	33.0	33.5
arithmetic	29.4	29.0	29.7	31.4	31.1	30.9

Indirect Taxes as a % of Total Taxes in Selected European Countries

Country	2006	2007	2008	2009	2010	2011
Germany	28.0	29.1	28.9	29.9	29.7	29.8
Ireland	44.1	43.2	42.6	40.9	41.3	39.4
Spain	34.9	32.1	30.6	29.6	33.3	32.5
France	35.3	35.5	35.1	36.3	35.5	35.4
Italy	36.0	34.8	32.9	32.2	33.6	33.8
UK	35.2	35.4	32.9	34.5	36.9	37.7
EU-27 Average						
weighted	34.3	34.1	33.3	33.6	34.5	34.5
arithmetic	39.0	38.2	37.6	37.6	38.7	38.7

At 43.4% in 2011, direct taxes account for a higher proportion of the total tax take in Ireland than most other European countries (only the UK and Denmark have higher proportions in 2011). However, Ireland has relatively low levels of SSC. If SSC were combined with direct taxes, Ireland is below the EU average. In contrast, with respect to indirect taxes (VAT, excise duty and other consumption taxes), Ireland collects more tax revenues from these sources than the EU average.

6. A detailed note on the current steps taken by Revenue to combat tobacco smuggling and diesel laundering.

Detailed notes are attached at appendices A (Tobacco smuggling) and B (Diesel laundering).

Tobacco Smuggling

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Tobacco Smuggling

1. Introduction

Tobacco tax is a key policy instrument in reducing tobacco consumption and a significant source of tax revenue. Illicit tobacco impacts these objectives very significantly and therefore tackling illicit tobacco is a key priority for Revenue. Some €1.4 billion is collected annually in tobacco tax and VAT from tobacco consumption, so any material level of illicit tobacco consumption translates into a significant loss of tax revenue.

Every country with high tobacco taxes has an illegal tobacco problem. Ireland, which has exceptionally high tobacco taxes and tobacco prices in comparison to other countries, has a significant problem. To provide some international context, the World Health Organisation estimates that 10% of the global cigarette market is illicit and this figure rises to over 50% in some countries. OLAF, the European Anti-Fraud Office, estimates that illicit cigarettes result in losses of over €10 billion annually in tax revenues in the EU. This is a global problem, which is particularly significant in a number of EU Member States, including Ireland, which pursue a policy of high tobacco taxes.

In Ireland, the best estimate of the scale of the problem comes from the IPSOS /MRBI surveys conducted for Revenue and the National Tobacco Control Office. The most recent survey, conducted in late 2012, found that 13% of cigarette consumption was illicit. It also found that a further 6% of consumption was accounted for by cigarettes purchased abroad and brought into Ireland legitimately for personal consumption. The comparable figure for illicit consumption in 2010 and 2011 was 14%. This indicates that the problem, at the least, is being contained.

The survey results indicate that the nominal cost, in terms of lost tax revenues, is approximately €240m annually. While this is useful indicator of the financial significance of the problem, it is important to recognise that this is a nominal indicator only as it is based on the unrealistic assumption that, in the absence of cheap illicit cigarettes, smokers would consume the same amount of more expensive, taxed cigarettes. Nevertheless, the tobacco smuggling problem is very significant in terms of its impact on the exchequer and in undermining the government's demand reduction objectives.

The tobacco industry produces much higher estimates of the level of illicit consumption and the associated exchequer costs, but their claims need to be viewed in terms of their interest in minimising tax increases while imposing price increases of their own. All estimation methodologies have their limitations, but Revenue is satisfied that the IPSOS /MRBI surveys provide a reasonable indication of the extent of the problem and in particular, because of the consistency of the methodology, allows changes in illicit consumption levels to be tracked

2. Tobacco Smuggling

Internationally and domestically tobacco smuggling is dominated by organised crime groups. The tobacco smuggling problem is very much a global problem, driven by a number of key regions in Asia, the Middle East and Eastern Europe, where there is large-scale production of cigarettes for illicit distribution to other countries or which serve as distribution centres for illicit product. (See Appendix)

Until recently the modus operandi for cigarette smuggling into the Republic of Ireland had broadly remained unchanged. Cigarettes were smuggled, predominately in maritime freight, using cover loads for concealment. These large consignments of cigarettes were generally sourced in Asian countries. They were packed into large containers (seven to ten million cigarettes at a time) and shipped. These were mainly counterfeit product manufactured in Asian countries or product that had been diverted from its stated intended destination.

In the past two years new smuggling trends have emerged. There are indications that the predominant illicit tobacco product now being smuggled is 'cheap white' cigarettes. These are cigarettes that are manufactured, both inside and outside of the EU, in large legitimate plants but without a clear market. When these 'cheap white' cigarettes are exported from the Community or from outside the EU, they are often consigned to areas where they cannot be tracked easily. Once clear of oversight, the large containerised consignments are broken out in smaller consignment and smuggled back into the EU.

In addition, organised crime groups now smuggle large consignments of counterfeit or cheap white cigarettes into the EU via the Eastern European frontier. These are then warehoused and broken down into smaller consignments of approximately one million cigarettes. These smaller consignments are then smuggled onwards, deeply concealed within containers transporting groupage loads. Alternatively these smaller consignments arrive by ferry via road-going vehicles (lorries, vans, cars), in airfreight and by post.

3. Revenue Response

Combating the illegal tobacco trade continues to be a high priority for Revenue, with Revenue's strategy and enforcement activities kept under continuous review by a Tobacco Executive which is chaired at Commissioner level.

Revenue's response to the problem includes a number of key elements designed to target the supply or sale of illicit tobacco products with a view to seizing the illicit products and prosecuting those responsible.

At a national level Revenue works very closely with An Garda Síochána and with the Criminal Assets Bureau, and also with the PSNI and Her Majesty's Revenue and Customs. All the agencies concerned in the State and in Northern Ireland work closely together, through a cross-border group on tobacco enforcement, to identify and tackle the illicit trade on an all-

island basis and to combat those organised crime groups that are responsible for a large proportion of the illegal tobacco market. Revenue also works very closely with EU and other member state law enforcement agencies including the European Anti-Fraud Office, OLAF, and Europol to build the best possible intelligence on illicit shipments into Ireland.

As part of intelligence building and risk profiling, Revenue analyses the nature and extent of the tobacco smuggling problem on an ongoing basis. Interception of illicit tobacco products is achieved through a combination of risk analysis, profiling, intelligence and the screening of cargo, vehicles, baggage and postal packages.

Revenue officers also target the illicit trade post-importation by carrying out intelligence-based operations and random checks at retail outlets, markets and private and commercial premises. These checks include street-level exercises to tackle illicit cigarette sales.

A new multi-annual strategy for dealing with the illicit tobacco problem is currently being drawn up, and the Revenue Commissioners will consult with key stakeholders in preparing this document.

Revenue has had success in seizing illicit cigarettes intended for sale here or in the UK. In 2010 Revenue seized 178 million cigarettes; in 2011 the figure was 109 million; 96 million in 2012 and 41 million in 2013. These figures show a marked decline, which reflects a shift in the way illicit cigarettes are trafficked. It is believed that criminal gangs have been moving away from very large consignments in favour of smaller volumes as a result of the number of large seizures being made throughout the EU, including in Ireland. However, the most important measure for Revenue is the survey data on illicit consumption, which indicates containment and possibly some modest progress.

Where possible those involved in smuggling, distributing or selling illicit cigarettes are prosecuted. In 2013, 101 convictions for smuggling or other illicit cigarette offences. The Courts imposed custodial sentences in 38 cases, 20 of which were suspended, and imposed average fines of over €2,600 in 62 cases.

4. Revenue Powers and Resources

Substantial penalties for tobacco-related offences are provided for in the Finance Acts 2001 and 2005 (as amended). The penalty in the case of a summary conviction for the smuggling of tobacco products and the illegal sale of unstamped tobacco products is a fine of €5,000, or a term of imprisonment not exceeding 12 months, or both a fine and a prison sentence. A conviction on indictment for the smuggling of tobacco products and the illegal sale of unstamped products allows the Court to impose a fine not exceeding €126,970, or a prison term of up to 5 years, or both a fine and a term of imprisonment. In the case of smuggled tobacco products, where the value of the products is greater than €250,000, a conviction on

indictment allows the court to impose a penalty not exceeding three times the value of the products concerned and/or a prison term of not more than 5 years.

There have been a number of calls recently for increases in penalties for illicit tobacco offences. Penalties for summary offences must be set in line with District Court guidelines. The penalty of €5,000 provided for in respect of such offences under excise law is already at the maximum allowed under those guidelines. The penalties for convictions on indictment were last reviewed and increased very significantly in Finance Act 2010.

The specific penalty to be imposed in any case is a matter for the Courts. In addition, section 130 of the Finance Act 2001 permits a trial judge, at his or her discretion, to mitigate a fine or penalty incurred for an offence under excise law, provided that the amount so mitigated is not greater than 50% of the amount of the fine or penalty.

Revenue has substantial enforcement powers to deal with illicit tobacco and, as with penalties, they are kept under review and are amended as appropriate. Finance Act 2013 introduced new measures to allow Revenue to deal more effectively with the risk of the illicit manufacture of tobacco products. These measures include new offences relating to the illicit production or processing of tobacco products and provision for the forfeiture of any equipment or materials, including unmanufactured tobacco, used for illicit production.

In addition, Finance (No. 2) Act 2013 introduced a provision whereby a Revenue Officer or a Garda who reasonably believes a person is guilty of an offence of dealing illegally in unstamped tobacco products may search the bags or other receptacles of that person (but not the person themselves or any article of clothing on the person) where they reasonably believe they contain tobacco products concerned in the offence.

In accordance with EU rules, private individuals are not liable to pay Irish excise duty on cigarettes they have bought duty-paid in another Member State and transported personally to Ireland for their own use. However, Ireland has taken advantage of EU rules to impose a quantitative restriction on the number of such cigarettes where they have been brought from a Member State that has not yet reached the EU minimum levels of tobacco products tax on cigarettes. From 1st January 2014, individuals travelling from Bulgaria, Croatia, Hungary, Latvia, Lithuania and Romania may bring in a maximum of 300 duty-paid cigarettes from those states for their personal use without payment of Irish duty. The restriction will apply until 31 December 2017, or until such time as a Member State concerned achieves the minimum tax levels required, whichever is the earlier.

Revenue Resources

It is not possible to disaggregate staffing resources deployed exclusively on policing the smuggling and sale of illicit tobacco products. Revenue has approximately 2,000 Revenue staff engaged on activities that are dedicated to targeting and confronting non-compliance. These activities include anti-smuggling, audit, assurance checks, debt management, investigations, prosecutions and anti-avoidance.

In terms of detection technologies, Revenue use scanning equipment and sniffer dogs in ports and airports. Revenue currently has three scanner systems. Two of these are mobile X-ray scanner systems that are based at Dublin Port and Rosslare Ferry Port and which are available for deployment, on a risk assessment basis, at other ports and locations. The third is a scanner van, a specialist vehicle incorporating an X-ray facility and radiation detection facilities. It is used to monitor baggage and cargo at ports and airports for tobacco, drugs, radioactive materials or other contraband. The adequacy of these resources is kept under review and, where warranted, new equipment is purchased on a regular basis.

Revenue expenditure on non-staff enforcement equipment, such as the purchase and supply of vehicles, maritime cutters, detector dogs, radio equipment, scanners etc. amounted to approximately €3.4m in 2012. Revenue operates a number of programmes based on the strategic priorities applicable over given periods of time. For operational and effective management, the funding and resources assigned to 'programmes' are interdependent, with staffing resources redeployed across programmes according to the time of year and business needs.

In addition to the tax regulations and Revenue enforcement measures, cooperation agreements concluded by the European Commission with the main tobacco manufacturers make them responsible for any illegal diversion of their tobacco products and liable for the tax on any material quantities of product found untaxed in any Member State. In response, the tobacco industry has developed systems to minimise such diversion and the associated penalties, including tracking software called Codentify. While this system is being promoted internationally by the tobacco industry for official use by tax authorities, the track and trace regime mandated by the World Health Organisation Illicit Tobacco Protocol and the EU Tobacco Products Directive is the only regime of concern to Revenue and Revenue has no interest in exploring any alternatives with the tobacco industry whose strategic objective is different. Revenue is monitoring progress in the development of systems under the Tobacco Products Directive in terms of how they will assist in dealing with tobacco smuggling. At this stage, it is considered that such use may be limited. This is because, in terms of tobacco products moving into Ireland, any unpaid product will be identifiable immediately by the absence of a tax stamp, regardless of whether it is captured under the Directive's track and trace systems.

On a practical level Revenue sees little value in a track and trace regime that would be limited in operation to Ireland and a selection of other countries; such a domestic track and

trace regime would add no real value to our existing controls. Revenue's main interest in a track and trace regime is the achievement of an effective global system that addresses the problem of source and transit countries involved in the manufacture and distribution of illicit tobacco products for the global market.

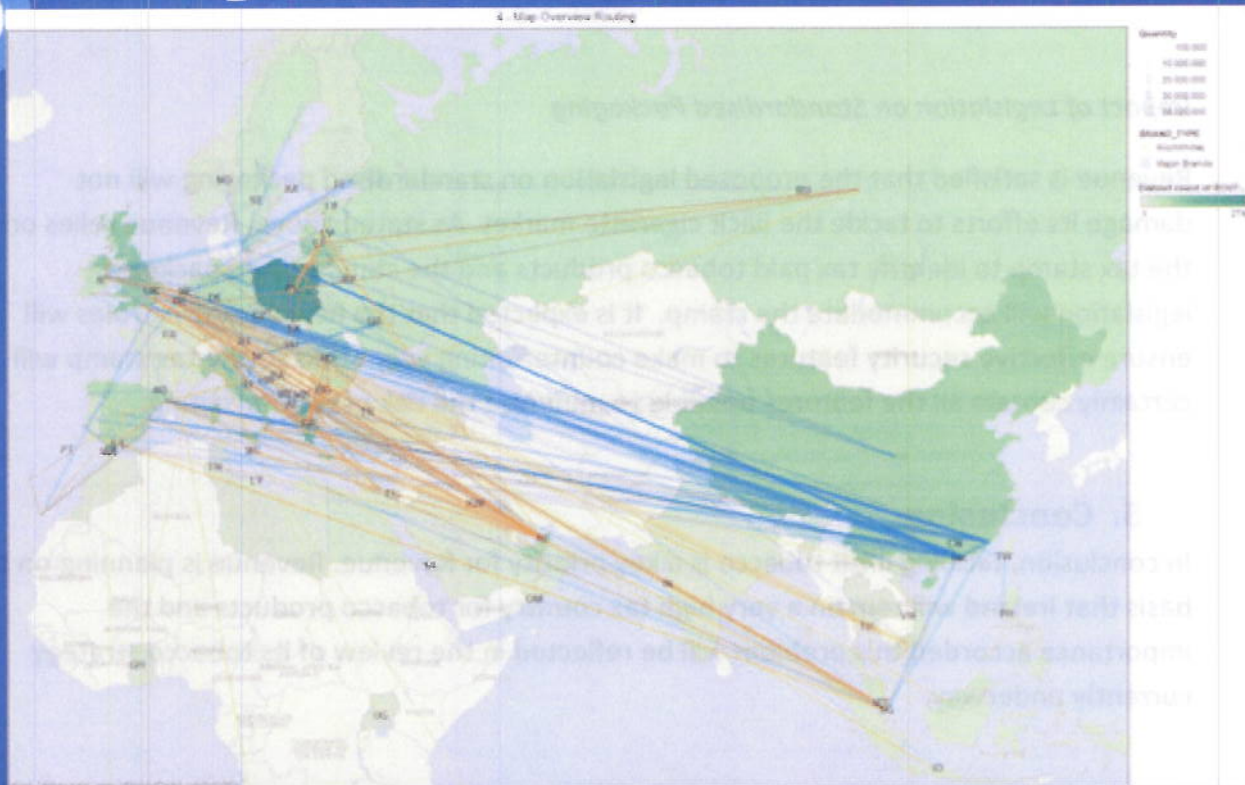
Impact of Legislation on Standardised Packaging

Revenue is satisfied that the proposed legislation on standardised packaging will not damage its efforts to tackle the illicit cigarette market. As stated above, Revenue relies on the tax stamp to identify tax paid tobacco products and the standardised packaging legislation will accommodate the stamp. It is expected that the new packaging rules will ensure effective security features to make counterfeiting very difficult; the tax stamp will certainly contain all the features possible to minimise the risk of counterfeiting.

5. Conclusion

In conclusion, tackling illicit tobacco is a key priority for Revenue. Revenue is planning on the basis that Ireland will remain a very high tax country for tobacco products and the importance accorded this problem will be reflected in the review of its tobacco strategy currently underway.

Routing information



Diesel Laundering

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DIESEL LAUNDERING

1. Introduction

Excise duty on mineral oils, in the form of mineral oil tax and carbon tax charged on petrol, diesel, kerosene and heavy fuel oil, represents nearly half of the annual €5bn in excise duties collected by Revenue. Some €1.4 billion was collected on diesel in 2013, representing over half of the €2.3 billion in duty collected on mineral oils in that year.

The rate of duty applicable to auto diesel is €479.02¹ per 1,000 litres and to Marked Gas Oil (MGO) is €102.28² per 1,000 litres. In addition, MGO attracts a VAT rate of 13.5 % while auto diesel is liable at the standard VAT rate of 23%. As of 31st January 2014, the average retail price differential between marked and unmarked diesel was 59 cent per litre.

While known primarily for its use in agricultural vehicles, marked diesel is used also to fuel trains, for construction and industrial machinery, for commercial sea-navigation (including fishing) and for commercial home heating. Similar reduced rate regimes are in existence in other EU member states and most developed economies.

To distinguish diesel that is subject to a reduced rate of duty and to enable Revenue officers to identify illegal use, the diesel concerned is mixed with dyes and chemical markers under Revenue supervision before it is tax paid at a lower rate and released for consumption as MGO. Only those dyes and markers that are stipulated by regulation can be used and include the yellow fiscal marker prescribed by the EU for marking oils (the “euromarker”) and national markers consisting of a blue dye and a chemical marker. The addition of these markers gives MGO a green colour, hence the colloquial term “green diesel”. Similarly, different markers used in the UK give MGO there a red colour, hence the term “red diesel”.

In the vast bulk of cases, the fuel company adds the markers immediately before the diesel is tax paid and loaded for delivery. The addition of markers must be carried out by the trader at a place approved by the Revenue Commissioners under Revenue supervision. In some cases the diesel brought into the State is already marked by the fuel company to Revenue’s satisfaction and is ready for immediate release.

The cost to the fuel company of adding the markers is negligible. The real cost is the duty foregone to the State as a result of the reduced rate of tax applying to MGO and fraud associated with laundering marked fuel.

The primary illegal use of MGO is for road transport, in place of fullytaxed auto-diesel. It is an offence to use marked fuel in a vehicle designed for road use and Revenue regularly checks for such use by examining vehicles and taking fuel samples for testing. Once marked

¹ made up of a carbon charge component of €53.30 and a non-carbon component of €425.72

² made up of a carbon charge component of €54.92 and a non-carbon component of €47.36

diesel is detected, the person concerned is prosecuted and the vehicle may be seized.

Fuel laundering offences carry a penalty on summary conviction of €5,000 and/or a term of imprisonment not exceeding 12 months. The penalty on conviction on indictment is a fine not exceeding €126,970 or a prison term of up to 5 years, or both a fine and imprisonment. The latter penalty amount was introduced in the Finance Act 2010 and is a considerable increase on the previous penalty of €12,695.

The Table 1 below sets out a summary of the consumption and excise receipts from auto diesel and MGO in the period from 2003 to 2013.

Table 1: Excise Receipts and Volume of Diesel Consumption

	Auto-Diesel		MGO	
	Receipts €m	Volume (m.litres)	Receipts €m	Volume (m.litres)
2003	731	2,299	70	1,565
2008	1,052	2,960	65	1,503
2013*	1,267	2,676	107	1,102
% Change '08 – '13	+20.4%	-9.6%	+65%	-26.7%

Note: rates last changed with the introduction of a carbon component in 2010 and a rate increase in 2011.

2. Fuel Fraud

In the past, smuggling was the main type of fuel fraud, involving lower-taxed and priced fuel from Northern Ireland being brought untaxed into the State. This has changed in recent years as a result of increased tax in the UK on mineral oils, including diesel, which has resulted in prices in Northern Ireland and the rest of the UK that are above those applying in the State. The excise rate on auto diesel in the UK now stands at €674.15 per 1,000 litres and the average retail price for auto diesel in Northern Ireland (VAT inclusive) is €1.67 per litre of diesel, in comparison to the average price (VAT inclusive) in Ireland of €1.47 per litre.

From the beginning of 2011, environmental regulations relating to the sulphur content of fuel changed following the introduction of Directive 2009/30/EC (Environmental Directive). This resulted in MGO with the same sulphur content as auto diesel coming onto the market. Before this development, while diesel laundering occurred, Revenue could, even with laundered fuel, identify and subsequently prosecute where high sulphur diesel was detected in road vehicles.

As a consequence of these changes, fuel laundering became more viable and criminal gangs intensified their laundering and distribution activities dramatically from the first half of 2011. Fuel laundering has since become the main type of fuel fraud.

Of its nature, it is inherently difficult to estimate the size of mineral oil fraud with any confidence. The 'tax gap' measures used by the UK authorities are heavily qualified and, in the case of Northern Ireland, they are unable to disaggregate their 'tax gap' estimate

between 'illegal diesel' and diesel bought legitimately across the border. We would face the same difficulties on attempting to estimate the illegal market here.

Fuel Laundering, carried out mainly by organised criminal gangs, is a process whereby the marker is washed out from MGO through the use of bleaching agents. The current method of oil laundering using bleaching earth is not sophisticated and requires little or no fixed plant or equipment and is often conducted in an open isolated environment. The process often involves placing a tanker-load of legitimate MGO into an empty stationary tanker containing bleaching earth. The product is then agitated following which the laundered product is transferred back into the original tanker for delivery to a filling station. The residue is removed from the stationary tanker into Intermediate Bulk Containers (IBCs). This process can be repeated several times daily at one site. The IBCs containing the waste are simply dumped. The diesel is sold as legitimate auto diesel at a high profit to the unsuspecting public whose vehicles suffer significant engine damage as a consequence.

The EPA reports that, typically, waste associated with these illegal activities, such as sulphuric acid wash, contaminated absorbent and bleaching earth sludge, is a significant health and safety risk because of its acidic nature and has to be exported for treatment to hazardous waste treatment facilities in either Holland or Germany at significant cost. Local authorities have had to take measures to protect watercourses and water supplies, including private wells, at places where this toxic waste has been dumped. They have often also had to clean roads left in a dangerous condition from the waste spillage.

Figure 1 – Example of a Laundering Plant



Diesel with a Repayment Scheme

3. Replacing Marked

In response to the problem, Revenue considered carefully how best to tackle the fraud, particularly the most effective approach to the key issue of preventing fuel laundering. Replacement of the marker system with a repayment scheme was considered but was not recommended on the basis that it would not prevent diesel laundering. The high cost and

significant impact on users of introducing such a system could not be justified in these circumstances.

Replacement of the marking system would not prevent fuel laundering because of the high risk that the fuel criminals would replace 'green' diesel with 'red' diesel from Northern Ireland. Marked diesel will continue to be available in the North because the UK authorities have advised Revenue that they have no plans to move to change its marker system to a repayment system. In these circumstances, the organized crime gangs involved in fuel laundering would target replacement MGO from Northern Ireland to maintain their lucrative operations, continuing to launder either in Northern Ireland, or in the State by smuggling tankers of 'red' diesel across the border. Such an outcome would in fact worsen the impact on the Exchequer.

Aside from the risk of fuel laundering continuing, the change to a repayment scheme for all users would involve the establishment of an expensive and wide-ranging repayments system and place a new administrative burden on oil traders, users across the economy and the Revenue Commissioners. It would also impose significant cash-flow costs on those currently using marked gas oil.

Repayment schemes are themselves vulnerable to abuse and the introduction of a wide-ranging repayment scheme such as that proposed would not necessarily offer greater security against tax fraud than the current arrangements. In addition to the risk of false repayment claims under the scheme, unmarked fuel for off-road could be diverted easily to road use. Therefore, in addition to the administrative costs of operating a repayment scheme, Revenue would be obliged to allocate additional resources to deal with the now combined risks of fraud under the repayment scheme and the ongoing threat of fuel laundering.

In summary, Revenue concluded that a repayment system would not offer greater security against fraud, would be costly to implement and would likely prove to be unsuccessful against fuel laundering. Instead, an alternative strategy was adopted to deter fuel laundering by way of a more effective marker to enable laundered fuel to be detected more easily on both sides of the border and supply chain controls to provide better information and control over the supply and sale of MGO and auto-diesel.

4. Revenue Strategy

The Revenue strategy on combatting fuel laundering is based on enhanced supply chain controls for suppliers and retailers, continued robust enforcement action and, in partnership with Her Majesty's Revenue and Customs (HMRC), the acquisition of a more effective fuel marker.

Supply-Chain Controls

From 2011, Revenue introduced a series of supply-chain control measures designed to make it difficult for fuel criminals to source marked fuel for laundering and to get laundered product onto the market.

- The licensing regime for auto fuel traders was strengthened with effect from September 2011 to limit the ability of the fuel criminals to get laundered fuel onto the market.
- A new licensing regime was introduced for marked fuel traders in October 2012, which is designed to limit the ability of criminals to source marked fuel for laundering.
- New requirements in relation to fuel traders' records of stock movements and fuel deliveries were introduced to ensure data are available to assist in supply chain analysis.
- Following a significant investment in the required IT systems, new supply chain controls were introduced from January 2013. These controls require all licensed fuel traders, whether dealing in road fuel or marked fuel, to make monthly electronic returns to Revenue of their fuel transactions. Revenue is using this data to identify suspicious or anomalous transactions and patterns of distribution that will support follow-up enforcement action where necessary;

All mineral oil licences are subject to careful vetting during to application process and to stringent conditions once the licence is granted. Applicants must also demonstrate to Revenue that they will be able to comply with all conditions of the licence. Licenced mineral oil traders who are considered high risk are vetted on an annual basis in advance of each licensing year. There is strict enforcement of the licensing requirements and action is taken against those who are either operating without a licence, or who are not complying with licence conditions.

In addition to a strengthened licensing framework, since January 2013, all licensed fuel traders are required to make electronic returns to Revenue of their monthly fuel transactions. Analysis of the monthly returns enables Revenue to identify suspicious or anomalous fuel transactions and patterns of distribution. Traders found to be involved in suspicious activity are investigated and if they are unable to account properly for the source or disposal of product face revocation of their licence, tax assessment and prosecution, where appropriate.

Compliance levels in relation to submission of electronic return are high and traders who do not submit returns are subject to Revenue intervention. Revenue has carried out a comprehensive analysis of the data returned in 2013 and is in the process of referring high risk cases for follow-up investigation.

These supply chain controls were augmented in the most recent Finance Act whereby any mineral oil trader who supplies or delivers marked fuel that is subsequently laundered, or is otherwise the subject of a mineral oil tax fraud, may be liable for the Mineral Oil Tax that has been evaded. The mineral oil trader is liable where he or she knew, or was reckless as to whether or not he or she, in making the supply or delivery, was participating in a transaction connected to the evasion of Mineral Oil Tax.

This initiative provides Revenue with means to tackle traders who continue to supply marked fuels without regard to the bona fides of the recipients or the ultimate use of the product. To assist them in identifying and avoiding such transactions, Revenue has

developed guidelines for mineral oil traders and has already received assurance from a number of suppliers that they are taking steps to guard against making supplies believed to be connected with fuel laundering.

New Marker

Revenue and HM Revenue & Customs (HMRC) signed a Memorandum of Understanding in May 2012 on a joint approach to finding a more effective marker for use in both jurisdictions. On foot of this Memorandum, a joint Invitation to Make Submissions was published in June 2012, following which a number of proposals for a new marker were received. These submissions were subjected to a rigorous joint evaluation process by Revenue and HMRC that was completed late last year. As a result of this process, a new product was identified to mark rebated fuels in both countries. During the joint evaluation, laboratory testing showed that the chosen marker is significantly more effective than the current markers and is highly resistant to known laundering techniques. The new marker, which was announced on 13th February, is an important element of Revenue's overall strategy to tackle the problem of fuel laundering. The new marker will be introduced in consultation with the oil industry and is expected to be in place within 12 to 18 months.

5. Enforcement Action

In addition to the activities described above Revenue undertakes a range of enforcement activities to detect fuel laundering, seize laundered fuel and laundering equipment, and apprehend and prosecute those involved in this criminal activity. These include on-going analysis of the nature and extent of the problem; development and sharing of intelligence with agencies on both sides of the border; the carrying out of intelligence driven operations using covert surveillance to identify oil laundry locations.

Mineral oil licensing compliance is now over 98% and Revenue investigates all non-compliant traders. In the years 2012 and 2013, 48 applications were refused by revenue, following vetting procedures, and 9 licences were revoked by Revenue in the same period. In the period from mid-2011 to end 2013, 119 filling stations were closed, mainly for breaches of licensing conditions.

Since the beginning of 2011, over 2.8 million litres of fuel have been seized and 29 oil laundries detected and closed down, including 9 in 2013. During that year, there were three successful prosecutions for mineral oil tax fraud (including one conviction for fuel laundering), with custodial sentences of 2 years in two cases and a suspended sentence of 6 months in the other case. There were also two summary convictions in each of which the courts imposed a fine of €4,000. There has been one conviction for oil laundering in 2014 to date with a 2½ year custodial sentence imposed, suspended for 3 years. There was a further summary conviction for which the court imposed a fine of €2,500.

Currently there are 27 serious cases of mineral oil tax evasion in the investigation or prosecution process. The DPP has directed trial on indictment in 9 of those cases.

Cooperation with State Bodies

Revenue liaises effectively at local and national level with An Garda Síochána and with local authorities in detecting fuel laundering plants and in dealing with the aftermath of such detections, including the arrest and detention of suspects and in cooperating with the work of removing materials and cleaning up the site.

Cross Border Cooperation

There has been close cooperation between the relevant authorities North and South in combatting the organized crime gangs that are responsible for fuel laundering. Arrangements for intelligence sharing and operational cooperation are well-established. The Cross Border Fuel Fraud Group, in place since 2008, brings together representatives from a number of agencies, including Revenue, Her Majesty's Revenue and Customs, An Garda Síochána and the PSNI, and provides a forum for all the relevant agencies in both jurisdictions to ensure ongoing effective cooperation. Since its inception, this Group has successfully targeted a number of illegal operators in the border area.

Engagement with Legitimate Industry Operators

Revenue works with fuel sector representative bodies, which have been very supportive of the range of measures introduced to combat fuel laundering, to improve the integrity of the distribution system and to challenge those suppliers involved in supplying criminal elements with marked fuel for laundering.

As part of the process relating to the changes introduced by Revenue, particularly in relation to licensing and electronic returns, Revenue have had regular engagement with the Mineral Oils Forum, which is a trade forum consisting of representatives from the Irish Petroleum Importers Association (IPIA), the Irish Petrol Retailers Association (IPRA) and other relevant parties, including fuel distributors, retailer representative groups and the Society of the Irish Motor Industry (SIMI). The response from this Forum to the new licensing and reporting requirements has been very positive and supportive.

Revenue also chairs the Hidden Economy Monitoring Group (HEMG) and has established regional sub-groups of the HEMG to facilitate traders reporting suspicious matters through their representative associations on a confidential basis. This information can assist Revenue in closing down the illicit trade by identifying traders supplying fuel to launderers and by identifying outlets that are selling laundered diesel.

6. Conclusion

Measuring the effectiveness of the strategy is difficult. Insufficient time has elapsed and the new fuel marker has yet to be deployed. Industry sources have expressed satisfaction with the control system now in place and have advised Revenue that they are seeing an increase in auto-diesel sales at the pumps. Provisional exchequer returns for 2013 show an increase of 5% in auto-diesel consumption while consumption of marked diesel is down 2.1% and consumption of petrol has declined by some 6%. Initial results for early 2014 suggest this trend is continuing with provisional estimates showing auto-diesel consumption rising by 7%. The upward movement in auto diesel consumption indicates that the strategy is having the desired effect of making it difficult for fuel launderers to source MGO to supply the market with washed diesel. However, these indicators are provisional and a longer time-frame is needed to show the full impact of the controls introduced in 2013, the new provisions in relation to reckless trading which are being rolled out and the impact of the new marker which will be in place in 2015.

