



An Roinn Airgeadais
Department of Finance

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28 November 2008

Mr Jim Ryan
President
Irish Taxation Institute
South Block
Longboat Quay
Grand Canal Harbour
Dublin 2

Dear President

Thank you for your constructive letter about the Finance Bill (No. 2) 2008.

The points you make regarding the additional compliance obligations are well taken and, as you suggest, these will be borne in mind in the light, inter alia, of the resultant Exchequer yield.

In relation to the new civil penalty measures in the Bill, these changes were prompted by the need, having regard to the European Convention on Human Rights, to have an independent tribunal examine whether a person is liable to a civil penalty for contravention of tax or duty legislation. Accordingly, the Bill provides that with effect from the passing of the Bill a person's liability to a civil penalty may only be determined by a court.

This in turn required that those elements of existing Revenue practice as regards tax-gearred penalty amounts and qualifying disclosures (as set out in their published *Code of Practice for Revenue Auditors*) be put on a statutory footing. This change to the tax-gearred penalties will only apply as respects an act or omission arising on or after the passing of the Bill.

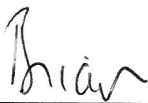
This does not, however, mean that the new measures will "displace" Revenue's existing Code: I understand from Revenue that the remaining elements of the Code –



those not affected by the changes in the Bill – remain extant, which means that existing administrative practices in the conduct of Revenue audits and investigations are maintained. Moreover, the elements of the Code relating to tax-geared penalty amounts and qualifying disclosures will still apply as respects a liability to a civil penalty for acts or omissions arising before the passing of the Bill, the only change being, that if there is no agreement as to the amount relating to penalties to be included in a settlement, then Revenue has to apply to the courts so that the courts may determine whether or not a liability to a penalty arises.

I understand that Revenue have already given some advance briefing on the civil penalty changes to the ITI and other members of the Tax Administration Liaison Committee (TALC), and that further engagement will take place between Revenue and TALC to clarify any remaining issues around the interplay between the Code of Practice and the Finance Bill changes. I trust that this clarifies the position and you will appreciate that there is no requirement for a meeting with my Department which in any event is precluded by the extremely tight time frame for the enactment of the Bill.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Brian', written in dark ink.

Brian Lenihan TD
Minister for Finance