From: [redacted]
Sent: Tuesday 9 January 2024 16:43
To: VAT Modernisation <vatmodernisation@revenue.ie>
Cc: [redacted]
Subject: [External] Public Consultation on Real-time Digital Reporting and Electronic Invoicing

Dear Sir/Madam,

Many thanks for the opportunity to comment on the Public Consultation on Real-time Digital Reporting and Electronic Invoicing. I am writing on behalf of [redacted], which operates in Ireland principally through [redacted]. In copy of this response is our [redacted].

We are contributing to the consultation process as a taxpayer. [redacted]

The remainder of this response is structured according to section A of the Consultation Questions for your ease of reference. We have not provided a response to question 5 (related to public procurement) nor question 7 (aimed principally at small business).

Question 1: What are your views on the proposal to introduce real-time reporting for B2B and B2G transactions?

In our view, this is the clear direction of travel not only at the European level but also globally. We are grateful that Revenue is signposting its intentions in this area so clearly and are pleased to have the opportunity to provide comments and feedback at this early stage.

We are strongly supportive of steps to modernise the collection of VAT and, particularly, to address fraud in the system, especially Missing Trader Intra-Community (MTIC) fraud. In order to achieve this key aim, we believe that Revenue must ensure that it has the capacity to effectively use the significant volume of information it would receive under a real-time reporting regime to proactively address those seeking to abuse the VAT system.

Finally, we would note that we fully agree with Revenue's approach of seeking to align with the DRR proposals under the ViDA package. From the perspective of a multinational operating across many territories, the prospect of multiple 'flavours' of DRR is a worst-case scenario outcome – the more that EU and domestic regimes can be brought into alignment, the simpler it will be for business to comply.

Question 2: What matters should be considered in planning for a transition to a new VAT reporting system?

We would highlight three key points – timeline, benefits to business and data security.

Timeline

Introduction of a DRR would be a significant IT project for both Revenue and Irish businesses and a successful launch will be dependent on ample lead time. We see best practice as providing a two year core timeframe for implementation within an overall four year framework:

- An initial phase of one year for consultation
- A two year phase for the build, testing and piloting, consisting of:
    - 12 months to publish legislation, technical documents, guidelines and FAQs
    - 6 months of an operational open test environment
    - 6 months for a voluntary pilot scheme
- A final one year phase for actual launch and subsequent 'soft landing' period for taxpayers

Benefits to business

In our experience, DRRs do in practice tend to increase costs and burdens on business. This is due to the complexity of the IT implementation project itself as well as other implications discussed further below in response to question 3. In our view, the introduction of DRR should therefore go hand-in-hand with other amendments aimed at reducing other VAT collection burdens on business. In particular, we would suggest

- A relaxation of the 'should have known' limb of the *Kittel* test in cases of correctly and timely reported transactions. For example, if a transaction has been correctly reported by a business via a DRR, the period under which that business can be denied input tax recovery under the 'should have known' test should be limited to a few months. This approach is logical given that Revenue would have full visibility of the transactions and should therefore be in a position to quickly flag any concerns over supply chains potentially involving fraudulent actors
- A shorter statute of limitations for errors in timely reported transactions, to provide business with greater legal certainty. Given that Revenue would be in possession of information on transactions in near real time, there should be no need for a four year limitation period, as might have been the case when progressing 20th century paper-based audits.

Data security

The introduction of a DRR would create a vast resource of data under Revenue's control. Much of this data would be commercially sensitive, for example because it indicates the price at which companies buy and sell at. Data derived from genuine transaction records could also be used in social engineering, i.e. the use of deception to manipulate individuals into divulging confidential or personal information that may be used for fraudulent purposes.

Such a central repository of sensitive information poses a high risk from a potential data breach and therefore we would flag the critical importance of ensuring the utmost standards of data security to protect that data from attacks by bad actors.

Question 3: If your business is currently subject to a VAT reporting programme in another EU or non-EU country, can you please share best practice, recommendations or lessons learnt?

We would again highlight three key points – administrative burden, stability and reporting deadlines.

Administrative burden

One key observation is the additional burdens that DRRs create for business, on top of the significant administrative and risk burden that businesses already face in their role as VAT collectors. Two aspects of this are obvious – the costs and efforts of initial implementations (and implementation of subsequent amendments to the regime) and the effort to maintain the ongoing reporting requirement.

However, in our practical experience a third element – addressing resultant audit queries – is often the most time consuming. In both Spain and Czechia, we have observed after the introduction of DRRs a material increase in the extent of transactional level questions from the tax authorities in those countries, typically relating to purchases that may not have been correctly reported by our suppliers. These are, of course, valid enquiries, but the daily administrative burden should not be underestimated. We suggest that Revenue consider how it will efficiently and effectively target its audit activities following receipt of DRR information and further consider, as noted above, how administrative burdens for business can be reduced in other compensatory areas.

Stability

Stability of the DRR requirements both before and after implementation is also an important factor. Changes to specifications, particularly prior to implementation, necessitate rework by business leading to avoidable costs and potentially also to delay. Post-launch changes or adjustments to the reporting regime entail further work for all stakeholders, sometimes requiring as much planning and resource as the initial implementation.

Reporting deadlines

Due consideration should also be given to the period of time allowed to business to report transactions. The two day deadline contained in the original ViDA proposals was completely unworkable, particularly in relation to purchases as this deadline operated from the date of transaction rather than from the date of invoice receipt and processing.

In practice, many taxpayers also find the deadlines under the Spanish SII system (broadly, four days from the date on which the transaction is recorded in the accounting system) extremely challenging to meet. It should be noted that there is a natural trade-off between speed and accuracy here – if transactions are to be reported immediately then any transactions which are initially mis-posted by a business will also be mis-reported as there is no opportunity to review and correct that posting.

That said, we also recognise that timely reporting of transactions is necessary to achieve the aim of fraud reduction. Balancing these factors, we would suggest a minimum period of 10 days from the date on which an invoice is issued (for sales) or accepted and processed (for purchases) by a business.

Question 4: Have you any observations, concerns or recommendations on a move to mandatory electronic invoicing for B2B and B2G domestic VAT transactions?

We do not consider that the introduction of mandatory electronic invoicing is necessary to achieve the aims set out in the consultation. In our view, DRR can exist as a standalone proposition.

The introduction of detailed electronic invoicing regulations – and especially the mandatory adoption of any particular standard (i.e. EN 16931) – risks repeating the failures of tax policy around the turn of the millennium. At that time, businesses were increasingly seeking to innovate with the introduction of different forms of electronic invoicing, but tax regulations of the time were a

significant obstacle to this. It took many years for tax regulations to catch up to commercial practice, holding back the widespread adoption of electronic invoicing in that period.

Mandating the current state of commercial practice and technical capability in electronic invoicing would effectively prohibit the adoption, and discourage even the development, of new advances in the field. It would lock us in to current technologies in much the same way that prior tax regulations locked us into paper invoices for so many years.

It is also important to recognise that whilst the invoice is currently an important document for tax purposes, it is not a document that is created solely for tax purposes. The invoice also serves as an important touch point between the supplier and customer and allows, for example, communication of relevant service information or offers. In our industry, telecommunications, the invoice is also frequently used to provide detailed call record information to the customer. These additional features of commercial invoices are not typically supported by existing electronic invoicing standards.

In Italy, following the introduction of mandatory electronic invoicing (Sistema di Interscambio, "SdI"), we have experienced the practical need to duplicate our invoices – one 'tax' invoice to the customer via the government portal and another 'commercial' invoice direct to the customer, containing all of the desired and commercially relevant information. This is a very inefficient approach and adds only cost and complexity to the process.

More generally our experience across a range of territories is that the complexity of the electronic invoicing standards – and the high degree of technical specialism therefore required to ensure compliance with them – effectively forces the majority of businesses to rely on a third party in the issuance of electronic invoices, further increasing the cost of doing business. Whilst we agree with Revenue's view that the implementation of electronic invoicing can bring efficiency benefits to business, we believe that business should ideally be left to take that decision for themselves, adopting electronic invoicing when the benefits of doing so outweigh the costs to them of making that choice.

Question 6: What suggestions would you offer in Ireland's arrangements for a mandatory B2B and B2G eInvoicing programme?

If electronic invoicing is mandated then we would suggest that the critical point is to avoid strict definitions or the exclusive adoption of particular standards or technologies, particularly with regards to B2B relationships. Whilst we agree that widespread adoption of one chosen standard could bring benefits in the here and now, we also believe that the lost opportunities for future innovation that an overly strict legislative approach would entail is too great a price to pay.

Rather, we would suggest that any tax requirements be framed around the outcomes that Revenue wishes to see – that *what* rather than the *how*. For example, rather than requiring business to issue invoices complying with EN 16931, Revenue could require that invoices be:

- Issued electronically,
- Be capable of automated processing by the recipient, and
- Be capable of translation into a human readable format

and then leave business to choose – and critically to develop – the technological basis upon which to meet these requirements.

Please do feel free to reach out directly (contact details below) if you would like to discuss any matter further – I would be more than happy to do so.