

Is The Taxpayer Really Revenue's Customer? By Mark Redmond

In some of the "better" English public schools, when an errant pupil was given a beating by the Master he was expected to stand up, bow his head and say "Thank you, sir". This unusual etiquette seems to have transferred across the Irish Sea to our taxation system. Not only is it politically incorrect to find the enforced extraction of your money a painful process, we are encouraged to see it as a pleasurable activity. Indeed, some of our "Masters" think we should feel guilty if we don't pay more tax than our legal obligation.

Over the past ten years the Revenue Commissioners have changed their thinking about taxpayers. They now publicly describe taxpayers as "customers". Their "Statement of Strategy 2005-2007" promises "We will provide quality service to all our customers". Some taxpayers may be excited by this promise. However three cardinal service principles are not present in the Revenue-customer model. Firstly, it is a rare Revenue official who believes that "The customer is always right". Secondly, the taxpayer cannot heed the Tanaiste's advice that the customer should shop around for the best service available. Finally, the taxpayer/customer who is unhappy with the level of service they receive from Revenue can forget about asking for their money back. Revenue stated last week that 100,000 of the 300,000 PAYE taxpayers who tried to ring them in recent weeks could not get through – how many businesses can afford to not take a call from a third of their customers?

In today's highly competitive market customers typically expect good credit terms from their service providers. This is not the case when it comes to paying taxes. How many of us would choose to do business with an entity which imposes interest on late payment of bills of between 10 to 12% per annum even where the payment is late by a couple of days. How would we feel if we had inadvertently overpaid our service provider and had to wait for periods of six to eighteen months to get our money back with no interest credited?

Information held concerning customers by their suppliers has to be used in sensitive ways thanks to the Data Protection Act. For example, customers need to give their permission before the service provider can allow others to contact them directly with marketing proposals. When it comes to tax things work differently. Tens of thousands of taxpayer/customers recently received letters from their life assurance companies warning them that if they had any undeclared tax relating to their investments they better come clean quickly. These letters were issued at the behest of Revenue and the vast majority of them were received by compliant taxpayers. Extensive coverage has been given to the work done by the Large Cases Division of Revenue who are focusing on the wealthiest 250 people in Ireland. The subtext of this coverage is that many of these people are shirking their tax responsibilities. The regular publication of the "Irish Rich Lists" in the media means it isn't too difficult for the citizen to make an educated guess as to the identity of these 250 people. The same point applies to the 300 companies also dealt with by the Large Cases Division. We are dangerously close to a position in this country where wealth creators are being pilloried. Recent examples include a high net worth individual who was accused of engaging in a "tax scam" because he donated a significant work of art to the State for which he received a tax credit. Another report labelled our top companies as tax dodgers simply because they claimed tax allowances on equipment they use in their businesses.

What about Revenue's promise to provide all their customers with a quality service? Many service providers have "gold card customers" who receive a premium service - are Revenue going down the same road? Some of the companies handled by the Large Cases Division appear to have been offered a gold card by Revenue. Revenue are asking these companies to sign up to a compliance agreement. This agreement goes beyond compliance however. It also seeks a commitment from the company that they will consult Revenue before engaging in tax planning activities. Revenue promise, under the deal, that they will provide a faster information service to the company and they will be less likely to be audited. This may sound like a good deal but it raises some fundamental questions; what happens to a company which for whatever reason, doesn't want to sign this deal - will they be in for a rough time? Revenue has said that the deal is not legally binding so what recourse does the taxpayer have if Revenue don't deliver on their promises? How should all the other taxpayers/customers feel about being outside this particular tent? Should they not expect that all taxpayers/customers should be treated equally by the service provider?

Should taxpayers be obliged to tell Revenue how they propose to manage their personal or business affairs so as to pay no more than their legal tax obligation? The entitlement of all taxpayers to limit their tax liability, within the law, has been recognised at the highest judicial level throughout the developed world. The principle was recently reaffirmed by the Advocate-General of the European Court of Justice in the Halifax case. However, the Irish Revenue's "Statement of Strategy 2005-2007" sets as one of Revenue's goals to "Identify and neutralise tax avoidance". The reader might not find this objective strange because Revenue has included it in the section of their document dealing with tackling evasion. The layman can be forgiven for confusing evasion and avoidance because those who should know better are confusing them on a regular basis. Somebody who has evaded tax has knowingly failed to honour their statutory obligations - somebody avoiding tax has simply planned their personal or business affairs in a manner that their tax cost is minimized but their legal obligation is fully met. The chairman of the Revenue Commissioners has recognised that avoidance of tax is a perfectly understandable instinct because he said so to the Oireachtas Joint Committee on Finance and the Public Service on 10 November 2004 - he further stated that governments worldwide have sought to harness the instinct to reduce tax liabilities. The avoidance of tax has been a cornerstone of Ireland's economic success story - our 12.5% corporate tax rate has attracted huge inward investment and employment growth from corporates seeking to reduce their corporation tax exposure. Tax incentives, which are tax avoidance mechanisms legislated for by governments of all political hues, have made a hugely positive contribution to many aspects of Irish social and economic life including our tourism industry and our third level sector. At an individual level, who would not want to ensure that their children, grandchildren or other relatives benefiting from their will would pay the legally minimum amount of tax on the benefits received? There seems to be a misguided notion that removing all these tax avoidance strategies will have only one result - an increased tax yield for the Exchequer and everything else will continue as before. This is a very dangerous attitude - as the US ambassador to Ireland said in a key speech in March 2005 in Trinity College, our economic success in Ireland is due in large measure to the progressive policies successive governments have pursued in the areas of taxation and education. It is right, as the Minister for Finance has stated, to keep the effectiveness of particular incentives under review.

Attempts to link morality and tax are gaining currency. However, Revenue has not yet put philosophy or theology on the curriculum of their training schools. A number of years ago, in the Dail, the Taoiseach was asked whether he felt it was moral that companies operating in the IFSC paid tax at a rate of 10% (now 12.5%) while PAYE workers paid tax at a much higher rate. The Taoiseach rightly pointed out the enormous benefit to the Irish economy in terms of taxes yielded and employment created because of the approach taken in the IFSC. As he said “One can have all the high and mighty ideas one likes but without generating revenue one cannot pay for services”. Our tax code is blind as regards morality. In fact, our tax code happily includes provisions to tax the profits or gains from illegal activities. Our tax code is also blind when it comes to matters of compassion as many elderly people who have been swept up by recent Revenue investigations and campaigns have found to their financial, emotional and physical cost.

Taxpayers should be happy that Revenue are determined to deliver a customer service ethos. Revenue should be held accountable when they fail to deliver on their customer service standards. But Revenue must also take a hard line against those taxpayers who have evaded their responsibilities. They must also treat all taxpayers equally and consistently even if they don't see some of them as being their “good customers”. Revenue should look on the bright side - unlike every other service provider they will never have to fight for market share!

Mark Redmond is Chief Executive of the Irish Taxation Institute (ITI). The ITI is promoting Tax Return Week from Sunday 29 May to Saturday 4 June – see www.taxireland.ie for details.