Regulatory Issues as they Impact on Business and Competitiveness

Comments from ACCA

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The Association of Chartered Certified Accountants

ACCA is the largest and fastest-growing international accountancy body. 260,000 students and 110,000 members in over 170 countries are served by more than 70 staffed offices and other centres world wide. 7,250 members and 8,200 students live in Ireland.

ACCA's mission is to work in the public interest to provide quality professional opportunities to people of ability and application, to promote the highest ethical and governance standards and to be a leader in the development of the accountancy profession.

Further information on ACCA is available on ACCA's website, www.accaglobal.com

Executive Summary

ACCA welcomes the opportunity to comment on this very important consultation.

The regulatory burden faced by all aspects of the private sector, and indeed the public sector, affects this country's productivity, flexibility and competitiveness. We accept that regulation is necessary, albeit with a light touch. Immediately though, the country must ensure that existing regulations are as efficient, manageable and simple as possible and that they demonstrably serve the public interest.

In general terms ACCA members report that Ireland is an easy place to do business. Hurdles to starting a business are lower than before and with the exception of the matters noted below, the business regulation environment in Ireland is acceptable.

The main matters ACCA members would like to see addressed are:

- The extension of the Company Law Review Group remit to an *'All Law Review Group'* with a rolling programme of review of existing laws and regulation with a view to simplification or removal where appropriate,

- Cost benefit analysis for all new laws and a requirement for a look back audit of the cost benefit analyses after a period of the law being in place,

- A greater emphasis on customer services and co-operation within the Revenue Authorities and ODCE,

- Merge and simplify the number of client reporting requirements for auditors from its current five separate requirements to three different Government agencies, potentially for one single offence, into one reporting requirement to one agency,

- Greater consultation with affected parties prior to the enactment of laws or regulations.

Company Law Review Group remits to be extended: All Law Review Group

ACCA believes that the CLRG remit should be extended to be an *All Law Review Group*. CLRG is doing an excellent job consulting with accountants, auditors and other interested persons, reviewing and suggesting amendments to company law. A similar body tasked to look into the area of taxation law, criminal law, property law etc. would ensure that legislation was kept up to date and relevant. The *All Law Review Group* would:

- Allow for review of all law with simplification being the main focus,
- the removal of unnecessary or obsolete provisions,
- the consolidation of legislation, i.e. the bringing together of disparate pieces of legislation, to remove overlaps and make the whole area more accessible and transparent,
- the clarification of legislation, i.e. resolving doubts and ambiguities about its meaning,
- restating the law with a view to improving transparency, coherence or accessibility,
- The correction of minor errors and omissions, e.g. failure to make necessary consequential provision.

Standard cost benefit test to be passed with all new legislation

There should be standard tests for proportionality and simplicity - particularly with regard to SMEs - which all new legislation should be required to meet before it is passed by the Oireachtas. There should also be compulsory retrospective audits of Regulatory Impact Assessments (RIAs) which would look at their accuracy, impact, costs, as well as examining any negative impact the legislation might have. Where a piece of legislation fails the look back audit procedure it should be automatically be referred back to the Oireachtas.

Multiple reporting requirements

At present there are five reporting requirements for auditors and accountants:

1. S1079 of the Taxes Consolidation Act – report tax evasion to the Revenue,
2. Section 74, Company Law Enforcement Act 2001 – duty to report indictable offences under the Companies Act to ODCE,

3. Section 194, Companies Act 1990 – report where proper books are not maintained to CRO,

4. Section 59, Criminal Justice (Theft and Fraud Offences) Act 2001 – report theft or fraud to the Garda,

5. Criminal Justice Act 1994 (Section 32) Regulations 2003 – report money laundering to the Garda and Revenue.

In practice when a reporting requirement arises it usually has to be reported under multiple pieces of legislation. For example, where an audit client suppresses sales and takes the sales proceeds themselves, the accountant will have to report under at least four and possibly five of the above pieces of legislation to the Revenue, the Garda and the ODCE.

The legislation should be simplified to allow reporting to just the Garda for non company law matters and the ODCE for company law matters. The reporting requirements under 1, 3 and 4 above should be eliminated as they are duplicate requirements. Section 59, Criminal Justice (Theft and Fraud Offences) Act 2001 in particular is totally unworkable, having been introduced without consultation.

Other matters

Audit Exemption
The Minister for Trade and Commerce, has announced that he will bring forward legislation to significantly increasing the audit exemption threshold in Ireland. The Minister announced that he would increase the turnover limit from €1.5m to €7.3 and the balance sheet limit from €1.9m to €3.65m. Both the maximum exemption threshold permitted under EU law. The average audit exemption turnover limit in the EU is approximately €3.5m. However, the turnover limit in the UK and Northern Ireland, the Republic of Irelands closest trading partners, is £5.6m. ACCA welcomes this as a reduction in the regulatory burden in Ireland.

VAT registration limits
Small companies or sole traders are obliged to account for VAT on their sales at a very low threshold. Once a turnover of €500 a week is reached for a service or €1000 for supplying goods the business must account for VAT. In the UK the limit is €2,000 per week for goods or services. The additional paperwork is out of proportion to the lost tax yield. Once registered for VAT, the business will be able to claim input credit for VAT on purchases, so the revenue loss is only the net amount of VAT (or roughly speaking, the VAT on the profit). For most tax payers, profits are taxed at 42%. If the limit is increased the lost VAT revenue will be partially recovered from the increased tax on profits.

ODCE
ACCA members would like to see the ODCE shift its emphasis from the number of prosecutions for breach of company law to a focus on prosecutions which are taken in the public interest. Success should be measured by the reduction in the number of prosecutions taken with perhaps a greater emphasis on the education of directors and other company officers.

Taxation Authorities
The tax authorities should develop a comprehensive code of conduct, acceptable to the majority of taxpayers and developed in conjunction with the accounting profession. This code should be binding on all parties and be balanced between the necessity to collect taxes and the rights of taxpayers. Practitioners would like to see a more co-operative approach to tax collection put in place with a change to the often adversarial approach adopted by the Revenue during revenue audit.

Conclusion
The Ireland of 2006 is an easier place to conduct business than the Ireland of the 1980's and 1990's. That said it is possible to improve the regulatory environment still further through the streamlining of certain processes and a shift in attitude which would result in a stronger enterprise and pro-business culture.