# Considerations for businesses
## as they focus on repaying tax debt deferred under the Debt Warehousing Scheme

by Mairéad Hennessy

**In May 2020, the Irish Revenue announced the suspension of debt collection and the charging of interest on late payment for VAT and payroll taxes. This so-called tax Debt Warehousing Scheme has continued throughout the course of the pandemic and has allowed many businesses to effectively park VAT and payroll tax payments where the business has been in trading difficulties due to the Covid-19 pandemic.**

In this way, the Scheme has provided vital liquidity support to thousands of businesses suffering downturn due to Covid-19. The legislation underpinning the Scheme was implemented in the Financial Provisions (Covid-10) (No.2) Act 2020 which was enacted in August 2020.

Under the Debt Warehousing Scheme business which have stopped or significantly reduced trading on account of Covid-19 can defer payment of eligible tax liabilities until they are in a position financially to deal with the debt. To qualify for the Scheme, the business must have been unable to pay its tax liabilities because of Covid-19 restrictions. Companies that have availed of the Scheme will have seen their turnover and/ or the volume of the customer orders significantly reduce over the course of the pandemic.

Where a business wishes to warehouse tax debt, it may automatically avail of the scheme if that business is managed by the Personal or Business Division in Revenue. Businesses which are managed by Large Corporates Division and the Medium Enterprises Division must apply to the Revenue for warehousing.

Since the scheme was first introduced in 2020, it applied solely to VAT and employer payroll taxes. It has since been expanded to cover personal income tax, Temporary Wage Subsidy Scheme (TWSS) and Employment Wage Subsidy Scheme (EWSS) payments as well as VAT and employer payroll taxes.

The term of the Debt Warehouse Scheme is made up of 3 distinct periods:

Period 1 (the Covid-19 restricted trading phase)

This is the period during which tax liabilities arising can be warehoused. In this period, claimant businesses are required to file tax returns on a timely basis to ensure that they continue to qualify for the Scheme.

### Period 1 began on the following dates:

- 1 January 2020 for VAT
- 1 February 2020 for employer's payroll taxes
- From 26 March 2020 for TWSS overpayments

Period 1 ended on 31 December 2021 for most business. However, it was extended to 30 April 2022, where certain criteria are satisfied. The extension of the Scheme applies to those businesses entitled to and who have made a valid claim for a relevant Government Covid-19 Support Scheme during the period from 1 January 2022 to 30 April 2022. Such relevant Government Covid-19 Support Schemes include the EWSS and / or the Covid Restriction Support Scheme (CRSS).

To avail of the extension to the end of April 2022, the claimant business must already be eligible for warehousing.

The extension applies to the Period 1 end date for all taxes that the taxpayer has warehoused. This means that if a taxpayer has already warehoused all of the eligible taxes (i.e. VAT, Employer PAYE, Income Tax, TWSS and EWSS), then the extension up to 30 April 2022 will apply to all of these taxes. This includes tax liabilities due in respect of April employer payroll taxes and the bi-monthly March/ April 2022 VAT return, due in May 2022.

### Period 2 (the zero-interest phase)

This is a one-year period during which no interest applies to warehoused tax debt. This period runs from 1 January 2022 to 31 December 2022 unless the claimant business is availing of the Period 1 extension to the end of April 2022 in which case Period 2 will run from 1 May 2022 until 30 April 2023.

### Period 3 (the reduced interest phase)

Period 3 will commence on 1 January 2023 for businesses not availing of period 1 post 31 December 2021. For businesses that exit period 2 on 30 April 2023, then Period 3 will run from 1 May 2023. This is an indefinite period during which interest at a special 3% rate is applied to warehoused tax debt from the start of Period 3 until the tax debt is discharged in full. This rate compares favourably to a rate of 10% per annum currently charged on overdue VAT and PAYE (Employer) tax debts.

At the end of Period 2, businesses in the Scheme must provide Revenue with a repayment schedule for the warehoused debt. Revenue have confirmed in their published Information Booklet on Debt Warehousing that warehoused tax debt will not be considered for enforcement activity at the end of Period 2 so long as there is engagement between Revenue and the business concerned.

As such, it is very important that as businesses emerge from the interest free period at the end of 2022, they actively engage with Revenue to put a phased payment plan in place to ensure they continue to benefit from the Debt Warehousing Scheme.

### Exiting the Scheme

Period 1 ended on 31 December 2021 for taxpayers that do not qualify for the extension to the end of April 2022. This means that from 1 January 2022, current tax liabilities fall due for payment on the normal dates. For example, tax liabilities for employer payroll taxes for January 2022 are due in February 2022 and bi-monthly VAT for January / February 2022 will be due in March 2022. It is important that businesses who have been availing of Debt Warehousing over the past couple of years are fully aware of these payment dates and that their cashflow planning for 2022 include these tax payment dates.

Almost 105,000 businesses have availed of the Debt Warehousing Scheme since it was first introduced in May 2020. According to the Revenue's published statistics on 10th February 2022, €3.2 billion of tax liabilities have been warehoused to date. This figure is broken down, as follows:

- VAT €1.496 billion
- Employers payroll tax €1.592 billion (including approx. €570 million PRSI)
- Income tax €59 million (includes approx. €8 million PRSI)
- TWSS/ EWSS overpayments of €57 million

As businesses emerge from the trading restrictions imposed by the pandemic, their focus is turning to how much of their warehoused tax liabilities they can repay. Businesses will need to carefully consider over the coming months the timeline over which they can expect to be able to repay their warehoused tax debt.

When considering the obligation of businesses to commence repayments on warehoused tax debt as they exit period 2, it is relevant to consider that as the quantum of tax debt warehoused over the past couple of years increased, the number of corporate insolvencies fell. This begs the question, what will happen when the state supports are withdrawn? While being absolutely necessary for the survival of many businesses and the retention of hundreds of thousands of jobs, the state supports to business have created a false economy. Businesses that would have closed in normal times have remained open and continue to trade, given a lifeline by Covid supports. Chief among these supports has been the Debt Warehousing Scheme.

All told, there is a significant risk that when the Covid supports are removed there may be a glut of business closures. Often, the affected businesses will be local, low-profile enterprises that simply will not reopen. If this happens, it will significantly impact employment rates and may give rise to a two-tier economy whereby some sectors will bounce back strongly and others will not. Such business closures will also directly impact on the amount of warehoused tax debt that will be repaid to the State.

In reality, it is to be expected that not all of the warehoused tax liabilities will be repaid. Covid 19 has shown the wonderful resilience of so many businesses, as well as the true power of the State. However, the level of support is masking many issues, and those issues have not disappeared. Interesting times lie ahead as we continue to navigate the so-called "new normal".

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