

Legal 500

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Ireland

Tax Disputes

Contributor

Matheson LLP



Joe Duffy

Partner | joseph.duffy@matheson.com

Tomás Bailey

Partner | tomas.bailey@matheson.com

Rachel O'Sullivan

Senior Associate | rachel.osullivan@matheson.com

This country-specific Q&A provides an overview of tax disputes laws and regulations applicable in Ireland.

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Ireland: Tax Disputes

1. Is it necessary for a taxpayer to register with the tax authority? Are separate registrations required for corporate income tax and value added tax/sales tax?

An Irish resident taxpayer needs to register for taxes with the Irish Revenue Commissioners ("Revenue"). This is generally completed online, via the Revenue Online Service. Corporate taxpayers can register for Irish corporation tax, Irish payroll withholding tax and value added tax ("VAT") via the Revenue form TR2. Once registered, the taxpayer receives an Irish tax registration number.

On commencing a business in Ireland, a company should also notify Revenue via the Form 11F CRO Statement of Particulars. This notification must be made within 30 days of commencing a trade, profession or business in Ireland.

2. In general terms, when a taxpayer files a tax return, does the tax authority check it and issue a tax assessment – or is there a system of self-assessment where the taxpayer makes their own assessment which stands unless checked?

Generally, Irish taxpayers self-assess their tax liability and file their tax returns with Revenue on this basis. All taxpayers subject to self-assessment are obliged to submit a return for the relevant accounting period or tax year within a prescribed time period.

For example, a company is generally required to file its self-assessed corporation tax return in the ninth month following the end of its financial year-end, and no later than the 23rd of the month. An individual subject to self-assessment (eg, an individual with chargeable income other than Irish employment income) must generally file their tax return annually on 31 October, but this deadline is typically extended to mid-November where returns are filed online.

3. Can a taxpayer amend the taxpayer's return after it has been filed? Are there any time limits to do this?

A taxpayer can amend their self-assessed return in circumstances where:

- i. there is an error or mistake in the return;
- ii. the taxpayer wishes to claim an allowance, credit, deduction or relief and this is within the appropriate timelines; or
- iii. the amendment is required to comply with Irish tax legislation.

The amendment to the tax return must be made in the same way as the tax return was originally filed. As such, where the return was filed online, the return must also be amended online. Generally, a taxpayer has four years after the end of the chargeable period to which the return relates to amend the return. However, certain provisions of the Irish tax legislation impose shorter limitation periods for a taxpayer to claim a particular deduction or credit (eg, certain loss relief can only be claimed within two years of the year in which a loss arose). In such circumstances, a taxpayer cannot generally amend a tax return outside of the shorter limitation period.

4. Please summarise the main methods for a tax authority to challenge the amount of tax a taxpayer has paid by way of an initial assessment/self-assessment.

There are a number of different options available to Revenue in circumstances where it seeks to investigate or challenge a taxpayer's self-assessment. Revenue is entitled to disagree with the initial self-assessment and issue an alternative or amended assessment to the taxpayer.

Under the Code of Practice for Revenue Compliance Interventions Revenue set out the following three levels of compliance interventions:

- Level 1 Compliance Intervention: Level 1 Compliance Interventions may involve Revenue issuing a notification to a taxpayer of outstanding tax returns, or issuing a request to the taxpayer to initiate a self-review of its filed returns. It is aimed at allowing taxpayers an opportunity to correct any potential errors without an in-depth inquiry by Revenue.
- Level 2 Compliance Intervention: Level 2 Compliance Interventions generally involve a more formal audit or

investigation of the relevant taxpayer. This can focus on a specific tax risk identified by Revenue in relation to the taxpayer, or a broader audit or examination of the taxpayer's affairs.

- **Level 3 Compliance Intervention:** Level 3 Compliance Interventions are the most serious types of Revenue investigations and are generally only launched where Revenue believes that serious tax or duty evasion may have occurred.

Under Irish tax legislation, Revenue also has a specific entitlement to make enquiries or take action to investigate the amount of income, profit or gains on which taxpayer is chargeable to tax in a relevant period.

Further to such investigations, Revenue is entitled to raise a Revenue assessment on a taxpayer for a chargeable period in the amount that, according to the best judgment of the Revenue officer, should be charged on the taxpayer.

5. What are the time limits that apply to such challenges (disregarding any override of these limits to comply with obligations to relief from double taxation under a tax treaty)?

Where a taxpayer has filed a self-assessment return for a chargeable period, and this return includes a full and true disclosure of all material facts relating to the assessment, Revenue has four years from the end of the relevant chargeable period in which the return was filed to raise an amended assessment.

However, in circumstances where Revenue is of the view that the return filed by the taxpayer did not contain a full and true disclosure of the relevant material facts, it is entitled to issue an amended assessment at any time. Similarly, in circumstances where a taxpayer fails to file a return, or Revenue has grounds to believe that fraud or neglect has been committed in relation to a particular tax return, Revenue is entitled to issue an assessment at any time.

6. How is tax fraud defined in your law?

The Irish tax code identifies certain fraudulent activities which constitute revenue offences. In particular, an offence is committed where a person is engaged in the "fraudulent evasion of tax." Fraudulent evasion of tax is defined as including (i) evading or attempting to evade any payment or deduction of tax; and (ii) claiming or obtaining, a relief or exemption from tax to which the person is not entitled to, in circumstances where the

person deceives, omits, conceals or uses other dishonest means. For example, this could involve providing false or misleading information to Revenue.

7. How is tax fraud treated? Does the tax authority conduct a criminal investigation with a view to seeking a prosecution and custodial sentence?

Where Revenue suspect that a taxpayer may be involved in fraud and / or tax evasion, Revenue will generally initiate a Level 3 Compliance Intervention. Revenue will generally advise a taxpayer that they are subject to a Level 3 Compliance Intervention and, where Revenue obtains information that there is a risk of serious tax or duty evasion, Revenue will inform the taxpayer that criminal or civil prosecution will be considered.

The final decision as to whether criminal proceedings are commenced rests with the Irish Director of Public Prosecutions.

A person who is knowingly involved in the fraudulent evasion of tax may be guilty of a criminal offence for Irish tax purposes. Where a person is convicted of fraudulent evasion of tax they may be subject to a fine not exceeding €126,970, and / or to imprisonment for a term not exceeding five years.

8. In practice, how often is a taxpayer audited after a return is filed? Does a tax authority need to have any justification to commence an audit?

Revenue generally select cases for compliance intervention based on the level of risk. Revenue's Code of Practice on Compliance Intervention confirms that Revenue uses a range of analytics and data interrogation processes to review all available data, including data returned by third parties, to identify risks with a view to informing audit practices. As such, it is not possible to determine how often taxpayers are audited, instead the circumstances of the individual taxpayer and their practices impact on how likely it is that Revenue may commence an audit. For example, where a taxpayer fails to file a tax return by the relevant statutory deadline, this is likely to increase the risk that the taxpayer may be subject to an audit in the future. Revenue's annual report for 2024 confirms that Revenue undertook 272,714 audit and compliance interventions in 2024.

9. Does the tax authority have to abide by any

standards or a code of conduct when carrying out audits? Does the tax authority publish any details of how it in practice conducts audits?

Revenue has published a Code of Practice for Compliance Interventions which sets out what taxpayers can expect from Revenue in respect of compliance interventions. For example, it sets out the different levels of intervention that may be commenced by Revenue, and the disclosure opportunities provided to taxpayers in respect of such interventions to mitigate penalty exposure.

Revenue has also published a Customer Service Charter which sets out the values Revenue is obliged to uphold in its dealings with taxpayers. These values include a commitment by Revenue to deal with taxpayers courteously, and to administer tax law in a consistent, fair and reasonable way, based on the principles of human rights and equality.

Revenue has a Complaint and Revenue procedure in place which is designed to provide taxpayers with an open and transparent mechanism for making a complaint and seeking a review of Revenue's behaviour in respect of its handling of a specific case (see further Question 13 below).

10. Does the tax authority have the power to compulsorily request information? Does this extend to emails? Is there a right of appeal against the use of such a power?

Revenue officials have the power to enter into premises or places where Revenue officials believe that a trade or profession, the profits or gains of which are chargeable to tax, is being carried on or records relating to such trades or professions are being kept. Revenue officials can then require persons at the premises to produce any records or property as requested. The Revenue officials can also search the premises for relevant records, and require the taxpayer to provide reasonable assistance in their activities. Where records are produced, Revenue officials are entitled to remove the records and retain them for further examination.

The records within the scope of the Revenue production power are broadly defined and include written material, as well as records stored on electronic devices. As such, emails should be included. The records need to relate to the business carried on by the taxpayer or be records which the taxpayer is obliged to retain for Irish tax purposes. Revenue are not entitled to materials which are subject to legal professional privilege or contain

professional advice of a confidential nature given to a client.

A search warrant is generally required to enter into a private residence.

11. Can the tax authority have the power to compulsorily request information from third parties? Is there a right of appeal against the use of such a power?

Revenue may serve notice in writing on a third party requesting a person to deliver books, records or other documents that are held by the third party, and which relate to the liability of a taxpayer. In order to request such information from third parties, the Revenue official must be of the view that the third party is likely to have information that is relevant to establishing the tax liability of a taxpayer. The taxpayer must also be informed where such a notice is served by Revenue.

Revenue also has broad powers to obtain information from financial institutions. Revenue can require a financial institution to deliver, within 30 days, books, records or other documents in the financial institution's possession which are relevant to establishing a taxpayer's tax liability.

While third parties and financial institutions do not have a specific right of appeal against such a Revenue notice, Revenue has the power to apply to the High Court or the Tax Appeal Commission for an order requiring the third party to produce the information requested.

As Revenue is a statutory body, taxpayers may also have a right to judicially review a Revenue action in certain circumstances.

12. Is it possible to settle an audit by way of a binding agreement, i.e. without litigation?

Taxpayers can enter into a binding settlement with Revenue to resolve an audit without litigation. The Revenue Code of Practice on Compliance Interventions sets out how interest and penalties are calculated in circumstances where taxpayers have entered into agreed settlements with Revenue. Taxpayers may be able to limit their exposure to penalties based on the level of disclosure and cooperation with Revenue during the course of the audit or compliance intervention.

13. If a taxpayer is concerned about how they are being treated, or the speed at which an audit is being conducted, do they have any remedies?

Revenue's Complaint and Review Procedure is designed to provide taxpayers with an open and transparent mechanism for making a complaint in respect of Revenue's handling of the taxpayer's case. The taxpayer should, firstly, make a formal complaint to the Revenue office where its case is managed. If the taxpayer is not satisfied after the initial review, it can request a local review of the case, carried out by the manager of the local office or divisional office. Finally, the taxpayer can request that a review is carried out by an independent internal or external reviewer.

The function of the Complaint and Review Procedure is generally limited to the conduct of Revenue audits and investigations (eg, whether the Customer Service Charter and Revenue administrative procedures have been followed), rather than the substance of the tax matter under review.

The taxpayer may also have a right of appeal to the Tax Appeal Commission (the "TAC") in respect of a decision made by Revenue. As Revenue is a statutory body, taxpayers may also have a right to judicially review a decision by Revenue in certain circumstances.

14. If a taxpayer disagrees with a tax assessment, does the taxpayer have a right of appeal?

A taxpayer generally has a right to appeal a Revenue assessment to the TAC. An appeal in respect of a Revenue assessment should be lodged with the TAC within 30 days of the date of the notice of the assessment by way of a Notice of Appeal. After receipt of the Notice of Appeal, the TAC should send the Notice of Appeal to Revenue, and Revenue is entitled to raise an objection to the TAC's acceptance of the appeal within 30 days. A taxpayer is entitled to respond to any objection raised by Revenue.

The TAC is only entitled to reject a Notice of Appeal on certain grounds specified in the legislation. In particular, an appeal may be rejected where (i) it does not meet the definition of a 'valid appeal'; (ii) the TAC concludes it is without substance or foundation; or (iii) it is a late appeal. The TAC has limited discretion in certain circumstances to accept a late appeal (eg, if the delay was due to illness or other reasonable circumstances).

15. Is the right of appeal to an administrative body (independent or otherwise) or judicial in nature (i.e. to a tribunal or court)?

The TAC is the independent statutory body with the responsibility for adjudicating on tax disputes. The TAC is not a court in the Irish judicial system, it is an expert tribunal for administering and resolving tax disputes. Generally, the procedures followed by the TAC are similar to that followed in the Irish courts, albeit with greater procedural flexibility.

16. Is the hearing in public? Is the decision published? What other information about the appeal can be accessed by a third party/the public?

Taxpayers can elect for the hearing at the TAC to be held in camera (ie, not open to the public). This is key feature distinguishing the TAC from the courts and taxpayers generally elect for private hearings at the TAC. The TAC is obliged to publish its determination within 90 days of notifying the parties of its determination. The determinations are publicly available on the TAC website. However, as the TAC hearings are generally held in private, the determinations are redacted in respect of details which may identify the taxpayer. For example, the name of the taxpayer will be redacted and other identifying features (eg, business operations, the terms of the relevant transaction, etc) may also be redacted where appropriate. Generally, the TAC will consult with the parties on the appropriate redactions to be made in advance of publication.

17. Is the procedure mainly written or a combination of written and oral?

The procedure is a combination of written and oral proceedings. The TAC may decide to adjudicate on a matter without holding a hearing, based solely on the written materials submitted by the parties. However, this is subject to the consent of the parties.

The volume of written proceedings largely depends on the complexity of the dispute before the TAC. In general, parties will be required to submit a Statement of Case which requires the parties to identify the relevant statutory provisions and case law applicable to the dispute and to provide an outline of the relevant facts and an estimation of the duration of the appeal.

In addition, the TAC typically requests the parties to

exchange a detailed Outline of Arguments in advance of the hearing. These submissions require the parties to provide an outline of the legal arguments they intend to raise at the hearing, referencing the case law and legislation that will be relied on.

18. Is there a document discovery process?

There is no formal document discovery process before the TAC. The TAC may, at any time during the appeal process, give directions to the parties in respect of the conduct of the appeal. This may include a direction that the parties agree and submit to the TAC a Book of Core Documents in advance of the hearing. As such, the parties will generally be required to exchange the documentary evidence on which they intend to rely prior to the hearing. The TAC is entitled to admit evidence whether or not the evidence would be admissible in Irish court proceedings. Moreover, the TAC also has discretion to exclude certain evidence if it was not provided in the time specified in any directions issued by the TAC or if the TAC considers that it would be unfair to admit the evidence.

19. Are witnesses called to give evidence?

Witnesses are often called to give evidence in TAC hearings. Similarly witnesses may provide written statements or expert reports. The TAC may summon any person to appear before them to be examined once the TAC considers that they person is in a position to give evidence on the matter in question.

20. Is the burden on the taxpayer to disprove the assessment the subject of the appeal?

In general, the burden of proof is on the taxpayer to challenge the assessment raised by Revenue. However, it can depend on the particular provision of the tax code in dispute.

21. How long does an appeal usually take to conclude?

The length of proceedings depends on the specific circumstances and complexity of the case involved and, in particular, the engagement of the parties in progressing the appeal. The TAC process generally proceeds more quickly than court proceedings. The TAC's 2024 Annual Report confirms that 1,711 appeals were closed during 2024 resulting in a drop in appeals on hand from 1,141 to 711.

22. Does the taxpayer have to pay the assessment pending the outcome of the appeal?

The length of proceedings depends on the specific circumstances and complexity of the case involved and, in particular, the engagement of the parties in progressing the appeal. The TAC process generally proceeds more quickly than court proceedings. The TAC's 2024 Annual Report confirms that 1,711 appeals were closed during 2024 resulting in a drop in appeals on hand from 1,141 to 711.

23. Are there any restrictions on who can conduct or appear in the appeal on behalf of the taxpayer?

A taxpayer is entitled to be represented by a barrister, solicitor or any person who is a member of one of the professional bodies specified in the Irish tax legislation (eg, accountancy body, Irish Tax Institute, Irish Auditing and Accounting Supervisory Authority, Law Society of Ireland). A taxpayer is not entitled to assistance or aid in respect of fees incurred on professional representation before the TAC.

The TAC may exercise its direction, and allow a person who is not a member of a professional body to appear and represent the taxpayer. There is no requirement for the taxpayer to have a representative before the TAC.

24. Is there a system where the "loser pays" the winner's legal/professional costs of an appeal?

Each party bears their own costs in a dispute before the TAC. However, an appeal of a determination of the TAC to the Irish superior courts follows the normal court procedures on costs (ie, 'loser pays' is the default position).

25. Is it possible to use alternative forms of dispute resolution – such as voluntary mediation or binding arbitration? Are there any restrictions on when this alternative form of dispute resolution can be pursued?

Alternative forms of dispute resolution outside TAC are not generally available. However, the TAC is vested with certain legislative powers which are aimed at assisting the parties to resolve tax disputes in an expeditious and fair way. In particular, the TAC has the power to direct that a case management conference ("CMC") be held to

progress a case. A CMC may be held with a view to progressing the case to full hearing, or the TAC may use the CMC process to help the parties resolve the matter without proceeding to a full hearing.

In particular the TAC may direct the parties to attend a CMC in order to:

- i. review the conduct of the proceedings and the outstanding actions to be taken;
- ii. clarify any matters raised by the parties to the TAC; and
- iii. allow the TAC to give any directions to secure the expeditious and fair completion of proceedings.

Where the TAC directs that the parties attend a CMC, it will inform the parties as to the date and location of the CMC in advance, and may allow parties to attend remotely.

26. Is there a right of onward appeal? If so, what are all the levels of onward appeal before the case reaches the highest appellate court.

A determination can be appealed to the High Court. An appeal to the High Court can be on a point of law only. Consequently, the TAC determination should not generally be set aside unless the determination represents a mistaken or erroneous view of the law. TAC's findings of primary facts should not generally be set aside by the High Court unless there was no evidence to support them (see *O'Culachain v McMullan Brothers*).

Decisions of the Irish High Court may also, in certain circumstances, be appealed to the Court of Appeal and, in certain cases, the Supreme Court.

27. What are the main penalties that can be applied when additional tax is charged? What are the minimum and maximum penalties?

The maximum and minimum tax penalties applicable depends on the nature of the default and the particular taxing provision at issue in the case.

In Ireland, the primary penalty provisions for filing incorrect tax returns, or failing to file tax returns, apply tax geared penalties. As such, the minimum and maximum penalties applicable are dependent on the outstanding tax liability of the taxpayer in question.

A key factor in determining the applicable penalty is whether the taxpayer's default is categorised as

'deliberate' or 'careless'. For example, the penalty for careless behaviour without significant consequences is calculated as 20% of the tax liability in circumstances where the taxpayer does not make a qualifying disclosure to Revenue. In contrast, the penalty for deliberate behaviour is 100% of the tax liability in circumstances where the taxpayer does not make a qualifying disclosure to Revenue. Interest will also generally be applicable.

28. If penalties can be mitigated, what factors are taken into account?

Taxpayers can mitigate tax penalties by making a prompted or unprompted qualifying disclosure to Revenue in relation to the investigation. In order to avail of the reduced penalties, the taxpayer also needs to have fully cooperated with Revenue throughout the compliance intervention.

A qualifying disclosure is defined for Irish tax purposes as a disclosure of complete information in relation to, and full particulars of, all matters in relation to the liability to tax. The disclosure must be made in writing, and accompanied by full payment of all tax and any interest applicable to the subject matter of the disclosure.

An unprompted qualifying disclosure will enable the taxpayer to avail of the maximum mitigation in respect of tax penalties. An unprompted qualifying disclosure can only be made within a specific time window, generally prior to the taxpayer being notified of a Revenue compliance intervention. In contrast, a prompted qualifying disclosure can be made by a taxpayer after the notification of an audit or investigation and generally results in a lower level of penalty mitigation for the taxpayer. Where a taxpayer has made previous qualifying disclosures to Revenue, the level of mitigation available can be restricted.

29. Within your jurisdiction, are you finding that tax authorities are more inclined to bring challenges in particular areas? If so, what are these?

Revenue operate a risk-based audit program and in its 2024 Annual Report it has noted a particular focus on the following areas:

- continued checks on the national share schemes compliance project (449 interventions closed in 2024) and review of employers' compliance with reporting obligations on share-based remuneration;
- continued focus on identifying and investigating

cases of serious tax evasion in the rental sector;

- compliance for individuals conducting business activities through social media and other online platforms;
- working with employers who wish to regularise their position following the impact of a recent Supreme Court judgment setting out a framework to determine whether a worker is an employee or a contractor [see *The Revenue Commissioners v Karshan (Midlands) Ltd.*]. Irish Revenue recently published an update allowing employers an opportunity to correct any payroll tax issues in respect of 2024 and 2025 arising from bona fide classification errors;
- continued checks on employers real-time pay and deductions where they operate payroll in relation to Enhanced Reporting Requirements introduced on 1 January 2024;
- ongoing enhancement of analytic capabilities to measure and combat the risk of VAT fraud; and
- continue risk driven transfer pricing audits and other transfer pricing interventions to address the challenges of the international tax environment.

30. In your opinion, are there any areas which taxpayers are currently finding particularly difficult to deal with when faced with a challenge by the tax authorities?

Transfer pricing is a key focus of audit activities in the current international tax environment, with audits relating to Irish taxpayers being initiated by Revenue, and also arising due to compliance interventions by tax authorities in other jurisdictions. In our experience, transfer pricing interventions pose particular challenges for taxpayers as they involve an in-depth and detailed review by the relevant tax authority of the taxpayer's affairs, often across quite broad time periods. As such, the taxpayer is required to provide detailed and granular responses to specific queries raised by tax authorities. Responses to tax authorities often also require effective collaboration and cooperation between advisers in different jurisdictions to coordinate responses. In this regard, detailed contemporaneous documentation is a significant asset for taxpayers in addressing transfer pricing interventions. Taxpayers may take some comfort from the approach of the TAC to transfer pricing matters. In May 2024 the TAC delivered their determination in the first ever transfer pricing case to be heard in Ireland (59TACD2024). The issue concerned whether the value of stock based awards should be included in the cost base to be marked up as part of a service fee. The TAC delivered a comprehensive 145 page determination in favour of the taxpayer following a review of detailed

evidence and functional analysis.

Research and development ("R&D") tax credit claims are continuing to be reviewed by Irish Revenue in detail in light of benefits offered by the R&D credit. Taxpayers should retain contemporaneous evidence to support their R&D tax credit claims in the event of a review by Irish Revenue. In a recent TAC determination (165TACD2025), the TAC emphasised the importance of maintaining detailed records, and the case further emphasised the importance of taxpayers engaging strong independent experts to meet the evidential burden of demonstrating that the test for qualifying R&D activities is met in an instant case.

Taxpayers may also face challenges due to the pace at which tax appeals can progress. As the Notice of Appeal is generally required to be filed within 30 days of a Revenue assessment, and the TAC has broad discretion on appeal case management, proceedings can advance much more quickly than similar court proceedings. As such, it is important for taxpayers to actively engage with a potential tax dispute as early as possible, to ensure that there is sufficient time to carefully and comprehensively work through the issues and prepare submissions. Moreover, as the TAC may encourage or facilitate discussion between Revenue and the taxpayer throughout the TAC proceedings, it is important that the taxpayer has a clear and concrete position early in proceedings, to ensure that any engagement with Revenue is as effective as possible with a view to resolving proceedings, where possible and in the interests of the taxpayer.

31. Which areas do you think will be most likely to be the subject of challenges and disputes in the next twelve months?

Revenue have issued new guidelines on the classification of employment status for individuals following the Supreme Court decision in *The Revenue Commissioners v Karshan (Midlands) Ltd. t/a Domino's Pizza*. Revenue have stated this will be a particular area of focus for their compliance activity.

Transfer pricing is an area of particular focus for Revenue, following its efforts in recent years to significantly increase its capacity and resources in the area. In addition, Ireland's transfer pricing rules were modernised and expanded with effect from 1 January 2020. This increase in focus on transfer pricing is acknowledged in Revenue's 2024 Annual Report where Revenue has committed to continue to engage in "risk driven" transfer pricing compliance interventions noting

that "*identifying and confronting transfer pricing non-compliance will remain a priority going forward.*"

Challenges surrounding the scope and protection of taxpayer's rights are also expected to be an increasing area of dispute. In a number of recent superior courts

decisions (eg, *Revenue Commissioners v Tobin*), the scope of the statute of limitations afforded in Irish tax cases has come under scrutiny, with cases focusing on the meaning of a "*full and true disclosure*", which is a requirement for the application of the tax statute of limitations in Ireland.

Contributors

Joe Duffy
Partner

joseph.duffy@matheson.com



Tomás Bailey
Partner

tomas.bailey@matheson.com



Rachel O'Sullivan
Senior Associate

rachel.osullivan@matheson.com

