

Indirect TALC Meeting
30th March 2017 @10.30 am
Basement Conference Room, Stamping Building, Dublin Castle

Item 1 – Minutes of the last meeting

- The minutes of the meeting held on 7th December 2016 were approved.

Item 2 – Larentia and Minerva

- Revenue advised that they are continuing to provide guidance to Districts in respect of individual cases.
- Revenue stated that draft guidance would be circulated to the committee for their observations in 4-6 weeks.

Item 3 – Transfer of Business

- It was agreed that a separate discussion may be required in relation to changes in company law concerning Irish company mergers in accordance with Companies Act 2014. It was agreed that this would not impinge on the publication of TOB guidance.
- Revenue stated that draft guidance would be circulated to the committee for their observations in 3-4 weeks.

Item 4 – Education Services Exemption

- Revenue stated that the submissions received had been helpful and that revised guidance incorporating the issues raised would be circulated to the committee for observations by Friday 7th April.

Item 5 – Interest on refunds of VAT

- Practitioners raised the issue as to whether Revenue's position in relation to paying interest on refunds of VAT is in compliance with the Littlewoods case (C-591/10).
- In Revenue's opinion, Irish legislation is in line with EU jurisprudence and there is no need for a legislative amendment. Revenue confirmed that they would be happy to review the issue further on receipt of a detailed submission.

Item 6 – Right of appeal for a person who suffers the cost of VAT

- Practitioners highlighted the fact that whereas an accountable person has the right to appeal against a VAT charge, there is no provision in legislation which gives the person (the Payer) who suffers or is about to suffer VAT on a supply either the opportunity to seek a second opinion from Revenue in advance of the payment for the supply or a direct route for appeal against the VAT charge. It was noted that the issue of providing an appeal facility for a Payer had been raised previously but was put on hold pending the implementation of the new appeals process.
- The issue was discussed in some detail to gain an understanding of some practical examples (VAT rates, property sales, etc.) where and when this might be an issue.
- In Revenue's view, this is a contract issue which could be resolved by the parties involved prior

to signing contracts and no compelling case for legislative change has been made as yet. Practitioners still believe that a legislative amendment in relation to appeals may be required.

- There was a discussion on the possibility of introducing “back door” access where the parties to a supply were in disagreement. Under the “back door” system, the aggrieved third party could request a determination in relation to the VAT issue.
- The possibility that the widening of access to appeals could lead to an increased number of vexatious claims was discussed and it was pointed out that the Appeal Commissioners have power to refuse appeals which they consider vexatious under the new Appeal Commissioner regime.
- Revenue confirmed that they would be happy to review the issue further on receipt of a detailed submission which the Law Society agreed to prepare.

Item 7 – National Roads Authority

- Revenue is reviewing the judgement and will consider whether guidance needs to be published. Revenue believes that the ruling is relevant to the specific facts of the case and may not have wider implications.
- It was agreed that this item could be removed from the agenda.

Item 8 – Revenue Opinions and s51 Determinations

- Clarification was sought regarding the requirements in relation to VAT and the need to renew Revenue Opinions. Some members are of the understanding that renewals are not required in relation to VAT rates.
- Revenue outlined that when giving a ruling on a VAT rate for a product the decision is based on the facts and legislation at that time. The application of general principles to specific facts would not usually be considered to be an opinion.
- Members agreed that they did not believe that there were many cases where opinions were being relied upon. It was also agreed that, in general, Revenue publishes guidance or updates the VAT rates database when required.
- Members also agreed that apportionment methodologies are not considered to be opinions as they are governed by an annual review period enshrined in legislation.
- Revenue confirmed that only two determinations were given in the last 15 years. This is not due to a reluctance to give a determination. Revenue is currently dealing with almost 50 such requests.
- Revenue emphasised that if a taxpayer believes that they are relying on an opinion they should contact their local tax district.
- It was agreed that this item could be removed from the agenda.

Item 9 – EU Update

- The main provisions of the VAT Action Plan were circulated after the previous meeting and Revenue provided an update.
- There are a number of VAT issues still under review at EU level, including the VAT Digital Single Market (eCommerce) Package. This package consists of proposals for an E-commerce Directive, an E-commerce Implementing Regulation, an Administrative cooperation Regulation and an E-publications Directive. The Commission is expected to produce a legislative proposal on the definitive regime for VAT by the end of 2017 to make it more efficient, simpler, more robust and to tailor it to the single market. They are also expected to produce a legislative proposal in respect of VAT rates by the end of 2017. This proposal will be in respect of the setting of rates by Member States and is expected to cover a number of options.

Item 10 – AOB

- Revenue confirmed that the website redesign was progressing well and would be launched at the beginning of June.
- Next meeting – Wednesday, 7th June.

Action Points	Responsible	Timescale
Revenue to circulate draft guidance on TOB.	H.O'S	3-4 weeks
Revenue to circulate draft guidance on L&M.	M.O'M	4-6 weeks
Revenue to circulate revised guidance on education	M.O'M	7 th April 2017
Members to make a submission in relation to interest and VAT refunds	Members	
Members/Law Society to make a submission in relation to third party right of appeal	Law Society	

Submitted for approval by Secretary – Sinéad O'Meara

Approved by TALC Committee Members

Law Society

Michael O'Connor (Chair)

Donal Kennedy

David Lawless

ITI

Brian Butler

Brian Colfer

Gerard Brennan

CCABI

Kevin Elliot

Revenue

Gerard Moran*

Ita Foster

Dermot Donegan

Maeve O'Malley

Humphrey O'Sullivan

Donal Barry

Denise Corrigan

*Designated Public Official, *Regulation of Lobbying Act 2015*