

Minutes of Main TALC Meeting

14 June 2017

Law Society of Ireland, Blackhall Place, Arran Quay, Dublin 7 at 12:30pm

Item 1 – Approval of minutes of meeting held 1 March 2017

- The minutes of the meeting held on 4 April 2017 were approved.

Item 2 – Update on the PAYE Modernisation Project (Revenue) (Item 9 on the Agenda)

- Revenue made a presentation highlighting some issues with the current PAYE system and the benefits of the new PAYE system. The new system aims to abolish P45s, P60s etc., maximise the use of employee entitlements and seamlessly integrate into payroll systems.
- Revenue confirmed to Practitioners that when the new PAYE system is in place in 2019 that Revenue will need to respond in real time to both employer reporting and underlying PAYE compliance issues.
- Revenue also confirmed that the four year time limit to make claims will remain in place. However, there will be a review of employee circumstances each quarter such that most claims will be processed within one year.

Item 3 – Letters of No Audit for non-resident clients (and deceased cases) (Law Society) (Item 7 on the Agenda)

- Practitioners raised the issue of the proposed new procedures for “letters of no audit” for non-resident clients. The current process requires that solicitors retain funds which are beneficially owned by their non-Irish resident clients (e.g. sales proceeds or inheritances) until a “letter of no audit issues” from Revenue. In relation to inheritances, a “letter of no audit” will issue, allowing the solicitor to distribute the funds, only when the inheritance has been received and the tax filing has been made. The process is slow and cumbersome; not all Revenue officials are familiar with it; and the requirement to retain client funds for long periods of time are in breach of Solicitors Regulations. Practitioners noted that, whilst they are not happy with the current process, the newly proposed procedure actually disimproves the position.
- Revenue agreed to reflect on the process further and will arrange to meet with relevant practitioners.

Item 4 – Multi-Lateral Instrument (CCAB-I) (Item 3 on the Agenda)

- Revenue informed Practitioners that Ireland had signed the Multi-Lateral Instrument (MLI) the week before in Paris and will ratify the MLI in the Finance Bill this year. Of Ireland’s treaty partners, over 60 are MLI members and approx. 50 of these also signed in Paris; about 10 of Ireland’s treaty partners are not MLI members as yet but the position is constantly changing.

- The purpose of the MLI is to transpose the treaty-related OECD BEPS project minimum standards and best practices for international tax into existing double tax treaties. When ratified, the MLI will automatically apply to a double tax treaty, but only if both parties to that treaty have signed up to it. A treaty will only be modified by the MLI to the extent that the reservations and notifications made by both treaty partners match exactly. Because of the domestic requirements in some countries, Ireland will conclude amending protocols with some treaty partners to implement the anti-BEPS rules, instead of using the MLI. Ireland submitted a provisional list of reservations and notifications at the time of signing and will submit a final list at the time of ratification.
- Practitioners asked if it would be possible to create a table showing the matches between treaty partners; the OECD was considering the pros and cons of creating a matrix. Some countries are in favour of this and some are against. It would be very difficult to keep such a matrix up-to-date and to guarantee accuracy.

Item 5 – Notification to Commission of Interest Limitation extension (Item 4 on the Agenda)

- Revenue noted that under the Directive, the Interest Limitation rules must be adopted by December 2018. A Member State may request to obtain an extension to this deadline to 2024 if it satisfies the Commission that it has equivalent anti-BEPS rules in its domestic legislation. Revenue understands that the Department of Finance has prepared a case for such a derogation but the decision to submit the request is a matter for decision by the Minister.

Item 6 – Update on Revenue Opinions/Confirmations (CCAB-I) (Item 5 on the Agenda)

- As Revenue opinions, confirmations or rulings which are more than five years old need to be refreshed, Practitioners asked Revenue about certain pre-2012 rulings.
- Revenue advised that any generic statements which it issued and which are being relied on by taxpayers/agents also cease to have any validity after a period of five years. Revenue's views on the interpretation of the tax code are set out in the Tax and Duty Manuals and practitioners are invited to identify areas where the manuals may need further development. In this context, it was noted such matters may arise in relation to aircraft leasing and pensions.
- If practitioners have lost an opinion, confirmation or ruling from Revenue, they should let Revenue know and Revenue will try to find it. If the facts stack up on their merits, Revenue may issue a new opinion.
- It was noted that A Revenue opinion issued on foot of an Expression of Doubt is equally subject to the 5-year rule.

Item 7 – Companies Act Implications (Law Society) (Item 6 on the Agenda)

- The Companies Act sub-committee has met on many occasions to discuss some of the issues with the Companies Act which were raised eighteen months ago. Unfortunately, legal advice

on this matter has been slow but two of the three main issues have been broadly settled. Such issues include CGT issues and administrative issues regarding stamp duty on mergers. It has been accepted that Section 87B of the Stamp Duties Consolidation Act, 1999 (“**SDCA**”) does not apply to domestic mergers. Instead, these mergers can avail of relief under section 79 or section 80 SDCA.

- Practitioners expressed concern that once the merger has taken place, one of the companies no longer exists and thus cannot practically apply for relief under section 79 or section 80 SDCA.
- Revenue advised Practitioners that it has requested the Department to prioritise addressing issues arising from the Companies Act in Finance Bill 2017.

Item 8 – Scope of Section 985B of the Taxes Consolidation Act, 1997 (“TCA”) (Revenue) (Item 8 on the Agenda)

- Revenue informed Practitioners that cases have been identified where employers are inappropriately using Section 985B TCA (PAYE Settlement Agreements) to regularise tax affairs for employees. The section provides that Revenue can make arrangements with employers whereby the employer will themselves pay to Revenue, the tax payable in respect of benefits provided to employees which are minor and irregular rather than deducting the tax from the earning of the employers and accounting for it through the normal PAYE system. This is intended for minor and irregular payments only and cannot be used as a general means of giving tax free payments to staff.
- Revenue advised that S.112B TCA, which provides for an exemption from tax where an employer provides a small benefit/voucher, worth up to €500 (once in a tax year) is the appropriate basis for an employer who wishes to give a tax free benefit.

Item 10 – Corporation Tax – Certificates of Tax Residence (Direct CT/ TALC) (Item 10 on the Agenda)

- There has been some minor teething problems with the new system for issuing certificates of tax residence. Revenue stated that just 10 to 14 cases are experiencing difficulties. For the most part these issues arise with Eastern European entities who need the certificates apostilled. In exceptional circumstances where withholding tax is a real risk, Revenue go out of their way to prevent withholding. Revenue made it clear that the aim is to introduce a streamline system for the issue of tax clearance certificates and that ultimately this will be achieved.

AOB

- Practitioners raised some issues with Revenue's new website e.g. links not working. Revenue advised that as the migration to the new site had taken place in the last week there is still

some work in progress on links and requested practitioners to report any broken links they identify to enable these to be resolved.

- The next Main TALC meeting is scheduled for 23 October 2017.

Attendees at the meeting of 14 June 2017

CCAB-I	Sharon Burke
	Crona Brady
	Brian Purcell
ITI	David Fennell
	Mary Healy
	Tom Maguire
Law Society	Pat Bradley – Chair
	James Somerville
	Caroline Devlin
	Patricia McCarvill
Revenue	Brian Boyle
	Eugene Creighton
	Michael Gladney
	Declan Rigney
	Sharonne O'Reilly
	Ruth Kennedy
	Anne O'Driscoll

Apologies

CCAB-I	Enda Faughnan
	Julie Herlihy
	Paul Dillon
	Norah Collender
ITI	Kieran Twomey
	Sandra Clarke
	Pat Mahon
	Cora O'Brien

Revenue Emily Swift
 Dan Kelleher
 Gerry Howard