

Minutes of Main TALC Meeting

1 May 2018

Irish Tax Institute, Longboat Quay, Grand Canal Harbour, Dublin 2 at 2pm

The Chair and the committee expressed appreciation to Cora O' Brien for her contribution to TALC over many years and wished her well in her new role.

Item 1 – Approval of minutes of meeting held 14 March 2018

- The minutes of the meeting held on 14 March 2018 were approved subject to a minor amendment in item 3.

Item 2 – Matters arising

- Teams in each region are examining the disclosures on offshore matters. A small number of cases are being reviewed by the Investigation and Prosecutions Division (IPD). Communication with taxpayers/advisers on their disclosures has commenced. It is expected that Revenue will communicate with all cases shortly.
- Practitioners raised the issue of the difficulty in satisfying the 30-day deadline for notification of a SARP employee (discussed at the previous meeting). Practitioners will provide further details after the meeting.
- eBrief No. 21/2012 (securitisation transactions) had not yet been included in a revised Tax and Duty Manual (TDM). The relevant TDM will be updated in due course.

Item 3 – Customer Engagement Strategy 2018 - 2020

- Revenue gave a presentation on the Customer Engagement Strategy 2018 – 2020. The committee discussed a number of elements of the strategy:
- *VAT registrations*: Turnaround time on VAT registration applications continues to be an issue for practitioners. Revenue is reviewing the registration process with a view to developing a two-tier approach to registrations. More straightforward registrations (for example for domestic traders) could be dealt with more quickly, while applications that are more complex or present a higher risk could be examined in more detail. This two-tier process is expected to be introduced in the second half of 2018.
- *'MyEnquiries'*: Revenue statistics show that the majority of queries are now dealt with within the 20-25 day customer service standard. Revenue hopes to further improve the response time. MyEnquiries is an ongoing item on the agenda at TALC Collections and practitioners have raised a number of matters, for example, response times, timely processing of refund offset requests etc. It was agreed that TALC Collections should further consider particular pressure points in the service and proposals for improvement.
- Revenue has examined the possibility of introducing an “agent-only” telephone service. However, Revenue has concluded that it is not a necessity at this time, given changes made to Business Taxes 1890 service including consistent opening hours and improved level of performance.

- *RTS*: Practitioners queried Revenue’s plans for the RTS. Practitioners often experience long delays in obtaining responses to technical queries. According to Revenue, 70% of queries are dealt with within the customer service standard timeframe. Revenue’s system can now track queries to establish how long a query has remained unresolved. Exceptional items that are outstanding for substantial periods can then be more readily identified. Most queries are dealt with by local RTS experts, with only a small number referred to RLS. Revenue can provide statistics on this matter. Revenue increasingly use common queries to inform updates to relevant TDMs.

It was agreed that the option to meet with an RTS expert on a complex query is welcome. Detailed information on the query should be submitted in advance of any meeting to facilitate resolution of the matter.

- *CAT*: Some improvements to the ROS CAT return will be released in the second half of 2018. Practitioners reiterated the need for a ROS enhancement to allow agents to set up a ROS Debit Instruction (RDI) for CAT.
- Practitioners suggested that a general upgrade to ROS would be useful. A range of possible ROS improvements that would be of benefit to both Revenue and practitioners has been discussed at TALC Collections. Revenue advised that some changes were due for implementation in the June 2018 release and hoped these would be beneficial to practitioners. However, commitments on other large projects are limiting significant re-development. Practitioners would welcome a re-development of ROS in the years ahead.

Item 4 – Implementation of Mandatory Disclosure – DAC

- The Directive on Mandatory Disclosure for Intermediaries will enter into force on the twentieth day following its publication in the official journal of the EU.
- While the Directive will apply from 1 July 2020, transitional measures mean that the first reportable transactions will be those where the first implementation step occurs between the date the Directive comes into force and 1 July 2020. The first reports will be due by 31 August 2020.
- Revenue will issue a communication when the Directive is published in the official journal.
- The requisite forms for reporting a transaction will be provided by the European Commission, in June 2019. There will be an ongoing dialogue with the Commission in advance of the submission of the first reports.
- Finance Act 2018 is not expected to include legislation to reflect the DAC. The relevant legislative amendments may be introduced in 2019.
- Practitioners commented on the broadness of the “hallmarks” in the Directive and its comparison with the design of the Irish mandatory disclosure regime.

Item 5 – KEEP Guidance

- The TDM on Share Schemes now includes guidance on the Key Employee Engagement Programme (KEEP). The guidance has been discussed in detail at the Direct/Capital Taxes sub-committee and is due for discussion again at the next meeting of this group.
- Practitioners observed certain limitations within the scheme that may limit the number of businesses that avail of the KEEP.

Clarification was sought in relation to share valuations. Revenue confirmed this issue was dealt with in the guidance notes. In accordance with legislation, the share options must be valued at the date of grant as there is a requirement that the option price at date of grant is not less than the market value of the shares at the date of grant, to avail of the KEEP. Revenue will not provide opinions on the valuation of shares, but expects that a company would use a valuation method, which complies with relevant accounting standards. Revenue will provide a case specific pre-transaction opinion, given that the scheme is only in operation since 1 January 2018, but only up to 30 November 2018 (for example in relation to a qualifying trade for a particular company). All such queries should be submitted via the RTS.

There may be some issues/queries that come to light where additional guidance would be helpful and Revenue confirmed that the Tax and Duty Manual would be updated to reflect any such issues/queries, where appropriate.

Item 6 – PAYE Modernisation

Revenue updated the meeting on PAYE modernisation:

- The real-time reporting software is currently being tested by software providers.
- Circa 200,000 letters are being issued to employers to inform them about the new regime. The letters have been tailored to the recipients in recognition of the fact that employers may/may not use payroll software. 5,700 letters have issued to agents. Over 500 employers have registered their interest in attending regional Revenue seminars this autumn.
- Revenue continues to engage with external bodies to increase awareness of the requirements of the new regime. For example, a series of outreach events are currently taking place in conjunction with the IFA.
- 30,000 “PREM cancellation” letters are issuing to employers who do not appear to have any employees and have not made any PAYE/USC/PRSI payments for the last two years. Employers have three weeks to contact Revenue if they wish to retain the PREM registration. A cancelled registration can be easily re-activated at a later date if it is required.
- Revenue expects that a large number of customer service visits will take place across the regions (including LCD). Revenue is also conducting “profile interviews” of employers who submitted a P35 for 2016 and Tax Credit Certificates (P2C) had not been obtained for 10 or more employees. Revenue previously wrote to these employers requesting that they rectify

the position. A small number of “profile interview” letters have issued to date. Revenue will provide a copy of the standard template letter.

- Revenue will also engage with “accidental employers”, for example, school boards to ensure that they are aware of the new regime.
- Draft PAYE Regulations are expected to be made available to stakeholders by the end of June.
- Practitioners reiterated the need for supports for small employers who do not use payroll software, for example, a ready reckoner to assist with the PAYE calculations.

Item 7 – Letters of “no audit”

- Revenue is reviewing the procedure for issuing a letter of “no audit” to solicitors or executors to facilitate the release of funds to beneficiaries (i.e. trusts or inheritances) and in relation to property sales by non-resident vendors. While the procedure appears to be a long-standing practice that is availed of by some solicitors, it does not have a statutory basis. Revenue expects to clarify their position at the next meeting.
- Practitioners noted the importance of the letter of “no audit” procedure to solicitors/executors who risk incurring personal liability for tax due if the funds are released and a tax liability is subsequently identified. Currently, in the absence of a letter of “no audit” funds are being retained for lengthy periods, which is inconsistent with Solicitors Regulations.

Item 8 – International exchange of information – update on use of data

- Analysis of the data received under AEOI is ongoing. Some letters have issued to taxpayers following the receipt of information under CRS. All data received is input into the REAP system.
- The committee discussed the challenges of matching the detailed data received under AEOI to the income tax return (which only provides summary information of foreign income). Revenue is currently focused on identifying cases where AEOI information indicates that foreign income is held but no foreign income has been declared on the tax return. Matches are also fully appraised before any intervention takes place. Revenue will continue to refine its approach to analysing the data.

Item 9 – New guidance on PAYE and non-Irish employments exercised in the State

- Practitioners raised concerns about the application of the “multi-year” 60-day test in the new TDM on the PAYE treatment of non-Irish employments. It would appear to require employers to apply for PAYE dispensations for all individuals travelling to Ireland from DTA countries regularly over a period of 2 or more years if the visits breach 60 workdays collectively. It would appear to require an employer to operate PAYE on an individual’s salary (in the absence of a dispensation) if he/she is in Ireland for even one day (in excess of 60 days) in a

third consecutive year. This could mean, for example, that an Irish plc with significant British or Northern Ireland operations could be sending the name of all their UK staff to Revenue for a PAYE dispensation. This could involve the submission of a large number of applications to Revenue in circumstances where an individual is in Ireland for less than 30 days in a year.

- Revenue does not expect an employer to operate PAYE if the individual is only in the State for one working day. The main reason for the multi-year test is that Revenue want to be informed if an individual has a repeated presence in Ireland over a number of years with the appearance of substance.
- Revenue can be notified via MyEnquiries in the third year the individual is present in Ireland if the 60-day threshold is breached. Revenue will reply quickly to the information provided. It was agreed that the notification process could be discussed at TALC in 2020.
- Revenue clarified that for the purposes of the TDM the counting of days begins from 1 January 2018. Accordingly, Revenue does not expect to receive any applications for individuals present in the State for 60 days over 3 consecutive years until 2020 (at the earliest).

Item 10 – Revenue’s preparations for GDPR - update

- Preparations for GDPR are well advanced. Revenue has carried out extensive work over the last year to identify the types and class of data and records held and the data retention periods and all appears in good shape in preparation for GDPR. Finance Act 2017 introduced section 851B TCA 1997 which provides the legal basis for processing taxpayer information in accordance with GDPR.
- Extensive material on Revenue’s data protection and processing policies will be published in advance of 25 May.

Item 11 – AOB – Publication of TALC Minutes

- It was noted that one of the practitioner bodies wishes to publish the minutes of the TALC committees in their member magazine. The committee had no objection to this proposal.
- It was agreed it would be useful to discuss the dissemination of clarifications from TALC at the next meeting.

Attendees at the meeting of 1 May 2018

CCAB-I Sharon Burke
 Paul Dillon
 Brian Purcell
 Crona Brady
 Kimberley Rowan

ITI Sandra Clarke (Chair)
Samantha Feely-Lenehan (Secretary)
Tom Maguire
Pat Mahon
Kieran Twomey
Cora O'Brien
Mary Healy

Law Society James Somerville

Revenue Brian Boyle
Eugene Creighton
Joe Howley
Declan Rigney
Sharonne O'Reilly
Aisling Malone
Paul Walsh
Therese Bourke

Apologies

Law Society Caroline Devlin
Pat Bradley