

**Main TALC Meeting  
5 November 2014  
Irish Tax Institute**

**Attendees:**

ITI: David Fennell (Chair), Mark Barrett, Sandra Clarke, Cora O' Brien, Mary Healy.  
CCABI: Enda Faughnan, Sharon Burke, Brian Purcell, Julie Herlihy, Paul Dillon,  
Brian Keegan, Kimberley Rowan, Deborah Casey.  
Law Society: Caroline Devlin, Pat Bradley.  
Revenue: Gerry Smyth, Gerry Harrahill, Declan Rigney, Eamonn O' Dea, Anne Dullea.  
Apologies: James Somerville

**1. Approval of previous minutes**

The minutes of the meeting of 17 October were approved.

**2. Matters arising**

Revenue will revert to the committee on any developments in their compliance policy set out in Tax Briefing No.5/2012.

**3. Update on TALC sub-committee meeting**

The committee reviewed the summary note of work underway at the TALC sub-committees. It was noted that publication of the sub-committee minutes would be a matter for discussion at the December Main TALC meeting. Feedback from the sub-committees is being collated.

The challenges for business and practitioners in complying with the iXBRL filing requirement were raised. Practitioners requested that Revenue take a pragmatic approach to the application of late filing penalties in this transitional period. A number of technical issues on iXBRL filing are under discussion at the iXBRL sub-committee.

**4. Finance Bill**

A number of administrative aspects of Finance Bill 2014 were discussed, including:

*Section 35 – capital allowances and “customer lists”*

Practitioners queried the requirement that a customer list is not transferred directly or indirectly in connection with the transfer of a trade as a going concern. Revenue noted that it was not intended that capital allowances would be available in respect of the part of the payment for the transfer of a trade that is attributable to customer lists transferred

in the context of the larger transaction. The reference to transfer of a business as a "going concern" meant the transfer of an "ongoing or continuing business".

*Section 38 - corporate residence*

Practitioners queried how the new rules would interact with older treaties which may not have a "tie-breaker" clause in relation to residence. Revenue noted that Section 23A TCA 1997 does not refer to the tie-breaker and that the relevant provision, which is not new, must be considered by reference to the particular provisions of the treaty concerned. Treaties provide for the residence treatment of a company for the purposes of the treaty.

*Section 24 - EIIS*

A mismatch between the required holding period for CGT relief under S177 TCA 1997 (5 years) and the holding period for EIIS relief (now 4 years) was noted. No such difference arises in relation to Approved Profit Sharing Schemes.

*Section 37 – Accounting standards*

Practitioners will revert with comments on this section if considered necessary.

*Section 26 - Offshore funds*

Practitioners considered that the reduction in the marginal income tax rate without a corresponding reduction in the exit tax rate resulted in taxpayers who report offshore fund income on their tax returns being subject to a higher rate of income tax than those who do not report.

This matter is under consideration. Revenue noted that a surcharge applies where income is not reported correctly by a taxpayer.

*Section 34 - Start-up exemption*

Practitioners noted limited use of the exemption in practice, due to the link between the relief and employer PRSI paid.

*Section 20 – Refund of DIRT*

It was observed that the legislation applied to Irish accounts, subject to DIRT at source.

*Section 78 – interpretation provisions “chargeable person”*

Revenue clarified that individuals in receipt of PAYE income whose sole other source of income is Irish deposit interest subject to DIRT will not be “chargeable persons” unless the deposit interest exceeds €3,174.

*Section 73 - CAT support and maintenance*

Practitioners expressed concern about the scope of the changes including the possible implications for adult children living at home and disabled adult children. The restriction on exemption for support and maintenance of a minor child unless both parents are deceased, was also raised.

Revenue noted that Section 82 CATCA was never intended to be a wide ranging exemption. However, cases have arisen where the exemption has been applied to substantial payments made to adult children. It is not Revenue's intention to seek to attribute a value to, for example, "board and lodgings" provided to adult children living at home. Revenue will issue guidelines on the application of the legislation in due course.

#### *Section 74 - CAT agri-relief*

A number of practical aspects on the operation of the relief were discussed. These included the definition of "active farmer", the treatment of successive leases and variations that can arise in the valuation date.

The section is being reviewed by the Department of Finance.

#### *Section 79 and 80 – General Anti-avoidance regime and Mandatory reporting*

Practitioners raised concerns in relation to a number of changes in the Bill. These included, the removal of the requirement for Revenue to form and issue an opinion under S811, uncertainty on the right of appeal, the penalties in relation to "specific anti-avoidance provisions", the process for issuing "payment notices" and their scope and the changes in relation to the Protective Notifications regime. Practitioners noted difficulties in implementing and embedding the new regimes within the time required and sought that section 79 and 80 be made subject to commencement orders. Practitioners questioned whether changes to the regime were warranted in light of changed taxpayer behaviour since the introduction of the mandatory disclosure regime.

#### *Section 85 – Security for certain taxes*

Revenue noted that this section brings the direct taxes legislation into line with the VAT Acts. It was agreed that the provision was quite broad. Revenue clarified that it would be used in exceptional cases and be subject to senior manager approval.

Practitioners observed that there was no change in the Bill in relation to travel expenses for non- executive directors. Revenue noted that the area of Schedule E expenses may be a matter for review, in general, early next year.

### **5. Revenue's Statement of Strategy**

Revenue is developing its Statement for Strategy for 2015 to 2017. Submissions from stakeholders have been received.

### **6. Update on Audit Code**

### **7. Reporting to professional bodies**

Meetings between professional bodies and Revenue continue. Revenue outlined examples of difficulties their staff experienced when conducting audits, for example, non co-operation and unreasonable delays in responding to Revenue requests for clarification or information.

Revenue clarified that reporting to professional bodies was only envisaged in the context of serious misconduct and egregious behaviour.

## **8. Work plan 2014**

Revenue is consolidating and refining its guidance on the treatment of receiverships. It is anticipated that the guidance will be issued shortly.

Specific proposals for simplification of administration of PSWT, the VAT RTD and R&D audits will be dealt with by the relevant TALC sub-committees.

## **ROS**

The cause of the intermittent difficulties in accessing ROS on the evening of 23 September has been identified and addressed. Revenue noted that the problem was exceptional in nature and is not expected to recur. Revenue will be further examining its communication protocols for such scenarios.

## **AOB**

A query was raised on a technical amendment in the Finance Bill which related to the carry forward of specified reliefs. It was suggested that this matter be raised at the TALC Technical sub-committee meeting.

Practitioners noted comments at the OECD Forum of Tax Administration on the contribution of tax agents to tax compliance and highlighted the increasing demands on practitioners from iXBRL filing, Finance Bill changes etc.