

## Draft Minutes

### TALC *Indirect Tax Meeting*

23<sup>rd</sup> March 2016

Basement conference room, Stamping Building, Dublin Castle

#### Item 1 – Minutes of the last meeting

- Amendments to action points under points 5 and 9 of the minutes were agreed and following that the minutes were approved.

#### Item 2 – EU update

Revenue VAT Policy and Legislation branch provided an update to the committee on EU VAT developments.

- There was nothing of significance to report from the Council working party. The Netherlands currently hold the Council Presidency and the vouchers file is the only open VAT file. A meeting on vouchers is due to take place in April and deductibility in the distribution chain is the main issue on which agreement has not been reached.
- The European Commission will soon publish its Action Plan for VAT, the main points of which include the following; e-commerce simplification and compliance, extending MOSS to distance sales B2C goods, abolishing the small consignment relief, definitive regime for cross border B2B supplies, fraud and compliance. The plan also includes the intention to publish a proposal providing Member States with more flexibility relating to reduced VAT rates. Ireland has joined the cross border rulings initiative. Revenue has met with the Commission about the implications of Skandia and will be hosting a Fiscalis in September explore the issues involved.

#### Item 3 – Laurentia and Minerva

- A discussion took place about the implications of the Laurentia and Minerva case (C-108/14)
- The general view of practitioners is that the case provides scope for an extension of recovery with regard to the general overheads of holding companies.
- Revenue is still considering the implications of the judgement. Revenue's initial view is that where costs are directly attributable to an outside the scope activity, there is no deductibility available and it is up each Member State to decide what is outside the scope. Further to that, general overheads may be apportioned in the case of a mixed holding company. The point was made that no cases quoting Laurentia and Minerva have been received for consideration by VAT Interpretation branch to date.
- Revenue would welcome a submission from practitioners on what they see as the main areas for consideration.

#### Item 4 - Property and Legacy Leases

- Revenue confirmed the position that where an underlying lease is taxable, recovery is available. Where the underlying lease is exempt, there is no deductibility and where there is a mix of taxable and exempt leases, costs should be apportioned.
- Practitioners requested that the acquisition costs be reviewed and Revenue confirmed that they would consider the position regarding those costs and that a key point was whether or not the

reversion was exempt.

- Revenue is open to dialogue from all interested parties on the issues involved.

#### **Item 5 – PPG**

- A discussion took place regarding the entitlement of a taxable employer to deductibility in the setting up and management of a pension fund for its employees and Revenue confirmed this entitlement.
- Practitioners cited difficulties with regard to the employers VAT recovery where trustees are invoiced but the employer ultimately pays for services.
- A separate meeting to discuss the issues and possible solutions was agreed to.

#### **Item 6 – VAT on Education Services**

- Practitioners raised concerns regarding the new education services legislation and do not agree with the Revenue position that the status quo is being maintained.
- Particular concerns include the deletion from the legislation of “as a similar kind” which previously meant that if a course could be found as part of a college course it could qualify for the exemption. Also, concerns were raised regarding the conference sector and it was requested that the guidance note include confirmation that if a conference is vocational, it is exempt.
- Revenue confirmed that guidance will issue as soon as possible and that a number of specific cases had been reviewed with Revenue confirming the exemption in all cases which were exempt before the change in legislation.

#### **Item 7 – VAT and RCT**

- The leaflet will soon issue and, following that, Revenue will engage in discussions of any specific issues arising.

#### **Item 8 – Developed residential property when let**

- It was generally agreed that issues which had been raised under this item are public policy issues rather than VAT technical issues and should properly be dealt with through submission to the Department of Finance.

- **AOB**

- An item was raised in relation to the deductibility position of a developer who developed property, granted a long term lease which has run out with the property reverting back to the developer and where that developer then makes a further supply of the property. Brian Butler and Donal Kennedy will make a submission on the issues.
- An issue was raised regarding the services charges concession and 56B tenants zero rating invoices – Revenue will revert on this issue.
- Concerns were raised regarding Transfer of Business and its interaction with the joint option to tax. Brian Butler will revert with the details of the issues involved.
- It was noted that the judgement in the Aspiro case (C-40/15) has issued recently and may have significant implications. Revenue is considering the judgement.


Submitted for approval by Secretary – Fiona Mongan

Approved by Indirect TALC Committee Members

Brian Butler (**Chairman ITI**)

**Revenue**

John Farrell  
Dermot Donegan  
Pauline Doherty  
Maeve O'Malley  
Donal Barry

**CCABI**

Kimberly Rowan

**ITI**

Gerard Brennan  
David Duffy

**Law Society**

Donal Kennedy  
David Lawless

Apologies; Gerard Moran (Revenue), Norah Collender (CCABI), Kevin Elliott (CCABI)