

TALC Audit Sub-Committee Meeting

Tuesday 9 February 2016 – 10.00am

Revenue Commissioners, Planning Division, Bishops Square, Dublin 2.

Attendees: Practitioners:

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| <i>Gerry Higgins</i> | <i>CCABI (Chairman)</i> |
| <i>Norah Collender</i> | <i>CCABI</i> |
| <i>Paul Dillon</i> | <i>CCABI</i> |
| <i>Mary Healy</i> | <i>Irish Taxation Institute</i> |
| <i>Jim Kelly</i> | <i>Irish Taxation Institute</i> |
| <i>Liam Grimes</i> | <i>Irish Taxation Institute</i> |
| <i>Eamonn Coates</i> | <i>Irish Taxation Institute</i> |
| <i>Justin McGettigan</i> | <i>Law Society</i> |

Revenue:
Paddy Faughnan
Denis Barry
Stephen Flynn
Enda Murphy (Secretary)

Visitors: *Bill Fadden* *Revenue*
Lorayne Ellison *Revenue*

Apologies: *Declan Rigney* *Revenue*
Julie Burke *Irish Taxation Institute*

Item 1 – Review Procedures

Representatives from Revenue's Review Secretariat attended the meeting to brief members on the Review Procedures outlined in Revenue Leaflet CS4, following a request from Practitioners in the course of meetings in 2015. They outlined details of the number and categories of Reviews conducted since 2013 and addressed concerns expressed by Practitioners regarding the low level of reviews which result in favour of the taxpayer. They also outlined details of the cases that are not accepted into the Stage 3 Review process.

Points Noted –

- Reviews must go through Stages 1/2 of the process before they can be considered for Stage 3 Internal/External Review – very few Stage 2 reviews are escalated to Stage 3. This could be due to the issue being resolved at Stage 2.
- Revenue informed members that the vast majority of Stage 3 Reviews are carried out by an External Reviewer, who is independent of Revenue.
- Revenue expressed concern about instances where complainants, having invoked the procedures, then sought to challenge the integrity of the process and the independence of the Reviewers when the outcome was not to their satisfaction. The Decision of the Reviewer represents the completion of the Complaint and Review Procedures.
- Practitioners expressed disappointment at the outcome of some reviews, in particular, the low number of review decisions held in favour of the taxpayer. They were of the view that where specific legislation is in place, the Reviewers hands are tied and it is not within their remit to adopt a common sense approach to try to settle cases, which ultimately have to go to appeal. Practitioners considered that the number of taxpayers availing of the review process was low and that this was driven by low expectation of a favourable outcome.

Agreed –

- Revenue to ascertain if they can provide statistics on the number of Stage 2 reviews resolved/not resolved at Stage 2
- Anonymised 2015 Reviews to be published following publication of Revenue's Annual Report.

Item 2 – Minutes of meeting held on 24 November 2015

Minutes were agreed.

Matters Arising:

Points Noted –

- Revenue informed members -
 - RCT incorrectly deducted in respect of relevant operations carried out in designated areas of the Continental Shelf will not be refunded. Penalties paid in respect of audit settlements for relevant operations carried out in designated areas of the Continental Shelf prior to 2016 will be refunded.
 - The No Loss of Revenue provisions will not be applied to RCT penalties post 1/1/2015.
 - Guidelines on RCT penalties are being drafted for caseworkers and will be circulated to Practitioners when available.
- The potential impact of the RCT penalty rules in cases of genuine error or issues of technical interpretation was discussed. Practitioners asked if a less rigid approach could be taken to the Innocent Error and Technical Adjustment provisions in an effort to solve some RCT issues where there are differences in interpretation, to cater for small mistakes.

Revenue agreed to consider practitioners' request in drafting guidance.

- Commenting on eBrief No.02/16, Practitioners stated they had received representations from members regarding the tight timeframe of 3 weeks within which they could download in ROS details of payments made to subcontractors.
- Revenue pointed out that the 12-month record is in the eRCT system since it was set-up in 2012. The eBrief was merely a customer service initiative to remind practitioners to download the full 12 months data for 2015, for their own purposes, as it would rollover after 31/1/16 and would not be available after that date.

Agreed – Revenue to circulate guidelines on RCT penalties when available.

Item 3 – Work Plan 2016

Code of Practice for Revenue Audit and other Compliance Interventions

Points Noted –

- No issues were identified in relation to operation of the Code of Practice for Revenue Audit and other Compliance Interventions published on 20 November 2015.
- Revenue stated they had scheduled a number of visits to Regions/Divisions to discuss the changes to the Code. They also intend to carry out a review of the operation of internal instructions in relation to "Failure to Cooperate Fully with a Revenue Intervention" and "Revenue referrals to Professional Bodies under Section 851A, TCA 1997", and will provide some statistics at the next meeting of the group.

Agreed -

- Revenue to provide statistics relating to the operation of internal instructions surrounding "Failure to Cooperate Fully with a Revenue Compliance Intervention" and "Revenue Referrals to Professional Bodies under S851A, TCA 1997, at next meeting.

National Regional Projects

Points Noted –

- **Construction Project** – Revenue stated there was an increased compliance focus on this sector arising from a substantial increase in activity. They provided an overview of the compliance issues identified in the course of interventions and site visits.

Shadow Economy

Points Noted –

- Revenue stated that they welcomed the consultation process on the use of intermediary type employment structures and self-employed arrangements recently initiated by the Minister for Social Protection and the Minister for Finance. Revenue informed the sub-Committee that it is not a party to the consultation process (as that is a matter for the Ministers involved) and also mentioned that they hope that the outcomes of the consultation process will provide greater clarity on the issue.
- An overview of Revenue projects likely to be considered for 2016 was provided.

eAudit

Points Noted –

- Revenue informed members that eAudit would be carried out in all cases where it was possible to do so.
- Practitioners expressed the view that a timeframe of 21 days to conduct a self-review in advance of an audit, and make arrangements for the supply of data, was far too tight. They stated that, likewise, the timeframe of 14 days to apply for an additional 60 days to prepare a qualifying disclosure was not sufficient. They pointed out that historically, although the Code of Practice sets out a timeframe of 21 days for notification of a Revenue Intervention, the taxpayer received notice 4/5 weeks in advance.
- Revenue stated they would consider Practitioner concerns.
- Practitioners agreed that Revenue caseworkers were reasonable where requests for deferral of an audit were made, but mentioned possible implications for cooperation penalty mitigation.

Agreed – Revenue to consider timeframe for notification of an audit.

Stamp Duty

Points Noted –

- The Law Society stated issues identified in relation to Stamp Duty interventions had been resolved quickly by Revenue and agreed to revert with a submission in relation to this matter.
- Revenue stated that in their approach to Stamp Duty compliance interventions engagement would be with the accountable person, rather than the Solicitor, unless specifically requested by the accountable person to make contact with the Solicitor.

Agreed –

- Law Society to make submission in relation to Stamp Duty Interventions.
- Revenue to clarify if Solicitor will be cc'd on correspondence relating to Stamp Duty interventions

CAT

- Revenue informed Practitioners that Planning Division would decide future policy in relation to CAT Compliance.

Compliance Updates

- Revenue pointed out that the Detailed Profit and Loss Account was not being tagged in iXBRL returns and stated they were due to meet Practitioners to discuss.
- The next REAP National Risk Run is scheduled to take place at the end of February 2016.

Topics Identified by Practitioners

Practitioners asked that the following be included in the work plan for the group for 2016:

- Updating of historical guidelines on audits of Solicitors by Law Society
- Audit of R& D claims

Agreed

- Items to be included.

AOB – nothing identified.

| Action Points | Responsible | Timescale |
|---|--|--|
| Review Procedures Revenue to ascertain if they can provide statistics on the number of Stage 2 reviews resolved/not resolved at Stage 2 Anonymised 2015 Reviews to be published following publication of Revenue's Annual Report. | Revenue | Next meeting Following publication of Revenue's Annual Report |
| RCT Penalties - Revenue to circulate guidelines on RCT penalties when available. | Revenue | As soon as available |
| Code of Practice – <ul style="list-style-type: none"> • Revenue to provide statistics relating to the operation of internal instructions surrounding “Failure to Cooperate Fully with a Revenue Compliance Intervention” and “Revenue Referrals to Professional Bodies under S851A, TCA 1997, at next meeting. • Revenue to consider timeframe for notification of an audit and timeframe to apply for an additional 60 days to prepare a qualifying disclosure. | Revenue | Next meeting |
| Stamp Duty <ul style="list-style-type: none"> • Law Society to make submission in relation to Stamp Duty Interventions. • Revenue to clarify if Solicitor will be cc'd on correspondence relating to Stamp Duty interventions | Law Society Revenue | Immediately Immediately |
| Work Plan 2016 To be revised to include – <ul style="list-style-type: none"> • Updating of Law Society guidelines on audits of Solicitors • Monitoring audits of R&D claims | Revenue | Immediately |

Submitted for approval by Secretary – 9 March 2016

Approved by **TALC Audit Sub-Committee Members** - 20 April 2016