

Minutes
TALC Audit Sub-Committee Meeting
Tuesday 9th April 2019 – 10.00am
Revenue Commissioners, Planning Division, Bishops Square, Dublin 2.

Attendees:

Practitioners:

| | |
|--------------------------|----------------------------|
| Jim Kelly (Chair) | Irish Tax Institute |
| Liam Grimes | Irish Tax Institute |
| Mary Healy | Irish Tax Institute |
| Aidan Lucey | Irish Tax Institute |
| Sandra Brennan | Irish Tax Institute |
| Paul Dillon | CCABI |
| Norah Collender | CCABI |
| Gerry Higgins | CCABI |
| Ruth Higgins | Law Society |

Revenue:

Brian Boyle
Kathleen Redmond
Stephen Flynn
Padraigh Donnelly
Fay Kearney
Amy Reville (Secretary)
Miriam Scahill

Apologies:

| | |
|--------------------|----------------------------|
| Tom Martyn | Law Society |
| Julie Burke | Irish Tax Institute |

Item 1 – Review of Minutes of Meeting held 5th February 2019

- The group accepted the amendment of the meeting minutes of 5/2/19 proposed by the ITI under the item National/Regional Projects to the sentence “The ITI welcomed the fact that Revenue caseworkers are adopting a “service to support compliance” approach to intervening in these cases”.
- The ITI requested that the meeting minutes of 5/2/19 are amended under the item Work Plan 2019 to read “The ITI expressed concern that the 10% rate is penal”.

Item 2 – Matters Arising from previous meeting of 5th February 2019

15% Test for Significant Consequences

The group discussed the 15% test for significant consequences in s.1077E TCA.

Revenue outlined that a penalty is calculated on the difference between the amount of tax that would have been payable/repayable based on the incorrect return and the amount of tax properly payable/repayable for the period. Where the test is applied, it is applied to the overall return.

The ITI expressed concern that in certain scenarios this approach may lead to potential publication for relatively small adjustments.

Revenue stated that this is a statutory test and has been in place since 2008. Practitioners will develop some worked examples to highlight what they see are difficulties with the test.

Item 3 – Work Plan 2019

Code of Practice for Revenue Audit and other Compliance Interventions

Revenue advised that the Code of Practice will be amended to reflect that 'no loss of revenue' cannot apply to Relevant Contracts Tax. Where there is non-operation, the tax is not pursued, only the penalty. ITI outlined their agreement with this amendment and requested time to review the final draft of the amended Code before the next meeting.

Revenue will update the working document in relation to the planned amendments to the Code.

ITI raised a query in relation to PMOD and the Code of Practice.

Revenue responded that revised wording on this aspect of the code will be circulated.

CCABI requested that any proposed changes to the Self-correction regime be discussed by the group. in advance of being finalised.

National/Regional Projects

FIAD update

Revenue expects to notify TALC later in the year regarding a potential AEOI project.

Medical Locums Project

Revenue updated the committee that 226 Audits and 155 Aspect Queries are opened to date under this project.

The ITI enquired on the level of engagement generated by the letters to Medical organisations indicating opportunities for self-review. Revenue reported a low response to these letters. ITI enquired if there was another batch of letters due to issue. Revenue responded that it was unlikely to issue another batch of correspondence, but single letters will issue if and when new cases are identified.

Non- Filers Programme

The ITI requested an update to the non-filers programme. Revenue informed the group that letters regarding partnerships will be issuing in week commencing 8/4/19. Revenue also advised that RCT reminder letters were issued in the first week of April 2019.

PAYE Modernisation

A number of queries were raised by the ITI in relation to compliance issues and PMOD

- When amendments of the part of the employer are required.
 - where maternity leave pay has been operated by an employer in expectation that the employee will be returning to work and in the situation where that employee does not return, a claw-back is required.
 - where amendments may be required is where an employee has been paid in error.

Revenue will review these identified issues.

- The Form 12 currently cannot be overwritten.

Revenue pointed out that the onus is on the employer to amend the real-time system

- The application of penalties when compliance issues arise with PMOD.

Revenue stated that self-correction without penalty is open to all employers. Revenue views this phase of the implementation of PMOD as a learning phase and is very much operating in a service compliance mode now in

relation to employers who are engaging with PMOD and who may be experiencing difficulties. Revenue added, however, that any employers who are not engaging with their responsibilities are liable to face penalties.

CCABI requested an update on how the Revenue outreach programme to employers was currently operating.

Revenue stated that communications to employers via phone calls, letters and ebriefs to support compliance are on-going. Common identified issues to date are as follows:

- Duplicate line items.
- Incorrect data (e.g. Wrong date inputted for pay date).
- Employees on Emergency Tax where Revenue have already issued an RPN.
- Employers deducting USC, but the employee is USC exempt.
- The Dead Letter Offices (DLO) records being returned indicate the need for employers to update their contact details with Revenue, particularly where they have moved offices in the past few years. Revenue requested that practitioners ensure that their client details are up to date in this regard.
- The high number of cases where a company/employer has ceased being an employer but has not deregistered.

CCABI asked how extensive these identified issues with the data are. Revenue confirmed a significant number of cases where the data indicates that employers need to address issues. For example, active RPNs where an employee has ceased, and the employer has not completed the cessation work.

eAudit

No Update at this time.

Updates on Compliance Matters to be provided, when appropriate

No update at this time.

Item 4 – Topics identified by Practitioners

Revenue Audit Procedures

The group discussed the recent draft discussion paper submitted by the ITI on Revenue Audit Procedures.

Revenue thanked the ITI for sending this discussion paper and noted that as Revenue only had sight of this document in the past few days, that more time is required to give the contents of the document full consideration.

The initial feedback on behalf of Revenue was to understand from the group if section 5.8 of the Code of Practice provided for progressing audits in a timely way.

The ITI outlined that the approach to these discussions on Revenue Audit Procedures should be a mutual effort on the part of Revenue and practitioners to address the issue of closing audits in a timely way.

In that context, the objectives of the proposals are;

- To increase the transparency of the process
- To give indicative timelines around the specified milestones within the audit process

Revenue commented that it is challenging to apply timelines across all audits given the broad case base from which audits are drawn and the varying scope and complexity of each audit.

The ITI acknowledges that audits are diverse by their nature and that a proportion of audits will remain open for a long time. In the case of the 80-90% that are more routine in nature, the goal of these proposals is to streamline these audit milestones to ensure momentum is maintained by each party.

The ITI requested that the discussion document be considered at the next meeting of the group.

VAT deregistration letters

CCABI raised the matter of letters to taxpayers regarding cancellation of VAT registrations. Revenue confirmed that a clean-up project is underway and that letters are issuing to VAT registered taxpayers who have made no VAT returns in a 2-year period. The letter indicates that Revenue will de-register cases unless the taxpayers advise of a necessity for retention. Revenue will circulate this standard letter to the group.

Changes to the Stamp Duty returns

The Law Society requested that Revenue considers putting a facility in place which will enable the printing of the full Stamp Duty record. Revenue advised that this matter is not appropriate to this TALC forum and is being dealt with by the Revenue Stamp Duty Office.

Agent Regulation

CCABI raised the issue of agents who are not members of a recognised practitioner body and suggested that allowing such person's access to a TAIN might facilitate money laundering. Revenue advised that it has no role in the regulation of agents and that the issue of a TAIN is a purely administrative process. Revenue expressed concerns that a practitioner body chose to raise this issue in the press prior to discussions at any TALC forum. The issue will be raised at the main TALC meeting in May 2019.

The next meeting of the TALC Audit Sub-Committee is scheduled to take place on **Tuesday 11th June at 10.00am.**

Submitted for approval by Secretary – 6th June 2019

Approved by

| Action Point | Responsible |
|---|-------------|
| Amend meeting minutes | Secretary |
| ITI to supply Revenue with examples of where a clawback on the R&D credit may give rise penalty/publication. | ITI |
| Final draft of the amended Code to be shared with the group. | Revenue |
| Revenue to clarify how amendments outside the tax year can be handled within PMOD. | Revenue |
| Revised wording regarding PMOD in the Code to be circulated by Revenue | Revenue |
| Revenue to circulate standard letter that issued regarding VAT registrations where no VAT return has been made in 2 years | Revenue |