

Minutes of Main TALC meeting

12 July 2013

Law Society of Ireland

In attendance

Law Society: Caroline Devlin (Chair), James Somerville, Tom Martyn, Rachael Hession (Secretary). Revenue: Anne Dullea, Declan Rigney, Gerry Harrahill, Gerry Smyth.

CCAB – I: Brian Keegan, Kim Rowan, Brian Purcell.

ITI: Mary Healy, David Fennell, Michael McGivern

Apologies: Pat Bradley, Enda Faughnan, Liam Grimes, Liam Lynch, Mark Barrett, Cora O'Brien, Ciaran Desmond, Norah Collender.

Minutes of the meeting of 24th April 2013 and matters arising

The minutes of the meeting of the 24th April 2013 were approved. Revenue and Practitioners agreed that it was in order to issue a comprehensive set of minutes and no summary of minutes if the comprehensive set of minutes issued for approval within a few weeks of the meeting.

Matters arising from Minutes

Revenue advised that it was waiting for clarification from the practitioner side in relation to a query raised before issuing the guidance note re. section 11/new section 811B TCA 1997. Practitioners agreed that the matter of the bona fide test in the context of s817 could be removed off the TALC agenda.

Implementation of new Personal Insolvency legislation.

Revenue advised that an ebrief dealing with the new Personal Insolvency legislation will issue within the next few weeks. Revenue confirmed that the ebrief will focus on the procedures to be followed, and the nature of the information required by Revenue so that it can make a decision on whether to opt in or out of an arrangement.

Practitioners thanked Revenue for the note on debt forgiveness and land dealers/developers. Practitioners expressed their concern with the open language of the following phrase: "As regard bankruptcy, it is understood that, in general, the bankrupt would be expected to make provision for the taxes associated with the conduct of his/her profession during the bankruptcy period". They pointed out that if this issue was not addressed/identified it could put a person back into bankruptcy. Revenue expressed the view that it would be an unusual situation where charges crystallise and where there are no losses forward to cover charges. Practitioners pointed out that it was important that clients were aware of the potential issue and that it was factored in and identified as a debt. Revenue agreed to consider more general circulation of this note.

RTS Review

Revenue advised that this matter had not been progressed to finality yet due to internal considerations regarding the operation of the RTS. While recognising the requirement to

use secure email for sensitive information practitioners expressed their concerns with the requirement by LCD to raise queries via secure mail only. Practitioners advised that the main problem with using secure mail was that it was used so infrequently that passwords were commonly forgotten and the procedure for getting new ones was cumbersome. Revenue confirmed that they would follow up on the issue.

It was agreed that this item would remain on the Main TALC Agenda as an update item.

R & D Consultation process

Revenue circulated an update on the R & D Consultation process. Practitioners commented on the value of considering the regime applicable in other competing jurisdictions. It was agreed that this item would remain on the Main TALC Agenda as an update item.

Change in filing date

Revenue confirmed that this was being considered by Finance and is being looked at by the TALC self-assessment sub-group. It was agreed that this item would remain on the Main TALC Agenda as an update item.

Incorporation of certain professional practices

Revenue advised that they would be issuing an e-brief on the expenses issue with the focus on examples involving personal services companies rather than non corporate structures/self-employed.

Issues raised by sub-group of the High Level group on Business Regulation

Revenue explained that this sub-group involved reps from different government bodies, various representative bodies and practitioners for the purposes of addressing issues on business regulation and the administrative burden. Revenue pointed out that as there was an existing TALC forum they did not wish to replicate or have parallel groups working on tax administration issues. For this reason Revenue proposed that the tax administration issues of this Group would be considered under the TALC forum. The ACCA had made a submission to the High Level Group with part of the focus involving the reduction of costs of compliance and the administrative burden it entails. The relevant recommendations are as follows:

1. Revenue to attempt to increase level of pre-population of for example, ROS screens. Revenue confirmed that this task is considered as a work in progress and will be advanced as opportunities arise. Specific proposals for pre-population could be raised through the TALC Collection forum;
2. A longer lead in time to changes in requirements/systems/procedures. While Revenue acknowledge the value of an adequate lead in time for changes, sometimes the optimal lead in time couldn't be accommodated because of legislative constraints/requirements ;
3. Sharing of information between Revenue, CRO and CSO. Revenue confirmed that this task is considered as a work in progress and will be progressed as opportunities arise;
4. Speedier conclusion of Revenue audits to reduce the administration burden together with an analysis of the nature and type of queries raised to determine whether the Revenue initial queries are clear and comprehensive enough. This will ultimately

reduce compliance costs. Revenue suggested that the matter be looked at by the TALC Audit sub-committee in the context of the review of the Code of Practice for Revenue Audit;

5. The operation of an advisory Revenue audit and more information sessions for start-up business. Revenue suggested that an advisory Revenue audit is not appropriate but that the matter of more information be considered by the TALC Collection sub-committee. Suggestions as to how the quality and focus of information for start-up businesses might be improved including as regards possible improvements to Revenue's website could be considered;
6. A dedicated agent helpline for services and support. Revenue suggested that this recommendation will require focused analysis of the specific supports and services envisaged before the matter of provision could be addressed. Again it is proposed that the TALC Collection Sub-Committee would be an appropriate forum for this further consideration. In addition, the existence of the RTS service needed to be considered in the context of the proposal. Practitioners advised that their Northern Irish colleagues, where a dedicated helpline had recently been established, might be of assistance.

The proposals by Revenue as regards progressing consideration of the recommendations and the involvement of the TALC forum were agreed. The matter will be retained on the agenda of Main TALC.

AOB

- Revenue review of the interaction of the HER and the property reliefs surcharge.

Practitioners raised a query regarding the Revenue interpretation of the liability to the 5% surcharge. They explained that their interpretation of the term "full effect" as opposed to 'used' or 'claimed' led them to advise their clients that the surcharge was net of HER. Moreover, preliminary tax was paid on this understanding as the equitable approach is to pay a surcharge. Revenue expressed the view that there was no room for misinterpretation and that the examples on the website were neutral and did not deal with HER. Practitioners asked how Revenue was going to deal with the taxpayers who in good faith underpaid preliminary tax. Revenue asked if this interpretation was across the board and whether the practitioners had issued any publication setting out this point of view. Practitioners reported that Minister Noonan has mentioned in a statement that the HER would be charged on sheltered income in a given year. It was agreed that if practitioners could produce evidence in the form of publications to their respective members, FINAK, notes of meeting with Revenue, in addition to the Minister's statement, then it would be considered by Revenue. Practitioners agreed to a one week time limit for the production of relevant papers. Revenue advised that the expression of doubt facility be used going forward in these circumstances.

- Directors fees

Revenue confirmed that the various examples provided by practitioners were being examined and that a meeting on the issues had been held with members of the TALC Audit

sub-committee. Revenue undertook to revert as a priority with an update on the outstanding issues. Practitioners expressed their concern with the continued uncertainty on the issue and the difficulties arising for their clients with retrospection. Practitioners also requested that they be given an opportunity to have a final discussion on the issues in advance of any ebrief issuing from Revenue.

- Receivership consultation paper

Practitioners raised a query regarding the publication of the receivership consultation paper. Revenue confirmed that a link to the paper had been distributed by the Secretary earlier in the week. It was agreed that the first consultation was very useful. Practitioners expressed their concern with the deadline for submissions and limited consultation period. Revenue explained that they were limited by the legislation process.

- Compliance code for PAYE

Revenue confirmed that the compliance code for PAYE taxpayers framed on a similar basis to the Code of Practice for Revenue Audit would be circulated to members shortly for brief comments/feedback.

Date of Next Meeting:

It was agreed that the next meeting would be the 19 Sept followed by a Budget conference call on the 17 Oct. Revenue agreed to revert regarding the timing of the post Finance Bill meeting with a proposed meeting either the last week in Oct or first week in Nov.