

Minutes of Main TALC meeting

23 October 2019

Chartered Accountants House, 47/49 Pearse Street, Dublin 2 at 2.30pm

Item 1 Development of an electronic CA24 - Revenue presentation

Revenue presented on the development of an electronic CA24. It is hoped that development of an online and more interactive form will simplify reporting for taxpayers and reduce the comparatively high volume of errors which have been identified from taxpayers' efforts to complete the current paper forms which are filed with the Probate Office. It is not intended to increase the scope of information on the form.

There will be a change to the filing process to move to an online form filed firstly with Revenue. The Probate Office will receive the information they require from Revenue.

This is the first stage of dialogue with practitioners through TALC on the electronic CA24. Revenue has worked closely with the Probate Office to bring the project forward to date. Further updates and engagement will take place primarily at the TALC Direct/Capital subcommittee and, where appropriate at this committee.

The legislation to provide the framework for changing the form to an online form which is filed first with Revenue is included in Finance Bill 2019 which contains changes to section 48 of the Capital Acquisitions Tax Consolidation Act 2003. The Finance Bill provides an outline framework for detailed implementing Regulations for the eProbate form filing process.

Release of the online CA24 is expected to be in the second half of 2020.

Practitioners welcomed an electronic CA24 and further engagement with Revenue on its development.

Item 2 Minutes of Meeting held on 26 June

The minutes of the Main TALC meeting were agreed.

Item 3 Matters arising

Operation of the “multi-year” days test in the TDM on PAYE and non-Irish employments

Revenue are committed to changing TDM guidance on the application of the tests applicable to foreign resident individuals exercising employment duties in Ireland for short periods during the year of assessment so that employers are not required to apply for advance PAYE clearance not to operate Irish PAYE. The revised days based tests will apply to a year of assessment instead of a multi-year test as set out in the current TDM. The revised tests will apply from January 2020. The TDM will be updated to reflect this

revised test and it will issue as soon as possible. It is likely that additional changes to the TDM will follow at a later stage.

Flat rate expenses

Revenue have carried out a comprehensive review of the flat rate expense (FRE) allowances across a large range of business sectors. The outcome of this review will be either an increase, decrease or an elimination of the allowance for employees. There will be five new categories of FREs. Although the adjustments to the FRE amounts applicable to an employee could be small in many cases, the expectation is that approximately 500,000 employees will be affected. The implementation date for changes to the FRE amounts will be 1 January 2020. The changes will be reflected on the Revenue Payroll Notification (RPN).

Revenue will issue correspondence to employees affected and a copy to the relevant representative bodies from mid-November. Revenue will communicate the changes via a Revenue eBrief and in their Tax and Duty Manual.

VAT thresholds for interventions in refund cases

Revenue advised that there had been a recalibration of risk assessment factors in relation to VAT real time risk interventions relating to refund amounts in recent months. Over the period July to September 2019 there was a 50 percent reduction in the number of cases selected by Revenue for review. This reduction should be felt by taxpayers and practitioners.

Practitioners undertook to provide feedback on this at the next meeting.

Item 4 Finance Bill 2019

There were detailed discussions of Direct/Capital tax provisions in the Bill at the TALC Direct/Capital Taxes subcommittee meeting.

There was a high-level discussion by the committee at the main TALC meeting. The main discussion points were as follows:

- Anti-hybrid rules –
 - Revenue thanked practitioners for their input and positive engagement in reviewing draft measures set out in the July Feedback Statement at the TALC BEPS subcommittee. Practitioners noted that the advance consultation and discussion on the key issues worked very well with the output from these discussions reflected in the measures in the Finance Bill, as initiated.
 - It is expected that a number of technical legislative amendments will be made at Committee Stage of the Bill.
 - Guidance from Revenue is expected to address other issues raised on the application of the measures in practice.
 - Practitioners asked Revenue to clarify whether in the context of testing for included in a payee territory, is there a requirement to test all potential payees for 'included' where is more than one payee. Revenue response was that it can be possible to have different possible payees where profits are taxable at both the entity and investor level in different jurisdictions but

- where there are multiple possible payees, it is sufficient to meet the included test for one payee.
- A “mismatch” outcome under any one of the different chapters under the measures must payment must only be corrected once. The taxpayer can choose which mismatch counteraction to apply where more than one potentially applies.
 - Errors in the drafting of internal section cross references to defined terms within the disregarded PE measures will be corrected at Committee Stage of the Bill.
 - Transfer Pricing provisions
 - Revenue is considering practitioners’ comments regarding the application of the qualifying relevant person definitions to non-trading counterparties to arrangements that are holding companies holding shares in Irish resident companies. Although the holding company may be chargeable to corporation tax, it could be expected that dividend income arising is exempt from the charge to tax under section 129.
 - PPN payments between two section 110 companies are outside the scope of the transfer pricing rules.
 - DAC 6
 - Implementing guidance will be published by Revenue next year.
 - There is no express carve out from the reporting requirements for employees where the employer fulfils the reporting requirement as intermediary (as there is under Ireland’s domestic regime). Revenue advised that it is not expected that employees should be obliged to report where the reporting is done by their employer. Practitioners sought a legislative amendment to make this clear.
 - Practitioners noted that the five working days requirement to report the reference number is very limited and the penalty or failure to satisfy this notification requirement attracts the same level of penalty for non-filing. An intermediary may not know who other intermediaries are which makes this requirement impossible to meet in practice.
 - Section 110 companies – in the definition of “influence”, practitioners asked if this could expressly exclude the exercise of creditor rights under CLO transactions.
 - Tax deductible expenditure
 - A deduction is disallowed for “any taxes on income”. Relief for withholding taxes on foreign income is available as a reduction under the provisions of Schedule 24. If relief as a reduction is not available under Schedule 24 then no deduction is available.
 - The legislation in the Bill is addressing a point of interpretation that has been the subject of appeal at the Tax Appeals Commission and has now moved to the High Court.
 - The Social Welfare Act 2019 and the Parents Leave and Benefit Act 2019 include income tax amending measures in relation to the tax treatment of self-employed ‘jobseekers’ benefit as additional self-employed earnings and parental leave benefit as emoluments taxable under Schedule E.
 - KEEP
 - The restricted definition of holding company which prohibits an eligible holding company from carrying on a trade was a policy decision. Any representations on this matter should be made to the Department of Finance.

- R&D relief – the practical challenges for a company which outsources to third parties having to notify in advance of, or on the day of, payment, if that company intends to make a claim for the R&D tax credit, were highlighted by practitioners.
- Liability to tax of holder of fixed charge on book debts of company – Revenue confirmed that the tax measure is applicable only to the holder of the legal charge.

Item 5 DWT Real Time Reporting

Revenue advised that following a review of the operation of the DWT system a potential gap was identified between DWT returned in the tax returns of Irish individuals and DWT amounts paid by Irish companies. The possibility is that this might be due to the non reporting of small amounts of dividend income on the part of a large volume of individual taxpayers.

To address this potential tax gap, it is proposed that the DWT system will move to real time reporting, akin to the PAYE system with an appropriate rate of DWT deducted at source. A public consultation is underway.

Satisfying GDPR requirements will be considered as part of the development of the system.

Although it is understood that the proposed real time DWT system is not intended to change the scope of operation of the regime for shareholders entitled to a DWT exemption, practitioners suggested that it might be appropriate to include non-resident shareholders amongst a population of persons who might be able to avail of an online process to receive dividends without deduction of DWT as the process to file paper forms to receive DWT refunds can be administratively burdensome and costly for small dividend amounts.

At the next meeting Revenue will present on the proposals.

Practitioners queried the implications of the new DWT system on Revenue's capacity to develop other online systems such as an electronic PSWT system. Revenue are in favour of moving the current manual based PSWT system to an online platform however, it is not on the current development list. Practitioners highlighted the several issues with the current PSWT system.

Item 6 Debt Management System (DMS)

Revenue clarified that all debt collection enforcement decisions are made by case workers. Where a tax offset is available, it will be taken into account and may influence the enforcement decision.

An update to ROS is expected in November will allow taxpayers to select automatic VAT offsets.

Item 7 VAT two-tier registrations – update on take up and service delivery to date and a domestic number validation tool

To date approximately 6,000 cases have registered under the new system, with 1,500 cases applying for both domestic and intra-EU VAT registration.

Although taxpayers and agents should be experiencing some acceleration of the registration processing time for domestic VAT registrations at this point in time, the full potential for almost real time issue of VAT registration numbers for domestic registration process will be in place from 1 January 2020.

Practitioners requested that Revenue provide a domestic VAT number validation tool – perhaps on Revenue’s online platform. Prior to the introduction of the two-tier system it was possible to validate all Irish VAT numbers on the Europa website. Under the new system there is no facility available to validate domestic only VAT numbers. This is a concern to practitioners given the potential exposure for incorrect input recovery claims made if a domestic VAT number proves to be incorrect. Revenue agreed to consider the provision of a VAT number validation tool for domestic VAT numbers.

Item 8 Agent copies of Revenue aspect queries

Revenue confirmed that if a tax agent is not on their records acting under the relevant tax head for a taxpayer then they will not receive a copy of correspondence related to the tax head in question. In the case of VAT as an example, if the tax agent is not also the agent for VAT, they will not receive VAT related correspondence regarding their taxpayer client. However, if the agent is recorded as acting for VAT then they should receive a copy of all VAT correspondence. This matter will be discussed at the relevant TALC subcommittees.

Item 9 ROS help service during busy compliance season – contingency plans for service disruption

Maintaining the ROS service is a priority for Revenue. There are no planned system changes over the compliance season therefore any possibility of interference with normal function of the service is limited. Revenue will deal with any issues as they arise. The ROS helpdesk is operating extended opening hours. The Collector General’s payment division will also open for extended opening hours.

Item 10 AOB

There is no update on moving to adopt an electronic CG50 clearance system. This matter will be referred to the TALC Collection subcommittee.

Revenue undertook to review practitioners concerns regarding delays in responses from Revenue on clearance for interest withholding tax on payments to tax transparent entities owned by tax treaty residents.

The next meeting will be held on 11 December at the earlier time of 11.30am.

Attendees

CCABI

Sharon Burke (Chair)
Kim Rowan (Secretary)
Brid Heffernan
Enda Faughnan
Brian Purcell
Paul Dillon

ITI

David Fennell
Anne Gunnell
Mary Healy
Pat Mahon
Sandra Clarke
Kieran Twomey

Law Society

James Somerville
Pat Bradley

Revenue

Brian Boyle
Eugene Creighton
Philip Brennan
Joe Howley
Sharonne O'Reilly