

Summary Note of Meeting between the Irish Tax Institute and Revenue's Collector-General's Division

24 November 2020

Via Skype

Key points from the meeting

1. Update on the Division's structure

Revenue provided an update on the Division's structure and management team responsibilities, followed by presentations on the Covid Restrictions Support Scheme (CRSS), the Debt Warehousing Schemes and Phased Payment Arrangements for income tax at the 3% rate of interest.

2. CRSS

Principal Officer and CRSS project lead, Katie Clair provided a detailed presentation on the CRSS, followed by a Q&A. The presentation was circulated to the Institute after the meeting for wider distribution to members.

In response to queries as to whether a business could qualify for the CRSS if their customers are located outside the 5 kilometre restricted travel area, Revenue clarified that it is the restrictions that apply to the business's location that are relevant in determining CRSS eligibility (not the location of the customers). The business must be required to prohibit or significantly restrict public access to their business premises due to the direct effect of the public health restrictions. It is not sufficient that the business is indirectly affected by the restrictions, for example, due to restrictions on travel or a reduction in numbers entering the premises as a result of space constraints from the application of the social distancing requirements.

Where a business has premises in multiple locations, each premises will qualify for CRSS if they are subject to the relevant public health restrictions in their location. Secondary suppliers (i.e. wholesalers, suppliers of closed businesses etc) do not qualify for CRSS even if they meet the "turnover test", as their business is not required to prohibit or significantly restrict public access as a direct result of the public health regulations.

Revenue advised that if the CRSS registration screen is not visible in the eRegistration section on ROS, the business may not have tax clearance. This needs to be addressed before the business can register for the scheme. Revenue recommended that businesses with multiple premises, where some premises qualify for CRSS, but some do not, can register all of their business premises for the scheme (as a premises may qualify for the scheme at a later stage).

Revenue emphasised the importance of fully and correctly completing the registration and claims application screens, for example, checking and updating bank account

information and completing the relevant declarations. It is also critical that applicants provide the correct figures on the registration application. Instances are arising where annual turnover rather than “average weekly turnover” for 2019 is being entered. There is a warning on the application screen to help applicants to avoid this error. Applicants can now correct such errors on ROS before the claim is submitted. A claim for payment can be submitted once 24 hours has elapsed from completion of the registration process.

The tax treatment of the Advanced Credit for Trading Expenses (ACTE) payment under CRSS is a common question from businesses. The payment is taken into account to reduce the tax deductible expenses for the accounting period. However, the payment will only be taxable if the business is profitable.

Revenue is checking applications at the registration stage and will raise any necessary follow up questions via myEnquiries. Applicants should monitor myEnquiries for messages from Revenue so they can respond quickly and expedite their claim. There is an eight-week timeframe from the beginning of the claim period to submit a CRSS claim. However, Revenue will pause the registration application where further information is requested and supplied and the applicant will qualify once the claim is submitted within 3 weeks of registration, if this is later than eight-weeks from the beginning of the claim period.

3. Debt Warehousing Schemes and 3% PPA for income tax liabilities

Revenue gave a presentation on the Debt Warehousing Schemes, including the extension of warehousing to certain income tax liabilities and overpaid subsidies under the Temporary Wage Subsidy Scheme (TWSS), and on the 3% PPA for income tax liabilities where the 2019 Form 11 was filed and PPA entered into by 10 December 2020.

In response to queries on the procedure for making payments to Revenue during the “zero interest” period of the debt warehousing schemes, Revenue clarified that they will accept payments on an ad hoc basis during this period. The taxpayer can choose which tax-head they wish to allocate payments to (i.e. VAT, PAYE (Employer), TWSS or income tax).

To avail of the 3% PPA, the income tax return must be filed and the PPA must be entered into by 10 December 2020. For PPAs sought after 10 December, contact should be made with the Collector-General’s Division

The Institute raised some queries on the letters that issued in relation to the Debt Warehousing Scheme for COVID-19-related VAT and Employer (PAYE), seeking the submission of outstanding returns, namely:

- Whether the reference to iXBRL returns as outstanding, with a due date 21 September, accelerated their submission date, as there is a three-month concessionary period after the Form CT1 filing date to submit iXBRL accounts.
- Whether requests to submit a 2015 VAT Return of Trading (VAT RTD), could be waived given the passage of time, where this form appeared in the list of outstanding returns.

As regards the due date for submission of iXBRL accounts, Revenue noted that the letter references that some of the returns listed are pending, as opposed to outstanding.

As regards requests for VAT RTD for 2015, this has not been brought to Revenue's attention so these may be isolated instances. Revenue suggested that tax agents and taxpayers prioritise the submission of outstanding returns relating to current years or periods. Revenue will be pragmatic in relation to the submission of VAT RTDs dating back to 2015 if they are appearing on the record in some cases.

Revenue advised that they will be gradually returning to collection and enforcement activity in the new year. They wish to be clear about which taxpayers and what debts have been warehoused to ensure this debt is insulated from renewed collection activity. Therefore, it is essential that taxpayers submit the outstanding VAT and Employer (PAYE), and other outstanding returns to ensure the debt qualifies for the warehousing scheme. Taxpayers should endeavour to submit outstanding returns before Christmas as Revenue will be starting to review the warehoused debts at the end of 2020.

4. Divisional activity in 2021 – collection and enforcement

Revenue will be gradually returning to the normal environment for collection activities in 2021.

The standard duration for a PPA has increased on the online system and the level of down payment sought has been reduced, from that required pre-COVID-19. Revenue intends to return to their previous practice of seeking documentation and examining a business's ability to pay to determine what is reasonable for a business in arranging a PPA.

The Institute asked about Revenue's approach to reactivating enforcement and the pace of such activity, given the swiftness of a referral to enforcement in the pre-COVID-19 environment. Revenue do not intend to adopt a sudden significant resumption of enforcement. Enforcement will return progressively and incrementally over time, starting at the beginning of 2021 and it is for this reason that submitting outstanding returns for debts that qualify for warehousing is so important.

Revenue do not expect collection and enforcement to return from the outset at the same speed as before the COVID-19 pandemic (i.e. the issue of 7-day Final Payment

Request letters, followed by referral to enforcement). However, Revenue's debt management teams will be working cases and pursuing, in particular, cases where the taxpayer is not engaging with Revenue. The Institute requested that Revenue continue to engage at TALC on process developments to help tax agents quickly identify situations where a debt is unpaid and to allow agents to engage with Revenue to deal with the debt in preference to referring the debt to the Sheriff, where possible.

The Institute queried Revenue's approach to the application of interest on late payments of tax in 2020 and where underpayments of preliminary tax would inevitably arise due to greater reliance on the "90% test" to quantify preliminary tax payments in an uncertain environment. Revenue noted that they intend to apply a pragmatic and flexible approach to interest where genuine difficulties have arisen due to COVID-19. The clarification provided to TALC in relation to CGT due on 15 December reflects this approach which is Revenue's position generally.

Note: In January 2021, the Collector-General confirmed that the Division has now temporarily paused the incremental resumption of enforcement activity in light of the unexpected deteriorating position with the pandemic since the meeting took place.

However, the Division will continue to review cases with a view to identifying those suitable for intervention once enforcement activity resumes. In the meantime, Revenue will keep the developing pandemic situation under review, as that will inform their approach. The Collector-General will notify the Institute in advance of the eventual resumption of enforcement activity.

5. Insolvency

The number of insolvency cases have fallen by approximately 20% on a year to date basis. There has been some increase in creditor voluntary liquidations and practitioners considered that increases may be expected. Revenue anticipate that there may be increased activity, Revenue has two insolvency teams with staff to attend insolvency meetings.

Practitioners queried delays in the issue of tax clearance letters relating to Members Voluntary Liquidations. Revenue noted that the Districts must review the cases and revert to the Collector-General's Division and that the Division has been following up on cases with the Districts to try to expedite matters. If there are specific cases particularly delayed these can be raised with the Collector-General's insolvency unit.

6. Tax Clearance

The Institute queried whether Revenue could inform taxpayers and agents in advance of withdrawing tax clearance should challenges arise in maintaining current taxes and filings in 2021, especially given businesses' reliance on the COVID-19 Government supports.

Revenue advised that the status of businesses that held clearance as at 13 March had not been changed. Revenue inform businesses of the reason for withdrawal and will bring it to businesses' attention where clearance is likely to be rescinded. Revenue intends to take a measured approach but will be incrementally returning to reviews of tax clearance status. Revenue advise that businesses make early contact with Revenue in circumstances where they are experiencing difficulties.