

Minutes

TALC Sub-committee 'BEPS Implementation' Meeting

Date 26 April 2018

Location & Time Conference Room 1, Ground Floor, Blocks 8-10 10.30 am

Introduction

Minutes of meeting of 16 March 2018 were approved by all attendees.

Item 1: Hybrids

- Revenue provided practitioners with an update on feedback from meetings with the Irish Funds (IF) and the Irish Debt Securitisation Association (IDSA).
- The IF meeting had highlighted that the treatment of Irish fund vehicles by other jurisdictions was something to be considered. If there were aspects of our funds regimes which could be considered by other jurisdictions as hybrid in nature, then it might be opportune to amend those aspects.
- The need for certainty and consistency between the treatment of vehicles as hybrid vehicles under domestic law and the anti-hybrid rules was emphasised by both IF and IDSA. Ways in which that certainty could be achieved would take some time to determine.
- The IDSA meeting had highlighted the possible difficulties between the EU's capital market union action plan and ATAD2. In particular, how the inclusion test could be applied to quoted and cleared debt. This issue has wider application than the companies represented by IDSA members.
- The IDSA meeting had also highlighted that the interaction between the hybrid mismatch rules and the interest limitation rules needed to be addressed. Many of Ireland's interest limitation rules are hybrid or anti-hybrid in nature. There is a need to ensure that rules that apply to purely domestic structures are no more favourable than those that apply to international structures. Therefore, some of those domestic rules may need to be amended at the same time as the anti-hybrid rules are implemented.
- Practitioners expressed the view that legislation has to be tested in a practical way against situations that exist in reality. It was agreed that Revenue should continue to engage with IDSA and IF on the aspects of ATAD that impact on the specific industry sub-sets that they represent, and report back to the group on the issues that arise.

Item 2: Controlled Foreign Corporations

- Revenue stated that no policy decision has been made yet by the Minister for Finance in relation to CFCs.
- Revenue provided an update on issues regarding CFCs arising from the EU ATAD conference in Brussels on Tuesday 24/4/18.
- Practitioners asked if Revenue had any further information regarding when policy decisions are likely to be made by the Minister.
- Revenue stated that an exact timeframe has not been given by the Department of Finance.

Action Points:

- Revenue will organise the next meeting within 6 weeks. If policy decisions are made prior to that, an earlier meeting will be scheduled.

Attendees of meeting of 26 April:

CCAB – I: Kimberley Rowan, Enda Faughnan

Revenue: Gerry Howard, Paul Walsh, Alan Carey, Áine Hollingsworth, Maresa Hempenstall, Ashling Gallagher, Audrey Bridgeman

Law Society: Andrew Quinn, Aidan Fahy

ITI: Sharon Burke, Peter Reilly, Rory MacIver, Tom Maguire , Anne Gunnell