

Minutes of Main TALC Meeting

24 October 2018

Via Conference Call at 2pm

Item 1 – Approval of minutes of meeting held 19 June 2018

- The minutes of the meeting held on 19 June 2018 were approved.

Item 2 – Matters arising

- An invitation to update the committee on the administration of tax appeals was extended to the Head of Administration of the Tax Appeals Commission. It was not possible for the Head of Administration to attend this meeting. An invitation to update Main TALC at a later date has been extended.
- A Revenue/practitioner meeting took place on “tax clearance letters” (“letters of no audit”). The relevant Assistant Secretary was not available to attend this Main TALC meeting. An update on developments will be provided in the near future.
- The Chair welcomed new committee members – Philip Brennan for Revenue, David Fennell and Anne Gunnell for ITI.

Item 3 – Finance Bill 2018

Practitioners sought clarification on certain measures in the Finance Bill;

Section 8: Certain benefits in kind: members of the Permanent Defence Force

This exempts the provision of accommodation and health care, by the Minister for Defence, to Defence Force members from a charge to tax as a benefit-in-kind. This is case specific and does not have wider application to the public service.

Section 23: Relief for investment in corporate trades

Practitioners welcomed the measures intended to simplify the administration of the EII. It would be useful if Revenue could provide guidance on some of the subjective aspects of the legislation, for example, section 495 (anti-avoidance: eligible shares).

Practitioners queried whether the start-up capital incentive relief is limited to an investor i.e. it cannot be claimed by the company founder/promotor. Revenue will check this point. Updated Revenue guidance on the EII will be developed.

Practitioners queried the possibility of an online application process in the new self-certification model. Revenue would favour an online application process and this possibility will be examined.

Revenue will continue to provide outline approval for EII applications until the end of 2018. Processing of outline approvals are currently up to date. The current EII model and the proposed new model will run in parallel for a period.

Section 22: Amendment of 216A (rent-a room relief)

Practitioners queried whether the amendment represented a change in Revenue’s view of the tax treatment of income received from the provision of short-term accommodation, through online accommodation booking platforms.

The amendment does not reflect a change of Revenue's view of the tax treatment, which is outlined in the relevant Tax and Duty Manuals. The amendment introduces a minimum rental period of 28 days, to expressly exclude short-term letting from qualifying for rent-a-room relief. The measure is intended to remove any ambiguity about the meaning of a residential letting.

Section 25: Controlled Foreign Companies (CFC)

The CFC measures were discussed in detail at the TALC BEPS sub-committee. Revenue guidance on the provisions is being prepared. Practitioners will be given the opportunity at the next TALC BEPS meeting to review and discuss the draft guidance. Practitioners were also invited to provide practical examples for possible inclusion in the guidance.

Section 42: Amendment of Section 94 of the Principal Act (supplies of immovable goods (new rules))

Clarity was sought on the purpose of the amendment. Revenue will clarify the matter through the TALC Indirect Taxes sub-committee.

Section 46: Amendments in relation to certain farming reliefs

The section imposes an aggregate limit of €70,000 on the amount of State aid that may be granted to a farmer. In line with the Directive, when an individual submits a claim for relief from 1 January 2019, Revenue will aggregate prior reliefs claimed within a 5-year period to determine whether the €70,000 cap has been exceeded.

CAT

Practitioners referred to the recent High Court decision in favour of the taxpayer, concerning a claim for the Dwelling House Exemption, in circumstances where the appellant inherited the family home, together with a bequest of an interest in four other properties.

Revenue is examining the decision. Once the judgment is perfected, Revenue has 28 days to decide whether to appeal the decision. Revenue will publish an eBrief outlining their position in due course. In the interim, practitioners and taxpayers can choose to submit an "expression of doubt" on a tax return where they consider it necessary.

PAYE Modernisation

Practitioners raised the practical challenges reporting shadow payroll and queried whether Revenue would issue guidance on this topic.

Reporting of shadow payroll has been a common query and guidance is being developed. Ruth Kennedy is the contact point on the PAYE modernisation project.

The latest definitive figure should be reported in each payroll submission. The submission should be reviewed quarterly, at a minimum, to ensure the reported pay is as up-to-date as possible for the previous quarter. Revenue will not seek to impose penalties for errors, provided that the employer is acting in good faith and making a *bona fide* effort to comply with the reporting requirements.

Section 53: Appeal procedures

Practitioners raised concerns about the provision to allow the Appeal Commissioners rely on previous determinations to decide an existing appeal without a hearing. An appellant may consider that the facts and circumstances of their appeal differs from a similar case.

The amendments follow from the recent review of the workload and resourcing of the Tax Appeals Commission. The aim of the measure is to expedite the throughput of appeals in the system. Any concerns about the appeals procedures should be raised directly with the Tax Appeals Commission and the Department of Finance.

Publication of Financial Resolutions

Practitioners noted a time delay between the announcement of the Budget measures and the publication of the related Financial Resolutions. It would be preferable if both were published at the same time. Typically, the Resolutions are published in advance of the Budget debate in the Dáil. The publication of the Financial Resolutions is a matter for the Houses of the Oireachtas Service.

AOB

Practitioners observed a measure to implement the MLI had not been included in the Finance Bill. This may be introduced at Committee Stage.

Some measures are under consideration for Committee Stage of the Bill.

The next meeting of Main TALC, which is scheduled for 29 November, will focus on Revenue's realignment. Practitioners suggested that it would be useful to have a short discussion on readiness for PAYE modernisation at the meeting, considering the fast-approaching "go live" date of 1 January 2019. Revenue considered that this was a reasonable suggestion.

Attendees on the conference call meeting of 24 October 2018

CCAB-I	Paul Dillon Enda Faughnan Brian Purcell Brid Heffernan
ITI	Sandra Clarke (Chair) Samantha Feely-Lenehan (Secretary) Kieran Twomey Pat Mahon David Fennell Anne Gunnell Mary Healy
Law Society	James Somerville Pat Bradley
Revenue	Brian Boyle Eugene Creighton Philip Brennan Gerry Howard Sharonne O'Reilly
<u>Apologies</u>	Caroline Devlin Declan Rigney Crona Clohisy