

Minutes of Main TALC meeting

8 December 2020

Skype meeting at 2.30pm

Item 1 Minutes of Meeting held on 30 October 2020

The minutes were agreed.

Item 2 Matters arising

Force Majeure

Practitioners queried whether further clarification is to issue from Revenue regarding “*force majeure*” situations where individuals have been preventing from travelling due to the Covid pandemic. Revenue confirmed that the matter is being actively considered that further guidance will issue shortly.

Item 3 Update on RTS

Jody McDonnell presented an update on RTS. The principle role of the RTS team is to provide advice to Revenue caseworkers and practitioners on the correct interpretation of both legislation and guidance. RTS is now a centralised national service. The team had been having regular briefings with practitioners before Covid restrictions and intend to do so in the future.

In the year to date approx. 570 queries have been completed but it should be noted that over 50% of queries had to be rejected as incomplete. Of the 570 completed, 240 were opinions issued, over 50 were withdrawn by querists or closed by RTS due to lack of response to requests for further information. Of the balance rejected (approx. 280), almost 40% were given some guidance to assist them. While backlogs have been cleared and RTS turnaround time is now very quick Mr. McDonnell emphasised that the high volume of incomplete queries puts pressure on the limited RTS resource and stressed the importance of completing the RTS1A form correctly. The most common reasons for queries being rejected are:

- Incomplete facts provided
- Insufficient analysis of legislation and guidance,
- Contracts or agreements referred to not included,
- Own interpretation of matter not completed, and
- Failure to identify the key issue(s) of doubt or ambiguity on which clarification is needed

Mr McDonnell also stressed the need for RTS queries to be addressed correctly to minimise delays. Full details are set out in the RTS TDM. It was also noted that the circumstances where advance opinions are provided are very limited circumstances as outlined in the TDM.

Item 4 Compliance deadlines

Practitioners requested an update on progress on Pay & File and progress on the submission of outstanding returns to secure warehousing of debt. Revenue reported that 448k Form 11's had been filed by midnight on 7 December 2020 with a quantum of €1.71bn (536k, €2.55bn in 2019). Revenue anticipate that the 3 days leading into the filing deadline will be in line with previous years (98k in 2019, 102k in 2018). Revenue reported that system stability and performance were not a concern. There were brief issues on Friday (4 Dec) and Mon (7 Dec) that had been resolved. Practitioners expressed concern about the delays on those dates but also acknowledged the excellent lines of communication when issues did occur, notably the tweets when problems were identified and rectified.

Practitioners raised the proximity of the CGT payment date to the Pay & File date and highlighting that many practitioners would not be able to start on CGT issues until after the Pay & File deadline. Revenue acknowledged the issue advising that they will continue to be pragmatic and adopt a flexible approach on the matter.

Revenue advised that letters have issued to over 100k customers with debt being warehoused. These letters confirm the amounts and periods being warehoused and identify any outstanding returns that need to be filed in order to secure the benefits of warehousing. Any reactions to the letters to date have been positive.

Item 5 TWSS reconciliation exercise

Practitioners sought an update on the reconciliation process noting that considerable work will be required by agents and Revenue in correcting, reconciling and addressing gaps in information before the reconciliation exercise can be concluded, with TWSS debt warehoused where appropriate.

Revenue continues to work on getting the reconciliation engine prepared. Revenue aim to go live in early 2021 to give certainty as early as possible to all employers who availed of TWSS. Revenue noted the importance of employers submitting full details of subsidy amounts paid to their employees as quickly as possible as this will be reflected in both the TWSS reconciliation and employees' end of year tax position. Revenue advised that the Reconciliation process will provide a tailored response to employers depending on whether they have submitted full details of the subsidy amounts paid out in their payroll. Revenue will allow a significant period, until end March, to enable employers who have provided the necessary data to make any necessary corrections and finalise their reconciliation. However, where employers fail to report subsidy payments Revenue will have to treat these amounts as owing and pursue repayment. Liabilities arising from TWSS may be warehoused where employers qualify for debt warehousing.

Item 6 Debt warehousing and section 997A

Practitioners suggested that the interaction of section 997A TCA 1997 and the tax debt warehousing scheme will give rise to practical difficulties for the taxpayer with a director not getting credit for PAYE in self-assessed income tax return and Revenue in issuing a refund to the director when the employer pays off tax debt in the warehousing scheme.

Practitioners requested that Revenue offset the first payments by an employer towards its warehoused PAYE debt against the directors PAYE to enable an employer company to pay off the directors PAYE before the director files a tax return under self-assessment on 31 Oct 2021.

Revenue responded that the legislation provides that repayments are set against employees first and then the director. Revenue will consider the matter further.

Item 7 DAC6

Practitioners asked for confirmation on the schema file that should be used by for filing obligations under DAC 6. Revenue committed to providing additional information on the filing process to practitioners. There is a meeting of DAC 6 subgroup scheduled for 15 December which will be enable technical questions to be addressed.

Item 8 Transfer pricing guidance

Revenue informed the committee that the TDM would be published shortly and, in relation to the domestic exclusion, would include a high-level overview of the Finance Act 2019 provisions.

It was noted that, because Revenue’s interpretation of the Finance Act 2019 domestic exclusion provision is aligned with the Finance Act 2020 amendments, which are the subject of a commencement order and are to be considered by the Department of Finance, Revenue would await the settlement of policy in this area before carrying out compliance interventions relating to the domestic exclusion. [Of note, this will not preclude any enquires/interventions relating to the possible application of the anti-avoidance provision contained in section 835E TCA 1997].

Item 9 Future guidance collaboration

Practitioners suggested that a process could be considered on developing future guidance. The Anti-Hybrid guidance developed through the TALC forum is an excellent example of how collaboration between the Department of Finance, Revenue and representative groups at TALC can produce good quality guidance. Revenue acknowledged the value of such collaboration in some circumstances and will consider future opportunities as they arise.

Item 10 AOB

i. Cooperative Compliance Framework

Revenue will shortly be publishing an update to the Cooperative Compliance Framework TDM. The update will include the codifying of the approach being taken and clarification on entities moving between Divisions.

ii. CRSS

Revenue will be holding a webinar on CRSS via its website on Thursday, 17 December @ 10.30am. Practitioners are invited to attend, and Revenue thanked those who had publicised the event via their newsletters and encouraged all to publicise the event as widely as possible.

iii. Incoming Chair

The chair thanked the committee for their significant contribution and work during 2020 and also thanked the secretary and the co-ordinators for the professional bodies for their vital contribution to the work of TALC. He welcomed Caroline Devlin of the Law Society to the position of chair for 2021 and wished her well in the role. Ms. Devlin thanked the chair for his contribution and management of the committee through the challenges of 2020.

Attendance

Revenue	CCAB-I	ITI	Law Society
Brian Boyle (Chair)	Norah Collender	Mary Healy	Pat Bradley
Barry O'Dwyer (Secretary)	Maud Clear	David Fennell	Caroline Devlin
Eugene Creighton	Alan Bromell	Pat Mahon	James Somerville
Joe Howley	Brian Purcell	Anne GunnellTom	Aidan Fahy
Jeanette Doonan	Paul Dillon	Maguire	Sonya Manzor
Jody McDonnell	Enda Faughnan	Kieran Twomey	
	Peter Vale		