

Minutes of TALC Direct / Capital Taxes Sub-Committee Meeting

23 October 2018

Office of the Revenue Commissioners, Dublin Castle, Dublin 2 at 2:30pm

The purpose of this meeting was to discuss the measures announced in the Finance Bill 2018.

Chapter 3 – Income Tax

Sections 11– Key employee engagement programme

- Practitioners noted issues for SMEs investing in trading companies through holding companies.
- Revenue stated that the aim of the relief is to assist / give resources to SMEs, and that the relief is available to simplistic group structure (one holding company).
- Practitioners also noted that as a result of the conditions to the relief, KEEP is not available to women who may take unpaid maternity leave in a particular period, which was presumably not a policy intention.

Section 12 – Retirement benefits

- Revenue clarified that the relief is treated as a deduction i.e. it is given at source through payroll.

Section 13 – Relief arising in special circumstances

- Practitioners noted that this section does not take into account an individual who changed job within the year and hence an extra payroll date may arise.
- Revenue said they will look at the point.

Chapter 4 – Income Tax, Corporation Tax and Capital Gains Tax

Section 15 – Acceleration of wear and tear allowances for certain energy efficient equipment

- Practitioners queried the meaning of the change to this section.
- Revenue confirmed that it is a procedural change in order to link the list of energy efficient equipment to the website to keep the list more up to date.

Sections 23 – Employment and Investment Incentive Scheme

- Practitioners welcomed the changes to the scheme. A detailed discussion took place, with the main points being:
 - Revenue confirmed the old legislation will be in effect until 31 December 2018.
 - Revenue confirmed that they are working on new guidance and plan to issue the guidance notes once the new legislation comes into effect.
 - Revenue confirmed that certain wording such as ‘undertaking in difficulty’ is required by GBER and Revenue have no flexibility on wording required by GBER.
 - Practitioners queried the context of extending section 490(3)(b) to the RICT group. Revenue stated that if the RICT group does not have fully paid up capital, then these companies should call up the capital and shouldn’t require funding under the scheme.
 - Practitioners noted that under section 493 the interpretation of ‘expansion risk finance investment’ includes the word ‘launching a new product’ – this wording is akin to ‘marketing’ and hence is restrictive. Practitioners asked Revenue to consider widening this terminology. Revenue said they would look at this.
 - Revenue stated that under section 495(6) the list of arrangements or understandings is not to be read as a finite list.
 - Practitioners raised the point that they are concerned that the exit strategy is not commercial for investors and may discourage take-up of the scheme.
 - Revenue noted that if a company is in a position to buyback its shares and payback its shareholders, the first payback should be to the state.

- Revenue noted that the formulas in section 497(3) will change at committee stage.
- Revenue noted that they will look at changing/removing some of the wording under section 502.
- Revenue will look at the order of off-set under section 508.
- Revenue noted that under section 508E(2) the “30 days” will change at committee stage.
- Revenue noted that the following self-assessment subsections will be deleted at committee stage: 508F(3),508F(4),508F(5),508G(3),508G(4),508G(5).

Corporation Tax – Part 1, Chapter 5

Section 24 – Film relief

- Practitioners noted that the definition of “assisted region” seems to exclude parts of the country – Revenue said they will look at this.

Section 25 Controlled foreign companies *was not discussed at this subgroup meeting as it was discussed at the TALC BEPS subgroup meeting.*

Section 26 – 291A Intangible Assets

- Practitioners noted that the FA 2018 legislation is what they would have expected it to be in FA2017 and queried is this piece of legislation retrospective.
- Revenue stated that the FA2018 update is merely a clarification of the FA2017 update and not a change of law. Revenue’s position is that the guidance issued on 1 January 2018 cleared up any doubt in the wording of FA 2017 and if taxpayers took a view based on the FA 2017 legislation and not on Revenue guidance then Revenue will not be blessing those filings.

CGT

Section 30 Exit Tax was not discussed at this subgroup meeting as it was discussed at the TALC BEPS subgroup meeting.

VAT

VAT was not discussed as this TALC subgroup meeting as Revenue stated that it would be discussed at the TALC indirect subgroup meeting.

Stamp Duty

Section 46 – Transfers to young trained farmers

- Revenue confirmed that the €70,000 limit will be in effect from 1 January 2019 onwards.
- Revenue confirmed that the limit is a 5 year cap i.e. it will start again after 5 years.

Capital Acquisitions Tax

Section 50 - Exemption relating to certain dwellings

- Practitioners noted that the wording in paragraph 2A does not seem to take into consideration the situation where more than one person contributes to a trust. For example; a successor may put cash into the trust and another person may put in property (the dwelling house) – in this situation a disposition would not be made by the successor.
- Practitioners noted that often a trust would be set up for a child with a disability and more than one person would contribute to the trust.
- Generally for CAT purposes you would separate out multiple settlors.
- Revenue said they will look at this point.

High Court Decision – Leanne Deane V The Revenue Commissioners

- Revenue said they are awaiting the judgement of the case to decide if they will appeal the High Court decision.
- Revenue said they will issue an eBrief in due course in relation to their decision.
- Revenue confirmed that it is possible for taxpayers to make an expression of doubt in circumstances where a claim for dwelling house relief may potentially be impacted by the outcome of the case.

The next meeting is scheduled to take place on 11 December 2018 at 14.30.

Attendees at the meeting of 23 October 2018

Revenue

- Philip Brennan
- Paul Walsh
- Jeanette Doonan
- Therese Bourke
- Áine Hollingsworth
- Dave Brennan

CCAB-I

- Brid Heffernan
- Peter Vale (Chair)
- Cormac Kelleher
- Colin Smith

Law Society

- Caroline Devlin
- Maura Dineen
- Aileen Keogan

ITI

- Clare McGuinness
- David Fennell
- Sharon Burke
- Sarah Meredith
- Laura Lynch
- Fiona Carney
- David Moran
- Tom Maguire