Minutes of Main TALC meeting

18 May 2021

Skype meeting at 2.30pm

Item 1 Minutes of Meeting held on 17 February 2021

The minutes were agreed.

Item 2 TWSS

i. Self-assessed PAYE Taxpayers and Extension of Deadline

Practitioners acknowledged the Revenue eBrief on the extension of the BIK concession until September 2021 and thanked Revenue for considering the issues raised. Practitioners went on to highlight that this timeline will still present a challenge, in terms of employers working out the tax owing by their employee so that they can discharge the tax due in a timely manner.

Practitioners expect this to be a substantial issue for employers, and presented examples to highlight where issues might arise, such as:

- where two employees receive same TWSS but one has a greater/lesser liability by virtue of individual tax credits – will this create HR issues with employers; or
- where an employee has two sources of income, how is TWSS calculated? How are health expenses factored in?

Practitioners acknowledged that this was a complicated area and stated that they would welcome directions from Revenue as to what is an acceptable methodology for an employer making these calculations, noting that it would provide comfort for employers.

Revenue stated that they have not seen much engagement from employers in this area to date and would welcome more. Revenue agreed that the permutations for calculating TWSS for employees were broad, and what works for some employees will not work for others. Revenue's view was that the calculation of TWSS for an employee was between the employer and employee, and once the calculation is made on a reasonable basis, Revenue would likely accept. Revenue's experience to date reflected this approach, in that employers and employees had worked out the liability between themselves.

ii. TWSS reconciliation

Practitioners welcomed an update from Revenue on the TWSS reconciliation exercise which took place in March 2021.

Revenue noted that the exercise was going well, with c. 30,000 employers accepting their reconciliation (with c. 16,000 employers having no liability to Revenue). The reconciliations are broadly settled (some 69/70% of cases). Revenue noted that there are still gaps in the data received from employers, with c. 5,000 employers having issues in their subsidy paid. However, it was noted that the gaps in the data were small and spread across a range of employers, rather than being representative of a wider issue. Revenue stated that they will assess employers on whatever their TWSS balance is in June 2021, noting that they had sent c. 25,000 reminders to employers in the week before this meeting, and were experiencing improved engagement from taxpayers. Whilst they have been receiving queries from employers in respect of the TWSS reconciliation, Revenue's view was that there were no substantial issues arising with these queries (with most of them relating to individual payslips). Finally, Revenue encouraged reporting amongst employers in advance of assessment in June. Practitioners queried whether there would be any redress for employees where their employer's TWSS reconciliation was accepted but errors in the data gave rise to a tax liability for the employee. Revenue confirmed that this could be addressed where the employee established there was an error and engaged with Revenue.

The Chairperson noted that this item should be kept on the agenda for an update at the next Main TALC meeting in September 2021.

Item 3 Debt Warehousing Scheme

Practitioners welcomed an update on this matter, in particular in respect of the issues raised on the Debt Warehousing Scheme as it interacts with the legislation and income tax filings for those subject to section 997A provisions.

Revenue provided a general update, noting that the facility had been extended in line with the level 5 restrictions in Ireland. It was noted that many businesses were still in Period 1, as defined in the legislation, as Period 2 commences 2 months after businesses resume trading. For example, if a business re-opened in May 2021, the 12 month interest free period would run from 1 September 2021 to 31 August 2022. Revenue noted that there was c. €2.3 billion worth of debt warehoused, with c. €1.05 billion representing PAYE, c. €1.24 billion representing VAT and c. €36 million in income tax (comprising 2,829 customers, with €10 million representing preliminary tax for 2020 and €26 million representing tax liabilities from 2019). Revenue stated that there are c. 86,200 customers availing of the scheme.

Revenue advised they have been contacting businesses since March 2021 to remind those availing of the Scheme of the requirement to file their outstanding returns (or address other compliance issues) to retain their tax clearance status, and most businesses have brought their returns up to date and addressed other issues. Businesses with compliance issues have been contacted several times in writing and by phone, with c. 3,000 phone calls made in the last few weeks, seeking the submission of the outstanding tax returns and advising the taxpayers of the risk to their tax clearance status. It was noted that these customers could experience tax clearance issues if they did not contact Revenue.

Practitioners noted that tax clearance assessments were due to begin on 21 May 2021, and queried whether this also related to Form CT1s. Revenue's view was that this did not relate to Form CT1s, but that their letters and phone calls were in respect of taxpayers bringing their returns up to date. Practitioners asked whether Revenue's approach from 21 May 2021 would be to rescind tax clearance until affected taxpayers contacted them. Revenue stated that they intended to re-assess the tax clearance status of this cohort of taxpayers, which could result in a withdrawal of their clearance where tax returns or other issues remain outstanding.

Practitioners also requested an update in respect of representations made at the Main TALC meeting in December 2020 regarding a concession for the PAYE credit for directors whose employer is in the Debt Warehousing Scheme. Revenue noted that a proprietary director could warehouse this debt, and noted that the Collector General's office are always willing to discuss these issues with taxpayers. Revenue's intention is to avoid a double interest charge arising in circumstances like this.

Practitioners noted that there are a cohort of directors who do not control their employing company and don't realise that debt has been warehoused, and who may have underpaid tax. Practitioners acknowledged that the intention of the legislation is to protect the exchequer, but that the warehouse scheme had been set up for an extraordinary situation. It was suggested that a work around might be appropriate in this regard. Revenue stated that their eBrief on this topic was their final position on the issue. They noted that the warehouse scheme has made implementing the legislation more difficult, but that the legislation is clear and does not permit a credit for unpaid PAYE for those subject to section 997A where that PAYE has not been remitted to the Collector General.

Practitioners further queried whether there was scope with the Collector General's office to delay the start of phased payment arrangements so that as a company is credited, employees would receive credit.

The Chairperson requested that this item be kept on the agenda as Practitioners are anticipating issues in the coming months.

Item 4 Force Majeure

Practitioners requested an update from Revenue in respect of the submissions made to Revenue on issues raised at the 17 February 2021 meeting of Main TALC, in respect of an extension of the scope of the tax residency rule concession and foreign employer PAYE concession in recognition of the impact of international public health advice on the movement of individuals.

Revenue stated that they had reviewed the submissions in detail and expected to respond soon. Revenue's view is that many of the scenarios in the submission are covered in Tax and Duty Manual 42-04-65 or under double taxation agreements.

Practitioners queried whether Revenue expected to issue updated guidance on this point. Revenue stated that they are not sure whether guidance would be updated, but that they intend to respond to the submissions and continue dialogue with Practitioners.

Practitioners further queried the Revenue position on guidance for force majeure in 2021, noting the need for certainty and that the situation in 2021 was different to that in 2020. Practitioners raised the point that not all scenarios were covered by Tax and Duty Manual 42-04-65, and that some people need formal dispensation after 60 days of being present in Ireland and that there were many people in this situation due to travel restrictions brought about by the Covid-19 pandemic. Revenue acknowledged these points and stated that they will respond in due course.

The Chairperson noted that this item should be kept on the agenda for an update at the next Main TALC meeting in September 2021.

Item 5 DAC6

Practitioners requested an update from Revenue on the DAC6 reporting process and whether any further issues had been identified since the Main TALC meeting in February 2021.

Revenue provided a general update, noting that the first exchange of information had taken place at the end of April 2021 without issue. Revenue reported that they had yet to receive feedback on the filings from their exchange partners. Revenue reminded the meeting that the main issue with the first batch of reports was that in some cases the filings lacked sufficient detail. Revenue noted that in light of updated Revenue Guidance, a number of filings had been re-submitted and had been significantly improved.

Practitioners noted that earlier in the year, there had been discussions with Revenue in respect of Hallmark E3 (the hallmark under which most reports had been made). Practitioners stated that the position taken in Ireland in respect of Hallmark E3 was different to other jurisdictions, and that Revenue had indicated that they would discuss this point with other tax authorities through the Fiscalis programme. Practitioners welcomed an update from Revenue on this point, but Revenue were not in a position to provide an update at this time.

Practitioners noted that the DAC6 reporting software currently did not facilitate a scenario where an intermediary was relying on legal professional privilege, and in such situations, the intermediary had to make a manual submission. Practitioners queried whether a facility could be added to the reporting software to address this. Revenue noted that they would review and follow up.

Item 6 Corporation Tax Roadmap - Consultation

Practitioners welcomed any information that Revenue could share on the timeframe for a public consultation in respect of moving to a territorial based tax regime, highlighting the importance of this topic.

Revenue noted that the Department of Finance had confirmed that due to multiple factors, including international tax developments, a consultation is expected to be launched towards the end of the year. The Department are mindful that this is a complex area and the consultation period will allow a good amount of time for stakeholders to consider the issues.

Revenue also provided an update in respect of the public consultation in respect of the implantation of interest limitation rules, noting that they were considering feedback received together with the Department of Finance and drafting legislation. Revenue noted that there would be another feedback statement on this topic in due course but it was not envisaged that there would be any further consultation.

AOB

i. Letters of no Audit (LONA)

Practitioners sought an update in respect of this item which had been raised at the Main TALC meeting in February 2021. Revenue stated that good progress had been made, noting that a draft manual has been circulated to the LONA TALC sub-group. Practitioners queried whether specific issues around non-resident vendors had been addressed. Revenue stated that the eCG50 facility had relieved some concerns, but that this would be raised at sub-group level.

It was noted that this item be kept on the agenda for an updated at the Main TALC meeting in September 2021.

ii. Clarification on Certificates of Residence

Practitioners noted that there is an ongoing issue since the beginning of 2021, with Egyptian authorities not accepting the standard wording on ROS generated Certificates. Practitioners noted that Revenue's Large Corporates Division had been unwilling to issue an adapted version which would be more tailored to the Egypt/Ireland Double Tax Agreement, which is needed to satisfy the Egyptian requirements. This has implications for companies in receipt of payments from Egypt. Practitioners welcomed clarity from Revenue on their practice in relation to requests for an adapted ROS certificate, where required.

Revenue noted that as a temporary measure, they would agree to adapt the relevant certificates on request from investors. They stated that they are looking at consistency in approach generally, so whilst the immediate issue has been resolved, it is being considered on a wider basis within Revenue. For example, it was noted that similar issues had arisen with Portuguese and Italian authorities, which had been dealt with on a case-by-case basis.

iii. Sub-Committee Reports

Audit Sub-Committee: It was noted that the Audit sub-committee had been discussing Revenue's new compliance intervention framework. Practitioners considered the new framework would represent a substantial change in how practitioners and taxpayers would interact with Revenue, which would require ongoing interaction as the code was revised. It was agreed that this item be kept on the agenda for Main TALC meetings going forward, so that any significant issues arising could be discussed.

Collections Sub-Committee: It was noted that the concession on late filing surcharge in respect of iXBRL filings due on 23 December would cease from July 2021. Practitioners queried whether the late filing surcharge would be re-applied to late filings by reference to a period of 2 months from 1 July 2021, or to the date the concession had begun. Revenue noted that they would follow up on this point.

iv. Taxation of Non-resident Landlords

Practitioners pointed out that the current system for the taxation of non-resident landlords could benefit from modernisation. They noted that, particularly in light of the revisions to the 2020 Form 11, non-resident individuals who were landlords were having, for example, Irish-resident relatives signed up as their collection agent in the State, as they had no other options available. Practitioners asked whether Revenue could consider implementing a more modern collection system in this area.

Attendance

Revenue	CCAB-I	ITI	Law Society
Brian Boyle	Norah Collender	Mary Healy	Caroline Devlin (Chair)
Barry O'Dwyer	Maud Clear	Anne Gunnell	James Somerville
Declan Rigney	Brian Purcell	David Fennell	Sonya Manzor
Joe Howley	Paul Dillon	Pat Mahon	Carl Grenville
	Enda Faughnan	Mark Barrett	
	Peter Vale	Kieran Twomey	