

## Minutes of Main TALC meeting

7 December 2021

Microsoft Teams meeting at 2.30pm

- Minutes of Meeting held on 7 September 2021
- Debt warehousing
- MyEnquiries Customer Service Standards
- DAC6
- Valuation Issues
- DWT Real-time Reporting
- Draft TDM - Treatment of certain gains and losses on Foreign Currencies
- New COVID-19 Support Scheme
- Planned Updates to Guidance on Revenue's COVID-19 Hub
- AOB

### Item 1 Minutes of Meeting held on 7 September 2021

The minutes were agreed.

### Item 2 Debt Warehousing Scheme

Practitioners welcomed a general update on this matter, in light of discussions on the Debt Warehousing Scheme at previous Main TALC meetings.

Revenue noted that this point had been discussed in detail at a recent meeting of the TALC Collections Sub-Committee, so would provide a short update in light of this fact.

Revenue noted that the most recent statistics received indicated that approximately €2.8 billion warehoused in respect of VAT and PAYE, split almost equally. In addition, there was €32 million in respect of income tax and €60 million in respect of TWSS in the warehouse. Approximately 98,000 individual taxpayers had availed of this facility. Revenue explained that they had notified all business customers in respect of their debt in the warehouse. It was noted that November and December debts can still be moved into the warehouse, even though these returns will be filed in January.

Revenue explained that, for 2022, debts will remain in the warehouse and that Revenue will engage with businesses at the end of 2022 about making payment arrangements starting from 2023. It was also noted that 4,310 taxpayers availed of the 75% warehouse option, with approx. 900 taxpayers availing of the section 997A option.

Practitioners noted that this was a very positive update, and queried, given that new COVID-19 restrictions might be forthcoming, whether there will be any extension of the warehouse period into early 2022. Revenue responded to confirm that, at present, this was not anticipated and that Period 1 ends at the end of 2021.

### **Item 3 MyEnquiries Customer Service Standards**

Practitioners requested that Revenue's customer service standard of 20-25 working days for a response be formally reduced to 10 working days, as further outlined in a CCAB-I letter to Revenue dated 1 December 2021. Practitioners explained that they believe this is a fair request, given that the operating hours for Revenue's phone services have been limited. Practitioners noted that Revenue had recently confirmed that a great deal of MyEnquiries queries are dealt with in 10 working days or less, and had explained that the use of MyEnquiries was Revenue's preferred method. To ensure that this works for all parties, Practitioners explained, the customer service standard should be reduced to 10 working days.

Revenue explained that the shift to MyEnquiries has been hugely successful from their perspective, noting that in the last few months, 85% of MyEnquiries queries had been dealt with in 10 working days, with 95% being dealt with in 20 working days. Revenue explained that the data includes queries which are submitted to Revenue's Technical Service, which by their very nature take longer to respond to. Revenue explained that next year they planned to assess the standard more generally, possibly with a view to splitting queries into different workstreams to reflect complexity.

Practitioners further explained that at a recent meeting of the TALC MyEnquiries sub-committee, examples where relatively basic queries had taken a long time to resolve had been provided. Practitioners agreed that there was not a systemic issue, but that they believed the customer service standard should be reduced to address the small number of times where the MyEnquiries approach is not working or there are long delays in receiving a response. It was suggested by Practitioners that Revenue might review their wording on the exceptional contact – noting that there was a degree of uncertainty as to when is an appropriate time to use such contact. Revenue noted that a balance had to be struck with this wording, so it was not viewed as an instant service, though Revenue acknowledged that Practitioners recognised this. In response to the issues raised at the TALC MyEnquiries sub-committee, Revenue noted that they have been analysing blockages in the MyEnquiries system and how these might be addressed, noting some issues with training in a remote working environment.

Practitioners explained that the restricted operating hours of Revenue's phone lines was an issue for them, particularly where Practitioners feel that a query can be resolved by a quick phone call, rather than going through MyEnquiries. Practitioners noted that they often provide a phone number to Revenue in their MyEnquiries submissions, but do not receive any calls. Revenue responded to explain that, in their view, the MyEnquiries system allows Practitioners to state their issue clearly, rather than including additional queries which can sometimes occur on phone calls. From Revenue's perspective, the use of the MyEnquiries system has improved the quality of response from Revenue.

Revenue noted that they would like to further look into the 15% of MyEnquiries which are not dealt with within 10 working days. Furthermore, Revenue stated their commitment to

reviewing their customer service standards in the new year (as noted above). Practitioners queried if there was an indicative timeframe for this review, but Revenue could not provide at this stage.

Practitioners noted that this is one of the most important issues for them, and that they would be grateful if Revenue could prioritise it in the new year.

#### **Item 4            DAC6**

Practitioners welcomed an update from Revenue on the DAC6 reporting process and whether there had been any further issues or updates (including any updates to Revenue Guidance) arising out of the exchange of information since September's meeting.

Revenue noted that there had been further exchanges of information in July and October, and that the only update in the area was the introduction of further Revenue enquiry powers in respect of DAC6, which had been included in Finance Bill 2021.

Revenue also noted that Revenue Guidance in this area would be updated, with a draft due to be discussed at the TALC BEPS sub-committee early next year.

The Chairperson suggested that this item be kept on the Main TALC agenda next year.

#### **Item 6            Valuation Issues**

Practitioners noted that they had received feedback from taxpayers on Revenue challenges to valuations on property, shares and assets. Practitioners queried whether there is a valuations section in Revenue or whether external valuation experts are used, and sought information as to how Revenue assess valuations for tax purposes generally.

Revenue noted that there were a very small (c.5 in 2021) number of cases which required this service, and explained that Revenue have a panel of external experts that they use for valuations. There is a tender process to be a member of the panel. Where Revenue are doubtful or uncertain on the valuation of an asset, they refer it to the panel. It was noted by Revenue that there is a separate panel of valuation experts used for the Large Corporates Division and assets in that sphere, such as intellectual property.

Practitioners noted that this was helpful.

#### **Item 7            DWT Real-time Reporting**

Practitioners welcomed an update from Revenue on proposed plans for the new DWT reporting regime.

Revenue responded to state that there was nothing concrete or imminent to report on this topic, and reiterated that they will engage with Practitioners when that changes. Revenue explained that this had been put on hold by the COVID-19 pandemic.

Practitioners noted that they appreciated the update.

#### **Item 8 Draft TDM – Treatment of Certain Gains and Losses on Foreign Currencies**

Further to discussions on this topic in September 2021, Practitioners welcomed an update from Revenue on the concerns raised in September.

Revenue noted that this item was also on the agenda for the upcoming TALC technical sub-committee meeting. Revenue noted that the amendments which had been requested by practitioners required discussion with the Department of Finance, and that this had been delayed due to the publication of Finance Bill 2021. As a result, Revenue stated that this item would be looked at in the near future.

#### **Item 9 New COVID-19 Support Scheme**

Practitioners noted the announcement on Friday 3 December 2021 of a new support scheme for the hospitality sector similar to CRSS to be operated by Revenue. Practitioners welcomed any information which Revenue could provide on the operation of this scheme.

Revenue noted that this was being considered by the Government, and noted that Revenue would issue an update imminently.

Practitioners queried whether the scheme would be effected by way of update to Finance Bill 2021. Revenue responded to note that this would not be the case and that new legislation was expected in January, with the scheme under Revenue's care and management procedures until then.

#### **Item 10 Planned Updates to Guidance on Revenue's COVID-19 Hub**

Practitioners noted that Revenue's recent eBrief (No. 213/21) noted that the concessional treatment whereby Revenue will disregard presence in the State or presence in another jurisdiction for corporation tax purposes, where such presence is due to Covid-19 travel restrictions, will remain valid up to 31 December 2021, and that the COVID-19 information on the Revenue website had been updated accordingly. Given the evolving situation with the pandemic and renewed travel restrictions, Practitioners welcomed information on the further extension of this concession, querying whether 31 December 2021 would be sufficient. Practitioners noted that travel restrictions typically don't reflect an individual's personal circumstances.

Practitioners also welcomed information on Revenue’s plans to review and extend the current concessions detailed on the COVID-19 webpage into 2022, given the continuation of the COVID-19 pandemic. This would include, for example, Transborder Workers Relief due to end on 31 December 2021 and whether there are plans to review the guidance on BIK on company cars regarding business mileage.

Revenue noted that they were aware of this, and that COVID-19 concessions were being actively reviewed. Revenue explained that they hoped to have a single eBrief updating on all concessionary measures published imminently, and noted that the Transborder Workers Relief would be extended beyond 31 December 2021.

Practitioners thanked Revenue for this welcome update.

## **AOB**

### **i. Letters of no Audit (LONA)**

Revenue explained that they would provide TALC with an update from the Letters of no-audit (LONA) TALC subgroup. This group is tasked with discussing new procedures and guidelines to give personal representative or practitioners guidance on what actions they can take to ensure that they will not be held personally liable for potential taxes arising from:

- (a) dealing with the affairs of a deceased person (potential liability to pre-death taxes under section 1047 and 1048 of the TCA 1997); or
- (b) the sale of an asset by a non-resident vendor (potential liability under section 1034 and 1043 TCA 1997).

In terms of (a) above, the “death cases”, Revenue explained that a new clearance procedure would be introduced whereby personal representatives of a deceased individual could request clearance from Revenue before distributing the assets of the deceased’s estate. Revenue explained that under this new procedure, the personal representative would make a complete and accurate submission to Revenue via MyEnquiries, outlining their intention to make a distribution. Revenue would have 35 days to respond to any such submission. If no response is received, the personal representative can proceed with the distribution and face no liability under ss. 1047 and 1048 TCA 1997. Revenue explained that a new TDM had been drafted and circulated in December, with the procedure due to go live in early 2022.

Practitioners noted that the 35 day period for Revenue to respond may not be a long time in death cases, but that it possibly is too long for non-resident vendor cases (at (b) above) which typically involve commercial transactions. Practitioners also requested clarity on what a “complete” disclosure is under this new procedure.

Revenue explained that non-resident vendors were the next item on the agenda of the LONA TALC sub-group.

Practitioners noted that it was helpful that the new procedure was facilitated through MyEnquiries (rather than in tax returns), which would allow solicitors to access the process.

**ii. Taxation of Exchange Traded Funds (ETFs)**

Practitioners noted that this item is due to be discussed at a meeting of the TALC Technical Sub-Committee, but wished to briefly raise concerns that the lack of clarity and public information on ETFs will give rise to unnecessary non-compliance which will cause difficulties for both Revenue and taxpayers.

Practitioners further emphasised that it can be very difficult to determine whether an investment in an ETF is subject to CGT or stock roll-up, and that US documents are not drafted with issues like this in mind, which Practitioners expect will lead to non-compliance. Practitioners requested that Revenue bear this in mind, further noting that the market was very different to the 1990s (when the rules were drafted) and that this also causes problems in practice. Practitioners explained that clarity for investors in ETFs was hard to come by.

Revenue acknowledged these points.

**iii. Special Assignee Relief Programme (SARP)**

Practitioners sought an update from Revenue in respect of issues arising with the operation of SARP which were identified at the Main TALC Meeting on 7 September 2021.

Revenue explained that they had considered this in great detail in respect of individuals who start working overseas before coming to Ireland. Revenue explained that the COVID-19 concession for these employees had expired at the end of 2020, with practitioners making cases for this to be extended, which Revenue considered. However, Revenue consider that there is enough flexibility for employers to work around these rules. Revenue acknowledged the likelihood of increased public health restrictions arising from COVID-19, but that the situation is not comparable to 2020.

Practitioners stated that they were not sure if this is the reality. In terms of the issues previously raised, Practitioners explained that they were seeing cases where an employee had begun their contract 2 weeks before moving to Ireland, yet their case had been refused by Revenue, which seemed unnecessarily harsh. Practitioners suggested cases like this could be addressed by reducing the relief on a pro-rata basis.

Revenue responded to note that the terms of the scheme were tightly drawn. Revenue noted that, given the level of restriction in 2020, they showed reasonableness, but have taken a view as regards any further SARP concession. Revenue stated that the extra 6 months on the SARP 1A form was as far as they could go.

#### **iv. Revenue's Technology Refresh**

Practitioners noted that at a recent meeting of the TALC MyEnquiries sub-committee, Revenue stated that its IT Department is in the midst of a technology review and Revenue expects to be able to report on developments in that space over the coming year. Practitioners understand a planned "refresh" to ROS was delayed given the developments required to deliver the COVID Support Schemes and would welcome information on the activity underway, Revenue's plan and scope for input and feedback from practitioners, given the importance of ROS to the work of the tax profession.

Revenue noted that the proposed refresh was very much internal, and was aimed at updating old hardware and software within Revenue. In order to sustain and enhance its services, Revenue was renewing their technology, and intend this to be mostly invisible from a Practitioner perspective. Revenue did note that they were still looking for opportunities to improve their service and assured Practitioners that they will signal any changes to working practices well in advance.

Practitioners noted that the ROS system has often been laboured in the lead up to filing deadlines, and that it is important that the system remains up to date so that practitioners can continue to deliver compliance to Revenue.

Revenue acknowledged this point, noting that the workload on the ROS system has been increased as customs has been integrated into the system. Revenue reiterated that Main TALC will be notified if new products are envisaged as a result of the technology refresh.

Practitioners welcomed this update and any opportunities to engage with Revenue.

#### **v. New Compliance Intervention Framework**

Revenue noted that their new compliance intervention framework was intended to be introduced from 1 February 2022. After further discussions with professional bodies around training for the new framework, it has been decided that the framework will be introduced from 1 May 2022 instead.

#### **vi. Incoming Chair**

The Chairperson thanked the committee for their significant contribution and work during 2021 and also the secretary and the co-ordinators for the professional bodies for their vital contribution to the work of TALC. She welcomed Kieran Twomey of the Irish Tax Institute to the position of chair for 2022 and wished him well in the role. Mr Twomey thanked the chair for her contribution and management of the committee through another challenging year in 2021.

Revenue thanked the Chairperson and the wider group for their work during the year, and informed the group that the Revenue secretary for the Main TALC Group, Barry O'Dwyer, was moving to a new role and would be replaced by Geraldine McEvoy.

Revenue thanked Barry for his important contribution to TALC and welcomed Geraldine to the role of Revenue secretary.

### 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
Joe Howley	Brian Purcell	David Fennell	Sonya Manzor
Declan Rigney	Paul Dillon	Pat Mahon	Aidan Fahy
Eugene Creighton	Enda Faughnan	Kieran Twomey	Carl Grenville
Geraldine McEvoy	Peter Vale	Mark Barrett	
Sarah Waters	Alan Bromell		
Fay Kearney			