

## Minutes of Main TALC meeting

7 September 2021

Skype meeting at 2.30pm

### Item 1 Minutes of Meeting held on 18 May 2021

The minutes were agreed.

### Item 2 TWSS

#### i. Self-assessed PAYE Taxpayers and Extension of Deadline

Practitioners welcomed a general update from Revenue in light of discussions earlier in the year. Revenue reminded the meeting of the eBrief published in May 2021 which extended the BIK concession until 30 September 2021.

Revenue stated that their view is that the eBrief and Revenue's online material has suitably covered issues raised by Practitioners on this point. Revenue noted that there were very few queries on the National Employer Helpline in respect of this particular point and that they are still receiving some queries from employees on the Employee Helpline. Noting that the concession ends on 30 September 2021, and as is outlined in the online material, Revenue said they would be willing to consider, on a case-by-case basis, cases which fall outside that date where taxpayers contact their local Revenue office.

Practitioners agreed that Revenue's published material was clear, and queried whether the number of taxpayers/employers who availed of the concession was available. Revenue noted that it was difficult to ascertain this number at present but that they were looking into this further.

#### 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 almost complete, with c. 50,000 employers accepting their reconciliation (with an additional c. 10,000 employers failing to accept their reconciliation but having no liability to Revenue, and a further c. 7,000 having a liability owing to Revenue). Revenue further noted that c. €240 million had been repaid to Revenue, with an additional c. €60 million warehoused and c. €16 million available for collection from employers.

Revenue stated that there were approximately 100 cases which have yet to be finalised, but noted that these cases concerned technical points and that the dialogue between Revenue and the relevant employers in respect of these cases had been positive. Revenue stated that, as at the end of June 2021, they had issued 17,000 assessments to employers, which resulted in very few appeals. Overall there are some

50 appeals on hand at present in relation to TWSS. Revenue is in dialogue with employers on many of these cases and anticipate that many will be settled in advance of a hearing by the Tax Appeals Commission.

### **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 at previous Main TALC meetings.

Revenue noted that this point had been discussed in detail at an earlier meeting of the TALC Collections Sub-Committee, with discussions focussing on the impact of section 997A of the Taxes Consolidation Act 1997 on directors. Revenue had agreed to further consider these issues.

Practitioners noted that this was a widespread issue which they expect will impact many directors as the filing deadline approaches. Practitioners believe that many tax returns are being delayed, as a credit will appear on ROS and many Practitioners do not know what the correct approach is in this regard. Practitioners noted that they had requested a temporary legislative response to the issues at hand, stating that they would like to see Revenue take a practical and pragmatic approach to avoid scenarios where two taxpayers would be required to service the same debt. Practitioners agreed that further clarity is needed from Revenue on the process for filing for those who are subject to the provisions of section 997A. Revenue noted that they would take these concerns on board and provide a response.

The Chairperson requested that this item be kept on the agenda for an update at the next Main TALC meeting.

### **Item 4 Force Majeure**

Practitioners welcomed an update from Revenue on this matter, in light of discussions at Main TALC earlier this year.

Revenue stated that their position had not changed since the previous Main TALC meeting, noting that they had responded in mid-June 2021 to submissions received on this topic. Revenue noted that the force majeure concessions had ceased in December 2020, noting that the concession was an emergency measure and that a nine month period was adequate. Revenue stated that their replies to the submissions made on this issue were comprehensive, noting that their replies pointed to alternative relieving measures available in the double taxation agreement framework. It was noted that updated guidance, with a range of examples on this matter had been published in the TDM on Residence on 2 September 2021.

Practitioners stated that they recognised that this matter is now closed, but noted that they were disappointed that: (a) Revenue's statement on residence had caused difficulty

for taxpayers and Practitioners; and (b) the concessions were not extended in some way into 2021. It was noted by Practitioners that these policies were not necessarily keeping up with changing work practices (in light of an imminent change in working practices towards a hybrid model).

**Item 5            DAC6**

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

Revenue reported that they had yet to receive feedback from exchange partners on the first exchange of information which had taken place at the end of April 2021. Revenue noted that there had been some updates to the online filing platform, and that Revenue Guidance had been updated to reflect this. It had been pointed out at the Main TALC meeting in May 2021 that the DAC6 reporting software did not facilitate online filing where an intermediary was relying on legal professional privilege. Revenue noted that these intermediaries should continue to make manual submissions, as the online platform had not been updated in this regard.

Revenue noted that they had been engaging with tax authorities in EU Member States on DAC6, and that Revenue guidance will be updated in light of these discussions. Practitioners noted that an update in respect of Hallmark E3 was welcome, acknowledging that, generally speaking, there were significant differences between Member States in their interpretation of the Hallmarks (with the interpretation of Hallmark E3 being the most extreme example of this). Practitioners welcomed dialogue between tax authorities in various Member States in this regard.

The Chairperson requested that this item be kept on the agenda for an update at the next Main TALC meeting.

**Item 6            Compliance Deadlines**

Practitioners acknowledge that they were thankfully not in the same position as they were last year, in terms of the level of disruption caused by the Covid-19 pandemic and the knock on effects that this had on compliance deadlines. However, practitioners noted that they had been receiving correspondence from mostly (but not exclusively) small practices who were still under pressure, with some in severe difficulty.

It was noted that many smaller practices have had their usual work schedule pushed out by virtue of remote/online audits, working on Covid-19 supports, staff being ill with Covid-19, restrictions on office visits etc. Noting the difficulty that some practices were experiencing in meeting the upcoming corporation tax deadline, Practitioners requested that Revenue implement a flexible mechanism where needed, such that tax clearance would not be impacted, and loss restriction and penalties disapplied where these firms

failed to meet the deadline. It was suggested that those Practitioners who were in difficulty could provide a list to Revenue of their clients so that they were not adversely affected. Practitioners noted that they do not envisage a large number of practices would be affected, but reiterated the need for flexibility in respect of this small cohort.

Revenue noted that, while they will continue to be pragmatic, they would encourage those in difficulty to submit returns by the deadline on a best endeavours basis and self-correct the returns as soon as possible after filing. Practitioners noted that the best estimates returns approach was not helpful to tax agents facing severe work backlogs and presents a risk for both agents and Revenue, noting that it is preferable for full returns to be filed even if agents were severely behind.

Revenue appreciated this point, and stated that the overall position is to file where possible as there will not be a global process implemented for late filing. Practitioners encouraged Revenue to bear this small cohort of practices in mind as the deadline approaches, and to consider flexibility in their approach.

Practitioners welcomed an update from Revenue as to whether further wage support compliance requirements/deadlines will be introduced between now and the end of the tax year. Revenue responded stating that no further requirements/deadlines were anticipated.

Practitioners also welcomed information on the number of Forms CT1 filed for the year ended 31 December 2020 at this point in time, as compared to the number of Forms CT1 expected to be filed by the 21/23 September deadline. Revenue stated that to date, c. 110,000 filings had been made in respect of periods ending in 2020, of which c. 36,000 relate to the period ended 31 December 2020. Revenue noted that this was not far off the normal level of filing pre-pandemic, and that they expected another c. 50,000 filings before the deadline.

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

Practitioners welcomed an update on Revenue's revised plans for a new DWT reporting regime and an expected timeline for moving forward on stakeholder engagement in advance of the design of any new regime.

Revenue did not have an update in this regard, noting that the position on a new realtime reporting regime remains paused. It was noted that Revenue would take stock of the position over the coming weeks, and that if there is any progress or plans for stakeholder engagement, that Main TALC and Practitioners would be updated accordingly.

The Chairperson requested that this item be kept on the agenda for an update at the next Main TALC meeting.

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

Practitioners noted that this item had been discussed at a meeting of the TALC Technical Sub-Committee, but noted that they wished to voice their concerns on the proposed draft TDM on the treatment of certain gains and losses on Foreign Currencies, stating that it took a narrow interpretation of the legislation and in particular the definition of “cash”.

Practitioners were not of the view that the legislation needed to be changed, noting that they believe that the existing legislation can be interpreted in an alternative way, noting that for many years a broader interpretation had been applied. Practitioners agreed that a narrow interpretation of the legislation would cause issues in practice, and encouraged Revenue to review the position.

Revenue stated that they were reviewing submissions on this point and appreciate the genuine concerns Practitioners have. Revenue noted that they would discuss these concerns with the Department of Finance.

**Item 9 Stamp Duty on Certain Acquisitions of Residential Property**

Practitioners noted the recent issuance of guidance on this topic, and wished to discuss practical issues arising out of the operation of Section 31E SDCA 1999, such as:

- (i) How s.31E interacts with the timing of transactions falling within section 31A SDCA;
- (ii) The connected party provisions for corporates are wide and Practitioners would welcome confirmation from Revenue that these provisions will not apply where connected parties unknowingly breach the 10 unit threshold in bona fide circumstances where there is no intention to circumvent the 10% stamp duty rate; and
- (iii) Practitioners would welcome clarity from Revenue regarding the application of section 31E SDCA to residential units which form part of the property of Nursing Homes and Hotels, which were not the intended targets of this anti-avoidance legislation.

Revenue responded noting that there were additional queries arising and that further discussion is required, and that practitioners will make further submissions taking into account the Revenue Guidance recently issued. In response to the points raised above, Revenue noted the following:

- (i) Where a person enters into a contract which comes within the scope of section 31A SDCA 1999, stamp duty is charged in accordance with section 31E (where relevant). For the purposes of section 31E, the date of acquisition of the residential unit will be the date on which the contract comes within the scope of section 31A;
- (ii) The connected party provisions are a key anti-avoidance measure, which are firmly stated in the legislation. There is no statutory basis for these provisions

to be disapplied. There is a specific exclusion for individuals not acting in concert. If it was intended to have a specific exclusion on this point, it would have been included in the legislation. Revenue expect appropriate due diligence to be carried out so that the relevant thresholds would not be inadvertently breached; and

- (iii) This may need to be looked at in further detail, but it was noted that the definition of residential property excludes rateable properties. Revenue's understanding is that nursing homes and hotels are rateable and as such should be outside of the provision. It was noted that this could be confirmed if required.

Practitioners agreed that further dialogue was required as more practical issues arose. Practitioners raised a number of additional issues they were experiencing, such as:

- (i) The definition of apartment blocks was causing practical issues (particularly the case-by-case basis which is indicated in the TDM);
- (ii) Section 31E inadvertently disapplying the exemption on foreign shares and bringing them within the 1% charge;
- (iii) The differentiation between certain social housing acquired pre and post 20 July 2021.

Revenue acknowledged that there was a lot to consider in section 31E SDCA 1999, noting that there had been extensive engagement to date between the Department of Finance, Revenue and the Department of Housing. Revenue stated that they were happy to take further submissions on this point and respond in due course.

## **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 May 2021. Revenue stated that issues with death cases had been largely settled, noting that language for the relevant TDM had been agreed and should be issued in the near future.

Revenue stated that the specific issues around non-resident vendors were the next priority, as well as noting that the eCG50 facility had relieved some concerns. Practitioners queried whether the approach that was taken for death cases would be helpful for non-resident vendors, and if a work around could be achieved for those who cannot use the eCG50 facility.

Revenue stated that they believe the issues for non-resident vendors would be straightforward to resolve. Practitioners queried whether this might be closed out by the end of the year, with Revenue stating that it was likely that this would be the case.

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

Practitioners flagged to Revenue an issue that was arising in practice in respect of the SARP, with certain clients having their applications rejected. Practitioners noted that companies were bringing people to work in Ireland, but that these individuals sometimes end up working overseas for the first few months of their contract (due to travel restrictions etc.) It was noted that these applications were being automatically rejected on that basis, and that this does not line up with what is envisaged by legislation.

Revenue appreciated this point and stated that they would consider the issue and discuss internally.

**iii. Clarification on Operation of Revenue Phone Lines**

Practitioners requested clarity from Revenue as to whether Revenue's phone lines will operate on a full time basis from September to December, noting that this would greatly assist Practitioners in meeting filing deadlines.

Revenue stated that there were no plans to extend phone line operating hours outside of the 3 additional days at the income tax filing deadline. Revenue noted that the shift from phone service to MyEnquiries has been very successful and works very well. Revenue further noted that ROS HelpDesk support would be stepped up to deal with queries arising close to filing deadlines, and that their intention is to continue with the current service, encouraging practitioners to embrace MyEnquiries.

Practitioners noted that Revenue's customer service standard provides for a maximum period of 25 days in which to provide a response to enquiries. Practitioners queried whether Revenue would consider reducing this 20 days in light of the fact that most resources are going into MyEnquiries, stating that this would be crucial as deadlines approach. It was noted that some practitioners would still rather use the phone to raise a query.

Revenue responded to state that they would consider this point, and noted that the vast majority of enquiries are turned around well under the 25 day period, and that they intend to respond quicker as the filing deadline approaches.

Practitioners identified a reluctance amongst practitioners to use Revenue's exceptional contact mechanism. Revenue encouraged practitioners to use this mechanism where they feel appropriate, noting that the traffic on this line is very low, which indicated to Revenue that problems of this nature are rare.

**iv. Sub-Committee Reports**

There were no further points arising out of TALC Sub-Committee meetings to be discussed at the meeting. It was noted that Sub-Committee reports would be circulated in advance of the next Main TALC meeting.

**v. Return to Office**

Practitioners queried whether Revenue had decided on its policy on returning to the office, in light of the easing of restrictions due to take place in the coming weeks. Revenue responded noting that the position was not decided and that a dialogue is ongoing internally.

**Attendance**

<b>Revenue</b>	<b>CCAB-I</b>	<b>ITI</b>	<b>Law Society</b>
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
Eugene Creighton	Paul Dillon	Pat Mahon	Aidan Fahy
Geraldine Hegarty	Enda Faughnan	Kieran Twomey	Carl Grenville
	Peter Vale	Mark Barrett	