

**Minutes**  
**Indirect TALC Meeting**  
**10.30 am, Wednesday 06<sup>th</sup> October 2021**  
**On-line Meeting (hosted by Revenue on Skype for Business platform)**

**Item 1 – Minutes of the last meeting**

- The minutes of the meeting held on 02nd June 2021 were approved.

**Item 2 – Postponed Accounting – Obligations of Importers**

- Revenue presented a paper that it had circulated in advance of the meeting. The following were the main points highlighted:
  - Returns contain high levels of error in recording imports where availing of postponed accounting. Almost 60% of taxpayers on a bi-monthly filing frequency and 85% of taxpayers on a quarterly or bi-annual filing frequency who have availed of the scheme have not actually recorded the value of this trade on their VAT returns.
  - The VAT returns form was amended in January 2021 to reflect the new arrangements and the paper outlined the changes and explained the new fields. The VAT Return of Trading Details (RTD) form was also updated, and these changes were also outlined in detail in the paper.
  - Postponed accounting was automatically made available to all existing registered VAT taxpayers from 31 December 2020. Thereafter, new registrants are asked if they require the authorisation and are requested to provide verification documentation in support of same. Members were reminded that it is the importer rather than the declarant who must account for the postponed VAT on both their VAT return and the RTD. Importers should ensure that their appointed representative is claiming the postponed VAT correctly if they wish to avail of this arrangement. Weekly and monthly transaction lists are issued by Customs to importers and declarants; the lists show a column for postponed VAT amounts for each declaration.
  - A person who is authorised under section 56 of the VAT Consolidation Act scheme should use that authorisation to import qualifying goods VAT-free under the scheme and should not avail of postponed accounting arrangements. Further guidance on postponed accounting is available on the Revenue website which contains details of the conditions attached to postponed accounting and Revenue would urge businesses who wish to avail of postponed accounting to refer to this material regularly.
- To help increase awareness of these matters, Revenue had published an article in the September edition of the Irish Tax Review setting out the changes, and also issued an e-Customs notification on the 13<sup>th</sup> August 2021 to all traders on the e-Customs database. Revenue requested that Members of Indirect TALC consider the contents of the paper and bring it to the attention of their colleagues.
- Members advised that some freight agents were slow in forwarding documentation to their clients which in turn led to difficulties in completing VAT returns. They requested that practitioners acting on behalf of an importer be given access to ROS import for cross-checking and validation purposes. Revenue advised that they would consider this request.

### **Item 3 – VAT 56A – Authorisations and Renewals**

- Members referred to the changes introduced with effect from 1 January 2021 and asked if the legislation now effectively prohibits a new business from applying for authorisation due to the requirement to provide financial statements for the previous 12 months. Members also queried whether the 12-month rule would apply in a Transfer of Business scenario. Members also referred to the practice in some Revenue Divisions of businesses being requested to submit trading details for the most recent 12 months rather than the most recently filed accounts, and noted that some Divisions were requesting that the auditors certification of the accounts must be signed.
- Revenue stated that section 56 is utilised by a small number of traders and in general the system operates well and without significant issue. However, owing to the increased risk of abuse of the VAT 56A system arising post-Brexit, the legislation was updated, and the 12-month requirement introduced as part of this risk mitigation. Its purpose is to ensure that new applicants have a trading history of at least 12 months before qualifying for the arrangements. In practice, this can be shown via accounts for a financial year ending within the 12-month window. Revenue confirmed that the long-standing arrangement for statutory auditors to support a client's Form 56 application continues to be recognised by Revenue. Statutory auditors can provide a letter on behalf of their client reporting that turnover from zero-rated intra-community supplies and exports amounts to at least 75 percent of total turnover. In addition, Revenue confirmed that accounts with a year ending within 12 months of the VAT 56 application are acceptable.
- On the question on transfer of business / mergers, etc., Revenue stated that they have shown flexibility for a number of regulated businesses who transferred to Ireland post-Brexit where it could be shown that there was a prior trading history of good standing. Such situations can only be considered on a case by case basis. Revenue also acknowledged that the wording in the legislation has changed but clarified that they had not changed their practice in relation to 'certification' by the agent and that the arrangements which had previously been agreed could continue.
- Members asked about "start-ups" and whether a new company with support from the IDA could be granted authorisation based on that support. Members queried whether such cases would be excluded based on the new legislation. Revenue stated that the legislation was clear: qualifying for an authorisation requires a 12-month trading history.
- Members referred to companies who had been trading in the EU but were transferring activities into Ireland, and asked if the need for 12 months trading details relates to the period from the date of their first taxable sale or the date of their registration, as this might affect whether they had a full set of accounts. Revenue undertook to clarify this point and revert to members accordingly.

### **Item 4 – Article 5b – eCommerce Package**

- Members expressed their appreciation for Revenue's replies to queries on the introduction of the new rules and asked about arrangements for possible queries that might arise in future. They asked if correspondence about recent queries could be made available to all Members for reference.
- Revenue referred to the recently issued Tax and Duty Manuals on the e-Commerce package changes. In light of the clear guidance they provide on the rules and requirements, further extensive queries are not expected, but any specific difficulties will be considered should they arise. Revenue also referred to the guidance available on the website and the two detailed articles by Revenue published in the Irish Tax Review during the past year. Revenue agreed to summarise the general details associated with the recent queries/replies and provide a note to Members for reference.

### **Item 5 – EU Update**

- Revenue updated members on discussions on the VAT Rates Proposal and advised that the Department of Finance had written to the Presidency and the Commission to clarify certain issues in the file.

### **Item 6 – AOB**

- VAT Registration – Members indicated they had raised registration delays through other TALC fora and the “Exceptional Contacts” list approach had been suggested if a Tax agent is experiencing a delay. Members asked if such an approach should be used for VAT registration if a delay is encountered. Revenue provided statistics on VAT registrations for the first 3 quarters of 2021 highlighting that the majority of cases are processed without delay. Where cases take longer, it generally relates to the verification process. Also, online registrations experience lower incidence of delay. Revenue undertook to revert on the matter and in the meantime suggested that seeking to have a case escalated to a higher level within the relevant area is an option which has worked well in the past.
- VAT Registration / Return of Trading Details - Members referred to the agreed minutes from the meeting of the Indirect TALC on the 3<sup>rd</sup> March 2021, and asked that two further points at that meeting be noted:
  - that Members had requested Revenue to publish a non-exhaustive list of items which would suffice as evidence of intention to trade. Revenue had responded that they were not in a position to do so.
  - that Members had highlighted some concerns that business would be penalised for incorrect or late filing of returns due to a lack of clarity as to how the amended form needed to be filled out. Revenue had confirmed at the time that there would not be any penalisation of businesses due to the issues arising due to the amended forms.
- Use and Enjoyment Provisions – Members noted that following discussion at the previous meeting about concerns of double taxation post-Brexit, examples had been provided to Revenue as requested. Members had also provided an example of assets moving between jurisdictions during the period of their lease, highlighting a case of double taxation arising due to the wording of the legislation. Revenue noted that an impact of the UK’s exit from the EU is that harmonisation between the UK and EU Member States no longer exists. Revenue expected that over time that businesses would adapt their business models and confirmed that changes to the existing rules are not envisaged.
- Logistics – Revenue advised that it will host the next on-line meeting on a different video-conferencing platform. A trial run will be available for Members in advance.
- Future Agenda – Members agreed to the Chair’s suggestion that the Law Society’s proposed item on Co-ownerships continue to be deferred in view of the continued atypical/remote working environment.

<b>Action Points</b>	<b>Responsible</b>	<b>Timescale</b>
Revenue to consider submission from Members regarding postponed accounting with respect to unavailable invoices and to provide an appropriate response.	Revenue	As soon as possible
Revenue to ascertain whether the requirement for 12-months of trading accounts as part of the VAT56A authorisation refers to the date of first date of taxable sale or first date of registration and revert to members to clarify.	Revenue	As soon as possible
Revenue to summarise the points addressed in the queries referred to them related to Article 5b of the eCommerce package.	Revenue	As soon as possible

### **Attendees**

#### **Irish Tax Institute**

Brian Butler  
Oonagh Carney  
Brian Colfer  
Lorraine Sheegar

#### **Consultative Committee of Accountancy Bodies - Ireland**

Norah Collander  
Mairead Hennessy

#### **Law Society**

Donal Kennedy (Chairman)  
David Lawless

#### **Revenue**

Gerry Coone  
Teresa Cunningham  
Dermot Donegan  
Ita Foster  
Deirdre Hanlon\*  
Gillian Morrow  
Colin O' Farrell (Secretary)  
Justin Walsh

\*Designated Public Official, *Regulation of Lobbying Act 2015*