

## Summary Note of the Annual Branch Network Meeting between the Irish Tax Institute and Revenue's Personal Division

3 October 2023

Revenue Offices, 15 Upper O'Connell Street, Dublin 2

### 1. Overview of Personal Division

Revenue provided an [organisation chart](#) for Personal Division setting out the management responsibilities of the Principal Officers in each Divisional Branch. Personal Division is the largest division in Revenue, with the most diverse case-base consisting of 3.5 million live cases. In addition to PAYE taxpayers, the division also has responsibility for charities, sporting bodies, trusts, Local Property Tax (LPT), Vacant Homes Tax (VHT), Stamp Duty and Vehicle Registration Tax (VRT).

### 2. Compliance Update

The PAYE End of Year Review (PEOYR) is a core part of the Division's activity each year together with the subsequent issue of Statements of Liability in respect of PAYE taxpayers. Specific projects underway include the Share Schemes project, PMod and VAT compliance by charities and the ongoing project on rental income.

Regarding the Compliance Intervention Framework, the Division expects to conduct more Level 2 interventions over the year ahead and to have a greater focus on real-time interventions.

Following Revenue letters to PAYE taxpayers with under and/or over payments for 2019 to 2021, according to Revenue's records, Revenue has issued targeted correspondence to non-responders with under/ over payments in respect of 2019 regarding the requirement to file a tax return to finalise their position. A considerable number of taxpayers who appear to have overpaid tax in 2019 have not filed a return to claim any refund due, despite several efforts by Revenue to encourage these taxpayers to submit returns.

Revenue will subsequently pursue outstanding income tax returns for the 2020 and 2021 tax years, where underpayments may arise from payments of the Temporary Wage Subsidy Scheme (TWSS) and the Pandemic Unemployment Payment (PUP). Revenue is seeking tax returns to be filed for 2020 and 2021 to ascertain the final tax position and then code any underpayment arising forward against tax credits available in future tax years. In some cases, Level 1 interventions instigated will be escalated to Level 2.

Practitioners queried whether Revenue would code underpaid tax forward in the absence of the submission of a tax return. Revenue confirmed that the option is being explored. However, taxpayers are best advised to file all outstanding returns as taxpayers may have overpaid tax in one year which could help to reduce an underpayment arising in a subsequent year.

Revenue's project relating to rental income is ongoing. Issues identified with some cases include a failure to compute the surplus/ deficiency on a per letting basis, as required by the computational rules for Case V (section 97 TCA 1997) and the inability to supply supporting documentation for expense deductions.

### PEOYR Update

Subsequent to the meeting, Revenue noted that it has coded underpaid tax forward for 70,000 taxpayers where underpayments may have arisen from payments of the TWSS and the PUP.

Revenue previously sought these taxpayers to file tax returns for 2020 to ascertain the final tax position. In the absence of a return, any underpayment arising was coded forward against tax credits available in future tax years. However, these taxpayers can still file a return for 2020 as they may have overpaid tax in one year which could help to reduce the underpayment.

### Share Schemes Project

As part of the national Share Schemes project, led by Personal Division, Revenue issued 7,000 letters to taxpayers who may have exercised share options in the years 2019, 2020 and 2021, according to Revenue's records. There was a good response rate to these letters and some unprompted qualifying disclosures were received.

Practitioners noted that in some cases while the Relevant Tax on Share Options (RTSO) obligation may not have been met, tax was declared and paid when the relevant income tax return was filed. Practitioners queried Revenue's approach to requiring taxpayers to register for RTSO and submit an RTSO1, the application of interest on late payment of RTSO and whether there was a threshold which determined whether a Level 1 or Level 2 intervention would be instigated.

Revenue clarified that where the relevant tax on the exercise of share options was declared and paid in some form within 30 days of exercise, even if the payment was not allocated to RTSO, interest would not be charged.

There is no specific monetary threshold that determines whether an intervention will be instigated as Level 1 versus Level 2. Most of the interventions conducted to date have been at Level 1 but some Level 2 interventions have been undertaken, where a risk has been identified by Revenue.

Some cases involve significant complexity, for example, where there is a cross-border element with issues to be worked through and taxpayers are engaging to address issues raised. While the bulk issue letters focused primarily on tax on the exercise of share options, tax liabilities could arise on dividends, gains on the sale of shares or items not related to shares. There have been a small number of unprompted qualifying disclosures including minor additions outside of the focus of the letters.

### **3. Vacant Homes Tax (VHT)**

Revenue outlined the obligations in relation to VHT, with the first chargeable period ending on 31 October 2023 and the first returns due by 7 November 2023. VHT is a self-assessed tax, so the onus is on the taxpayer to comply with their VHT obligations. However, Revenue has written to 25,000 property owners identified following a review of data Revenue received from the ESB of low electricity usage in properties, which would be indicative of vacancy. The letters advised the property owner of their potential liability to VHT and the steps required to comply, if necessary (a sample letter is available [here](#).) Some property owners have already self-assessed their liability to VHT and made a return online.

Revenue referenced the list of exclusions from the charge to the VHT provided to the Institute in advance of the meeting. Practitioners queried the position in respect of individuals whose

property is vacant solely because the individual has been assigned to work abroad. Principal Private Residence Relief for CGT disregards periods of absence in certain circumstances where an individual is assigned to work abroad for a period. However, the VHT legislation does not include a similar provision and practitioners asked about Revenue's approach to requests for VHT exemption for these assignees.

Revenue confirmed that there is no exemption in the legislation for individuals assigned to work in another jurisdiction. A change to legislation would be required to permit such an exemption. As a result, an individual will have a liability to VHT where the dwelling is not occupied for at least 30 days in the chargeable period. The VHT liability for the chargeable period 1 November 2022 to 31 October 2023 is three times the LPT base rate (i.e. before application of the local adjustment factor). VHT does not displace the liability to LPT, therefore, a LPT liability will also arise.

#### **4. PAYE Service Delivery**

Demands on PAYE services remain exceptionally high. January to April each year is generally the peak period for customer contacts. However, the size of the peak has increased substantially given there is almost full employment in the economy. The Division continues to balance its resources between MyEnquiries and the phone service considering the large volume of contacts received.

Revenue has been examining the use of AI to improve service delivery. For example, in MyEnquiries and in myAccount, taxpayers no longer have to categorise their queries because the query is now directed to the appropriate personnel, based on the details entered about the query, with the assistance of AI. This has proven more effective and quicker in query handling than allowing taxpayers to select a query category, as often taxpayers chose one of the first two query categories presented on screen by default. AI also enables Revenue to identify cases where there have been repeated contacts on a single query.

Revenue confirmed that it is also exploring the use of AI to prioritise calls to the PAYE Helpline. The software that underpins the improvements to MyEnquiries could be used to further develop the phone system, for example, to identify issues that affect a person's paycheck so that the call can be prioritised.

Revenue reminded of the exceptional contact facility for practitioners to enable queries outstanding in excess of the 20/25 working days to be escalated.

In Quarter 1 of 2024, Revenue will run a promotional campaign about using the facilities on myAccount to encourage more PAYE taxpayers to access the system and to claim their entitlements.

The Division continually reviews tax credit claims to spot patterns indicative of abuse of credits. Using data analytics, Revenue can identify clusters of claims, sudden unexplained peaks in certain claims or unusual patterns. This helps Revenue to quickly identify where the use of the credits would appear to be abused. Spurious claims regarding health expenses can also be identified in a similar manner.

### myAccount Campaign Update

From 23 January 2024, Revenue began a promotional campaign about using the facilities on myAccount to encourage more PAYE taxpayers to access the system and to claim their entitlements.

#### Form CG1 filing requirement and CGT on eForm 12

Practitioners queried Revenue's policy in requesting the filing of the Form CG1 for Form 12 filers where gains are less than the annual exemption of €1,270 and scope to include CGT on the eForm 12. Revenue advised that it would like to include CGT on the eForm 12. However, there are competing priorities for IT developments. The Form CG1 should be completed even if there is a loss or if there is a gain less than the annual exemption.

In response to questions on generally enhancing the eForm 12, Revenue noted that they continually look at ways to enhance the form, however, the pace of these changes is often dictated by other factors, such as delivery of other developments that take priority. Priority is often dictated by legislation and mandatory work that is necessary to complete for the continued effective operation of Revenue's existing systems.

#### **5. Self-Assessed Service Delivery**

Revenue outlined the scope of the Self-assessed, Business Taxes and CAT Branch. This includes taxpayers with non-trading income, PAYE taxpayers with high wealth, trusts, non-resident landlords and CAT modernisation.

##### SARP

Practitioners acknowledged improvements in the administration of SARP. Considerable engagement had taken place between the Division and the Institute in recent years on this topic and work undertaken has helped to deliver ongoing improvements in expediting cases.

Revenue outlined its plans for release of 'eSARP' in 2024. To facilitate access to eSARP, there will be a new ROS Global Mobility Certificate as there may be one agent dealing with the SARP applications and claims, who is separate to the agent managing payroll reporting.

The SARP Employer Return will be pre-populated with information from the Form SARP 1A. The employer and agent will be able to review the pre-populated SARP return online and make any necessary revisions before approving the return, to ensure all relevant employees are included. It will also be possible to view the live status of the Form SARP 1A application. Copies of information sent to Revenue will be viewable online by the employer and linked agent.

eSARP should also improve the compliance rate as missing information from the application will be readily identifiable. Revenue intends to provide an article for the *Irish Tax Review* on eSARP and will also invite input from practitioners who will use eSARP by sharing a test of the system once available, to ensure it will work as intended. It is expected that eSARP will go live from February 2024.

The September 2023 update to the Tax and Duty Manual (TDM) on SARP provided clarification on employer certification of the Form SARP 1A within 90 days, following recent determinations

by the Tax Appeals Commission on this issue. The TDM clarifies that while the Form SARP 1A must be certified by the employer within 90 days of a relevant employee's arrival in the State, it is not necessary to submit the form to Revenue within this period. For individuals claiming SARP through the payroll, relief cannot be granted until the information on the SARP 1A is provided.

However, if an individual seeks to claim SARP through the Form 11 income tax return and has not submitted a Form SARP 1A, Revenue will seek the information included on the Form SARP 1A. Therefore, Revenue recommends that once the Form SARP 1A has been certified by the employer, it should be sent directly to Revenue, rather than waiting until the Form 11 is submitted. In response to questions, Revenue clarified that it can be submitted with the tax return if necessary.

Practitioners noted the additional information employers are certifying on the Form SARP 1A since the Finance Act 2022 amendment to section 825C TCA 1997. For example, confirming that the SARP applicant has a PPSN issued to them within 90 days of their arrival in the State. The Institute is monitoring feedback on the special email channel with the Department of Social Protection to expedite PPSNs required for SARP applicants so that the legislative requirement can be met. Notwithstanding that the Form SARP 1A does not have to be provided to Revenue within 90 days, the employer must certify that the PPSN has been received within this period, so the urgency in obtaining a PPSN remains of critical importance.

#### **eSARP Update**

The eSARP portal went live from 1 January 2024 and must be used to certify and submit the Form SARP 1A and to submit the SARP Employer Return. Guidelines on eSARP are available on the Revenue [website](#).

An Institute/Revenue recording about eSARP held in November 2023 is available [here](#). Issue 4: 2023 of the *Irish Tax Review* included an article by Revenue on eSARP.

#### Split Year Residence Claims

Practitioners queried Revenue's changed approach in practice to claims for Split Year Residence (section 822 TCA 1997), whereby Revenue has denied claims submitted with the income tax return, insisting that claims must be made during the year of departure/ arrival to be valid.

A new MyEnquiries selection is available to facilitate the notification of claims during the year. However, there was no communication about the changed approach. Practitioners consider that any change in approach should be communicated to practitioners and taxpayers in advance and applied from a prospective date.

Currently, inconsistencies arise as some taxpayers' claims have been accepted while others have been denied due to the changed approach in practice, which has resulted in inequitable treatment. It was acknowledged that Revenue at the TALC Direct/Capital Taxes Sub-committee had confirmed the legislative position, but practitioners wanted to highlight the practical implications of this development.

Revenue noted that there has been no change in the legislation. It was always the case that a claim for Split Year Residence must be made in the year of arrival/ departure. An increase in the number of claims for this relief in recent years and certain practices identified in relief claims

relating to the pandemic has focused Revenue's attention on the fact that some claims did not meet the legislative requirements. Revenue wanted to reiterate the position which was included in the TDM.

Practitioners highlighted that since its inception, in practice, it has been possible to claim Split Year Residence treatment when filing the income tax return for the year. Refusal of claims is a very recent development and a significant change made without clear communication to tax practitioners in advance. An update to a TDM, which was not signaled, was the sole channel of communication.

Revenue acknowledged practitioners' feedback about communications on this issue. The Division cannot comment on behalf of the approach of other divisions to this issue but would welcome a note on concerns raised and suggested case examples would be helpful in reviewing the matter.

Revenue advised that the fact that a practice has been tolerated for a long period does not mean that a prospective effective date would apply. However, Revenue will examine the issues raised to discuss these internally and ensure a consistent cross-divisional position is applied and the Division will confirm the position. [Unfortunately, at the time of publication of this Note, Revenue's Legislative Service (RLS) has not reverted on this matter.]

Revenue referenced a number of queries related to assignee issues, submitted in advance of the meeting. These issues have been referred to RLS and the Division will subsequently forward RLS responses to the queries to the Institute.

#### Form 11 completion where RTSO exceeds 40% of taxable gain

Regarding the Form 11, practitioners observed that it was not possible to include the full RTSO paid if it exceeds 40% of the taxable gain (i.e. the assignee pays tax at 40% on the full gain but on the tax return due to workday apportionment, the taxable gain is lower so a refund of RTSO arises). The filer must disagree with the ROS computation to progress the processing of the correct refund, in the absence of a change to the Form 11. Revenue advised that this was a rare occurrence in practice, according to its records, and acknowledged that it was an issue with the system. However, it can be amended manually by contacting Revenue to trigger the refund.

#### Form IT38

Revenue advised that the issue with the Form IT38 which prevented the filing of the return out-of-hours has been resolved on ROS and it was resolved in myAccount in October 2023 prior to the peak filing period. Revenue reminded of the importance of registering and agent-linking on a timely basis to file a return for CAT in advance of the upcoming deadline.

#### Income Tax Refunds

Practitioners noted examples where refunds were delayed as Revenue sought information that would not be available or should not be required. For example, where Revenue sought a tax assessment from a jurisdiction that does not provide assessments citing the US, the Netherlands and Germany as examples. In addition, Revenue requests for an official translation of an assessment issued by a foreign tax authority were noted. In one case, the taxpayer incurred a significant cost of circa €900 to provide this to Revenue.

Revenue agreed that taxpayers should not be expected to incur high compliance costs in

providing such information to Revenue and advised practitioners to escalate the matter if necessary to the caseworker's manager, if the request appears unreasonable.

Practitioners also referenced instances where caseworkers sought information that was not relevant to the return, for example, seeking information on worldwide income where no tax credits are claimed, or instances where individuals are taxed on Irish workdays and information on overseas tax paid is sought. Practitioners queried whether staff may be using a standard 'checklist' which may not be appropriate to all situations. Revenue invited case-specific examples of difficulties raised to examine them, solely to identify potential gaps in staff training, guidance etc. that could be improved.

Practitioners noted there could be merit in providing a published list upfront of the information required to support refund claims in certain scenarios, if this would help expedite refunds and suggested it may be a matter to revisit. [Subsequent to the meeting, Revenue advised that is working on a comprehensive list to assist in this process and will revert in this regard.]

## **6. Central Register of Beneficial Ownership of Trusts (CRBOT)**

Revenue provided a brief update on the CRBOT. Relevant trusts that are approved sporting bodies and charitable trusts have registration requirements for CRBOT together with requirements under AML. Revenue is working on simplifying access to CRBOT for non-resident trustees.

## **7. Other Developments**

VAT in the Digital Age (VIDA) is due to be discussed in the autumn at the Economic and Financial Affairs Council (ECOFIN), the European Commission is working towards having matters agreed by the end of H1 2024.

The new VAT Small to Medium Enterprise Exemption Scheme will go live in January 2025.

The computerised Excise Movement Control System (EMCS) which digitalises the supervision of the movement of goods between Member States, where excise duty has already been charged in indirect exports of duty suspended excisable products on EMCS, will be integrated with the Automated Export System (AES) from February 2024, following an EU mandate.

Work is underway on the implementation of DAC7, i.e., reporting obligations for digital platform operators regarding certain information with respect to sellers in the sharing and gig economy. The Institute noted its engagement at a DAC7 subgroup of TALC and highlighted an issue raised with Revenue regarding GDPR and disclosure of information. Practitioners had sought assistance from Revenue in arranging a meeting with the Data Protection Commission (DPC) to clarify the GDPR considerations and will continue to pursue this assistance.

With regards to VRT, Revenue referenced the Road Traffic and Roads Act 2023, which includes provisions regarding e-scooters and e-bikes. E-scooters are not yet legal to use on public roads. However, the Act introduces a new class of vehicle called Personal Powered Transporters (PPTs). This will allow Regulations to be commenced to classify e-scooters as PPTs, and appropriate power, speed and weight values, along with other requirements for e-scooters can be provided. Until the regulations are in place, e-scooters will remain illegal for use on public roads.

The Act will also put e-bikes on a legal footing. E-bikes that can go faster than 25km/hr or have a power output greater than 250W, and those that can operate without pedalling will now be classified as an e-moped. As a result, these e-mopeds will be classified as motorised vehicles which will require a licence, registration, tax and insurance to be used on public roads.

The new rules for e-mopeds will come into effect once the administrative arrangements for registration, driver testing, driver licensing and tax are in place, which is expected to be in H1 of 2024. Revenue clarified that the new provisions will apply to existing stock and new stock and whether imported or assembled in Ireland. The main aim of the legislation is to support the delivery of the Government's Road Safety Strategy 2021-2030 targets of reducing fatalities on our roads by 50% this decade and achieving Vision Zero—no deaths or injuries on Irish roads—by 2050. Employers who provide employees with e-bikes need to be aware of the related costs that will be associated with the new treatment, where applicable.

### **AOB**

Practitioners questioned the necessity to file a Form 11 in circumstances where a tax resident individual is leaving Ireland to move back to their home country and has simply opened a bank account in their home country for receipt of salary etc. Technically, a Form 11 (rather than a Form 12) is required due to the opening of the foreign bank account. Revenue agreed that it would consider the requirement to file a Form 11 return in such circumstances.

The Institute thanked the division for its involvement in the Institute/Revenue Non-Resident Landlord Withholding Tax Webinar in June. A recording of the presentation and Revenue's responses to myriad questions is available as an ongoing information resource for members on the Institute's website [here](#). A number of issues remain to be worked through, for example, related to 2023 filings, which will be dealt with through the TALC Collections Sub-committee.