

Minutes of TALC Direct / Capital Taxes Sub-Committee Meeting

28 June 2016

Office of the Revenue Commissioners, Dublin Castle, Dublin 2 at 14:30pm

Item 1 – Review of minutes from Direct/Capital Taxes Sub-Committee meeting of 4 May 2016

- Revenue requested a minor change be made to Item 15 of the minutes to note that “where possible” significant changes to the S247 Manual would be discussed with practitioners.
- Otherwise, the minutes were approved.

Item 2 – ROS technical issues

- Revenue was asked for an update on the various ROS technical issues which were now being dealt with by TALC Collections. Revenue noted the following;
 - DTA credit fix: This is scheduled for November / December 2016
 - Agricultural Relief (the farmer test): This is not scheduled to be fixed at present
 - Agent Link Notification for CAT: This is not scheduled to be fixed at present
 - The MyAccount fix was not discussed at TALC Collections
- Practitioners asked whether it would be possible to put in place a point of contact for the CAT DTA calculations so that districts are aware of the issues on ROS. Revenue agreed to consider this.

Item 3 – Letters of no audit for CGT purposes for non-resident vendors

- Revenue was asked to provide an update on its discussions with the Law Society on the procedure for obtaining a letter of no audit for non-resident vendors.
- Revenue advised that there had been some emails exchanged with the Law Society but no significant progress had been made on the matter since the last meeting.

Item 4 – S79C - definition of relevant holding company

- Revenue was asked to provide its view on the two queries raised in Note 4 of the meeting pack regarding the definition of a relevant holding company for the purposes of S79C.
- Revenue noted that it was still reviewing these queries and they would be addressed in a new operational manual which was planned for issue by September.

Item 5 – S79C - manner of assessment

- Revenue was asked to clarify the position on the timing and quantum of gains subject to tax under section 79C.
- Revenue advised that this would also be addressed in the new operational manual (as referred to above).

Item 6 – CAT Dwelling House exemption

- It was indicated at a previous TALC Capital meeting that the Department of Finance was planning to undertake a review of the CAT dwelling house exemption. Revenue was asked to provide an update on this.
- Revenue confirmed that the Department of Finance has not initiated a Policy Review in respect of this relief.

Item 7 – Relief for AVC's on income arising from a health benefit scheme

- Revenue was asked to consider whether relief for Additional Voluntary Contributions was allowed against income arising from a permanent health benefit scheme.
- Revenue advised that no relief would be available for AVC contributions on a technical interpretation of the legislation although relief could be available for contributions to a PRSA.

Item 8 – S247 eBrief / clearance

- Revenue advised that the new S247 manual was still on course to be issued in September.
- Practitioners queried whether there had been any change to Revenue's approach to granting clearance on S247 transactions. Revenue said that there had been no change in approach and that there was an expectation that clearance should be sought in advance of transactions taking place.

Item 9 – Revenue technical guidance

- The ITI noted that a number of members had suggested that there was a need for further technical guidance from Revenue on certain matters including;
 - Share buyback - trade benefit test
 - Section 615 – bona fide test
 - Definition of holding company for share repurchase
 - Close company rules and professional services
 - MAP/Correlative relief claims.
 - Availability of rulings on receivership cases
 - Negligible value claims
 - Offshore trust and company rules
 - Publication of Revenue concessions
- The ITI said that it would identify specific guidance requested on these areas.
- Revenue welcomed this approach and noted that it was seeking input within Revenue on areas which require guidance.
- Separately, Revenue advised practitioners that there may be a change in the way RTS operates. Going forward, RTS may be prepared to meet with taxpayers to discuss certain complex cases.

Item 10 – Update on Companies Act 2014 sub-committee

- The Committee was updated on the progress of the Companies Act 2014 sub-committee
- It was noted that Revenue are still awaiting legal advice on a number of items and it would only be able to determine the necessary legislative amendments once this advice has been received.
- Revenue noted that it could not provide any guarantees that the necessary changes would be included in Finance Bill 2016. Practitioners raised concerns on the practical implications of deferring this until 2017.

Item 11 – S291A Customer Relationships

- Revenue was asked whether customer relationships would fall within the meaning of ‘customer lists’ for the purposes of Section 291A(1)(g).
- Revenue advised that, in its view, the scope of customer lists would not include customer relationships.
- Practitioners noted that, at the time the change was introduced in Finance Bill 2014, Revenue had indicated that customer relationships would qualify for 291A allowances.

Item 12 – Pooling of Foreign Tax Credits - Schedule 24 Para. 9FA

- Revenue was asked to give consideration to extending the pooling of credits for foreign branches afforded by Schedule 24 9FA to other members of a group.
- Revenue noted that this would require a legislative change and it was therefore a policy matter.

Item 13 – Entrepreneur Relief - Guidelines

- Revenue advised that it was currently drafting guidelines on Entrepreneur Relief and these would be circulated to the Committee for comment in the next two weeks.
- Separately, Revenue was asked to clarify whether the relief would be available on the liquidation of a company, particularly where there was a delay in the commencement of the liquidation. Revenue advised that, in order to qualify for the relief, the company must be trading up to the point at which the liquidation commences – it was noted that it would be helpful to minute the decision to liquidate the company.

Item 14 – e-Brief on CGT position following abolition of Milk Quotas

- Revenue noted that it had drafted an eBrief on the CGT position following the abolition of milk quotas and this would be issued shortly.

Item 15 – Tax Clearance on the sale of property to a public body

- Revenue confirmed to practitioners that a tax clearance certificate is required by the vendor and the vendor’s solicitor on the disposal of property to a public body. Revenue advised that this requirement is set out in a Department of Finance circular and is not enshrined in tax legislation. Revenue will obtain a contact for the Law Society in the Department of Finance to facilitate discussion on the legal basis for the requirement.

Item 16 – CGT clearance certificates and syndications/transfers by non-Irish banks

- Revenue was asked to confirm its view on whether the sale of a loan secured on land in the State is a disposal for CGT purposes to which s980 applies.
- Revenue confirmed its stated view in eBrief 105/15 that the disposal of such a loan would be treated as a specified asset and that this would bring non-resident financial institutions within the charge to Irish CGT.
- Revenue said that it would not be changing its view on this matter unless somebody can demonstrate that such a disposal is not subject to CGT. Revenue noted that Council’s Opinion

could be helpful in this regard.

- Revenue also advised practitioners that they could get a CG50 on a 'without prejudice' basis if they were uncertain of the CGT position.

Item 17 – CG50 clearance on S615 transactions

- Revenue was asked whether the guidance on the requirement for a CGT Clearance Certificate on inter-group transfers under S617 was also applicable to transfers under S615.
- Revenue advised that the guidance was issued specifically in response to a S617 transfer. Practitioners were requested to make a separate submission in respect of the S615 position.

Item 18 – S615 Relief

- This matter was discussed as part of agenda item 9.

Item 19 – S626B(1)(b)(ii) - application in establishing shareholdings of the investor company

- Revenue was asked to clarify whether S626B(1)(b)(ii) operates to attribute not only the ownership/entitlement rights of a group member to the disponent, but also the period of ownership/entitlement.
- Revenue said that it would consider this query.

Item 20 – AOB

- Revenue was asked to confirm when the updated IT55 (relating to the EII regime) would be issued. Revenue were not sure of a timeframe but agreed to check this point.
- Practitioners suggested that it would be a good idea to update the Committee on any relevant CAT matters being discussed by the TALC Audit Committee. Revenue agreed with this.

Attendees at the meeting of 28 June 2016

Revenue

- Brian Boyle
- Maresa Hempenstall
- Catherine Murray
- Michael Buckley
- Michael Brennan

CCAB-I

- Liam Kenny
- Crona Brady

Law Society

- Maura Dineen
- Deirdre Fox

ITI

- David Fennell (Chair)
- Sharon Burke
- Stephen Ruane
- Beryl Power
- Finola O'Hanlon
- Aidan Lucey