

Minutes of TALC Direct / Capital Taxes Sub-Committee Meeting

26 October 2016

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

The purpose of this meeting was to discuss the measures announced in Finance Bill 2016. Only the more significant sections of the Bill were discussed and these discussions are reflected in the minutes below.

Section 8 - Help to Buy

- Practitioners raised a number of practical concerns on some aspects of the proposed legislation;
 - Where the new build was not built directly by a qualifying contractor but was instead sub-contracted out: Revenue said that this should not impact on the availability of the relief.
 - Where a third party is guarantor to the underlying mortgage: Revenue said that this should not impact the availability of the relief.
 - Where a purchaser initiates a purchase near the end of a calendar year, it was felt that a 3-month period post 31 December to finalise the contracts etc. would be too tight. Revenue said that it would convey these concerns to Finance.
- Revenue noted that the relief would only apply in respect of new builds located in the State.

Section 13 - Personal Retirement Savings Accounts (PRSAs) and Tax Planning

- This change closes-off certain tax-planning opportunities whereby individuals choose not to access PRSAs. Under the changes, the PRSA benefits will be deemed to vest on an individual's 75th birthday.
- Revenue noted that it is currently considering similar measures in respect of other pension products.

Section 20 - DIRT Rate

- Practitioners queried why the rate of exit tax on life investment policies was not reduced in line with the DIRT rate.
- Revenue noted that this was a policy decision and Minister Noonan had recently highlighted the potential exchequer cost of this in response to a Dail PQ.

Section 21 – Amendment of Section 110

- There was a detailed discussion on various aspects of the proposed legislation. Revenue noted the following;
 - For companies that have commenced business as a qualifying company prior to 1 January 2017, a Committee Stage amendment will be introduced to ensure that the 8 week notification period only starts from 1 January 2017.
 - In subsection 5A(d), clause (i) through to (iii) are “or” tests as opposed to “and” tests. This would be amended at Committee Stage.
 - Where there is an interaction between a S110 company and a fund, consideration is

being given as to how to ensure that there is no double taxation.

- Revenue is drafting a notification which would enable companies to withdraw its election under S110.
- The new provisions will apply to those profits which come into charge after 6 September.

Section 22 – Irish Real Estate Funds

- There was a detailed discussion on various aspects of the proposed legislation. Revenue noted the following;
 - Revenue will review the definition of “specified person” in Section 739G.
 - In the definition of “IREF profits”, the cross reference in the definition will be changed to section 739L (from 739M)
 - Revenue will create a new Schedule, 2C, which will set out declarations to be made in respect of specified persons.
 - There will be a significant number of amendments made to this section during Committee Stage, most of which will be anti-avoidance legislation.

Section 25 - Amendment of CGT Entrepreneur Relief

- The only change to this section was a reduction in the rate. The decision not to increase the €1m lifetime threshold was a policy decision.

Section 26 - Bona Fide Test for Tax Treatment of Non-Resident Trusts

- This change was made to comply with EU law.
- Practitioners noted that settlements would never satisfy the “bona fide commercial” test and suggested that consideration be given to including a carve-out for such settlements, similar to the exclusion in the mandatory disclosure regime.

Section 54 – Penalties for Deliberately or Incorrectly Making Incorrect Returns, Etc.

- From 1 May 2017, taxpayers won't have the opportunity to make a voluntary disclosure in relation to offshore assets.
- Practitioners expressed concern that this provision could impact broadly compliant taxpayers who inadvertently fail to disclose a small item of foreign income.
- Practitioners suggested that a de minimis amount could be included in subsection (b)(ii) to address this concern. Revenue said that it would be reluctant to put a de minimis into the legislation but would consider dealing with it through the Audit Code. Revenue noted that a de minimis of €6,000 already existed in the Code.

Section 55 – Amendment of Section 1086 of Principal Act (Publication of Names of Tax Defaulters)

- This is a tidy up to section 1086 primarily to clarify Revenue practice.
- It allows Revenue to publish the names of tax defaulters who settle with Revenue but don't actually pay.

Attendees at the meeting of 26 October 2016

Revenue

- Brian Boyle
- Gerry Howard
- Dave Brennan
- Aine Hollingsworth
- Sheila Hanley
- Brian McCabe
- Frank Gallagher
- Eamon Healy
- Paul Walsh

CCAB-I

- Andrew Feighery
- Peter Vale

Law Society

- Gavin McGuire
- Caroline Devlin
- Aileen Keogan
- Padraic Courtney

ITI

- David Fennell (Chair)
- Sharon Burke
- Stephen Ruane
- Tom Maguire
- Beryl Power
- Laura Lynch
- Aidan Lucey