

Minutes
TALC *Indirect* Meeting
5th October 2016 @10.30 am
Basement Conference Room
Stamping Building
Dublin Castle

Item 1 – Minutes of the last meeting

- The draft minutes were approved with an amendment.

Item 2 – Larentia and Minerva

- Revenue acknowledged the submission received from the ITI and stated that work on this item is still ongoing.
- Revenue's Large Cases division undertook a large body of research on the issues involved which was received by VAT Policy and Legislation division last week and will be used to inform the preparation of guidance.
- Revenue will need further time to consider both the research and the ITI submission.
- Practitioners noted that there may be a large body of cases that will be affected by the interpretation of this judgment.
- In the past, it was generally accepted that no recovery was available where share transactions were concerned. However, it is the practitioners view that recent ECJ decisions are tending towards allowing recovery and that a strong case may be made for recovery where share related transactions are effected by taxable persons engaged in vatable activities.
- It was requested by practitioners that Revenue look at the issues involved in this judgment in a favourable light in their deliberations as a broad interpretation may benefit FDI.
- Revenue stated that draft guidance would be available in the coming weeks which will be circulated for input from the committee prior to publication.

Item 3 – Transfer of Business

- Revenue acknowledged the submission made by the Law Society with respect to TOB and agree that a number of the issues raised may need to be addressed. Revenue is examining the issues, will identify any changes required and will circulate any suggested amendments prior to publication.
- A brief discussion took place on a number of the issues raised in the submission, in particular the use of accountable person in the legislation which will require further consideration. The question of whether or not a vacant property can come within TOB was raised and it was suggested that a timeframe for the period of letting or the period of vacancy prior to transfer should be considered.
- It was noted that recent Revenue guidance on services connected to immovable property was well received and it may be useful to follow a similar format for the questions and answers section of the TOB leaflet.
- Any changes to current policy will require careful consideration to avoid creating new problems in an attempt to solve others. Revenue will reply on some of the issues initially and will take time to consider the more complex issues.
- It was noted that the ITI VAT on property book is due for publication soon and it would be useful to include any TOB and property related guidance in the book.

- It was also suggested that a separate meeting between Revenue and some committee members with particular interest in the issues could be facilitated if considered useful.

Item 4 – Aspiro

- Revenue is seeking observations on the judgment and requested that practitioners revert as soon as possible. Revenue will consider whether it needs to publish guidance and will consult with industry.

Item 5 – Property Subject to Legacy Leases

- Revenue have replied providing a technical analysis of the issues raised and stated their position.
- Practitioners stated that, in their opinion, Revenue do not have a legislative basis for Section 4(10) of the VAT Act 1972 which they say is contrary to the directive.
- Practitioners believe that Revenue's position on the issue is contrary to fiscal neutrality and that it is expected that cases will go to appeal.
- The issue was removed from the TALC agenda.

Item 6 – Education Services Exemption

- Practitioners asked for guidance to issue as soon as possible as they are dealing with a number of cases where the position is unclear. A particular issue raised was with regard to educational institutes involved in outsourcing chains.
- A number of cases which were previously treated as exempt have had assessments raised by districts. Further, the ITI have submitted a number of scenarios which were previously treated as exempt where Revenue's opinion now is that they are taxable.
- Revenue made the point that some businesses incorrectly treated their services as being exempt from VAT in the past and that this is coming to light since the introduction of the new legislation. The VAT treatment of the vast majority of education supplies are free from doubt even though some of those cases are being referred to VAT Interpretation Branch. Revenue accepts that there are some issues with the legislation and they are working on guidance to address these specific problems but made the point that cases are fact-dependent and based on the contractual agreements involved. Revenue will circulate a draft of the guidance to the committee for observations prior to publication
- It was pointed out that there is an entry in the VAT rates data base stating that education supplied by a professional body is exempt and that is leading to confusion.

Item 7 – VAT Groups

- Revenue held a very successful European conference on Modernising VAT groups in September.
- It was widely recognised that there is a lack of consistency in the application of VAT grouping across the EU. The primary recommendation from the conference was that there is a need for more clarity from the Commission and VAT Committee on a number of key issues including the 3 pillar requirements, the scope of the legislation and whether or not non-taxable persons may be included in groups.
- There will be no change to our regime in the immediate to short term. However, Revenue will consider the introduction of an anti-avoidance provision similar to that in the UK.
- Revenue favours a broad interpretation of the Skandia judgment and continues to hold that line in dialogue with the Commission.

Item 8 – EU Update

- The Commission is progressing work on the definitive VAT regime.
- Slovakia currently holds the Presidency and issued a communication to all Member States requesting information on problem areas for Business that might be addressed through legislative change to the Directive or through administrative change across the EU.
- A number of issues which have been flagged to Revenue by practitioners in the past have been forwarded to the Slovakian Presidency Team and we are hopeful that they will be discussed at Working Party meetings in due course. The problem areas flagged by Revenue included consignment stock, proof of zero rating, the VIES data base, chain transactions, distance sales and once-off registration requirements.

AOB

- Invoices – an issue was raised regarding the requirement for invoices relating to expenditure to be included in the correct VAT return. Where invoices have been included in an incorrect return for administrative convenience some Districts are requiring that all affected returns should be amended to reflect the correct position. Practitioners made the point that it is common practise for many businesses to claim VAT recovery based on payment of invoices and not when invoices are received and any change would have a significant administration impact for business and result in a cash flow cost to Revenue.
- Practitioners questioned whether Revenue is currently targeting the alternative medicine sector. Revenue representatives at the meeting were not aware of a specific project, however it was explained that districts run their own projects and successful projects may be rolled out nationwide.

Action Points	Responsible	Timescale
Revenue to circulate initial points on TOB.	H O'S	Next meeting
Revenue to circulate L+M guidance.	M O'M	Next meeting
Practitioners to revert on Aspiro	BB	Next meeting

Submitted for approval by Secretary – Fiona Mongan

Approved by TALC Committee Members

ITI

Brian Butler (Chair)

Gabrielle Dillon

Oonagh Carney

Law Society

David Lawless

Michael O'Connor

Donal Kennedy

CCABI

Kevin Elliot

Norah Collender

Revenue

Gerard Moran (Designated Public Official)

Ita Foster
Dermot Donegan
Maeve O'Malley
Humphrey O'Sullivan
Shay Meehan
Paddy Faughnan

Apologies; Donal Barry