

Minutes of Main TALC meeting

17 February 2021

Skype meeting at 2.30pm

Item 1 Minutes of Meeting held on 8 December 2020

The minutes were agreed.

Item 2 TWSS

i. Self-assessed PAYE Taxpayers

Practitioners made representation to Revenue to allow self-assessed PAYE taxpayers and jointly assessed "PAYE" spouses of self-assessed taxpayers access to Revenue's facilitation of the payment by an employer of the employees TWSS tax without the imposition of BIK.

Practitioners suggested that, for the purposes of establishing the tax an employer can pay on behalf of an employee, the most straight forward and fairest approach would be to base the tax on the employee's marginal tax rate including USC on the basis that the employee had no other source of income and was entitled to a single person 20% rate band and basic tax credits (Single person and PAYE). This will deal with fact that the Preliminary End of Year Statement may reflect tax on other income, reliefs/tax credits allocated from a jointly assessed spouse or refunds which may have taken place up to June 2020. Practitioners noted that prompt clarification of the above point would be welcomed.

Revenue confirmed that it is examining the matter and intends to issue guidance on the BIK issue by the end of March 2021. Revenue would welcome further detail from practitioners the scale of the issue, including examples of the anomalies that are coming up. Practitioners agreed that there had been a lot of queries on this point in practice and Revenue welcomed a submission containing further details.

ii. Extension of Deadline

Practitioners also made representation to Revenue to extend the deadline for employers to pay employees' TWSS tax liabilities (without the imposition of BIK) beyond the current deadline of June 2021 to 2022. It was noted that many employers wish to pay the TWSS tax on behalf of employees, but 2021 continues to be a difficult financial year due to COVID-19 disruption. Practitioners noted that, if the deadline for paying TWSS tax for employees is extended to 2022, this will give employers the time they need to get the funds in place and will be aligned with the date from which employees are due to start having credits and rate bands amended to pay TWSS tax.

Revenue noted the importance of not having an open ended deadline, given the nature of the scheme. However, Revenue acknowledged that, where individual

employers have particular cash flow difficulties with regard to the end of June deadline, they are prepared to consider a short extension on a case by case basis.

Practitioners requested that this point might be considered again in future.

iii. Timeline for the TWSS reconciliation

Practitioners welcome an update on the predicted timeline for this exercise, noting that it was anticipated that this exercise would begin in January with the issue of the reconciliation files to employers, and employers would then have until the end of March to complete the exercise.

Revenue intends to run the reconciliation over the weekend of 20/21 March and release the data to employers immediately after that. It may be technically necessary to release the information in batches. Employers will then have until the end of June 2021 (more than 3 months for most employers) to examine the reconciliation and to address any gaps or errors in their data. Revenue will provide an opportunity for employers to download a payslip by payslip record of their TWSS data to facilitate identification and resolution of any gaps in the reporting of subsidy payments. Revenue noted that there are still gaps in the data received from employers, including c. 3,000 employers who have not provided any data to date. Revenue will treat unreported subsidy payments as owing by employers. Based on current analysis of data, the expectation is that c. 25,000 employers will be fully balanced at the time they get their reconciliation, with c.2,000 – 3,000 being owed money by Revenue, and the balance with a liability to Revenue. However, Revenue stressed that these figures are very provisional and changing continually as gaps in the data are filled. Revenue emphasised that the reconciliation will be based on data submitted by employers and employers who have concerns with regard to the reconciliation outcome should review their data in the first instance.

Practitioners raised a query on the impact of item (ii) above and this, noting that the deadlines for both are in June 2021. Revenue indicated that with a 3 month timeline employers should address any issues well before the end of June.

Item 3 Debt warehousing and section 997A

Practitioners welcomed an update on this matter, noting that Revenue had been considering operational aspects of the Debt Warehousing Scheme as it interacts with the legislation and income tax filings for those subject to the section 997A provisions.

Revenue provided a general update, noting that businesses can continue to avail of Debt Warehousing Scheme as most businesses are still in Period 1, as defined in the legislation. Period 2 commences 2 months after businesses resume trading. For example, if a business does not recommence until May / June 2021, the 12 month interest free period would run from September 2021 to August 2022, with phased repayment from August 2022.

Revenue is asking that taxpayers bring their returns up to date, noting that there has been a significant level of non-filing. Revenue will write to taxpayers in the Debt Warehousing Scheme to update them on this, noting that taxpayers need to file to avail of the scheme. Practitioners raised the point that there is an underlying worry that some of the businesses availing of the scheme will not ultimately survive, and that Revenue would then need to seek redress from directors. It was further noted that the longer the warehouse remains open, the greater the worry in this specific situation. Revenue acknowledged this submission and noted that they appreciate the issues. There is no solution on this yet, but Revenue will get back to practitioners as soon as there is.

Item 4 Force Majeure

Practitioners raised a number of queries in respect of Revenue Guidance published in December which outlined Revenue's position on the scope of the "force majeure" concession in 2020, in circumstances where individuals were prevented from leaving the State due to COVID-19. Queries included:

- Where an individual's circumstances were not addressed by the guidance - for example, if they were in Ireland because they could not return to their home country due to restrictions in that other country - how will these cases be dealt with by Revenue?
- Is it intended that guidance would issue on the payroll aspects raised in the scenarios provided?
- In the context of 2021, do Revenue have plans to further update their guidance on the force majeure concession? For example, individuals working abroad may have had unanticipated lengthy stays in Ireland in 2020 and could become resident in Ireland in 2021 also by virtue of the "280 days test" if they are over 30-days in the State over the duration of 2021.

The view of practitioners was that Revenue's guidance issued before Christmas needs to be reconsidered given the difficulties arising due to COVID-19 in the early part of 2021, with the central public policy focus being on no movement, and the effect of this on free movement of individuals between countries and jurisdictions.

Revenue appreciated that things have changed over time and continue to monitor developments and all COVID-19 concessions on a regular basis. Revenue gave a brief update on the background regarding the force majeure concession, to include the narrow and limited application prior to COVID-19, together with an overview of the key factors and considerations relevant to the updated guidance that issued in December 2020. Revenue's objective was to achieve a fair and balanced approach, taking into account the unprecedented circumstances of COVID-19, whilst also being mindful of the fundamental importance residence plays in determining the charge to tax (i.e. income tax, CGT and CAT). Also, the need to mitigate against any unintended consequences, for example

double-non taxation. To mitigate the risk of double-non taxation arising a requirement to avail of the COVID-19 force majeure concession is that the individual must maintain their home tax residence position. Practitioners asked for the position to be reviewed again in light of the move to Level 5 restrictions. Revenue advised individuals would also get the benefit of the COVID-19 force majeure concession with regard to the 2021 year of assessment, when applying the 280 day residence test for 2021, and confirmed there were no plans to further extend this concession.

Practitioners proposed to make a joint submission to Revenue on the above, and Revenue will review the matter further on receipt of the submission.

Item 5 DAC6

Practitioners requested an update from Revenue on the new DAC6 reporting process and any issues identified during the first batch of reporting at the end of January 2021. It was noted that it is expected that this will be a recurring item on the agenda.

Revenue provided a general update, noting in particular that there has been an issue re duplicate filings in respect of the same transaction / arrangement (same filer – not different filers). Revenue reported that the main issue with the first batch of reports was that in some cases the filings lacked sufficient detail, in particular, the summary of the reportable cross border arrangement and details of the national provisions relevant.

Revenue was not in a position to give details on the number of filings made to date. It was noted that further discussions concerning DAC 6 were due to be discussed at a TALC sub-group meeting the next day, and that further discussion of these issues would benefit future filings.

Item 6 Compliance deadlines

Revenue provided an update on the 11 December Pay & File deadline, and reported that c.550,000 filings were made - up 2.5% on the previous year. The value of tax collected was approximately €2.55bn, again representing a small increase on the previous year. Revenue noted that some further extensions to the deadline were granted on a case by case basis – involving some 59 agents and 1,569 cases – mainly Business Division taxpayers.

Revenue emphasised that they are still facing an issue in respect of the level of non-filing of returns for businesses availing of the Debt Warehousing Scheme; it was thought that there might be a misunderstanding amongst taxpayers in this regard and Revenue would like to see this addressed. Revenue will be writing to these taxpayers, who number approximately 30,000.

Revenue have also noticed some compliance slippage in sectors not adversely impacted by COVID-19 i.e. those business that have been operating through the pandemic and

various levels of restrictions and stated that they will be following up with these taxpayers.

Practitioners acknowledged and thanked Revenue for the practical approach taken in relation to the various extensions mentioned above.

Item 7 Work Plan 2021

The Chairperson acknowledged that COVID-19 related matters will continue to be relevant throughout the year, and invited attendees to present further thoughts / areas of focus for the coming year.

i. Finance Bill

Practitioners and Revenue agreed that it might be more practical for the annual Finance Bill discussion to comprise of a joint session between Main TALC and Technical TALC; with relevant members from Main TALC attending the TALC Direct meeting. As a follow-on point, practitioners raised the issue that the timing of this meeting has to be such as to allow change to provisions i.e. so that Revenue can feed back in to Finance at committee stage. The importance of having as much time as possible to consider new provisions was emphasised. A place mark for the usual Main TALC meeting on the Finance Bill could be retained, for any residual issues remaining after the joint meeting.

ii. Opportunity to discuss forthcoming items

Practitioners noted that there are a lot of changes due to come e.g. items outlined in the CT Roadmap, and that it might be useful to have a recurring agenda item in this respect. Revenue flagged the point that TALC is not a forum for matters of policy, and that they might not be in a position to speak to these issues. The possibility of providing an update from the Department of Finance on certain policy matters (if agreed by the Department) was discussed. This was welcomed by practitioners

iii. Issues on TALC sub-groups

Practitioners noted that it was important that any issues which were not progressing in TALC sub-groups should be raised at Main TALC, where appropriate. This was agreed.

iv. Minutes

Practitioners raised a point in respect of the usual timing for minutes being finalised, noting that this typically takes some time and that this is not always helpful, particularly where issues are evolving at pace, as in 2020. The Chairperson and Revenue did not envisage any structural impediments in accelerating the finalising of Main TALC minutes after the meetings occur, without the need to wait for the next meeting. This was agreed by all.

v. Wage Support Schemes

Practitioners noted that the facility to raise issues at Main TALC regarding the wage support schemes has been important to date and expect that it will continue to be important this year.

vi. Main TALC and Sub-Committee Review

Practitioners raised a query about taking the opportunity at Main TALC to review the operations of MAIN TALC and the TALC sub-committees and their work plans / effectiveness. This will be an agenda item for the next meeting.

AOB

i. COVID-19 Information - Webpage Updates

Practitioners welcomed feedback on any planned updates to Revenue's published COVID-19 related practices on their information webpage. It was queried whether it is intended to develop a single Tax and Duty Manual to collate all the published practices that could be used as a reference to the practices in place at a point in time. In addition, it was queried whether provisions in respect of BIK might be extended into 2021.

Revenue noted that, as changes made during the pandemic are reflected in the individual Tax and Duty Manuals, it does not intend to publish a further manual repeating this information. Revenue indicated that it will publish a list of all Manuals with Covid-19 specific changes as a reference for practitioners. Revenue also indicated it will review the expiry dates on Covid-19 related information on its website.

ii. Compliance interventions

Practitioners stated that they would appreciate feedback on Revenue's plans for compliance interventions for the year ahead, in terms of significant areas for focus, noting that there will be a keen focus on conducting interventions remotely wherever possible, as outlined in Revenue's new Manual on this topic.

Revenue stated that since they re-organised internally 2 years ago around segmentation of the customer base, the relevant operational Divisions develop tailored programmes to examine risks in the respective case bases. Revenue is currently examining the validity and compliance EWSS and CRSS claimants in real-time. Revenue emphasised that employers who receive queries should respond promptly to ensure that there is no disruption to their payments.

On interventions generally, it was noted that remote compliance interventions will continue to be the norm in line with the recently published manual. Where, on occasion, a face-to face meeting or on-site meeting is necessary, this will be done in accordance with current health and safety advice.

iii. Letters of no audit

Practitioners raised this as an item from a sub-committee where progress was urgently awaited, and an update of the progress would be sought at the next meeting.

iv. RTS

It was noted that status updates on RTS are to be an agenda item for later in the year.

v. TDM on Transfer Pricing

Revenue stated that this will be issued imminently.

Attendance

Revenue	CCAB-I	ITI	Law Society
Brian Boyle	Norah Collender	Mary Healy	Caroline Devlin (Chair)
Barry O'Dwyer	Maud Clear	Anne Gunnell	Pat Bradley
Therese Bourke	Brian Purcell	David Fennell	James Somerville
Joe Howley	Paul Dillon	Pat Mahon	Aidan Fahy
Jeanette Doonan	Enda Faughnan	Tom Maguire	Sonya Manzor
	Kim Doyle	Kieran Twomey	Carl Grenville