

Minutes

TALC Audit Sub-Committee Meeting

Tuesday 7 February 2017 – 10.00am

Revenue Commissioners, Planning Division, Bishops Square, Dublin 2.

Attendees:

Practitioners: Tom Martyn	Law Society (Chairman TALC Audit Sub-committee)
Gerry Higgins	CCABI
Norah Collender	CCABI
Mary Healy	Irish Tax Institute
Paul Wallace	Irish Tax Institute
Julie Burke	Irish Tax Institute
Elaine O'Gara	Irish Tax Institute

Revenue:

Declan Rigney
Denis Barry
Stephen Flynn
Mary Deeley
Enda Murphy (Secretary)

Apologies: Jim Kelly Irish Tax Institute

Item 1 – Election of Chairperson 2017

Tom Martyn (Law Society) was nominated and elected to Chair meetings of the group for 2017. Tom welcomed members to the meeting.

Item 2 – Minutes of meeting of 29 November 2016

Minutes were agreed subject to one amendment proposed by practitioners in advance of the meeting. The final minutes, amended as proposed, will issue with the draft minutes of this meeting.

Matters Arising:

Actions points from the previous meeting were reviewed:

Foreign Income & Assets Disclosure Regime -

Clarification surrounding the 15% test to decide whether or not a default came within the *Careless Behaviour with Significant Consequences* category of default (in circumstances where there were no indicators consistent with *Deliberate Behaviour*) was provided.

Revenue stated that where the tax underpaid in respect of any default exceeded 15% of the tax correctly due, the penalty applicable would fall into the *Careless Behaviour with Significant Consequences* category of default. They confirmed that the test would be applied separately to each taxhead and period for which a return is required. They also confirmed that where no return, or a nil return had been submitted for a period and a liability arose in relation to an offshore matter for that period, the difference in liability in relation to the offshore matter would always be 100%.

R&D Audits-

Revenue confirmed that the sub-group mentioned at the last meeting of the group had been formed and the first meeting of the group was scheduled to take place on 28th February 2017.

Revenue stated they awaited and would welcome the submission from practitioners, promised at the last meeting of the group, setting out the various issues surrounding R&D audits. Practitioners were asked to forward the submission to Enda Murphy, Secretary of the TALC Audit Sub-Committee (enda.murphy@revenue.ie) or to Gillian Duffy (gillian.duffy@revenue.ie) Revenue Legislation Services Division.

Notices of Opinion – Penalties –

Revenue informed practitioners that it would not be possible to provide the number of all Notices of Opinion

issued across Regions/Divisions without allocating a significant amount of resources and time to the request. They asked if the issue was specific to any particular Region.

Practitioners stated the matter had been raised by their members at a number of Regional meetings. They expressed concern that the Notice of Opinion procedures were being used in an increasing number of cases, and were being used in an effort to settle cases, contrary to the original intention which was that they be used in intractable cases only.

Revenue pointed out that where agreement could not be reached in relation to liability to a penalty, or where agreed penalties were not paid, they had no option but to seek to have the penalty determined by a relevant court in an effort to pursue same. They also stated it was not their view that Revenue Officers carried out the Notice of Opinion procedure as a first resort to settling a case. They did point out that Revenue Officers had been trying to close cases in the second half of 2016, which had been open for a considerable amount of time, and this may have led to an increase in the numbers of Notices of Opinion issued. They did state however, that the matter would be raised at an internal compliance meeting scheduled to take place during February, in an effort to see what statistics could be provided.

Code of Practice for Revenue Audit and other Compliance Interventions – amendments:

Revenue stated the *Code of Practice for Revenue Audit and other Compliance Interventions* was being amended to reflect changes introduced in the Finance Act 2016, principally in relation to the Foreign Income & Assets Disclosure Regime, and the impact of that legislation on qualifying disclosure. They stated changes would also take account of other minor amendments identified since publication of the current Code of Practice in 2015. They informed practitioners that the amendments would be made to the online version of the Code of Practice, available through the Revenue website, and agreed to communicate the changes to practitioners by the end of the week of the meeting, pointing out that the revised Code was due to be published by the end of February. Revenue explained that they were most anxious to get the revised Code out in the public domain and ensure that taxpayers and agents were aware of the impact of the changes arising from Finance Act 2016.

In response to questions raised by Practitioners, Revenue stated the revised Code would reference the position regarding qualifying disclosure post 1 May 2017. Practitioners stated they had identified problems surrounding the working of the legislation and expressed grave concerns surrounding the consequences for otherwise compliant individuals and for their tax advisers. They pointed out the difficulties associated with coming forward to correct errors or omissions post 1 May 2017. A discussion took place surrounding some scenarios which may arise post the date for disclosures.

Revenue informed members that it was never the intention that the Code would address particular scenarios, they encouraged disclosures by 30 April 2017 and all members agreed that clarifications would be best addressed through the FAQs, and not through the Code. Revenue stated the FAQs would be updated as issues arise.

Revenue agreed to circulate the draft revised Code to practitioners by Thursday 9th February 2017. They stated that any changes other than those required as a result of the passing of the Finance Act 2016 were minor in nature and did not require a lengthy consultation process.

Later in the meeting, under AOB, a meeting of members was scheduled for 9.30am on Thursday 16th February 2017, to discuss the proposed changes. Agent representatives indicated that they would endeavour to get the draft changes circulated for review and attend the agreed meeting.

National/ Regional Projects -

Regional Projects - Revenue stated business plans were still evolving.

National Projects - Revenue stated there would be a continued focus on the Construction Industry, together with a focus on VAT Fraud and the Gaming & Amusement sector.

Shadow Economy – Revenue stated that a lot of the activity to tackle the shadow economy would be driven mainly by 3rd Party data.

Item 3 - Work Plan 2017

The Work Plan for the year, as drafted and circulated in advance of the meeting, was agreed.

Real-time Interventions – Revenue provided an overview of these interventions which generally involve a visit

to business premises and are classed as a Profile Interview under the Code of Practice. They stated a number of these, taxpayer behaviour driven interventions, had been carried out in 2016 and that increased activity would take place in 2017. They pointed out that, in addition to checking compliance with tax obligations, these visits also had a service aspect to them.

eAudit – Revenue stated a 3 year eAudit strategy was currently being finalised, and that there would be increased use of eAudit techniques by Revenue caseworkers. A likely escalation in the number of desk-based e-interventions was also expected, particularly around verifying VAT and other repayments.

Practitioners asked if training and resource issues, which had been causing delays in closing eAudits, had been addressed.

Revenue stated the timeframes for closing paper and eAudits were currently on a par. They also pointed out that difficulties in trying to obtain data were often the cause of delays, stating that any issues surrounding data should be addressed at the pre-audit meeting. Revenue’s audit training programme also contains a module on e-audit.

REAP

Revenue stated the next National Risk Run would take place this month.

Item. 4 Items identified by practitioners

No items were identified.

Item. 5 AOB

A meeting to discuss changes to the *Code of Practice for Revenue Audit & other Compliance Interventions* was scheduled to take place on **Thursday 16 February 2017 at 9.30am.**

Action Points	Responsible	Timescale
<i>Minutes of meeting of 29 November 2016</i> – Amended minutes to be circulated.	Revenue	With draft minutes of this meeting.
<i>R & D Audits</i> – Practitioners to document issues for submission to Sub-Group.	Practitioners	Before 28 February 2017
<i>Penalty Notices of Opinion – Increased numbers being issued by Revenue</i> – Revenue to raise the matter at their internal Compliance Network meeting in an effort to ascertain levels of NOO being issued.	Revenue	21 February 2017
<i>Revised Code of Practice for Revenue Audit and other Compliance Interventions</i> – Revenue to circulate document outlining changes proposed in advance of meeting scheduled for 16 February 2017.	Revenue	By Thursday 9 February 2017

The next meeting of the TALC Audit Sub-Committee was scheduled to take place on **Thursday 16th February 2017 at 9.30am** to discuss proposed changes to the *Code of Practice for Revenue Audit and other Compliance Interventions*.

Submitted for approval by Secretary – 15 February 2017

Approved by **TALC Audit Sub-Committee Members** - 11 April 2017