

## Minutes

### TALC Sub-committee 'BEPS Implementation' Meeting

Date 5 February 2020

Location & Time Conference Room 1, Blocks 8-10, Dublin Castle 10.00 am

#### Introduction

Minutes of meeting of 3 September 2019 were approved by all attendees.

#### **Item 1: DAC6**

- Revenue provided an update in respect of DAC6:
  - TDM  
DAC6 guidance material is currently being drafted and submissions from practitioners and industry representatives have been received.
  - Sub-group  
Revenue stated that it would be beneficial to discuss the issues raised in submissions via a sub-group set up specifically for DAC6. Attendees agreed that this would be helpful.
  - Online form  
Revenue stated that a demo of the online form will be arranged.
  - DAC6 Working Party IV Minutes/OECD MMDR guidance  
Revenue confirmed that the minutes of Working Party IV – Direct Taxation meeting of 24 September 2018 and the OECD Model Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures will be taken into account in the guidance.
  - Main benefit test/approaches taken by other EU MSs and UK  
Revenue confirmed that, unlike the UK legislation transposing DAC6, the Irish legislation does not include a reference to the 'policy intent of the legislation' in the main benefit test. Practitioners expressed the view that the approach taken by the UK is useful to prevent over-reporting. Revenue confirmed that the approach taken by all other EU Member States as regards the application of the main benefit test will be reviewed and taken into account in the guidance.
  - Timing  
Practitioners asked about the timeline for discussing draft guidance. Revenue said that a draft should be available for discussion by the end of March. However, a meeting of the group may be scheduled to take place before then.
  - Lookback requirement  
Practitioners referred to the UK approach to the imposition of penalties as regards the lookback reporting requirement and asked whether Revenue would be taking a similar approach. Revenue confirmed that a reasonable approach to the imposition of penalties will be taken and the UK approach will be examined.

## **Item 2: Anti-hybrid rules**

- Revenue confirmed that two chapters of the draft guidance will be shared with practitioners in the coming days and gave an update of the draft TDM (the general theme of which is to counteract hybridity). Revenue outlined the topics that are currently under review.
- Revenue then outlined the topics that will be looked at in the coming weeks and stipulated that the drafting error in respect of 'consolidation accounting practice' will be addressed.

## **Item 3: Transfer Pricing**

- Revenue gave an update on the guidance in respect of transfer pricing. Revenue has taken stock of responses to the public consultations on transfer pricing, including the Feedback Statement published in September 2019, as well as material received from practitioners in response to the invitation given at the TALC Direct and Capital Taxes Sub-Committee meeting in December 2019 to send in issues they would like to see addressed in guidance. Guidance in relation to the 'qualifying relevant persons' exclusion in section 835E is being looked at in priority and Revenue will release that in draft form earlier than the remaining content. Practitioners asked about the timing of the release of the draft guidance on section 835E and Revenue confirmed that this will be shared as soon as possible, in the next couple of weeks. On being asked about the timeline for the remainder of the guidance, it was noted that Revenue hopes to have the guidance completed by the end of March. It was confirmed that there will be one manual covering the transfer pricing legislation and this will include transfer pricing documentation requirements.

## **Item 4: AOB**

- Practitioners asked when legislative items arising in Finance Bill 2020 will be discussed. Revenue stated that the dialogue will start soon. However, this is at policy stage at this point and Department of Finance stipulated that there has been no official consultation given the current political events.

### **Attendees of meeting of 5 February 2020:**

**BPFI:** Marian McCarville

**CCAB – I:** Enda Faughnan, Brid Heffernan, Kevin Doyle, Warren Novis

**DoF:** Deirdre Donaghy

**EY:** Amanda Murphy

**Insurance Ireland:** Aidan Golden

**Irish Funds:** Ruth Kelly - McEwen

**ITI:** David Fennell, Sharon Burke, Anne Gunnell, Harry Harrison,  
Emma Arlow

**Law Society:** Caroline Devlin, Andrew Quinn, Aidan Fahy, Niamh Caffrey

**Revenue:** Alan Carey, Áine Hollingsworth, Jeanette Doonan, Eleanor  
Smiley, Mary Breen, Mary Hughes, Sheila Mullally, Audrey  
Bridgeman