

Record of Meeting

Meeting	TALC BEPS sub-committee - Implementation of Pillar Two, Meeting 7		
Location	7-9 Merrion Row, Dept. of Finance	Meeting Date	25/09/2023
D/Finance Attendees	Deirdre Donaghy; Michael Cantwell; Rafal Saniternik; Evan Lombard		
Revenue	John Quigley; Keith Noonan^; Brendan O'Hara; Rory Noone^		
ITI	Anne Gunnell; Peter Reilly^; David Fennell^; Tom Maguire^; Cormac Golden^		
CCAB_I	Gearoid O'Sullivan^; Enda Faughnan^; Kevin Doyle^; Paschal Comerford^		
Irish Law Society	Philip Tully; Andrew Quinn^		
^ Attended remotely via Dial-in			

Purpose
To discuss the draft legislative for administrative provisions, QDTT Safe Harbour, the Local Accounting Standard and Investment Entity Provisions in the context of the implementation of Pillar Two.
Minutes
The Department of Finance opened the meeting.
1. Minutes of Meetings on 4 September
To be circulated after this meeting.
2. Administrative & Miscellaneous Provisions
Revenue outlined the following proposals, which are subject to Ministerial approval:
<ul style="list-style-type: none"> ▪ The approach regarding returns is to have three separate returns for the IIR, QDTT and UTPR, applying only to those required to file. Currently looking at IT functionality to possibly support filing returns at once. ▪ Regarding group filing; it is currently proposed that filing would be on an entity-by-entity basis but a group can elect to apply group filing for QDTT and UTPR where all members of the group make the election. ▪ Under the group approach, one group member nominated by the group would be primarily liable to the top-up tax but if that entity does not fulfil its obligations then Revenue can notify another group member who would then be secondarily liable similar to the approach in section 629A TCA. ▪ No amounts have been decided yet as regards fixed penalties for failure to register, failure to provide records etc. Tax geared penalties will be linked to 1077F provisions. Under the current proposal, there will be a provision for transitional penalty relief in line with OECD guidance. The draft legislation will also allow for the filing of expressions of doubt, Revenue assessments etc. ▪ Filing will be 15 months after the end of the fiscal year, with the exception of the transitional year. ▪ Currency provisions are in line with OECD guidance.

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A discussion then took place between Finance/Revenue and practitioners on the draft provisions, clarifications, based on the current draft proposals, were provided in relation to:

- why specific reference is made to top-up taxes with regard to section 811C
- scope of transitional year penalty relief and confirmation that it does not apply to interest expressions of doubt
- information requirements
- the four year rule with regard to the collection of QDTT (with further consideration needed on this point)
- confirmation that nil IIR returns may be filed rather than de-registration in a year that no IIR top-up tax is payable
- section numbers / references

ITI noted that they may have a few other points and Revenue requested that they be provided as soon as possible after the meeting due to ongoing engagement with the OPC on finalising the draft legislation.

3. QDTT Safe Harbour

Revenue outlined that the draft legislation had been shared for views and that the legislation follows the OECD Administrative Guidance.

A discussion then took place between Finance/Revenue and practitioners on the draft provisions, clarifications were provided in relation to:

- the peer review process (noting that further discussion is to take place at OECD level)
- where the QDTT safe harbour will not apply when the QDTT payable is subject to challenge
- Confirmation that where the QDMTT jurisdiction does not impose a QDMTT charge on Flow-through Entities required to apply the IIR, the Switch-off Rule must be applied with respect to the jurisdiction where such Flow-through Entity is located

4. QDTT and Local Accounting Standards

Revenue provided an update on an issue raised in the previous call (4 Septmeber 2023) and that clarification had been sought from the OECD on application of the tie breaker test for the local accounting standard. Confirmation was obtained that the tie breaker test applies where an entity prepares more than one set of accounts under a local accounting standard.

A discussion then took place with practitioners in relation to:

- the starting point for the QDTT calculation, Revenue noting that where the local accounting standard is applied it is the financial accounting net income or loss of the entity in the accounts prepared under the local accounting standard.
- application of the tie breaker to s110 companies (re-Old Irish GAAP), Revenue noting that 'old Irish GAAP' is not a local accounting standard as defined.
- accounts of a permanent establishment, Revenue noting that the relevant accounts are those prepared for the purposes of calculating the branch or agency's Case I/II profits
- whether the accounting period of the accounts prepared under the local accounting standard need to be the same period as the fiscal year as defined for Pillar Two purposes, Revenue noting that the guidance provides that this is the case but that difficulties have been noted with this requirement and clarification is being sought from the OECD.

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A separate question was raised in respect of which UPE accounts are to be used where more than one set of consolidated financial statements are prepared, Revenue noting that clarification is being sought from the OECD.

5. Investment Entity Provisions

Finance outlined that submissions had been made to the Minister on the treatment of i) investment entities and ii) insurance investment entities for the purposes of the QDTP. It was noted that these entities would be excluded from the scope of the QDTP but that the matter would remain under review.

6. Consequential Amendments

Finance outlined that proposals are being considered regarding necessary consequential amendments in relation to:

- Schedule 24
- CFC rules, and
- Digital games tax credit

Practitioners enquired about the issue outlined previously in relation to not taking certain deductions/allowances for corporation tax purposes and if there would be legislative amendments in this regard. Finance clarified that such amendments are not currently being considered further.

7. AOB

Practitioners sought clarification in relation to:

- substance based income exclusion and aircraft leasing, Finance noting that they were aware of discussions being held directly between the OECD and industry,
- whether discussions on Pillar Two should be held separately to the Main TALC Finance Bill meeting .

Revenue to follow up internally regarding possible separation of Pillar Two from the Main TALC Finance Bill meeting.

Practitioners were requested again to provide any further submissions regarding the legislation as soon as possible.

Action points

ITI to send on further points RE comments on the draft legislation on the administrative and miscellaneous provisions and the draft legislation on the QDTP safe harbour.

Next Meeting

TBC

Signed

Rory Noone