

Minutes

TALC Subcommittee: 'BEPS Implementation' Meeting

Date: 9 December 2021

Location & Time: Skype Meeting 10.00 am

DAC7

- Revenue informed practitioners that the preparation of regulations arising from section 891I is the next step in relation to DAC7. Revenue will engage with stakeholders in the preparation of those regulations and it is proposed that a subgroup (similar to that which was set up for DAC6) will be set up for DAC7 to facilitate this engagement. Practitioners agreed that this would be an appropriate engagement forum. Practitioners were asked to submit names of representatives as soon as possible.

Anti-hybrid rules and reverse hybrid rules

- Section 30 of FB 2021 provided for some technical amendments to the anti-hybrid legislation, in particular the introduction of the reverse hybrid rule and a change in the definition of 'entity'. Revenue invited practitioners to submit examples in relation to this change in definition and noted that various reps have flagged this in previous discussions. Revenue would welcome submissions on any issues that practitioners would like to be considered by 18th January 2022. Revenue was asked whether a review of the updated drafts would take place via the TALC BEPS subcommittee. Revenue stated that the updated drafts will be circulated and discussed via this forum.

ATAD Interest Limitation Rules

- Revenue informed practitioners that the guidance is currently being prepared and invited practitioners to consider areas of the proposed legislation that raise issues of uncertainty. Written submissions can be sent to Revenue by 28th January 2022. Revenue intends to have the first draft of guidance ready for circulation and discussion by the end of Q1 2022 but are prepared to discuss high priority issues prior to the first draft being circulated if required. Practitioners stated that it is important that they are aware of any updates to the CT1 or other forms of reporting and Revenue agreed that there would be opportunity to discuss reporting requirements in this forum. In relation to the guidance, Revenue asked whether there any areas that need particular examination. Practitioners noted that the interpretation of 'interest' and 'economically equivalent to interest' require examples; certainty around interest group calculations is important; and guidance is required on what would be acceptable in terms of documenting the conversion of a relevant entities accounts to align with the accounting policies of its ultimate parent. Revenue stated that it would be helpful if practitioners could submit examples, their interpretation of those examples, and suggestions around the practicalities of GAAP conversions.
- Practitioners asked whether a review of existing interest limitation rules would be undertaken in 2022. The Department of Finance will take note of this question and revert on the matter. Revenue informed practitioners that if there is anything causing

an issue in relation to the interaction of interest limitation rules with existing interest deductibility rules, that information should be relayed to Revenue and the Department of Finance.

Branches

- Revenue informed practitioners that it is intended to prepare and circulate draft guidance in Q1 of 2022. However, in respect of the AOA guidance itself, there is no intention to issue “guidance on guidance”. There was a public consultation held last year and Revenue is aware of the issues raised as part of that process. If there are specific issues or examples that practitioners would like to be covered in the TDM, Revenue welcomes the submission of such issues/examples by 28th January 2022.

Transfer Pricing

- An updated draft transfer pricing TDM, to reflect the Finance Act 2021 amendments to the “domestic exclusion”, will be prepared and circulated in Q1 2022. Revenue welcomes feedback/examples in relation to the items that the guidance will need to cover. The deadline for receipt of submissions is also 28th January 2022.
- The Department of Finance confirmed that a Ministerial order had been signed to designate the Transfer Pricing Guidance on Financial Transactions: Inclusive Framework on BEPS Actions 4, 8-10, OECD, Paris, approved by the OECD’s Committee on Fiscal Affairs on 20 January 2020, as being comprised in the transfer pricing guidelines for the purposes of Part 35A.

DAC6

- The guidance is being updated to reflect the amendment in relation to DAC6 compliance provided for in FB 2021. Revenue will circulate draft guidance at the end of January and will then accept feedback from practitioners.

Action Points

Revenue advised that it is intended to schedule the next meeting of this subcommittee for the end of February 2022.

Attendees of meeting of 9 December 2021:

CCAB – I:

Enda Faughnan, Maud Clear, Kevin Doyle, Paschal Comerford, Derek Henry

ITI:

David Fennell, Anne Gunnell, Peter Reilly, Gareth Bryan, Emma Arlow

Law Society:

Caroline Devlin, Andrew Quinn, Aidan Fahy, Niamh Caffrey

Department of Finance:

Aisling Greene, Ciaran Conroy

Revenue:

Jeanette Doonan, Áine Hollingsworth, John Quigley, Keith Noonan, Mary Breen, Ashling Gallagher, Brendan O'Hara, Yvonne Ruane, Audrey Bridgeman