

Minutes
Indirect TALC Meeting
10.30 Wednesday 09 March 2022
On-line Meeting (hosted by Revenue on Microsoft Teams platform)

Item 1 – Minutes of previous meetings

- Members asked for changes under item 3 of the draft minutes of the 8 December meeting (about the Finance Bill changes of VAT Grouping) to reflect comments on vires. Amended draft minutes will be circulated.
- No changes were proposed to the amended draft minutes of the October meeting (circulated on 8 December), and these were adopted.

Item 2 – TOB

- Partnerships / Co-Ownerships – Members sought re-activation of this item, which had been paused during the COVID-19 pandemic. Revenue proposed arrangements for a sub-group; it was agreed that each professional body would nominate a representative over the coming weeks and Revenue would arrange the first meeting.

Item 3 – EU Update

- VAT Rates File – Agreed at ECOFIN on 21st December. File has moved from Council over to the European Parliament and once Parliament signal their approval, it is then sent to the European Commission, at which stage it is ready to become law. It is expected that the legislation will become effective sometime between March and May. It will give Member States some flexibility on applying VAT rates, with certain conditions on the number of zero or reduced rates that may be employed. Historic derogations will remain in place for the moment.
- eCommerce Package – The European Commission evaluation is expected to be completed by the 21 March and this will then feed into the impact assessment which is being carried out for the VAT in the Digital Age package. A public consultation on the VAT in the Digital Age package has been launched by the Commission which will run until the 15th April.

Item 4 – AOB

- VAT Treatment of Staff Secondments – Members clarified that the item concerned the final paragraph in the recently published guidance manual, which states; “The concession does not apply where PAYE, PRSI (employer and/or employee) and/or USC liabilities do not arise as a result of the secondment” and Members were looking for clarity in regards to practical situations where secondees are either not subject to PAYE or are subject to Irish Payroll Taxes but certain elements are relieved by the provisions of the relevant double taxation agreement.

Revenue indicated that the VAT guidance was developed following extensive engagement with Direct Taxes colleagues. Revenue requested that Members submit details of any specific or unusual cases they encounter which Revenue may not have considered and these would be examined to determine if there is a need to further amend the guidance. Members agreed to submit some examples to Revenue for consideration.

- VAT on Income Received from Dental Associates – Members stated that this query arose as a result of direct submissions they had received from practitioners. Members stated that they were trying to get clarity on Revenue’s position regarding the VAT status of dental associate income, as there does not appear to be information available. Revenue informed Members that there had been a significant number of Parliamentary Questions (written and oral) on this matter, and the answer has been consistent: the provision of accommodation or facilities – whether or not the recipient is a Dentist or otherwise, is the provision of a service and it is taxable under VAT rules. This has always been the case and the profession has been previously advised by Revenue in this regard. Revenue are aware of the particular difficulties around this for the profession recently and have had a number of meetings with them. Revenue undertook to provide a link to one of the Parliamentary Questions to Members for information purposes.
- VAT Grouping – Members referenced the VAT Grouping discussion at the last meeting and asked whether Revenue had any feedback on the examples which had been provided. Revenue stated that they did not agree with the assertion that the change in wording in the legislation was ultra vires to the VAT Directive and Revenue were satisfied that the changes made were fully in line with both domestic and European legislation. Any VAT Group must contain a VAT registered person in order to be considered a legitimate VAT Group.

Revenue stated that Members had brought a scenario to the attention which it had not previously considered: where an exempt group contains a person who only supplies services to the exempt bodies within the group. As that person is now part of the VAT group, a question has been posed as to that person’s status because, as a single taxable person, that person would lose their individual identity as a result of the VAT grouping and therefore the group would no longer contain an accountable person.

Revenue asked about the frequency of the issue, and Members referenced some generalised examples. Revenue stated that if no accountable person exists, then there is no entitlement to VAT grouping and this has always been the case, irrespective of the amendments to legislation. Revenue and Members then discussed the fact that Revenue had stated that no change in practice had occurred as a result of this change, which Revenue acknowledged. Revenue informed Members that they would consider setting up a sub-group to examine issues around VAT grouping.

- VAT Deduction for Equipment for Office Employees – Members referred to their submission and the restrictions in section 59, and asked if Revenue could clarify whether it is intended to extend to the hiring of equipment such as coffee machines, water coolers, etc. Revenue stated that they had not come across the issue previously and that it may be case-specific. Members were requested to provide specific details to allow Revenue to consider the issue.

Other

- TALC Operational Guidelines - The chair referred to recent correspondence from Main TALC to the Chairs of TALC Sub-Groups, bringing to their attention the TALC Operational Guidelines for Chairpersons and the procedural operation of sub-groups of the main TALC, including regular reporting to Main TALC.

The chair asked members to consider the document and the operations of the Indirect Taxes TALC and invited them to submit views over the coming weeks, with a view to reviewing matters at the next meeting. There was some preliminary discussion of Committee’s operational procedures. Revenue undertook to circulate a copy of the TALC Operational Guidelines for Chairpersons to members following this meeting.

- Cryptoassets - Members stated that they have had a number of recent discussions around Cryptoassets and are encountering an increasing frequency of these types of transactions. Members were wondering if it would be useful if there was some kind of group formed to discuss the area as there is no comprehensive guidance available.

Revenue stated that it had published guidance in 2018, but it is a fast growing and developing area. Revenue have spoken with the European Commission in that regard, who are aware of the complexities involved and have circulated a preliminary paper to EU Member States for feedback. A pan-European approach would be more effective than separate Member State approaches. Revenue said it would welcome discussion on the topic to allow for an increased awareness of the complexities involved and to identify potential issues which could arise in the future. Revenue suggested waiting to see what comes out from the Commission, and then discussing a strategy for an informed Irish approach.

It was agreed to revisit the item in the future. Members asked whether the Commission paper could be circulated but Revenue explained that the paper is still only at the preliminary stage and not yet available for public distribution. Revenue undertook to provide an update to Members in relation to Cryptoassets at the next meeting.

Action Points	Responsible	Timescale
Revenue to circulate a revised draft minutes of the December meeting	Revenue	As soon as possible
Members to submit for Revenue's consideration some examples of the issue they raised in relation to the VAT Treatment of Staff Secondments.	Members	As soon as possible
Revenue to circulate a copy of the TALC Operational Guidelines for Chairs to Members for consideration	Revenue	As soon as possible
Revenue and Members to co-ordinate the formation of sub-groups in relation to the issues of co-ownerships and VAT grouping	Revenue Members	Next Meeting
Revenue to provide an update on the crypto-currencies item raised at the meeting.	Revenue	Next Meeting

Attendees

Irish Tax Institute

Oonagh Carney
Deirdre Hogan
Finbarr O'Connell
Lorraine Sheegar

Consultative Committee of Accountancy Bodies - Ireland

Crona Clohisey
Mairead Hennessy

Law Society

Donal Kennedy
David Lawless
Patricia McCarvill

Revenue

Dermot Donegan
Lydia L'Estrange
Deirdre Hanlon* (Chairperson)
Colin O' Farrell (Secretary)
Olivia Scanlon

*Designated Public Official, *Regulation of Lobbying Act 2015*