Outcome of Review of Co-Operative Compliance Framework

Vivienne Dempsey
Large Cases Division

Reasons for Review

- CCF introduced in 2005 so review timely !
- Lack of clarity among taxpayers, agents and Revenue staff as to what was involved
- Some taxpayers unaware of CCF or what it meant
- No clear distinction between being “in” and being “out”
- Sense that CCF not applied consistently across LCD

But Why Have a CCF ?

- Co-operative compliance seen as best practice internationally
- OECD (FTA) 2008 study promoted relationships between tax authority and large businesses based on trust and co-operation
- As of 2013, 24 out of 26 countries in FTA have some sort of collaborative framework
- Collaborative approach seen as giving significant benefits both for taxpayers and Revenue
- Large taxpayers want to be tax compliant; want certainty on tax position; want no surprises; and, if things go wrong for non-fraud reasons, want to put things right quickly
- Revenue wants to know the business and sector; wants self reviews; wants self corrections; wants unprompted disclosures when things go wrong; wants to apply scarce resources to risk
- A Co-operative Compliance Framework delivers for both sides

Overall Conclusions

- Majority of large businesses want to be tax compliant
- Large Businesses want certainty on tax
- Large Businesses want to consult Revenue in advance
- A Revenue contact person very important
- Large Businesses want to agree tax positions with Revenue in an open and non-confrontational manner

Main Recommendations

- Retain but reform Co-operative Compliance Framework
- Soft Relaunch – brief TALC; brief large accountancy and law firms; letter of invitation to LCD taxpayers' to apply
- Clear distinction between those "in" and those "not in" the CCF
- Entry by way of application and acceptance
- No legislative or contractual commitments
- Consistency of application across LCD essential
- Annual risk review meeting between taxpayer and Revenue – crucial
- Effectiveness to be measured against number and nature of self reviews, self corrections, unprompted disclosures
- Audit rare, compliance interventions primarily by way of AQ or PI (some exceptions TP audit)
- Streamlined VAT/CT refund process

Entry Criteria: To be applied to all Group Companies

- Have returns been filed in respect of each tax and duty for which the group has an obligation to submit a return ?
- Are all group tax and duty liabilities up-to-date ?
- Within the last 3 years, no company in Group had a settlement under the *Audit Code of Practice* which attracted a penalty of 15% or more.
- **Materiality Test**: settlement test does not apply if the full payment (i.e. tax, interest and penalty) under the settlement does not exceed 1% of the overall Group's tax payments in the calendar year the settlement was made.

Entry Criteria: To be applied to all Group Companies

- If settlement made within 3 year period, confirmation that new controls have been implemented to prevent future occurrences of the same or similar issues.
- Confirmation that, within 3 year period, no group company has been found to be non-compliant with a Customs or Excise authorisation or licence.
- Confirmation that the Group has the broad principles of a tax control framework in place.

Elements of Tax Control Framework

- **Tax Strategy Established:** This should be clearly documented and owned by the senior management of the Group.
- **Applied Comprehensively**: The tax strategy needs to govern the full range of the Groups activities.
- **Responsibility Assigned**: The role of the Group's tax department and its responsibility for the implementation of the tax strategy should be clearly recognised and properly resourced.
- **Governance Documented**: Rules and reporting that ensure transactions and events are compared with the expected norms and that potential risks of non-compliance are identified and managed. The governance process within the Group should be documented and its effectiveness reviewed periodically.
- **Testing Performed**: Compliance with the policies and processes of the tax strategy, its application and the governance of the process are regularly monitored, tested and maintained.
- **Assurance Provided**: The Corporate governance, responsibilities, communications strategy and overall risk management strategies are such that they can be outlined to Revenue, as required, to satisfy Revenue that the Group has the principles of a tax control framework in place.

“In” against “Out”

Benefits of participation in Co-Operative Compliance Framework	Normal Revenue standards
Revenue recognition that the Corporate Group has met the compliance criteria for entrance into CCF.	Not applicable
Dedicated Case Manager.	No dedicated case manager. Customer Service team with case manager involvement mainly for risk interventions.
A reduced level of compliance interventions for the Corporate Groups in CCF.	Normal Audit and Intervention Programme
A Verification Programme to verify, compliance with the obligations and commitments under the CCF.	Normal Audit Programme
Interventions mainly, profile interview and aspect query, if required. Audit only in exceptional cases e.g. transfer pricing.	Normal Audit and Intervention Programme.

“In” against “Out”

Benefits of participation in Co-Operative Compliance Framework	Normal Revenue standards
Annual face to face meeting. Customs and transfer pricing staff at annual meetings, as relevant.	No formal meeting Programme.
Annual Risk Review Plan agreed by both parties.	Not applicable
A streamlined process for approval of Corporation Tax and VAT refund claims to apply to Corporate Groups in CCF.	Normal customer service levels
In the main, self review disclosure will be reviewed by way of aspect query or profile interview. An audit will only arise should the findings of the initial intervention indicate that it is required.	Normal Review Programme including the possibility of audit.

What do Participants Get?

- A dedicated Case Manager (HEO/AO/AP level) is assigned to the Group
- A self-review voluntary disclosure will verified/checked by way of Profile Interview or Aspect Query. No audit will be undertaken except in exceptional circumstances.
- Annual Meeting with Revenue.
- Customs and transfer pricing staff to attend Annual Meeting as required.
- A streamlined process to refund CT and VAT claims for CCF participants.
- Operate a Verification Programme for CCF participants as part of Governance of CCF.

What Does Revenue Get ?

- Taxpayer meets all tax obligations in accordance with legal requirements.
- Taxpayer commits to self reviews and where risks, under-declarations, or errors are identified to inform Revenue.
- Annual Meeting with Group at which areas of concern can be raised and explored and agreed risk review plan examined.
- Taxpayer advises and consults with Revenue in advance of undertaking any restructurings, reorganisations, or major transactions.
- Revenue kept informed of economic and sectoral changes/insights.

So Who Can Apply ?

- Only LCD corporate groups, including one company groups, some exclusions
- Exclusions:
  - Section 110 companies
  - Funds (but not REITs and not major administrators)
  - Pension funds (but not major administrators)
  - HWIs
  - Partnerships
  - 2nd Tier Districts
  - Company in LCD because entire sector is in LCD and company, otherwise, not sufficiently large to be in LCD (mainly financial services (e.g. some aircraft leasing) and insurance companies)

What Next

- LCD will issue letters to all LCD Corporate Groups inviting an application
- This will start from January 2017
- No compulsion to apply/reply
- If apply and not accepted no down side
- Can apply/reapply at any time
- If ejected can reapply when criteria again met
- Always open to Group to apply to join at any time