Minutes of Main TALC Meeting

6 December 2022 at 2:30pm

Meeting held in the Irish Tax Institute,
South Block, Longboat Quay, Grand Canal Harbour, Dublin 2

The Chairperson welcomed committee members to the final Main TALC meeting of 2022, the second meeting to be held in-person/hybrid. The Chairperson also welcomed Liam Daly, Acting Assistant Secretary in Operations Control in the Department of Social Protection (DSP) to the meeting, to provide an update on the process for obtaining personal public service numbers (PPSNs). This was dealt with first on the agenda.

Item 1 **Action points arising from the approved minutes of the Main TALC meeting held on 6 September 2022:**

In accordance with the TALC Operational Guidelines, the minutes of the meeting of 6 September were approved by the committee in advance of this meeting and published on the Revenue website. Revenue addressed the Action Points arising from the meeting:

i. **Practitioners to provide examples of delays in obtaining PPSNs which are solely required in order to submit a Stamp Duty return, with a view to organising a meeting (to include representatives from the DSP) to progress the issues raised**

Following the September Main TALC meeting, the Law Society was asked to provide case-specific examples of delays in obtaining PPSNs which are solely required in order to submit a Stamp Duty return, with a view to Revenue obtaining a meeting with the Department of Social Protection (DSP). The Law Society confirmed that case-specific examples had not been received to date.

The Chairperson noted that since the September meeting, the issue of obtaining PPSNs had become a broader issue given the Finance Bill 2022 amendment to the Special Assignee Relief Programme (SARP), placing certain administrative requirements relating to SARP claims on a legislative footing.

In respect of individuals arriving in Ireland from 2023 to 2025, the individual must have been issued with a PPSN to be considered a “relevant employee” for SARP. Furthermore, the certification an employer provides to Revenue within 90 days of an employee’s arrival in the State must include confirmation that the employee has complied with the requirement to have a PPSN and that the relevant employer or associated company has complied with the PAYE Regulations relating to the commencement of employments (i.e., Regulation 17(2) of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018)). Practitioners raised difficulties experienced in obtaining PPSNs within the 90-day deadline and the knock-on impact on SARP applications.

Liam Daly from the DSP attended the meeting to provide an update on the process for obtaining PPSNs. He outlined that PPSNs are issued automatically at birth for Irish born persons. For non-resident applicants, there are two channels available to them; online applications via MyWelfare.ie or in exceptional circumstances through correspondence with Client Identity Services (CIS). The total number of PPSNs issued in 2022 to date is 202,000, compared to a total of 104,000 PPSNs issued in 2021.

DSP confirmed that currently 90% of applications are cleared within 8 weeks. The online process through MyWelfare.ie is straightforward, requiring the applicant to provide proof of ID, proof of address and confirmation of the reason for applying for a PPSN. Issues may arise where the details provided are not adequate/complete.

In relation to applications for PPSNs from non-residents for Probate and Stamp Duty purposes, DSP receives on average 40 applications relating to Probate and 40 applications relating to Stamp Duty per week. There is a separate channel available to PPSN applicants in relation to Probate, in which the DSP provides a dedicated email address to deal with such applications. This email address receives 20-30 emails per week. All applications made via this dedicated email address for Probate were up to date as of the previous Friday.

Mr Daly welcomed feedback from the TALC Committee on practitioners' experiences and noted that processing of PPSNs by the DSP is well within the 90-day timeframe for SARP applications.

The Law Society noted regarding the Stamp Duty issue that was originally raised at TALC, some feedback from their members indicates that where there is a sale of shares in an Irish company with non-resident vendors, an application for Stamp Duty purposes is made via the eStamping system on ROS and PPSNs are required. The timeframe for filing the Stamp Duty return is 30/44 days often resulting in time pressures to obtain the PPSNs. Practitioners noted from their experience it can take longer than 30/44 days to obtain a PPSN for a non-resident vendor unless the agent has the information available/on hand to make the application.

Action Point: Practitioners to provide examples to DSP of cases where PPSN applications for non-resident vendors took longer than 30/44 days.

Mr Daly noted that the process currently in place for Probate could be extended to non-resident Stamp Duty cases. It was suggested that a marker in the subject line of the email to denote the request is in respect of probate, Stamp Duty or SARP would be helpful.

Mr Daly confirmed that before the onset of the COVID-19 pandemic, applications for PPSNs from persons newly arrived in the State were processed on the basis of a face to face engagement with the person. However, an online application service via a MyGovID account is now available, including the facility to upload the necessary supporting information.

Responding to queries regarding the requirement to apply for a Public Service Card (PSC) to obtain a PPSN, Mr Daly confirmed a PSC is not currently required as part of the application process following the onset of the COVID-19 pandemic. However, Mr Daly confirmed the DSP is in the process of developing an online portal to allow individuals to apply for a PSC.

Practitioners had gathered feedback from members about obtaining PPSNs in the context of SARP applications in advance of the meeting and noted that the automatically generated response to PPSN applications sent by DSP has been advising of a backlog and that the issuance of a PPSN is taking up to 6 weeks.

Action Point: Practitioners to provide examples of the automated DSP messages received to the DSP.

Practitioners also queried with DSP, in advance of the meeting, whether an application could be submitted before the individual arrives in Ireland, using the Exceptional Application process for non-residents. DSP confirmed that the individual must wait until they arrive to apply for a PPSN. The exceptional process cannot be availed of if a person is living in or intends to relocate to Ireland for any period of time.

Practitioners highlighted further concerns in relation to SARP, for example, when an applicant arrives in Ireland, they may be in temporary accommodation for the first few weeks before obtaining permanent accommodation, or where individuals were asked to submit additional information online. In some cases it may take a number of weeks to gather all the necessary information to make a complete application to the DSP, with some applications having been automatically deleted by the time a reply was submitted. Mr Daly noted the concerns from practitioners and indicated it may be worth having in-person meetings in these cases, particularly where the information provided is not adequate.

Practitioners also asked about instances where an applicant does not have a permanent address in the State and whether the DSP would accept a letter from the employer. Mr Daly agreed to consider this matter further.

Action Point: DSP to consider whether a letter from an employer would be acceptable confirmation where an applicant has not yet obtained permanent accommodation.

Practitioners also queried whether PPSN applications relating to one transaction could be linked and dealt with as a group application, for example, in the case of a sale of shares, to improve efficiencies. Practitioners noted the information provided about the nature of the transaction for each non-resident is the same, however, each PPSN application can be processed within different timeframes, even though submitted at the same time because different DSP personnel are handling each case separately. Mr Daly confirmed each PPSN application is an individual application and so must be dealt with separately.

It was agreed that the Secretary of Main TALC would draft a note for DSP to review to reflect the discussion on the processing of PPSNs and the suggested escalation process to follow in exceptional cases where a PPSN is required to comply with a statutory obligation. The Chairperson thanked Mr Daly for attending the meeting and providing an update on the process for obtaining PPSNs.

Action Point: The Secretary of Main TALC to draft a note for DSP to review which reflects the TALC discussion on the processing of PPSNs and the suggested escalation process to follow in exceptional cases where a PPSN is required to comply with a statutory obligation.

ii. Organisation of a special purpose meeting to discuss how best to maximise pre-population and pre-sharing of taxpayer data on tax returns

The ITI organised a special purpose meeting on 19 October to discuss pre-population/ data sharing prompts in the context of simplification measures. This matter was discussed under agenda item 2.

Item 2 Simplification Measures Discussion

The ITI organised a special purpose meeting on 19 October to discuss greater pre-population and data sharing prompts, for example, sharing data Revenue may have on capital asset acquisitions with the relevant taxpayer on ROS which may inform current/future returns. The purpose of the meeting was to consider what taxpayer data is held by Revenue and how its use could be maximised to support compliance with a view to creating a roadmap for future IT developments. At the meeting, Revenue noted serious resourcing constraints for non-mandatory IT developments in 2023. Revenue highlighted future IT developments required to implement Pillar Two, DAC7, VAT Modernisation and Finance Bill measures would absorb the IT resources available. Revenue's organisational priorities will focus on commitments under the international tax agenda.

Practitioners noted the update from Revenue on its planned mandatory IT developments for 2023 was informative, however, it was clear from the discussion that practitioners and Revenue cannot progress the broader area of simplification in line with the suggestions raised at the meeting and develop a roadmap. Although, this was not the result practitioners had hoped, they noted the clear challenges and resource issues facing Revenue with competing demands for IT developments. Practitioners also noted Revenue's willingness to consider the suggestions made by practitioners if resources were available.

Given the limitations, practitioners identified the following five key IT priority items for development which were raised at the meeting:

1. Practitioners noted an ongoing issue with Revenue-initiated queries sent via MyEnquiries where the queries are not sent to the correct person in a practice, or a query is overlooked as the recipient is absent. Where this occurs, queries may not be identified promptly, and a timely review and response may be critical. Revenue had proposed an enhancement to resolve this issue using a designated or critical email address for Revenue-initiated queries. However, practitioners were advised that this enhancement cannot be delivered in the first half of 2023, and it is uncertain if it can be made in the second half of 2023, due to ICT resourcing constraints. Effective communication through MyEnquiries is critical and practitioners believe this development should be prioritised for 2023.

2. There is a facility on ROS for tax agents to view a list of outstanding tax returns for their client list. Practitioners believe there should be a similar facility for agents to view outstanding tax payments for clients to whom they are agent-linked for the tax head or for PPA purposes. This is particularly important given agents are not copied on payment demands issuing and Revenue's standard debt collection process has restarted.

3. Practitioners noted at the special purpose meeting that Revenue has information on a taxpayer's acquisition of assets from Stamp Duty returns, Probate etc. Practitioners believe there should be a location on ROS where the tax agent can view what information Revenue has on record on asset acquisitions, as this information will be relevant to current or future returns. It should be populated on ROS as the information becomes available to Revenue and in a location where it is accessible to those who may not use ROS Online/Offline to prepare the Form 11.

4. Practitioners noted there is no field on the tax return to submit a negligible value claim (under section 538 TCA 1997), in contrast with most other claims in the TCA. Therefore, such a claim must be submitted separately. Furthermore, Revenue noted to the ITI that under the legislation, the Inspector must be satisfied that the value of an asset has become negligible before a loss is allowed. Therefore, a taxpayer cannot treat an asset as having negligible value without the Inspector being satisfied of the loss. This approach is not consistent with self-assessment and the tax return should be updated to enable a claim to be made on the return.

5. Practitioners suggested the creation of a database for Tax and Duty Manuals (TDMs), like that maintained by HMRC. Practitioners noted that while a separate sub-group had been set up under the TALC Direct/Capital Taxes Sub-Committee to discuss Revenue's TDM review process, it is an important development that should happen as soon as possible. Practitioners noted concerns raised at the sub-group included the length of time TDMs are taken offline when they are being updated and historical versions of the TDMs not being made available.

Revenue welcomed the suggestions from practitioners and noted that Revenue continues to enhance pre-population of data of tax returns with limited resources. For example, the pre-filled data on ePSWT is scheduled to go live in 2023.

Revenue noted that resources in 2023 will be dedicated to IT developments required to implement the Two-Pillar International Tax Agreement and other international tax commitments, however, it remains uncertain how much resources will be needed for these developments. Therefore, having a list from practitioners which prioritises critical simplification measures would allow Revenue to identify IT developments that would be of most benefit to practitioners and taxpayers should resources become available.

Practitioners highlighted that Revenue had confirmed at the special purpose meeting that pre-population can only happen where they consider the data to be reliable and therefore, sharing data on ROS or including a prompt on a tax return, where data cannot be pre-populated, would be a good alternative to overcome this difficulty. Revenue agreed to discuss this matter with colleagues in the Strategic Planning Division.

Action Point: Practitioners to provide a list to Revenue of simplification measures that are of critical importance that could assist with compliance.

Action Point: Revenue to discuss with colleagues in the Strategic Planning Division, whether data-sharing prompts could be included on ROS and in tax returns, where reliable data cannot be pre-populated.

Item 3 Revenue update on the Temporary Business Energy Support Scheme (TBESS)

Revenue provided an update on the TBESS noting the facility to register for the TBESS opened on Saturday, 26 November on ROS. Revenue confirmed the ROS portal for submission of TBESS claims by businesses that have registered for the scheme opened on Monday, 5 December. Revenue issued a press release on their website inviting eligible businesses to make claims under the TBESS and updated the *Guidelines on the operation of the Temporary Business Energy Support Scheme (TBESS)* and *'Understanding Your Bill'* guide.

Over 3,200 businesses had successfully registered for the TBESS by Monday and could proceed to the claims process. Revenue confirmed qualifying claims will be paid once Finance Bill 2022 has been signed into law (which is expected to happen in the third week of December). Depending on the banking system, these payments could be received before Christmas.

Revenue advised that Temporary Business Energy Payments (TBEP) relating to September, October and November of 2022 could be made by the end of the year, if businesses register and claim for these three months by the third week of December. Revenue reminded practitioners of the four-month time limit for making a claim. Therefore, businesses that are submitting claims in the new year must submit claims for September 2022 by 31 January 2023.

Revenue has also updated its website to include a TBESS Calculator. Taxpayers can use Revenue's online calculator to determine if the business has satisfied the energy costs threshold. This calculation is used for each particular electricity or natural gas bill, and the relevant bill details from the claim period bill and the corresponding reference period bill will need to be provided to Revenue.

Revenue noted that eTax Clearance (eTC) is vitally important to register for the TBESS and confirmed taxpayers in the Debt Warehouse or those who have entered a Phased Payment Arrangement (PPA) can still obtain tax clearance status. Revenue confirmed to date, 600 applicants have ticked “TBESS” on the eTC application as the reason for applying.

Revenue thanked all the representative bodies for their assistance in updating their members on the scheme in a timely manner. Revenue confirmed it will hold a webinar on 14 December to provide information about the operation on the TBESS. The webinar will be recorded and made available on Revenue’s website afterwards.

Item 4 DAC7 provisions for joint audits

Practitioners noted that section 891K TCA 1997 was introduced at Committee Stage of Finance Bill 2022 to provide for the transposition of DAC7. The section provides for cooperation between EU Member States in the field of taxation relating to joint audits. Revenue clarified that section 891K is a partial transposition of DAC7 and does not relate to joint audits (which are covered by the newly introduced Article 12a of the DAC) but to enquiries relating to exchange of information on request (through an amendment to Article 11 of the original DAC).

The provisions of DAC7 relating to joint audits are expected to be transposed in Finance Bill 2023. Under section 891K, a foreign tax official may, by agreement between competent authorities and with a view to exchanging information as provided for under the DAC, be present or participate in an ‘administrative enquiry’, which is any control, check or other action carried out by an authorised officer. Practitioners queried how this measure is expected to operate in practice and the appropriate TALC committee for discussion of its operation.

Revenue considers the TALC Audit Sub-Committee would be the appropriate forum to discuss the operation of the Directive.

Revenue noted it will need to consider the interaction of the provisions of DAC7 with the Code of Practice for Revenue Compliance Interventions and with the Co-Operative Compliance Framework (CCF). Revenue noted resourcing issues will also need to be considered. Revenue confirmed that guidance will be developed. Revenue is keeping this matter under review.

Item 5 Amendments to section 79 TCA 1997 regarding foreign currency and the computation of income and chargeable gains

Practitioners raised concerns about the Finance Bill 2022 amendments to Section 79 TCA 1997 regarding foreign currency and the computation of income and chargeable gains. Practitioners do not consider the amended legislation addresses the issues identified in earlier submissions to TALC.

At the joint meeting of Main TALC and Direct & Capital Taxes Sub-committee on Finance Bill 2022 on 27 October, practitioners highlighted the narrowness of the legislation. Specifically, the requirement that the "sole purpose" of the account is the lodgement and disbursement of amounts that are taken into account in computing profits or losses of a trade carried on by the company does not reflect the reality for most companies with foreign currency bank accounts. In practice, the application of the "sole purpose" requirement would deny the treatment afforded by section 79 to an account where trading receipts received into the account are retained in the account and used to acquire fixed assets for use in the trade or to pay a dividend.

Practitioners noted the Finance Bill 2022 amendments are a cause for concern and queried whether the issues raised would be addressed in guidance. Revenue reiterated the discussion from the joint meeting that it will not be extending the scope of the Finance Bill 2022 amendments wider than the policy approval it has received. Revenue will share updated guidance early in the new year, once the Finance Bill has been enacted.

Revenue confirmed the updated guidance will provide clarity on what constitutes trade debtors (i.e. the balance sheet) and immaterial transactions/amounts and the movement of excess cash from current accounts to investment accounts.

Practitioners welcomed Revenue sharing the draft guidance and noted the restrictive interpretation will negatively impact taxpayers. Revenue agreed to consider this and confirmed a draft TDM will be circulated in January 2023.

Item 5 Review of Sub-Committee Year-End Reports on progress of work plans/objectives from each Sub-Committee Chair

The committee was sent a Briefing Pack in advance of the meeting, which provided year-end progress reports on the plans/objectives of each of the TALC sub-committees, with issues to be raised by exception. No issues discussed by the sub-committees were raised at the meeting.

The Chairperson complimented all Chairpersons of the TALC sub-committees on providing excellent summary year-end reports and noted the reports highlighted the amount of work and the significant number of matters progressed at each sub-committee during the year.

Revenue, CCAB-I and the Law Society concurred that the reports from the TALC sub-committees were very useful for this committee's oversight and agreed the year-end reports play an important part in the hand-over to the new Chairperson at the end of the year.

Item 6	**AOB**

i. Main TALC Chair 2023

The Chairperson thanked the committee for their work during the year and the Secretary and the TALC co-ordinators for their vital contributions. He welcomed Enda Faughnan of CCAB-I to the position of Chairperson for 2023 and wished him well in the role. Mr Faughnan thanked the Chairperson for his contribution and management of the committee in 2022.

ii. Revenue noted 2023 will mark the 100th anniversary of the establishment of the Office of the Revenue Commissioners.

Attendance

ITI	Revenue	CCAB-I	Law Society	DSP
Kieran Twomey (Chairperson) Mary Healy (Secretary) Mark Barrett Pat Mahon David Fennell Laura Lynch (remote attendance) Tom Maguire (remote attendance) Anne Gunnell Lorraine Sheegar	Eugene Creighton Declan Rigney Geraldine McEvoy Joe Howley (remote attendance) Jacqueline O'Callaghan (remote attendance)	Peter Vale Gráinne McDermott Gearóid O' Sullivan Brian Purcell (remote attendance) Paul Dillon (remote attendance) Enda Faughnan (remote attendance)	Caroline Devlin Aidan Fahy Sonya Manzor (remote attendance) James Somerville (remote attendance)	Liam Daly

Apologies

Brian Boyle, Revenue
Rachael Hession, Law Society
Bríd Heffernan, CCAB-I

Appendix

Department of Social Protection Escalation Process for Individuals Requiring Personal Public Service Numbers (PPSNs) to Comply with a Statutory Obligation - December 2022

At a meeting of the Main Tax Administration Liaison Committee (TALC) on 6 December 2022, practitioners discussed with Department of Social Protection (DSP) officials, the general process for obtaining PPSNs and circumstances when delays in obtaining a PPSN can cause difficulties when the PPSN is urgently required to comply with a statutory obligation.

For example:

- where a PPSN is required in order to submit a Stamp Duty return within 30 or 44 days of execution of an instrument where a non-resident individual is a party to the instrument, or
- where a PPSN is required for an employee for inclusion on the Employer Certification for SARP (Form SARP 1A), which must be submitted to Revenue within 90 days of the individual's arrival in the State.

It was discussed whether the processing of PPSN applications in such cases could be expedited given the time pressures involved and the requirement for the PPSN to comply with a statutory obligation.

The DSP noted approximately 202,000 PPSNs were processed in 2022 to date, compared to 104,000 PPSNs issued in 2021. 90% of applications are processed within 8 weeks. At certain times of the year, there can be a peak in applications for PPSNs, for example, in September at the beginning of the new academic year.

Applicants should ensure that PPSN applications are complete and that scanned supporting documents are clearly legible as otherwise the processing of a PPSN application can be delayed. Queries raised by the DSP in respect of an application should be responded to promptly. If a response is not received by the DSP within 21 days, the PPSN application will be expunged.

However, in recognition of the fact that a PPSN is required to comply with certain statutory tax obligations within specific timeframes i.e., to file a Stamp Duty return involving a non-resident individual and to submit an Employer Certification for SARP, DSP has agreed the process outlined below which can be followed to expedite the processing of a PPSN in such cases.

- Applications for PPSNs for non-residents are dealt with by the DSP's Client Identity Services (CIS). Applications submitted to CIS for PPSNs which are required in respect of non-resident individuals to file a Stamp Duty return can be escalated by emailing cis@welfare.ie and referencing in the subject line of the email that the request relates to Stamp Duty for a non-resident individual.

- Applications for PPSNs for individuals who are relocating to Ireland for any period of time must be made online via MyWelfare.ie when the individual has arrived in the State. However, in view of the statutory Revenue window for processing SARP cases, an application for a PPSN for an individual where the PPSN is required for the purposes of filing the Employer Certification for SARP (Form SARP 1A) can be submitted to SARPCIS@welfare.ie.

DSP need to record an address for every PPSN allocated. In cases where the individual does not have a permanent address in Ireland, DSP will accept the address provided by an employer in their letter confirming the individual is employed/being employed by them. Responsibility for subsequently notifying the Department of a change of address rests with the individual.

The process outlined above is **solely** for these circumstances where a PPSN is required to meet a statutory tax obligation.