

Main TALC
28 September 2023 at 2.30pm
Chartered Accountants House, Pearse Street
& Virtual via Microsoft Teams
Minutes

1. Minutes of meeting held on 27 June 2023

Minutes accepted.

2. Standing items

2.1. Matters arising from meeting on 27 June 2023 (Note 1)

- It was noted that the simplification measures relating to the reporting requirements for Investment Undertakings and Offshore Funds on the Form 11, and the requirement for guidance or a help sheet for completing the R&D section of the CT1, that were discussed at the June meeting, have been addressed or will be addressed. The suggestion to simplify the reporting requirements for certain fund investments will form part of the Funds Sector 2030 review and public consultation, and the suggestion to provide guidance on completing R&D claims was addressed in the updated R&D guidance published recently.
- Practitioners noted that at a meeting of the TALC Audit Sub-committee, Medium Enterprises Division had outlined common errors on R&D Specified Returns submitted. This type of information was acknowledged as helpful in reducing the risk of error in claiming the R&D Tax Credit.
- On the Business Tax Stakeholder Forum, a further meeting has been scheduled for October.

2.2. Updates from TALC Sub-Committees

The Chair noted that certain items arising from discussions at the TALC Direct and Capital Taxes Sub-Committee would be addressed separately later in the meeting. The Chair noted the helpful discussions ongoing at the Residential Zoned Land Tax subgroup and that the feedback from the group is that issues are progressing satisfactorily.

The TALC BEPS Sub-Committee is primarily focused on Pillar Two implementation. The Chair noted the quality and satisfaction of engagement on all sides. The Chair also noted the reference to the EU FASTER proposals. These are likely to have a significant impact on both Revenue and the taxpayer, but the introduction of these proposals is not imminent.

On the TALC Audit Sub-Committee, practitioners noted the ongoing engagement on the practical implementation of the new Code of Practice for Revenue Compliance Interventions and noted that engagement has been useful.

The TALC Collections Sub-Committee continues to have a busy agenda. The Chair noted the Non-Resident Landlord Withholding Tax system is a recurring issue for practitioners.

On TALC Indirect Taxes Sub-Committee, the Chair noted that the VAT56A issue would be dealt with separately.

2.3. Update on the ITI/CCAB-I IT Priority List (see Appendix)

Revenue noted the bank account update facility is now live. Revenue noted that some of the issues are being worked through at the TALC MyEnquiries Subgroup. However, Revenue noted many of the proposals will be unlikely to be addressed in the near-term given major developments underway presently, e.g. Pillar Two, etc.

3. Update from subgroup on Enhanced Reporting Requirements for Employers (see attached minutes) (Note 2)

Practitioners noted the ongoing dialogue across the various TALC sub-committees since the announcement of the Enhanced Reporting Requirements for Employers (ERR) in Finance Act 2022. Practitioners stressed that businesses have expressed a concern that they are walking towards a 'cliff' on 1 January 2024. The key concern is the requirement to report items 'on-or-before' they are paid. Practitioners noted that, unlike benefits reportable under the PAYE system, ERR relates to non-taxable benefits and the on-or-before requirement will be difficult to meet for many organisations despite them having robust controls to collect such information. A less frequent reporting option was suggested by practitioners. Further, the software to support businesses with ERR seems to be still in development and at this stage, time is limited for organisations to prepare for the new requirements. Practitioners understand the value of reporting this information, however, the value and merit of enforcing the real-time requirement is not clear to practitioners.

Revenue noted that the 'on-or-before' requirement is required by the relevant legislation and Revenue have no scope to deviate from this. Revenue noted that ERR is a reporting mechanism and that currently employers must satisfy themselves that payments that are being made without tax come within the provisions of the relevant sections to qualify as non-taxable payments. Revenue is aware of the concerns and referenced the fact that representations had been made to Ministers by practitioners in the months since the last meeting of this group. Practitioners noted that the interpretation of the 'on-or-before' requirement may not in fact be necessary from a legislative perspective. Revenue confirmed, as previously advised, that it does not share this view.

Regarding the subgroup, which was formed since the June session, practitioners noted that the subgroup is working as best it can but that the meetings have failed to progress certain areas of concern. There has been no clarity provided on the third-party software options being developed and the extent to which they will integrate with the payment processes of a business or whether manual input will be required (to enter PPSNs etc). No detailed guidance has been provided by Revenue to enable employers understand, for example, what is within the scope of the Small Benefit Exemption (other than vouchers) in order to implement the reporting requirement. In the view of practitioners, the project seems behind where it should be, considering the proposed 1 January implementation date and awareness is low among employers. Therefore, there is a genuine concern as to whether ERR may be effectively implemented from 1 January 2024.

Revenue highlighted the ongoing engagement relating to the ERR subgroup and highlighted the significant number of upcoming webinars for employers. Revenue confirmed that detailed guidance in a TDM will issue at the end of October. Revenue suggested that practitioners provide practical examples and suggestions for the guidance where appropriate through the subgroup and confirmed it would share the draft in advance of publication. Revenue also noted the concerns regarding the implementation of software. Revenue noted that the adoption of a real-time approach to reporting follows from the OECD Tax Administration 3.0 vision of the future of taxation which aims to integrate tax reporting into an organisation's internal systems and processes.

Practitioners also noted that the implementation of PMOD was markedly different in terms of engagement and awareness creation among employers. A co-design approach was critical to the introduction and success of PMOD, where stakeholders from employers, agents and software developers worked jointly to ensure understanding of the requirements, to make reporting as seamless as possible and there was considerable external communication by Revenue on the requirements. However, this approach was not adopted for ERR despite the fact that employers will be reporting items that have never been reported before, that are recorded on different internal systems and ERR will potentially impact every employer in the country. Presently, it is not clear whether the reporting of benefits will be amenable to a simple and effective software solution. Revenue confirmed that there has been significant engagement with software providers and that there will be a number of options for how the benefits can be reported. It was further confirmed that screenshots of how this will work, etc., will be included in the guidance.

Practitioners queried Revenue's approach to compliance in early 2024, as employers get to grips with ERR for the first time. Revenue considered, as with the introduction of any new requirement, that there would be a bedding in period.

4. Update from subgroup on Leasing, a subgroup of the TALC Direct and Capital Taxes Sub-Committee, and proposals for Finance Bill (No. 2) 2023 (Note 3)

The Chair noted that the Leasing Subgroup was formed under the TALC Direct and Capital Taxes Sub-Committee. The Chair noted that the Department of Finance has been involved given the legislative dimension. The Chair asked Revenue for an update on what can be expected in the upcoming Finance Bill.

Revenue noted that the Department of Finance are leading this on the policy front. Revenue will be unable to issue guidance before the end of new year. Practitioners noted that if there is significant legislative change coming and a change in practice, guidance will be key for practitioners.

5. Update from Revenue regarding wording proposed at TALC Indirect Taxes Subcommittee regarding VAT56A Authorisation Letters (Note 4)

Revenue is examining the draft revised letters of undertaking submitted by practitioners and has some concerns regarding the caveats in these drafts having regard to the need to preserve the integrity of the VAT56A procedure. It is proposed to hold a meeting in the coming week to discuss the drafts with a view to resolving any outstanding issues in time to have revised procedures in place by for the 31 October 2023.

6. Interest Limitation Rule (ILR) and group elections (Note 5)

Practitioners queried if the election can be amended within the normal self-correction period. It appears that it may not, given the manner in which the legislation is drafted.

Revenue was not aware of the concern. It noted that where a party elects to be in a group and then withdraws, that can create issues for the overall group. If practitioners can provide information on the number of companies involved, it will enable Revenue to gauge the scale of the issue.

Practitioners noted that there are potentially large numbers of companies affected. Also, the issue has only come to light when companies were recently filing their annual corporation tax returns.

ACTION: Practitioners will provide a separate note to Revenue setting out the issue.

7. Taxation of income arising under General Medical Services (GMS) contracts (Draft guidance and note attached)

The Chair noted that this has featured on the Main TALC and TALC Direct and Capital Taxes Sub-Committee agenda for some time. As such, the matter has created a significant amount of concern given the commercial impact of the proposed changes. The Chair noted that while this may be a contractual issue, the implications of the TAC decision may not be immediately clear. Practitioners suggested that the application of the correct tax treatment to GMS income, including associated PSWT credits, as clarified in the Revenue guidance, is at least delayed to allow GPs further time to consider their arrangements.

Revenue confirmed that there is no change to the tax treatment of GMS income and Revenue's clarification of the correct treatment is based on existing law rather than being a change in response to the TAC determination. While there has been a focus on PSWT credits, the main issue is that, in some cases, GMS income is not being taxed in accordance with the law.

Practitioners queried if the transitional period could be extended. Revenue noted that extending to 1 January 2025 would not be acceptable because there is no basis in law for Revenue to treat income that legally belongs to a person as being the income of another person for tax purposes. Practitioners noted the potentially significant commercial impact and the knock-on impact of the changes. It was agreed that practitioners would provide further feedback on the draft TDM within the next week, including the provision of examples.

8. Proposed updates to EIS as required by the General Block Exemption Regulation (GBER)

The Chair noted a recent call held by the Department of Finance and certain stakeholders. The Chair asked for wider dialogue on the impact on EIS and the impact of funding due to take place for the remainder of 2023. Revenue noted it is firmly in the policy space and so Revenue will relay the message to the Department so that they might consider whether further engagement would be possible.

9. AOB

The next meeting of the group will be for the joint Main TALC/TALC Direct and Capital Taxes Sub-Committee meeting on the Finance (No. 2) Bill 2023. The meeting will take place on Wednesday 25

October 2023. The TALC BEPS Sub-Committee will host a separate meeting to discuss the Pillar Two legislation on Tuesday 24 October 2023.

Attendance:

ITI	Revenue	CCAB-I	Law Society
Anne Gunnell	Jeanette Doonan	Enda Faughnan (Chair)	Aidan Fahy
Mary Healy	Brian Boyle	Brian Purcell	
David Fennell	Eugene Creighton	Paul Dillon	Apologies:
Pat Mahon	Tom James	Cróna Clohisey	Caroline Devlin
Tom Maguire	Joe Howley	Gráinne McDermott	James Somerville
	Mairead McGuinness	Gearóid O'Sullivan (Secretary)	
		Apologies: Peter Vale	

Supplementary Notes to the Agenda

Note 1 - Matters arising from 27 June 2023 meeting

- Revenue update on Enhanced Reporting Requirements for Employers
- Simplification Measures
 - Simply reporting requirements of Investment Undertakings and Offshore Funds on the Form 11
 - Create a help sheet/guidance for completing the R&D section of the Form CT1
- Recap on the Business Tax Stakeholder Forum held by the Department of Finance

Note 2 – Update from the subgroup on Enhanced Reporting Requirements

At the June meeting of Main TALC, it was agreed that a subgroup would meet to discuss the Enhanced Reporting Requirements for Employers (ERR). The group has convened three meetings (13 July 2023, 17 August 2023 and 21 September 2023). The draft minutes of the first two meetings prepared by Revenue (which Revenue has agreed to formalise in due course) are attached to this pack for the consideration of Main TALC.

Note 3 – Update from the subgroup on Leasing

A subgroup has been convened under the TALC Direct and Capital Taxes Subcommittee to discuss proposed changes to the taxation of leasing companies in Ireland. At the most recent meeting on 13 September 2023, it was indicated that there may be significant changes to the so-called ‘leasing ringfence’ in Finance (No.2) Bill 2023. Practitioners would welcome a discussion on the proposals and the timeline for implementation of any changes.

Note 4 – VAT56A Authorisation Letters

CCAB-I provided draft sample letters to the representatives of the TALC Indirect Taxes Subcommittee on 22 June 2023 via email. Further clarification on the proposed changes was requested by Revenue and duly provided in an email dated 7 July 2023. The VAT56A procedures are due for renewal on in October and so it is imperative that clarity is provided. The matter is being raised at Main TALC as a resolution has not been achieved at TALC Indirect Taxes Subcommittee.

Note 5 – Interest Limitation Rule (ILR) and group elections

The making of a group election for the purposes of the ILR is a complex decision for affected businesses. While the strict legislative position is that the election must be made at the time of making the return and is valid for three years, practitioners feel a certain amount of leeway would benefit taxpayers as they consider the implications of the election.



Appendix

Main TALC - 8 March 2023

List of Priorities for IT Developments

At the meeting of Main TALC on 6 December 2022, the Committee discussed the outcome of the Main TALC Special Purpose Meeting (SPM) on pre-population and sharing of data on the Form 11 tax return, which took place on 19 October.

Practitioners outlined their concerns about the serious constraints on resources to progress IT developments sought by practitioners, due to Revenue's commitments to IT developments required to comply with changes in the international framework over the coming years. Considering these constraints, ITI and CCAB-I outlined five priority IT developments the professional bodies wish progressed to support the work of their members in assisting taxpayers to comply with their tax obligations.

As the precise nature and timing of the delivery of IT developments to comply with commitments arising under Pillar Two and DAC7 are not yet clear, Revenue invited practitioners to specify in writing their priorities for IT developments, so that Revenue could consider these requests for development should resources become available.

We have outlined 11 priorities for IT developments, as below. Our primary focus is on measures to support the filing of income tax returns, as we believe this would deliver the most benefit in reducing the cost of compliance for taxpayers.

The first five priorities reflect the requests we outlined at Main TALC in December as these developments are of paramount importance. We have included additional explanations on these items where we consider it helpful and where informed by the discussions at the Main TALC SPM last October.

It was evident from the discussions at the Main TALC SPM that a number of the suggestions we made cannot be progressed at this time. This is due primarily to Revenue's wish to dovetail with international developments (for example, in sharing data from third party returns) or limitations in information or the timing of its availability (for example, using data held by the Residential Tenancies Board (RTB)). We have excluded these suggestions from our priorities below on the basis that the suggestions cannot be considered at this time.

Measuring Progress on the Delivery of IT Priorities for Practitioners

It would be important to review, at intervals, the progress made on the priorities identified below. Some of the priorities require less IT development work to deliver and we consider should be implemented in 2023. Other developments would require more intensive work to deliver.

We would suggest that at the December 2023 meeting of Main TALC, the Committee should review what progress has been made on the listed priorities and what items could be scheduled for development in 2024. We would propose to revisit the list again at Main TALC at the end of 2024 to take stock of progress made on the priorities identified.

As a matter of principle, we would seek a commitment from Revenue to fully explore how the data it receives from tax returns and other sources can be shared with the taxpayer to whom it relates, to minimise compliance costs. This should assist in progressing the sharing of further data when opportunities become available.

Requested Priority IT developments to Support Compliance

1. Prioritise an IT development to MyEnquiries to address an ongoing difficulty with the delivery of Revenue-initiated queries

There is an ongoing issue where Revenue-initiated queries on MyEnquiries are not sent to the appropriate staff member in a practice or are sent to staff who are absent. This means that queries may be overlooked or cannot be dealt with promptly.

At the TALC MyEnquiries Sub-group, Revenue noted that it had identified a possible solution to this issue through the use of a designated email address for receipt of Revenue-initiated queries, which could be accessed by practice staff with permissions to access that email address.

However, the Sub-group has been informed that due to IT resourcing constraints, this development cannot be delivered in the first half of this year and it remains uncertain whether it can be implemented in 2023. Effective communication through MyEnquiries is critical. An IT development to resolve this communication difficulty should be prioritised for release in 2023.

2. Allow tax agents to view a list of overdue tax liabilities for their clients

There is a facility on ROS for tax agents to view a list of outstanding tax returns for taxpayers to whom they are agent-linked. This is very useful in helping to ensure clients remain up to date with their tax return filing obligations and any outstanding returns can be identified quickly. A similar facility should be introduced for overdue tax liabilities where the tax agent is agent-linked for the tax-head or for the purposes of a Phased Payment Arrangement.

This is particularly important given tax agents are not copied on payment demands sent to taxpayers and Revenue has returned to its standard debt collection process, including

referral to enforcement. In addition, timely payment of current taxes is a key condition for retaining access to the benefits of the Debt Warehousing Scheme.

As part of this, it would also be useful for tax agents to be notified where an issue has arisen with the processing of a tax payment. Under the current system, tax agents are unaware when an issue arises with the processing of tax payments. Therefore, tax agents are then unaware that the payment of tax has become late.

3. Create a database for Tax and Duty Manuals (TDMs), like that maintained by HMRC

HMRC maintain a database of Tax Manuals that is more user-friendly than the Revenue suite of TDMs. Users can search the HMRC database, view more cross-references between manuals and where a manual has been amended, the specific amendments are highlighted. We would request similar functionality for Revenue's TDMs.

A Sub-group of the Direct/Capital Taxes Sub-committee has discussed improving the process around updating TDMs. For example, allowing continued access to TDMs while they are being updated with an appropriate warning message that the TDM is under review and a standardised approach to detailing updates to a TDM e.g., a revision sheet of the relevant amendments. Feedback from the Sub-group should help inform the important features and functionality in developing a TDM database.

4. Include a field on the tax return to allow a taxpayer to make a negligible value claim (under section 538 TCA 1997)

In contrast to most other claims in the Taxes Consolidation Act (TCA), a claim must be submitted separately to make a negligible value claim under Section 538 TCA 1997. Furthermore, Revenue has 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 during 2023 to enable a claim to be made on the return.

5. Share data from tax returns about a taxpayer's acquisition of capital assets with the taxpayer to whom the data relates and their income tax agent

At the Main TALC SPM, we raised how data Revenue receives from Stamp Duty returns, eProbate, LPT etc. about a taxpayer's acquisition of assets could be leveraged to support the preparation of the Form 11 income tax return. For example, in assisting the tax agent to correctly:

- a. Declare the acquisition of an asset on the tax return in the year of acquisition.
- b. Identify a potential income stream to be declared on current or future tax returns.

- c. Calculate a taxable gain/loss and CGT due on a future disposal of the asset e.g., through access to information on the cost and year of acquisition.

There should be a location on ROS where a taxpayer and their appointed income tax agent can view the information Revenue holds on record in relation to the taxpayer's acquisition of capital assets, where this information would be relevant to completion of the income tax return. This ROS record should be updated as the information becomes available to Revenue.

Tax agents could then review the information on record when preparing their clients' Form 11 tax returns, determine what is relevant for the current return or a future return and raise any relevant queries with clients. Any inaccuracies in the information Revenue holds could also be identified at an earlier stage and corrected before an error may trigger a compliance intervention.

At the Main TALC SPM, Revenue considered that locating such information on ROS rather than on the ROS Form 11 would be the preferred option. We would agree with this approach. It would also ensure the information is accessible to tax agents who do not prepare returns using ROS but use commercial tax-preparation packages.

We have focused on sharing data related to the Form 11 income tax return, as discussed at the Main TALC SPM, as we believe this would deliver the greatest benefit in supporting tax compliance. However, a similar facility for taxpayers filing a corporation tax return (Form CT1) would also be worthwhile.

6. Simplify the process for updating bank account details for tax refunds

Currently, taxpayers must separately enter on ROS their bank account(s) details to be used for tax payments and for tax refunds, often across multiple tax heads. If a taxpayer wishes to nominate the same bank account for both tax payments and refunds it should be possible to implement this choice through a simple mechanism such as the selection of a "tick box" or similar option on ROS. This would reduce the time spent in entering the same bank details several times.

It would also help to reduce the number of instances where the payment of a tax refund is delayed, simply because the taxpayer's bank account details for tax refunds have not been provided.

7. Allow tax agents to access the weekly Customs & Excise Reports which are needed to complete postponed accounting entries on VAT returns

Tax agents do not have access to the Customs & Excise (C&E) Weekly Reports for imports which have information needed to complete postponed accounting entries on the Forms VAT3 and VAT Return of Trading Details. Based on discussions at the TALC Collections Sub-committee, an IT development had been planned for Quarter 3, 2022 but this was subsequently deferred.

At other fora, Revenue has advised that it is noticing inaccuracies in the entries for postponed accounting on VAT returns. This is directly related to issues for tax agents in obtaining the information needed to prepare these entries. Therefore, the required IT updates to permit tax agents access to the weekly C&E Reports should be made in 2023 without further delay.

8. Issue automatic reminders in advance of the expiry dates for Tax Clearance Certificates and for PAYE Agent Authorisations

Tax Clearance Certificates (TCC) are generally valid for 1 year or for 4 years. Taxpayers and their agents receive a notification from Revenue when a TCC has expired. However, it would be better if a notification was issued in advance of the expiry date to give sufficient time to renew the TCC, if required, and avoid the potential cash-flow impact and correspondence involved in reinstating expired clearance.

Tax agents could be advised of an upcoming expiry date in advance thorough notification via their TAIN i.e., so that a list of TCCs that will expire shortly could be generated. This would be preferable to issuing notifications to the ROS Inbox due to the volume of notifications that may be issued.

In January 2021, Revenue introduced a 4-year validity period for PAYE Agent Authorisations (Forms PAYE A1 and A2) on a prospective basis. We understand Revenue is considering updates to its internal systems so that Revenue staff can be made aware of expiring authorisations.

As part of this IT build, we would request that tax agents with PAYE Agent Authorisations should receive reminder notifications in advance of the dates of their expiry to help ensure authorisations are renewed in a timely manner, if required. We propose that the reminders would be notified via the agent's TAIN.

9. Expand the activities agents can conduct on MyAccount for taxpayer with PAYE income

It is currently not possible for a tax agent to set up an instruction (RDI) to pay a tax liability for a PAYE taxpayer filing an income tax return, or to set up a payment of tax on the exercise of share options through the Return of Tax on Share Options (RTSO). These functions should be added to ROS.

10. Progress Revenue's current plans on pre-population

At the Main TALC SPM, Revenue advised that it intends to progress a number of further pre-population initiatives, for example, pre-population of tax on the exercise of share options potentially on the 2023 Form 11 and pre-population of data from the Employment Investment Incentive Scheme (EIIS). We would encourage a continued emphasis by Revenue on pre-population of returns wherever possible.

Revenue also noted its interest in including CGT payments on the Form 11 that are

derived from the CG50 application process. The CG50A requires the vendor's PPSN so it should be possible to populate CGT payments to the taxpayer's record with Revenue where CGT is paid. It would also be worth exploring a mechanism for crediting tax deducted and remitted by the purchaser, with the CG50B, to the vendor's ROS record.

11. EIS Relief for Qualifying Investment Funds

Finance Act 2021 extended EIS relief to include Qualifying Investment Funds. However, ROS was not updated to accommodate differences between Qualifying Investment Funds and Designated Investment Funds. This includes instances where a Qualifying Investment Fund makes both non-qualifying investments as well as qualifying EIS investments. There is a concern among practitioners that this could lead to significant difficulties when it comes to filing returns. As such, an IT upgrade to facilitate the Finance Act 2021 updates is needed.