

Minutes

TALC Subcommittee: 'BEPS Implementation' Meeting

Date: 9 March 2022

Location & Time: TEAMS Meeting 10.00 am

ATAD III

- Revenue provided a comprehensive update on ATAD III. International Tax Division informed practitioners that they, along with the Department of Finance, are engaging at EU level with respect to the proposals. Revenue would appreciate if practitioners could provide real world examples of the practical impact arising from the proposals under ATAD III. Practitioners expressed concern that the proposals may have a disproportionate impact on Ireland and industry is very concerned. Practitioners will provide examples of real time scenarios. Practitioners also opined that there are concerns from a legal perspective.

DAC7

- Revenue provided an update on the DAC7 subgroup which has been set up to fully understand the implications of the DAC. The subgroup is due to meet again on March 24th.

Anti-hybrid rules and reverse hybrid rules

- Revenue received two submissions in relation to guidance on the anti-hybrid and reverse hybrid rules. Revenue has taken on board the feedback and included commentary where appropriate in the draft. Revenue has considered the feedback in relation to the definition of 'entity' and has included a substantial piece in the TDM in relation to this. In relation to the concept of 'acting together' Revenue highlighted that this is specifically included in both the OECD BEPS report and in ATAD and that although other territories may have a 10% threshold this was outside the scope of ATAD. Revenue would appreciate real world examples in relation to "acting together" and also notional amounts/double deduction scenarios, so they can then examine the practical difficulties that arise. Revenue also welcomed real world examples regarding "diversified portfolio of assets" for the purposes of the CIV exemption. Practitioners asked if it is possible to share submissions. Revenue had not shared submissions as this was not discussed at the previous meeting. Nevertheless, the ITI and CCAB-I have agreed to share their respective submissions.

ATAD Interest Limitation Rules

- Revenue informed practitioners that the first draft of guidance will be ready for circulation and discussion by end of Q1.
- Revenue are considering examples and guidance on the following topics:

- Financial accounting consolidation;
- Interest equivalent;
- Group ratio and equity ratio anti-avoidance rules;
- Equity ratio calculation for interest groups;
- Adjustment to the equity ratio for amounts owed to associates;
- The two-percentage leeway in the equity ratio test;
- How the equity ratio work in a negative equity scenario;
- Application of ILR to specific scenarios relating to Section 110 companies;
- The preparation of interest group accounts and GAAP conversions;
- Treatment of partnerships as it relates to the association test under the ILR;
- What is meant by 'comprising the results' of an interest group;
- Finance element of finance lease payments;
- Definition of financial assets and liabilities;
- Legacy debt;
- Standalone entities and definition of association;
- Preliminary tax rules.
- A confirmation was requested whether the accounts for an interest group will need to be submitted to Revenue by the reporting company for each accounting period, and if so, in what form. It was confirmed that these accounts should be available on request as part of normal compliance procedures. It is not currently intended to request iXBRL accounts for interest groups but that will be kept under review.
- Revenue thanked the committee for a very helpful worked example in relation to the calculation of the interest limitation for an interest group.
- A number of clarifications were also provided with regard to ILR CT1 disclosures.

Branches

- Revenue confirmed that no feedback had been received in respect of the proposed new TDM on section 25A. Revenue informed practitioners that a draft TDM will be circulated for discussion at the end of Q1/early Q2.

Transfer Pricing

- Revenue received feedback from the ITI on two items and will include information on both items in the updated draft TDM which will be circulated for discussion at the end of Q1/early Q2.

DAC6

- Revenue gave a comprehensive update on the feedback received and the Revenue position in relation to the DAC6 TDM. Revenue welcomes feedback on Hallmark C1 in relation to section 2.8.5 (tax exemption) and section 2.8.6 (how regimes are assessed). Revenue requests submission of any feedback within two weeks. It is intended that the next version of the TDM will be published by the end of March.

Action Points

Revenue advised that draft guidance will be circulated at the end of March/early April after feedback has been received and considered. There will be a DAC7 meeting in the meantime (24th March). Revenue will advise practitioners on the timing of the next meeting in due course.

Attendees of meeting of 9 March 2022:

CCAB – I: Enda Faughnan, Crona Clohisey, Gearoid O’Sullivan, Kevin Doyle, Paschal Comerford, Derek Henry

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

Law Society: Andrew Quinn, Aidan Fahy, Niamh Caffrey

Revenue: Jeanette Doonan, Áine Hollingsworth, John Quigley, Keith Noonan, Mary Breen, Ashling Gallagher, Brendan O’Hara, Yvonne Ruane, Dave Brennan, Gillian Smith, Audrey Bridgeman