

**Minutes of TALC Direct / Capital Taxes Sub-Committee Meeting**

**9 May 2019**

**Office of the Revenue Commissioners, Dublin Castle, Dublin 2 at 2:30pm**

**Item 1: Review of minutes from meeting of 21<sup>st</sup> February 2019**

- The minutes were agreed

**Item 2: Matters arising from meeting of 21<sup>st</sup> February 2019**

Matters arising were as follows:

- [Tax and Duty Manual 04-06-08](#) has been updated to include the Pre-Trading Expenditure wording contained in the Notes for Guidance on Section 82 TCA 1997.
- [Tax and Duty Manual 08-02-01](#) Charges on income for corporation tax purposes updated and [Tax and Duty Manual 08-02-1A](#) Rules relating to recovery of capital and replacement loans published.
- [Tax and Duty Manual 16-00-02](#) Relief for investment in corporate trades: as it applies to companies and [Tax and Duty Manual 16-00-03](#) Relief for investment in corporate trades: as it applies to investors published

**Item 3: Stamp Duty – Section 83D SDCA 1999**

Revenue advised that an update to the e-Stamping system is still awaited. This item will be kept on the Agenda until the Statutory Declaration has been replaced on the e-Stamping system.

**Item 4: CGT Losses – Carry forward of losses**

Revenue advised that the carry forward of losses is under consideration. This item will be kept on the Agenda until relevant Revenue guidance is issued.

**Item 5: IFRS 16 and lease accounting**

Revenue advised that a revised [Tax and Duty Manual 04-06-04](#) has been published.

**Item 6: Update on guidance arising from FRS 101 /102 working group**

Revenue advised that a draft Tax and Duty Manual 04-05-3a, which deals with section 76a TCA 1997, was circulated to members of the FRS 101 / 102 working group for comments and observations. The comments and observations are due back by the 15<sup>th</sup> May 2019.

Revenue will consider the comments and observations when received and will amend the Tax and Duty Manual as required. A further meeting of the FRS 101 / 102 working group may be arranged to discuss the feedback on the draft Tax and Duty Manual.

**Item 7: Update on film relief guidance in light of Film Relief Regulations**

Revenue advised that a draft Tax and Duty Manual on Film Relief will be circulated to members on the 16<sup>th</sup> May 2019 and a meeting will then be held with interested parties to discuss the Film Relief guidance note.

Practitioners queried whether guidance on eligible expenditure was included in the draft Tax and Duty Manual and Revenue indicated that it would be covered in the Tax and Duty Manual.

**Item 8: Section 959AA and Section 955 TCA 1997**

Practitioners queried what is the interpretation of a “full and true disclosure of all material facts” contained in section 959AA TCA 1997 [and previously contained in section 955 TCA 1997] in the context of a technical adjustment being required to a taxpayer’s return.

Revenue advised that a return would not be considered to contain “full and true disclosure of all material facts” if it does not contain an Expression of Doubt regarding the technical adjustment that may be required. Practitioners indicated that they would not be in agreement with this view.

**Item 9: Section 121 TCA 1997 – Electric Cars**

Practitioners queried in what circumstances may an employer provide electric cars for use to employees without a Benefit-in-Kind charge arising on the value of the benefit.

Revenue advised that an updated [Tax and Duty Manual 05-04-02](#) which had been updated to include comprehensive material regarding the tax treatment of employer provided electric vehicles (cars and vans) arising from Finance Act 2018 changes had issued on the 8<sup>th</sup> May 2019.

**Item 10: Revenue Tax and Duty Manual 04-01-01 Taxation of Lloyd’s Income and Gains in Ireland**

Revenue advised that Tax and Duty Manual 04-01-01 Taxation of Lloyd’s Income and Gains in Ireland and wanted to confirm whether the contents of the Tax and Duty Manual are still relevant and are the practices as outlined in the Tax and Duty Manual still relied on.

**Item 11: Past leasing sector guidance**

Revenue indicated that it wished to establish a working group to fully understand how the past leasing sector guidance is currently being relied on and to explore how this guidance can be incorporated into existing Tax and Duty Manuals.

**AOB****Letters of “no audit”:**

Prior to the meeting commencing Practitioners noted that this issue was escalated to Main TALC and that Revenue had reconvened a sub group to discuss Letters of “no audit” at a meeting held on the 5<sup>th</sup> March 2019.

Practitioners requested that the Letters of “no audit” be included on the Agenda of the TALC Direct / Capital Taxes Sub-Committee and that feedback be given to the sub-committee on the issue.

**Companies Act Tax and Duty Manual:**

Revenue advised that draft Companies Act Tax and Duty Manual was circulated for comments and observations today [the 9<sup>th</sup> May 2019] and apologised for the delay in circulating the draft guidance.

**TALC BEPS Implementation Sub-Committee:**

Practitioners queried whether some of the work flow arising from this sub-committee could be assigned to the TALC Direct / Capital Taxes Sub-Committee.

Revenue advised that this would not be possible and advised that any BEPS legislation would be discussed at the TALC Direct / Capital Taxes Sub-Committee.

**Section 249 / Section 249:**

Practitioners wanted it noted that they are not agreement with the contents of [Tax and Duty Manual 08-02-1a](#) regarding the replacement of loans.

**Attendees at the meeting**

**Revenue**

- Philip Brennan (Chair)
- Ashling Gallagher
- Dave Brennan

**CCAB-I**

- Crona Clohisey
- Cormac Kelleher
- Ken Garvey

**Law Society**

- Caroline Devlin
- John Cuddigan

**ITI**

- Anne Gunnell
- Fiona Carney
- Tom Maguire
- Sharon Burke
- David Fennell