

Minutes of TALC Direct and Capital Taxes Sub-Committee Meeting

Thursday, 26 June 2025 via MS Teams

14.30 to 15.30

Minutes

Item 1: Minutes from meeting of 1 May 2025

The minutes of the meeting of 1 May 2025 will be finalised by way of email.

Item 2: Matters arising from meeting of 1 May 2025:

Tax clearance for Irish Real Estate Funds: At the May meeting, practitioners raised concerns relating to delays in tax clearance certificates for Irish Real Estate Funds. Revenue outlined the following:

IREF WHT Repayment Claims:

Revenue's FIF Branch receives IREF WHT repayment claims arising under Sections 739Q(2) and 739Q(3) in addition to advance clearance requests under sections 739QA and 739QB.

Revenue notes that repayment claims, particularly under section 739Q(3), involve multi-layered, complex structures across several tax jurisdictions with significant technical issues arising in relation to "Equivalence" and "Personal Portfolio IREF" status.

Revenue understands the industry's concerns regarding the time taken in finalising Revenue's response to submitted claims. Revenue has refocused resources to progress these cases as a priority.

Advance clearance requests:

Revenue is also currently considering a small number of advance clearance requests. Again, Revenue has refocused resources to progress these cases as a priority

Practitioners had no further comment.

Item 3: Items that are to remain on the Agenda

- a. **EU Mobility Directive (Directive (EU) 2019/2121) – claim for capital allowances under section 291A TCA 1997:** Practitioners and Revenue have no further comment and agreed this agenda item may be removed from the agenda going forward.

- b. **CT1 form - Transfer Pricing documentation requirements for an Irish Branch:** Revenue noted their review of this issue is still in progress and Revenue agreed to provide an update in advance of the next meeting scheduled for 11 September 2025. This item to remain on the agenda.
- c. **TAC Determination 44TACD2024 and the requirement to provide a breakdown of distributions from an ARF into income, gains and capital in order to claim a refund of Irish tax deducted:** Revenue confirmed work on updating the notes to the ARF refund form is ongoing and aim to share an update shortly. This item to remain on the agenda.
- d. **Leasing guidance:** In advance of the May meeting, practitioners provided feedback on how the burden of wear and tear analysis is applied by taxpayers other than those within the aircraft leasing industry. Revenue noted their review of additional feedback provided by practitioners is ongoing and may seek further feedback / clarifications from practitioners in due course. Practitioners noted that the guidance on section 80A leases and the interaction with the interest limitation rules should be included in the TDM, particularly in terms of interest equivalent. Practitioners advised that they would be submitting comments on recently circulated draft guidance on section 80A leases, which would include points on various matters including the manner in which elections are made on the Form CT1 (as there are two elections available under section 80A, however, on the Form CT1 there is only a single box, so it is not immediately clear what election is being made). Practitioners agreed to follow up with a full written submission on these section 80A issues. This item to remain on the agenda.
- e. **Interaction of Knowledge Development Box and Pillar Two:** At prior meetings, practitioners raised concerns related to the interaction of the KDB and Pillar Two (in particular whether a taxpayer can elect out of the KDB regime). Practitioners to provide a written submission to this committee and the Research and Development subgroup. This item to remain on the agenda.
- f. **Treatment of dividends on certain on certain preference shares:** In applying section 138 TCA, as to whether a preference share quoted on a stock exchange in the State or which are not so quoted but which carry rights in respect of dividends and capital comparable with those general for fixed-dividend shares quoted on a stock exchange in the State, Revenue practice had been to use a specific single fixed dividend share quoted on the Irish stock exchange for comparison purposes. This share is now listed on Euronext Dublin. Following careful consideration, Revenue agreed such practice may continue. This item to be removed from the agenda.
- g. **Filing requirements for regulated and unregulated investment limited Partnerships:**
unregulated investment limited Partnerships: Practitioners had requested clarification on filing requirements of regulated and unregulated investment limited partnerships at previous meetings. Revenue confirmed that where sections on the Form 1 are not relevant to investment limited partnerships, such sections should be left blank. Practitioners requested confirmation is included in the new TDM on partnerships. This item to remain on the agenda.

- h. Partnerships and association for the purposes of certain ATAD measures:** Revenue continue to review submissions made by practitioners in advance of this meeting. Revenue confirmed issues raised by practitioners are to be dealt with by way of updating existing TDMs and a new manual on the taxation of partnerships. Revenue confirmed that the test for association will be updated in the relevant TDM's and will be consistent in the TDM's relating to anti-hybrid mismatch rules, outbound payments defensive measure regime and interest limitation rules. This item to remain on the agenda.
- i. UK Limited Liability Partnership and meaning of partnership for purposes of the TCA:** Practitioners provided a submission on the classification of a UK Limited Liability Partnership to Revenue in advance of the meeting. Revenue and practitioners agreed this item to be addressed as part of the new TDM on the taxation of partnerships.
- j. Income tax relief on medical insurance premiums where a blended rate:** Practitioners previously provided a written note on the application of section 470 TCA 1997 (income tax medical insurance premiums) where the insurance premium covers both eligible and non-eligible health expenses. Revenue confirmed their review of the issue is ongoing. This item to remain on the agenda.

Direct Taxes:

Item 4: Cross Border hybrid working arrangements

Practitioners highlighted some issues and uncertainties concerning the tax treatment of cross-border hybrid working arrangements. Revenue noted, in their view, the current published guidance is sufficient for most scenarios and further guidance is available for individual circumstances via My Enquiries. Revenue agreed to review any written submission by practitioners and to consider in due course if any guidance updates are required following the ongoing review of this topic by the OECD.

Item 5: Key Employee Engagement Programme

In advance of the meeting, practitioners made a written submission requesting clarification on the application of the total market value limit contained in the definition of a 'qualifying share option' for the purposes of section 128F TCA. Revenue confirmed the market value of the qualifying share option should be determined on the date of grant. Revenue noted existing guidance is sufficient and practitioners agreed to consider the guidance in further detail. Item to remain on the agenda.

Item 6: Application of RCT to a contract where a part of the contract is for a construction operation

By way of a written submission made in advance of the meeting, practitioners requested clarification on the application of relevant contracts tax where only part of the contract is for a construction operation. Revenue confirmed relevant contracts tax should not apply to the whole consideration and noted the position has been clarified in a new relevant contracts tax TDM.

Practitioners noted the Guidance Note for Boards of Management Relevant Contracts Tax/Value Added Tax clearly states that where any part of a contract is for relevant operations then the contract as a whole is a relevant contract and all payments under that contract are liable for RCT. Revenue confirmed that where returns have been filed on this basis it does not envisage that it would be necessary to amend such returns.

Practitioners also noted that Revenue's Guidance Note for Boards of Management Relevant Contracts Tax/Value Added Tax is no longer available on the Revenue website and further noted such guidance was a useful document for many schools and other taxpayers as it contained useful examples and Q&A which have not been reflected in the updated TDM. Revenue confirmed such guidance has been archived but will consider any further feedback from practitioners.

Item 7: Update on treatment of employed GPs with GMS income

Following recent media attention concerning the tax treatment of GMS payments received by an employed GP which are mandated to the GP practice, practitioners queried whether there has been any change to Revenue's position as outlined in TDM Part 04-01-15. Revenue confirmed there has been no change to the position outlined in the TDM.

Item 8: Clarification regarding the earliest date on which the 3rd instalment of the R&D Tax Credit becomes payable

In advance of the meeting, practitioners requested clarification on the earliest date on which the third instalment of the R&D Tax Credit becomes payable in example 20 of Revenue's TDM Part 29-02-03. Revenue agreed clarification is required and this will be done in the next update to the TDM.

Item 9: Court of Appeal case re determination on date of disposal of an asset for CGT purposes

In light of the Court of Appeal judgement in Sean Flaherty v Revenue [2025] IECA 67, a case concerning the determination of the date of disposal of an asset for CGT purposes, practitioners queried whether Revenue intend to update TDM Part 19-01-15 Time of disposal and acquisition (in particular circumstances when Revenue consider a contract to be conditional for the purposes of section 542 TCA). Revenue noted the taxpayer has sought leave to appeal to the Supreme Court and any update to the TDM before will be informed by the outcome of that process.

Item 10: Tax and Duty Manuals

- a. Draft Tax and Duty Manual 26-00-02 – 'Taxation of Life Assurance Companies - Old Basis Business and New Basis Business:** Revenue confirmed work on this TDM is ongoing and aim to circulate a draft of the new TDM to members of this committee in advance of the next meeting on 11 September 2025. Item to remain on the agenda.

- b. Tax and Duty Manual Part 04-06-13 Tax Treatment of Stocklending / Sale and Repurchase (repo) Transactions:** As part of the ongoing review of stock lending and repo transactions (in addition to the ongoing interest review), draft guidance on:
- a number of existing securities anti-avoidance provisions, and
 - provisions pertaining to portfolio dividends,
- was circulated by Revenue to TALC Direct and Capital Taxes Sub-Committee on 20 June. Given the proximity of the circulation date to the date of this meeting (26 June), discussion of these TDMs was not included as an agenda item; with a request made for comments on the draft TDMs on or before 18 July instead.
- c. TDM Part 02-02-07 ‘Deposit Interest – Whether a Trading Receipt’:** Revenue confirmed they are continuing to review feedback received from practitioners and the Central Bank. Item to remain on the agenda.
- d. New TDM on taxation of partnerships:** Revenue outlined they are reviewing feedback provided by practitioners in advance of this meeting. Item to remain on the agenda.
- e. Mandatory Disclosure Guidance Notes:** Revenue noted their work on this TDM is ongoing. Item to remain on the agenda.

Item 11: Update from Residential Zoned Land Tax (RZLT) Subgroup

Chairperson of the RZLT Subgroup noted a very productive meeting of the RZLT subgroup was held on 20 May 2025. A copy of the minutes of the May meeting were circulated to members of this Sub-Committee in advance of this meeting.

The Chairperson provided a brief summary of the May meeting, noting most of the items discussed related to issues of an operational nature.

Item 12: Update from the Research and Development Subgroup

Chairperson of the Research and Development Subgroup confirmed there were no meetings of the subgroup since 1 May.

Item 13: AOB:

Introduction of online system for applying for PAYE exclusion orders: Revenue highlighted the launch of the new PAYE Exclusion Order application portal, which is an online application system for making PAYE Exclusion Orders and noted that a step by step guide is to be made available in due course. Revenue confirmed they continue to accept paper PAYE Exclusion Order applications.

Attendees at this meeting:

Revenue	ITI	CCAB-I	Law Society
Tom James Lucy Whelan Anita Cassidy Aisling Dooley Rory Noone Aine Gorman Mary Treacy Clare Lucey Lynda O'Keefe Michelle Mangan Caroline Kennedy Alan Carey John Quigley John McGorry Aimee O'Regan David Macauley Karen Drake Sinead McNamara	Clare McGuinness Stephen Ruane Lorraine Sheegar Tom Maguire David Fennell Cillein Barry	Gearóid O'Sullivan Enda Faughnan Ken Garvey Noreen Lehane Mairead Hennessy	Maura Dineen (Chair)

Apologies: None.