

## **Minutes of TALC Direct and Capital Taxes Sub-Committee Meeting**

**Thursday, 11 September 2025 via MS Teams**

**2.30pm to 3.30pm**

### **Minutes**

#### **Item 1: Minutes from meetings of 1 May 2025 and 26 June 2025.**

The minutes of the meeting of 1 May 2025 and 26 June 2025 were agreed as final.

#### **Item 2: Matters arising from meeting of 26 June 2025:**

- a. Application of RCT to a contract where a part of the contract is for a construction operation:** At the June meeting, Revenue outlined that the updated TDM Part 18-02-01 (published in June 2025) clarified their position that, where a contract provides for both construction services and the supply of land ('mixed contracts'), only the construction services provided in the contract are subject to RCT.

In advance of the June meeting, practitioners made a submission regarding the application of RCT to mixed contracts highlighting that the application of RCT to mixed contracts as set out in the updated TDM Part 18-02-01 amounts to a departure from Revenue practice and guidance (for instance the now archived Guidance Note for Boards of Management Relevant Contracts Tax/Value Added Tax made reference to the operation of RCT on a full contract basis). Further, as part of the written submission, practitioners outlined recent examples whereby Revenue sought to apply RCT on a full contract basis and sought the following:

- (i) In scenarios where the updated TDM Part 18-02-01 amounted to a change in approach by Revenue, clarification that any such change in approach is only applied by Revenue from a prospective date.
- (ii) Engagement by Revenue with contractors and subcontractors potentially impacted by the updated TDM Part 18-02-01.
- (iii) Adoption of a unified and consistent approach by Revenue to the application of RCT to mixed contracts going forward.
- (iv) Additional guidance regarding practical issues associated with apportioning consideration where one single contract price is in place.

Lastly, as part of the written submission, practitioners requested certain elements of the Guidance Note for Boards of Management Relevant Contracts Tax/Value Added Tax continue to be made available taxpayers.

During the meeting, Revenue noted the aim of the updated TDM Part 18-02-01 was to remove any lack of clarity. Revenue agreed to consider the issues set out in the submission by practitioners and provide a written response in due course. Item to remain on the agenda.

- b. Key Employee Engagement Programme:** At the June meeting, in respect of the definition of a 'qualifying share option' for the purposes of section 128F TCA, Revenue had confirmed that the limits of €100,000 in any one year of assessment or €300,000 in all years of assessment must be satisfied with respect to the market value at the date of granting of an option. In advance of the June meeting, by way of a written submission, practitioners had recommended amendments to examples 2, 3 and 4 of TDM Share Scheme Manual – Chapter 9 to reflect confirmations provided by Revenue at the June meeting and clarify application of the definition of 'qualifying share option'. At the meeting, Revenue confirmed they are considering the suggested amendments to the examples and plan to update the TDM as required in due course. Item to remain on the agenda.

### **Item 3: Items that are to remain on the Agenda**

- a. CT1 form - Transfer Pricing documentation requirements for an Irish Branch:** At prior meetings, in respect of the question on the Form CT1 regarding whether the taxpayer is required to prepare a Local File or Master File, practitioners had requested clarification on how a non-resident company carrying on a trade in Ireland through a branch or agency should complete such question. In advance of the meeting, Revenue circulated to committee members proposed draft amendments to TDM Part 35A-01-01 and TDM Part 02-02-4a. The proposed amendments to the TDMs outline that a non-resident company carrying on a trade in Ireland through a branch or agency may, depending on the specific facts and circumstances, be subject to the transfer pricing rules contained within Part 35A in respect of the computation of profits or gains or losses arising from an arrangement entered into with an associated person. This will occur where the non-resident company is party to an arrangement with an associated person which is made in the course of, or with respect to, the activities of the branch or agency. Where this occurs, as a “relevant person” in relation to the arrangement, the non-resident company is obliged to maintain and have available certain transfer pricing documentation. At the meeting, practitioners noted they are still considering the proposed amendments to the TDMs and agreed to provide feedback to Revenue by the end of the month. Item to remain on the agenda.
- b. 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:** At prior meetings, practitioners had requested clarification of the application of guidance on the ARF Refund Form in circumstances where the income earned in a previous year is paid out in the current year. At the meeting, Revenue noted a new version of the ARF Refund Form was recently published on its website with the following wording:
- Case law has established that, where a payment is made from a mixed fund, income and gains of the current year are treated as being paid out first; and income and gains from a previous year which have not yet been paid out retain their character as income or gains respectively, and should be treated as being paid out after current year income and gains. Any amount paid in excess of current year income and gains and prior year income and gains*

*is treated as a return of the original amount invested in the ARF, vested PRSA or vested PEPP.*

Practitioners to consider wording of the updated ARF Refund Form. Item to remain on the agenda.

- c. Leasing Guidance:** In advance of this meeting (and following discussions at the June meeting concerning the interaction of section 80A and the interest limitation rules), practitioners submitted a request to clarify, for amounts booked in respect of section 80A leases, the element which should constitute interest equivalent under section 835AY TCA. Section 835AY TCA provides that interest equivalent includes "the finance income element and finance cost element of nonfinance lease payments of a company that carries on a trade of leasing that is treated for the purposes of the Tax Acts as a separate trade distinct from all other activities carried on by such company under section 403(2)." At the meeting, Revenue highlighted that, where a company makes a claim under section 80A TCA, that section 80A(d)(c) TCA provides that the income from relevant short-term leases will be treated for the purposes of section 403 TCA as if it were not income from a trade of leasing. On this basis, as a matter of policy, Revenue outlined their view that amounts booked in respect of section 80A leases should not amount to interest equivalent for the purposes of section 835AY TCA.

In advance of the meeting Revenue circulated a note relating to feedback received from practitioners on draft TDM 09-02-01 'Leasing of Machinery and Plant – Scenarios where Section 299(1) Applies.' The note aims to clarify the rationale behind circulating the appendix to the TDM to the TALC Direct & Capital Taxes Sub-Committee for review and comment. It also includes a general feedback request for all Sub-Committee representatives. Revenue requested practitioners provide additional feedback in writing by 5 November.

- d. Interaction of Knowledge Development Box and Pillar Two:** The current legislation does not allow for companies to discontinue claiming the KDB incentive. In advance of the meeting, practitioners made a written submission outlining that some companies currently claiming the KDB incentive may wish to discontinue claiming the incentive for accounting periods on or after 1 January 2024 (in light of the adoption of Pillar Two and amendments to the KDB in recent years). Practitioners requested for either (i) legislative amendment to allow companies discontinue making a claim under the KDB or (ii) the KDB guidance is updated to allow companies make a 'nil' KDB claim on their corporation tax return (Form CT1). Furthermore, at the meeting, practitioners outlined the importance of this issue being dealt with promptly. Revenue confirmed they are considering the written submission and requested this agenda item is also added to the agenda for the next meeting of the Research and Development Subgroup. Item to remain on the agenda.
- e. Filing requirements for investment limited Partnerships:** At previous meetings, following a submission by practitioners, Revenue had confirmed that where sections on the Form 1 are not relevant to investment limited partnerships, such sections may be left blank and guidance will be updated accordingly. At the meeting, Revenue confirmed plans to update to the relevant TDMs as soon as possible. Item to remain on the agenda.

- f. Partnerships and association for the purposes of certain ATAD measures:** In advance of the meeting, Revenue had circulated proposed amendments to TDM Part 35C-00-01 (Guidance on the anti-hybrid rules) relating to the application of the associated enterprises test to Irish partnerships. At the meeting, practitioners requested further time to review the proposed amendments to the TDM. Revenue confirmed that similar amendments are to be made to TDM Part 35D-01-01 (Guidance on the Interest Limitation Rule). Item to remain on the agenda.
- g. UK Limited Liability Partnership and meaning of partnership for purposes of the TCA:** In advance of the June meeting, practitioners had provided a submission on the classification of a UK Limited Liability Partnership to Revenue. Revenue confirmed the submission is still under review. Item to remain on the agenda.
- h. Income tax relief on medical insurance premiums where a blended rate:** At previous meetings, practitioners made a written submission 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 this issue is ongoing. This item to remain on the agenda.

#### **Capital Taxes:**

##### **Item 4: CAT Business Relief on transfers of shares and land**

At the meeting practitioners highlighted in scenarios where shares in a qualifying trading company and land held separately but used for that trade are transferred at the same time by the disponent, that CAT Business Relief is available to the passing of the shares and land. Practitioners sought clarification as to whether CAT Business Relief would be available in a similar scenario with the exception that the shares passing are shares in a qualifying holding company as opposed to the trading company itself (ie whether relief would be applicable to both the shares in the qualifying holding company and the land). Revenue noted that section 93 CATCA 2003 makes provision for CAT Business Relief to apply in circumstances where shares in a qualifying trading company, and land held separately but used for that trade, are transferred at the same time by the disponent. Revenue's view is that this treatment can apply only where the land concerned is used by the company in respect of which the relief on the shares is sought. Use of the land by a holding company within the wider group structure would not satisfy the condition.

#### **Direct Tax Issues:**

**Item 5: New TDM on PAYE Settlement Agreements:** At the meeting, in respect of TDM Part 42-04-73 PAYE Settlement Agreements, practitioners highlighted that on page six of the TDM it is noted that the specified rate is 14.95% from 1 October 2024. Practitioners requested that the TDM be updated to include the specified rate which will apply in respect of PSAs made for the year 2025. Revenue confirmed they will update the TDM accordingly.

**Item 6: Section 487A - Tax credit for expenditure on unscripted production:** Practitioners noted that State Aid approval was received for this measure in June and queried the timeframe for

commencement of section 487A TCA and publication of regulations under section 487A(19) TCA. Revenue confirmed the section will be introduced by way of ministerial order (ie timeline currently unknown) and work on the regulations is ongoing.

**Item 7: TDM on Short life assets:** Revenue circulated to committee members proposed amendments to TDM Part 04-05-05 in May. At the meeting, practitioners raised a query on the application of the definition of 'predictable useful life' contained in section 80A TCA 1997 contained in proposed amendments to the TDM. Revenue confirmed there was no change in practice or approach to their interpretation of 'predictable useful life' and will review the wording of the draft TDM accordingly.

**Item 8: Dividend withholding tax deductions and S110 companies:** A number of years ago, committee members had discussed the availability of a deduction for foreign dividend withholding tax incurred by section 110 companies. At the meeting, following some recent discussions with the Department of Finance, practitioners queried whether the issue is currently being considered again by Revenue. Revenue confirmed at the meeting that the issue is not actively being considered.

**Item 9: Director's voted salaries:** At the meeting, practitioners highlighted the administrative burden and costs where a director's salary is voted and paid within six months of the year end. In such scenario, as PAYE must be operated on a real time basis and directors must report their income tax on an earned basis, there may be a mismatch between the taxpayer's Employment Detail Summary and income tax return. Practitioners outlined such mismatches are leading to practical difficulties for taxpayers (eg mortgage or grant approvals). Revenue noted the legislative position is clear and a legislative amendment would be necessary to eliminate such issue.

**Item 10: Query of Travel and Subsistence expenses:** At the meeting, practitioners sought clarification on the application of overnight allowances and the 56-night rule as set out TDM Part 05-01-06 to employees who are required to travel to multiple employer locations across Ireland on a regular basis. Revenue confirmed that each employer location should be considered separately for the purpose of the 56-night rule. Revenue noted that paragraph 4.2.2 of the TDM confirms that certain absences from a temporary location would not be regarded as breaking the continuity of stay for the purpose of reducing the subsistence allowance, for example, absences of not more than two nights due to a return on official business to the employee's normal place of work.

## **Revenue Guidance**

**Item 11: 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. Item to remain on the agenda.

**Item 12: Tax and Duty Manual Part 04-06-13 Tax Treatment of Stocklending / Sale and Repurchase (repo) Transactions:** In advance of the June meeting, Revenue had circulated to committee members draft guidance on (i) a number of existing securities anti-avoidance provisions, and (ii) provisions pertaining to portfolio dividends. Practitioners submitted written feedback in respect of a new draft TDM Part 28-00-01 'Anti-Avoidance Rules for Transactions Involving Securities' and Section 6 of updated TDM 02-02-03a 'Tax Treatment of Certain Dividends'. At the meeting, Revenue confirmed their review of such feedback is ongoing and noted that the proposed new TDM Part 33-

02-08 (which addresses certain issues on the exercise of scrip dividend options) is subject to further internal review. Item to remain on the agenda.

**Item 13: TDM Part 02-02-07 'Deposit Interest – Whether a Trading Receipt':** Revenue confirmed work is continuing, with a call with the Central Bank to discuss same scheduled next week. Item to remain on the agenda.

**Item 14: New TDM on taxation of partnerships:** Revenue completed their review of feedback received from practitioners. The TDM Part 43-00-03 is now available on the Revenue website.

**Item 15: Mandatory Disclosure Guidance Notes:** Revenue noted their work on this TDM is ongoing. Item to remain on the agenda.

**Item 16: Anti-Hybrid TDM Part 35C-00-01:** In advance of the meeting, Revenue had circulated proposed amendments to TDM Part 35C-00-01 (Guidance on the anti-hybrid rules) relating to the application to Irish partnerships of (i) the associated enterprises test to Irish partnerships (see item 3(f) above) and (ii) definition of 'entity' under the anti-hybrid rules. At the meeting, Revenue agreed to extend the deadline for feedback from practitioners on the proposed amendments to the TDM. Item to remain on the agenda.

#### **Item 17: Update from Residential Zoned Land Tax (RZLT) Subgroup**

Chairperson of the RZLT Subgroup outlined that very productive meetings of the RZLT subgroup were held on 23 June 2025 and 15 July 2025. A copy of the approved minutes of the June and July meeting were circulated to members of this Sub-Committee in advance of this meeting.

The Chairperson provided a brief summary of the June and July meetings, noting most of the items discussed related to issues of an operational nature and a policy submission made to Department of Housing, Local Government and Heritage and the Department of Finance.

#### **Item 18: Update from the Research and Development Subgroup**

Chairperson of the Research and Development Subgroup confirmed there were no meetings of the subgroup since 26 June.

#### **Item 19: AOB:**

N/A

**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 Peter Vale Laura McKeown	Maura Dineen (Chair) Aidan Fahy

**Apologies:** [ ]