

Minutes of Main TALC meeting

28 February 2019

Chartered Accountants House, 47/49 Pearse Street, Dublin 2 at 2.30pm

Item 1: Minutes of Meeting held on 12 December 2018

The minutes of the Main TALC meeting held on 12 December 2018 were agreed. The committee thanked Declan Rigney for his contribution to Main TALC over the years.

Item 2: Matters Arising

Multilateral Instrument (MLI) – monitoring post-ratification

Ireland deposited its instrument of ratification for the MLI in January. The MLI will take effect from the first day of the month following three calendar months from when Ireland deposited its ratification instrument i.e. 1 May 2019.

In response to a Revenue request for feedback issued through Direct TALC, practitioners are taking soundings on the possible volume of cases of dual resident companies which will require competent authority agreement on their residence position once Ireland's choice under the corporate tie-breaker test residence article in the MLI takes effect. It was acknowledged that Ireland's tax treaty with the UK is one which might prompt the highest volume of cases. Practitioners asked generally about Revenue's plans to provide information on updates to double tax treaties as they arise and more specifically on Revenue's approach to competent authority agreements for existing and new cases of dual resident companies.

Cooperative Compliance Framework (CCF)

It was agreed at the last meeting that it would be useful to plan to discuss perspectives on the operation of CCF sometime in 2019 – no definite plans were made at the meeting. This remains a potential agenda item to carry forward to a later stage in 2019.

Tax Clearance letters/Letters of "no audit"

Revenue has reconvened the sub group to discuss Letters of No Audit, the next meeting will take place on 5 March 2019.

Item 3: Debt Management Service (Revenue presentation)

Pat O'Shea, Collector-General's Division provided an overview of the Debt Management Service.

A new Debt Management system will be launched by the Collector General on 24 March. The new system aims to increase case coverage, introduce a new more flexible online phase payment application process and operate a more systematic application of interest for late payment of tax.

The new online phased payment arrangement allows taxpayers to apply online, upload supporting documentation, consider the impact of different payment terms, enable fast turnaround time, adjust payment dates online; change a payment date, defer a payment date, apply for a payment break (of up to 6 months), or pay early.

Taxpayers wishing to apply for a phased payment arrangement must be registered for ROS and hold a current digital certificate. Taxpayers who have a phased payment arrangement at present have been advised in a Revenue letter to register for ROS in order to manage and view the arrangement from 25 March onwards. Agents acting on behalf of a client in relation to a phased payment arrangement must complete an authorisation form to access the online system. The agent will be prompted to upload the authorisation via the online phased payment link in ROS and thereafter will receive notifications in relation to the arrangement. This authorisation process will apply to both existing and new phased payment arrangements from 25 March 2019.

Comments from Practitioners

- The importance of continued good quality direct access to case workers in the Collector General's office as part of the process of negotiating the framework for phased payment arrangement for tax arrears was highlighted.
- It was noted that online correspondence can be a poor substitute for direct communication with case workers particularly when negotiating the detail of phased payment arrangements - Revenue gave assurances that a case worker will be available for telephone contact should the taxpayer or agent feel it necessary.
- Noted that Inbox messages should give case workers name and telephone number to facilitate communication with an individual familiar with a taxpayer's case.

4. My Enquiries

Practitioners asked that improvements to the MyEnquiries service be a priority on Revenue's agenda in 2019 noting that improving the efficiency of MyEnquiries is in the interests of tax practitioners, taxpayers and Revenue alike. Practitioners asked Revenue to consider the following suggestions as part of a collaborative effort to improve the service:

- The introduction of functions on ROS for tax agents to direct the offset of taxes from one tax head to another, direct a change of accounting year end and other basic instructions which would reduce or remove the need to use MyEnquiries for routine amendments and updates to the taxpayer's details.
- Agreement on clear and upfront questions in the first response from Revenue to a MyEnquiries query. Failure to do so can result in a lengthy exchange of queries and answers.
- The reduction of the Customer Service Standard of 20 working days (25 working days during peak periods) as a timeframe for a response to a MyEnquiries query to 10 working days.
- As a result of the large volume of traffic on MyEnquiries during busy periods, a temporary separate channel for Agents during these busy periods would be welcome.
- The introduction of a tracking system for MyEnquiries messages - the system that is used by passport office was given as an example that could be used for MyEnquiries.

Planned improvements to the MyEnquiries service were noted by the Chairman of the Revenue Commissioners, Niall Cody, at a recent Oireachtas hearing and practitioners expressed the view that the Main TALC forum is the most appropriate forum for the representative bodies to provide feedback and collaborate with Revenue to bring about improvements to this important service in 2019.

Revenue committed to looking at improvements to MyEnquiries and takes the suggestions on board. Revenue has set up a meeting with the representative bodies to discuss MyEnquiries. This meeting is scheduled to take place on 15 March 2019.

5. Update on two tier VAT system

Revenue provided an update on the two-tier VAT system; this updated is included as an Appendix to the minutes.

Practitioners raised concerns as to whether the practical impact of the very narrow scope of application of the domestic VAT registration would be fully understood by those who apply for the domestic fast track system. The domestic registration will not provide the registrant with an Irish VAT number that will be publicly available with an IE designation which could affect the ability of the taxpayer, for example, to make once off purchases of business equipment and other supplies from outside Ireland. Originally the two tier VAT system was explained as a fast track VAT registration process which might be available to facilitate the need to register persons such as non-residents, for example, making once off and wholly domestic supplies of property. The narrow scope of application of the fast track VAT registration was not anticipated and can be anticipated to present practical issues for registrants whose supplies of VATable goods and services may be wholly domestic but who may need, from time to time, to purchase business supplies from outside Ireland.

6. Brexit General Scheme of Miscellaneous Provisions Bill 2019

It was noted that the tax measures covered by the Bill are limited. Due to the extraordinary nature of Brexit in a no deal context, a distinction was drawn between legislation that has an annual impact and a transactional impact. The pieces of legislation that impact immediate transactions have been provided for in the Bill. It was noted that measures that affect tax return filings can be reflected in the Finance Bill in October 2019 but would not be required where Brexit occurs under the framework of a withdrawal agreement.

The following queries were raised in respect of some of the VAT measures introduced in the Bill:

1. The postponed method of accounting for VAT is open to all non-EU importers, although of particular immediate relevance to the UK in a no deal Brexit. Practitioners sought confirmation that there is no application process required to avail of the relief in the initial phase of its adoption.
2. Could Revenue shed any light on the types of operating framework and conditions which might be introduced for application of the relief once scheme is bedded down?
3. There are changes proposed to section 56 VATCA 2010 – the zero rating scheme. One of the changes requires traders to show that their exports or intra community supplies exceeds 75% of turnover for the previous 12 months. This requirement would appear to exclude start-ups and essentially makes traders wait until the threshold is reached rather than make an estimate of their pattern of supplies. Practitioners asked why the section has been amended.

It was agreed that these queries would be discussed at TALC Indirect.

7. PAYE Settlement agreements

Practitioners referred to PAYE settlement agreements (section 985B TCA 1997) that allows employers to make a settlement of the tax on non-cash benefits provided to employees provided the benefits are minor and irregular. Feedback was provided that suggests some Revenue districts are contending that this facility is no longer available as a result of PAYE modernisation.

Revenue confirmed that the facility under section 985B TCA 1997 is still available provided, of course, the conditions for application of the section are satisfied. As these provisions apply separately to the operation of PAYE on the payroll, they are unaffected by PAYE Modernisation.

8. Operation of the “multi-year” days test in the TDM on PAYE and non-Irish employments

When discussing the TDM Employee payroll tax deductions in relation to non-Irish employments exercised in the State in 2018, TALC agreed that the rolling 3 year provision (the 60-day multi-year presence test) would not be relevant until tax year 2020. Practitioners has sought to reach agreement that employers should not be required to apply for PAYE clearance in each instance where an employee might be in Ireland for limited days in 3 consecutive tax years. It was suggested that it would be useful to initiate discussions on this topic in time to reach agreement on how this might operate in practice and to be in a position to release updated guidance for employers well in advance off 1 January 2020. It was suggested that it would be unduly onerous to require a PAYE clearance procedure for individuals coming into the State for a day or two each year.

In order to progress this Revenue suggested that Practitioners submit practical examples where the administrative burden of seeking clearance would appear to be unduly onerous. To bring this forward, Revenue also noted that a sub-group of Main TALC may be formed.

AOB

Disclosures of offshore income/assets.

Practitioners understand that the majority of disclosures have been examined and the cases closed at this stage. However, a number of members have queried why some cases remain open and when they may be dealt with, given the time that has passed since the disclosures were submitted by 1 May 2016.

Revenue confirmed that they are committed to trying to expedite the finalisation of the open cases. They acknowledge taxpayers and agents frustrations with these delays but some of the remaining cases are very complex and may yet take some time to bring to a conclusion.

Industry specific stamp duty rulings

A query was raised on the status of review by Revenue of various administrative practices which it is understood are to be included in updated Revenue guidance. These apply to a range of corporation tax and stamp duty matters. Revenue agreed to look into the status of this.

Attendees

CCABI

Sharon Burke (Chair)
Brid Heffernan (Secretary)
Norah Collender
Enda Faughnan
Brian Purcell

ITI

Sandra Clarke
David Fennell
Anne Gunnell
Mary Healy
Mark Barrett, ITI

Law Society

Caroline Devin
James Somerville, Law Society

Revenue

Eugene Creighton
Philip Brennan
Joe Howley
Pat O'Shea
Sharonne O'Reilly
Nuala Larkin

Apologies

Pat Bradley, Law Society

Tom Maguire, ITI, CCABI
Brian Boyle, Revenue

Two-Tier VAT Registration

Separating Domestic and EU VAT Registration

INTRODUCTION

A Two-Tier VAT registration process was initially proposed and approved in principle within Revenue in mid-2016. The core principle behind the project is that applicants for new VAT registrations, including applicants who were previously registered for VAT, would be required to specify whether they wish to register for domestic VAT purposes only or for intra-EU VAT registration which would facilitate intracommunity acquisitions from, and intracommunity supplies to, all EU Member States including Ireland. During Registration, taxpayers seeking an intra-EU VAT number will be required to supply additional information, such as due diligence measures undertaken to verify customers and suppliers, transport arrangements and nature of supplies.

Where traders become registered for EU purposes, their EU suppliers or customers can verify on the Europa web site (www.europa.eu) that the VAT number quoted is a valid number. The traders can then acquire 0% supplies from other Member States or make 0% supplies to VAT registered traders in other Member States.

The proposal is not intended to deny any legitimate trader the right to conduct business within the EU. The new system will mitigate risks associated with missing traders involved in fraudulent cross-border transactions, and will also drive improved customer service in the form of a speedier registration process for domestic applicants.

Traders who initially register for domestic purposes only can subsequently apply to have their registration extended to cover use in the EU.

TIMING

Revenue is currently working on development of internal systems to facilitate the new Two-Tier VAT registration process. Target timing for implementation at this point is June 2019. However, there is some risk that the required systems development will not be completed by then, in which case the implementation date would be September 2019.

IMPLICATIONS

Systems development activity is ongoing at present. While we have a good understanding of how this process will work after 1 July 2019, we are identifying and addressing issues and potential complications on an ongoing basis. Some of the key aspects and implications of the new process are as follows:

1. It is anticipated that the vast majority of domestic-only applications will be approved without delay. In certain instances, an appraisal will be carried out to determine whether further enquiries are necessary.

2. A degree of pre-registration checking, similar to checking currently carried out, will be performed on all cases seeking intra-EU registration.
3. All existing VAT registered customers will be deemed to be intra-EU VAT registered; these customers do not need to contact Revenue regarding their registration. Consideration will be given at a later date to reviewing these VAT registrations to determine whether certain customers should have their registration changed to domestic-only, for example cases with no VIES activity for ~ 2 years.
4. The nature and extent of post-registration compliance checking for domestic-only and intra-EU customers is being considered at present. The compliance element of the project requires appropriate systems enhancements and business processes to ensure the appropriate pre-registration screening and post registration checking is in place.
5. Where an intra-EU application is approved, the registration will also cover domestic activity. Where an intra-EU application is refused and the applicant wants to pursue a domestic-only registration, he/she will need to submit a new application for a domestic registration.
6. Further details relating to the new system will be published on www.revenue.ie in advance of implementation.