

Minutes

TALC Audit Sub-Committee Meeting

Tuesday 16 February 2017 – 9.30am

Revenue Commissioners, Planning Division, Bishops Square, Dublin 2.

Attendees:

Practitioners: <i>Tom Martyn</i>	<i>Law Society (Chairman TALC Audit Sub-committee)</i>
<i>Gerry Higgins</i>	<i>CCABI</i>
<i>Norah Collender</i>	<i>CCABI</i>
<i>Paul Dillon</i>	<i>CCABI</i>

Revenue:

Declan Rigney
Paddy Faughnan
Stephen Flynn
Mary Deeley
Pdraigh Donnelly
Katie Ryan
Enda Murphy (Secretary)

Apologies: *Irish Tax Institute Members*

Single item agenda – Meeting scheduled to discuss changes to the *Code of Practice for Revenue Audit and other Compliance Interventions*

Revenue thanked practitioners for attending the meeting which was scheduled to discuss proposed changes to the *Code of Practice for Revenue Audit and other Compliance Interventions*. The changes had been circulated in advance of the meeting.

Revenue apologised for the short timeframe afforded for consultation, but stated they were anxious to circulate the revised Code as soon as possible having regard to legislation introduced in the Finance Act 2016.

They pointed out that some of the changes proposed were minor, but stated that other clarifications surrounding disclosure opportunities for liabilities outside the scope of a notified audit, and opportunities for obtaining additional days to prepare a qualifying disclosure, had also been included.

Practitioners expressed disappointment at the short timeframe of 3 working days to consider the proposed changes some of which, in their view, altered the fundamental approach to interventions and required consultation with their members. They asked Revenue to provide the context for the changes and stated they did not have a mandate to agree them, pointing out they had not been discussed through the TALC process.

Practitioners sought clarification, in particular, in relation to the changes surrounding disclosure opportunities for related liabilities, changes to the additional period of 60 days to prepare a qualifying disclosure and the revised text included at paragraph 1.9 in relation to the use of eTools in the course of interventions.

Practitioners stated members did not understand the change to paragraph 3.7.1, in connection with related liabilities, and asked if the background could be provided.

In relation to the changes proposed surrounding the granting of an additional 60 days to prepare a qualifying disclosure, Practitioners stated that their members had expressed serious concerns that this entitlement was now being withdrawn. They pointed to the wording of the first sentence of this paragraph and stated it implied that an additional 60 days to prepare a qualifying disclosure would only be granted at Revenue's discretion and not as an entitlement under the Code, as heretofore. Concerns surrounding lack of cooperation and referral under S851A TCA 1997 were also expressed in relation to this change. Practitioners pointed out that in cases of genuine complexity this additional 60 days was necessary.

Referring to the changes proposed in relation to the use of eTools, Practitioners asked if Revenue intended to use eTools in the course of all interventions, including self-reviews. They asked that Revenue be conscious of the significant compliance costs, including engagement of IT personnel etc., associated with data requests, pointing out that the reasons for requesting the data may well be explained by discussing any relevant issues with the taxpayer's adviser.

In response to concerns raised by practitioners, Revenue stated that the proposed change to paragraph 3.7.1 was to set out clearly that a taxpayer would be entitled to the benefits of unprompted qualifying disclosure for any year or period outside the scope of a notified audit, in the absence of *Deliberate Behaviour*.

In relation to the proposed amendment regarding the granting of an additional 60 days to prepare a qualifying disclosure, Revenue stated they had in no way intended to deny any entitlements already provided for in the Code, and this would remain the position. They acknowledged that additional time may be required to prepare disclosures in some complex cases, and welcomed disclosures in such cases. They did state, however, that there was evidence that this privilege was being abused and was being used to delay the audit process. They stated that they wished to confirm, in the Code, that an additional 60 days to prepare a disclosure would only be given once in relation to the same issue or period. They pointed out that whilst issues surrounding requests for an additional 60 days to prepare a disclosure had not been specifically discussed at TALC Audit Sub-Committee meetings, issues giving rise to delays had been discussed and this was one of them.

Revenue did state, however, that in light of the views expressed by practitioners surrounding the wording including in the proposed change to this paragraph, they would re-visit same and revert.

Revenue confirmed that eTools are currently being used in the desk-based environment and wanted this reflected in the Code. They pointed out that it would not make sense to use eTools only for Revenue audits.

In response to clarification sought in relation to the 15% penalty mentioned at paragraph 3.10, Revenue confirmed that where a penalty of 15% applied to an offshore matter post 1 May 2017, the benefits of qualifying disclosure would be available to a taxpayer in relation to disclosure of onshore matters. Practitioners stated it would be helpful if this were clarified in the FAQs available through the Revenue website.

Practitioners sought clarification relating to a technical matter involving a UK Branch of an Irish company, in the context of FIAD. Revenue agreed to consider the matter, but stated it should possibly be addressed in the context of the FAQs.

Practitioners also suggested that the proposed wording in paragraph 5.10 relating to Inability to Pay Claims in the case of Stamp Duty be re-considered and they put forward a suggested amendment for consideration by Revenue. Revenue also agreed to reconsider the wording in this paragraph.

Revenue closed the meeting by stating that the changes had been made to address a number of issues which had been highlighted to them and to reflect changes introduced in the Finance Act 2016. They apologised for the tight timeframe for a consultation process, but pointed out this was driven by the legislation introduced in the Finance Act 2016, and the need to issue a revised Code of Practice as early as possible. They stated that practitioners still had time to provide feedback on the suggested changes. Revenue also pointed out that they envisaged that, in the future, the Code would be updated 3/4 times a year, pointing out that the timeframe for consultation would always be tight. They also stated that practitioners had opportunities to influence the Code and stated it would be a standing item for discussion on the agenda of TALC Audit Sub-Committee meetings. It was also likely that updates to the Code would be more frequent in the future rather than having a major updating of the document on an infrequent basis. In these circumstances, fresh re-prints would not be done but instead the web version of the Code would be updated.

Practitioners stressed the importance of the consultation process and stated it had been useful to have the discussion and clarify the various issues.

Revenue stated they hoped to publish the revised Code by the middle of the week following the meeting.

Action Points	Responsible	
Paragraph 3.13 – Period to prepare a Qualifying Disclosure – Revenue to re-consider wording and revert.	Revenue	As soon as possible.
Paragraph 3.10 – Clarification that offshore matters attracting a 15% penalty post 1/5/2017 will not affect the making of a qualifying disclosure for onshore matters to be included in FIAD FAQs	Revenue	As soon as possible
Is an account associated with a branch of an Irish company located in the UK regarded as an offshore matter? Revenue to clarify in FAQs	Revenue	As soon as possible
Paragraph 5.10 – Revenue to reconsider wording surrounding inability to pay claims in the case of Stamp Duty.	Revenue	As soon as possible

The next meeting of the TALC Audit Sub-Committee is scheduled to take place on **Tuesday 11th April 2017** at 10.00am in Bishops Square.

Submitted for approval by Secretary – 20 March 2017

Approved by **TALC Audit Sub-Committee Members** – 11 April 2017