

Minutes of TALC sub-committee on collection issues

DATE: 18 June 2024

Via Microsoft Teams

Agenda Item 1: Minutes of meeting held on 27 February 2024 and matters arising therefrom.

The participants confirmed that they had no further comments on the draft minutes from the meeting held on 27 February 2024. Accordingly, the minutes were agreed for publication on the Revenue website. Action points arising from these minutes, (see Note 1 of the Agenda) were reviewed.

Revenue confirmed that the TDM on the VAT RTD had been updated.

Revenue confirmed that (i) updated guidance to incorporate the amendments to the Rent Tax Credit, and (ii) requests in relation to updating the TDM in relation to certain Form CG50 issues have been referred to RLS.

Revenue confirmed that the updates to the Non-Resident Landlord Withholding Tax (“**NLWT**”) system discussed at the previous meeting have not yet been completed. Letters to taxpayers have been drafted and Revenue’s website will be updated shortly. ITI queried whether Revenue’s proposed approach will cater for a scenario where the landlord has a chargeable person collection agent in place in respect of the rental income, but the landlord has other Irish source income. Considering NLWT requires deduction of 20% withholding tax at source, some landlords have not adopted the NLWT regime for cash-flow reasons.

Revenue confirmed that where there is an Irish resident collection agent appointed as the chargeable person, they will remain as the chargeable person and no NLWT should be applied. The non-resident landlord should file a separate tax return in respect of their non-rental income. Revenue confirmed that only one standard rate band applies, i.e. where a chargeable person collection agent is submitting an income tax return in respect of the rent of the landlord and the non-resident landlord is submitting a return in their personal capacity to declare other Irish income.

Regarding ePSWT, CCAB-I raised an issue experienced by their members where accounts are prepared on an accruals basis, while ePSWT is administered on a cash receipts basis. This causes a discrepancy between the accounts of the taxpayer and the amount entered into the return. Revenue responded by saying that this is not an issue which they have come across often. CCAB-I noted that this is creating an extra burden for their members. Revenue added that there is a function for the taxpayer to include explanatory notes. Revenue submitted that the ePSWT system significantly reduces the administrative burden and that they are not aware of examples of unwarranted compliance interventions. It was further noted that the Form 11F flags to taxpayers that information from the system should not diverge from the information entered into the ePSWT system. However, Revenue confirmed that they will tone down the wording of the notification to ensure that it is advisory rather than a warning.

The Minutes of the most recent MyEnquiries Subgroup meeting were circulated. Revenue confirmed the development of a “priority email address” in MyEnquiries to allow a firm to choose an email address for Revenue-initiated correspondence. The priority email address selected can be a group address that a number of individuals can access. Practitioners welcomed this development and Revenue agreed to send information on the facility to the bodies, which was subsequently circulated.

Agenda Item 2: Debt Warehousing Scheme

Revenue advised that as of 1 May 2024, the scheme has ended. The scheme ran for four years and a full report on the scheme can be found on Revenue's website. The report shows that 93% of the €3.2 billion debt included in the warehouse at its peak in January 2022 has now either been paid in full or is under a Phased Payment Agreement. Revenue also noted that while some cases extend past five years, others did not require a Phased Payment Agreement.

A final reminder was sent to 11,000 taxpayers in the first week of May 2024 to avail of the 0% interest rate. Approximately 7,000 taxpayers from this cohort, with outstanding liabilities totalling approximately €100 million, have continued not to engage with Revenue. Those taxpayers who ignored this reminder have now lost the benefit of the 0% interest rate and will now be subject to the regular debt collection process at full interest rates of 8/10%. Revenue reiterated the message that where businesses anticipate a difficulty with upcoming payments, they should avail of the options set out on the Revenue website. Revenue also acknowledged the work of tax agents as the engagement with the Scheme to date has been excellent.

Revenue also noted that, in relation to the calculator function, it was introduced at a time when the interest rate was 3% where it is now 0%. Revenue are now looking to develop an easy-to-use calculator for estimating interest cost for varying durations in standard Phased Payment Agreements.

In relation to the allocation of payments where a taxpayer has a Phased Payment Agreement in place for both warehoused debt and non-warehoused debt; in most cases the warehoused debt, at 0%, will now be the oldest debt. CCAB-I raised a concern on behalf of members who have requested whether it is possible for them to request that repayments under the scheme be allocated first against debt which is subject to a higher interest rate. Revenue confirmed that this would not be possible as the Phased Payment Agreement had been already agreed upon and that the system automatically allocates repayments to the oldest outstanding debt. In response to a query from ITI whether, for example, a taxpayer could allocate repayments against outstanding PAYE liabilities, Revenue further highlighted that the order of repayments is set out in legislation. In regard to compliance, Revenue advised that it is an automated process, with the Phased Payment Agreement being cancelled automatically if the conditions of the PPA are not complied with.

At this point, Revenue also highlighted that there has been no significant increase in the level of Small Companies Administrative Rescue Process applications since the closure of the scheme.

Agenda Item 3: Local Property Tax

Revenue highlighted that the 2023 Annual Report shows a compliance rate of 95%, with a total of €600 million being collected so far. Revenue are also running compliance campaigns, with a focus on accuracy of returns. Revenue noted that some owners failed to file a return although they have made a payment.

CCAB-I queried whether the Revenue campaign, which is planned for September, could include notification to tax agents. Revenue outlined that the communication would be done via direct letters but noted that they would raise this with the relevant section.

It was also queried whether Revenue can see from the LPT online system whether a taxpayer has an agent. Revenue confirmed that they can see whether a taxpayer has discharged their LPT liability or not but, as this system is outside of the TAIN system, it is not possible to see if there is an agent appointed.

ACTION POINTS

Revenue will enquire with the relevant section whether the September campaign may also be made to tax agents.

Agenda Item 4: Vacant Homes Tax

Revenue confirmed that a phone campaign has begun in the last number of weeks for customers who have commenced filing a return but have not completed it. Revenue wishes to establish if there is something in particular preventing these taxpayers from completing the return. Revenue will also write to a small sample of taxpayers who own 2-19 properties. A further reminder will also issue in advance of the 7 November due date.

Agenda Item 5: Debt Management Services

Revenue noted that they cannot issue final demands to an agent as final demands may cover a number of taxes for which multiple agents may be appointed. On this point, Revenue are exploring the option of sending out a notification to agents which will contain a list of all of that agent's clients who have recently been issued with a final demand. This way, an agent will know if there are any issues with any of their clients. ITI welcomed this development and described it as a step in the right direction.

ACTION POINTS

Revenue to provide a further update on this development at the next meeting.

Agenda Item 6: ROS

CCAB-I stated that a number of their members have reported issues with their 2022 Return Preparation Facility filings. As well as this, their members are concerned with the use of the 'How To' tutorial videos, as they do not want them to replace direct contact with Revenue caseworkers. Revenue responded by reinforcing the importance of the videos as a lot of the basic ROS functionality is explained to taxpayers in the videos. Revenue agreed that the production of the videos is resource intensive, but Revenue remains of the view that there is strong merit in their production. Revenue added that if any members have any suggestions for topics for additional tutorial videos, these would be welcomed.

ITI noted feedback of issues with the ROS Form 11 tax calculations, shared with Revenue in advance of the meeting, relating to relief for certain deductions, non-application of the additional 3% USC surcharge on income over €100,000; and Deposit Interest being taxed at 40%. Revenue is examining these issues which are being treated as a priority fix and revert as soon as possible.

Agenda Item 7: PAYE

ITI raised feedback of apparent 'mixed messages' coming from Revenue in relation to the process for claiming split year relief. At Direct/Capital Taxes TALC and in correspondence from Revenue Legislation Services (RLS) to ITI, Revenue noted that section 822 TCA 1997 requires notification of a split year treatment claim to be made in the year of the individual's arrival/departure and that a notification cannot be made after the year end e.g. when filing the tax return. However, feedback has been received from members that when they (or clients) submit the split year relief notification in the year of departure/arrival 2024, Revenue caseworkers are noting in response that split year relief for 2024 cannot be claimed until the tax return is filed in 2025. Taxpayers are being directed to the option to submit an unemployment repayment claim review in some cases.

Historically, practitioners have often submitted a split year treatment claim notification when submitting the tax return for the year of the individual's departure/arrival. However, RLS has explicitly stated that this approach is not in accordance with the legislation. Therefore, ITI is keen to avoid any confusion on the process for claiming split year treatment and wants to ensure that required notifications are submitted in time, through the appropriate mechanism and correctly recorded on a taxpayer's record. Clarity on the procedure to submit a claim for split year treatment and how they are handled by operational staff is therefore sought.

Revenue agreed to follow up with the relevant section for further clarity on this matter and revert. The preferred approach to notification is being considered. Some notification of an individual's departure would be expected by Revenue to request split year treatment.

ACTION POINTS

Revenue to revert on the preferred course of action regarding the split year claim process following further consideration.

Agenda Item 8: Death Cases

As set out in the Agenda, CCAB-I members had reported a divergence in the treatment of death cases, with clearance requests for those deceased taxpayers that were subject to self-assessment being straightforward yet those for which the deceased only had a state pension proving to be problematic. It had been reported by CCAB-I members that each PAYE case had been handled differently. In some cases the PPS number of the deceased taxpayer was not linked to any tax head so agent links were required to be posted into Revenue before the process can even commence.

In relation to PAYE, Revenue confirmed that it has a standardised process in place and Standard Operating Procedures for caseworkers. CCAB-I noted that there have been a number of cases where the system did not recognise any links between a PPSN and a particular tax head. Revenue confirmed that it is only a very small percentage of cases that are not on the Revenue system. For example, if the deceased person's only source of income was a pension from the Department of Social Protection, and there is no tax liability, they may not be registered with Revenue. With regard to MyEnquiries, it was noted that there are only three categories for which a Tax Registration Number is not required, namely CAT, Stamp Duty and tax registrations for non-residents. It would be open to practitioners to select one of these categories (noting that this would result in the case being allocated to the wrong section for case-working which would cause some delay in processing.)

ITI referenced feedback, previously shared with Revenue, on administrative issues in dealing with death cases. Some of the feedback would indicate that the correct process from a tax administration perspective for dealing with death cases may not be fully understood nor followed in the manner envisaged by Revenue. For example, in the case of PAYE-only taxpayers, agent access to the eForm 12 and related information on pay/pensions is blocked on a death. This hampers the filing of a PAYE income tax return and in some cases Form 11 returns are being filed when the deceased was not a chargeable person. It would be preferable if the appropriate return could be filed online. Filing a self-assessed tax return for a PAYE-income only taxpayer could generate unnecessary queries. Revenue has added a facility on ROS to register an estate under the trust registration function which could be used to place a personal representative on record in PAYE cases. However, use of this feature and its benefits may not be obvious to filers.

Revenue confirmed that they put a 'block' on the MyAccount feature when they are notified of a taxpayer's death by the Department of Social Protection. This will only be reactivated when a collector is appointed – often an executor of an estate (instructions referenced in paragraph 6 of TDM Part 46-01-01). Revenue explained that it is difficult to build a system which allows a collector to act on behalf of all of a deceased person's tax affairs. There are GDPR concerns which make it difficult to make tax returns of a deceased person available more widely.

ITI noted that feedback had been provided to Revenue on experiences of the clearances processes to distribute funds in death cases and for CGT for non-resident vendors. A request from the bodies to reconvene the LONA subgroup for a meeting to discuss how the clearance processes have bedded down and issues arising is under consideration by Revenue. Discussion at the LONA forum would include consideration of scope to streamline the process and touch on the issues above. [Update, meeting held on 9 July.]

Agenda Item 9: Letters of No Objection

As set out in the Agenda, ITI members are experiencing long delays with the processing of letters of no objection (“LONO”) for company strike off.

Revenue outlined that there has been a large volume of applications in recent months and, as a result, Revenue have allocated additional resources to this area. Revenue have also created a downloadable checklist which can be accessed by practitioners. Revenue outlined how some companies wait until the filing deadline before filing a LONO. Other than the creation of the checklist, which was introduced to make the programme more efficient, the process has not been changed. The checklist aims to make the process more straightforward. Revenue also noted that no clarification is requested from a company applying for a LONO, that it is not likely to be a party to any pending litigation.

ITI queried whether an email address for the director of a company is required, to which Revenue clarified that it is case-specific.

Revenue confirmed that they are aware of the long delays in processing times and are working to improve same. Revenue confirmed that they have already allocated extra resources to improving wait times.

Agenda Item 10: Stamp Duty

Revenue outlined that the TDM in relation to Stamp Duty is under review. Revenue are hoping that this will provide more consistency going forward.

The Law Society noted that members had raised a query in relation to obtaining an e-stamping number for a US trust. Revenue noted that further details of the specific case would be helpful. The Law Society noted that while members are happy to request any required information from clients, it is essential that Revenue’s information requirements in relation to applications for e-stamping numbers should not go beyond what is published in the relevant TDM.

In relation to the recent technical issues raised by the Law Society, the Law Society noted feedback from members that this problem is getting worse. Revenue confirmed that they will investigate these issues further but are not aware that this is a common general issue.

ACTION POINTS

Revenue to circulate draft updated TDM in relation to applications for e-stamping numbers in due course.

Agenda Item 11: AOB

ITI confirmed that, as set out in the updated TDM, agents can now access the updated Customs and Excise TAN Reports which will be helpful. It was queried as to whether the Reports would be accessible for periods prior to 16 June 2024 or if it could only be accessed on a go-forward basis from 16 June 2024. Revenue confirmed that they are awaiting an answer on this and will revert. Additionally, ITI queried whether retrospective access to the TAN Reports would be possible, for example, if an agent was appointed in September 2025 and required access to information relating 2024.

ITI also outlined that members are facing issues with preliminary tax payments in situations where they have recently become a “large company” for the purposes of preliminary tax. Revenue explained that it is difficult for ROS to pick up a growing business which has moved from one bracket to another.

Revenue confirmed that as of January 2024, ROS allows an agent to make a payment of RTSO, in addition to taxpayers having the facility to set up a ROS RDI for the tax.

CCAB-I highlighted how many of their members are finding the Anti Money Laundering process on ROS difficult to use. The current instructions and ROS screenshots published by Revenue do not seem to match the current system. Revenue noted that updates have recently been made in respect of AML reporting for trusts and it is expected that a further update will go live over the weekend.

ACTION POINTS

Revenue to revert on access to TAN Reports.

Revenue confirmed that they will confer with the relevant team regarding updates to the Anti-Money Laundering process on ROS and will revert.

Revenue confirmed that regarding Enhanced Reporting Requirements, Revenue are endeavouring to support employers and they will not seek to apply penalties for non-compliance during the remainder of 2024. It had previously been intended to cease this treatment with effect from 1 June 2024.

The meeting concluded.

In attendance:

Law Society:

Deirdre Barnicle (Chair)

Cian O'Rourke (Minutes Coordinator)

Jack Shannon (Minutes Coordinator)

Revenue

Elaine Byrnes

Maura Conneely

Alan Greaney

Geraldine Hegarty

Maureen Marray

Sinead McNamara

Diarmuid Farrelly

CCAB-I

Carla Manning

Grainne McDermott

ITI

Mary Healy

Lorraine Sheegar

Andrew Thompson

Paul Wallace