

**Draft Minutes**  
**Indirect TALC Meeting**  
**13th March 2019 at 10.30 am**  
**Basement Conference Room, Stamping Building, Dublin Castle**

**Item 1 – Minutes of the last meeting**

- The minutes of the meeting held on 5<sup>th</sup> December 2018 were approved.

**Item 2 – Holding companies and deductibility - Larentia and Minerva (C-108/14)**

- Revenue stated that guidance would be published in Quarter 1 of 2019.

**Item 3 – Website: Feedback on VAT content**

- **“Contact us” page:** Revenue confirmed that changes would be made to this page shortly to improve its clarity.
- **Contact locator:** Some members indicated that the contactor locator was hard to find. It was noted that the contact locator was located within the “contact us” tab which is under the “communications” heading which is on the bottom right corner of all website pages.

**Item 4 – Two-Tier VAT registration**

- Revenue gave an update on the Two-Tier VAT registration process which is planned for release this year. Systems development is ongoing and the implementation date will either be June or September 2019 depending on testing outcomes.
- It was noted that the system will distinguish between domestic VAT registration and intra-EU VAT registration. The new process should ensure that domestic VAT registrations are processed more quickly in future.
- Existing VAT registered customers are not affected but Revenue may review them in the future to determine if domestic only VAT registration is appropriate.
- Once an Intra EU VAT registration is approved it can also be used domestically. However, if an Intra EU application is not approved, then a separate domestic application would need to be made.
- An Intra-EU registration will result in automatic registration for VIES.

**Item 5 – Administration of Electronic VAT Refunds (EVRs)**

- A detailed submission was received from members in relation to the administration of Electronic VAT Refunds. Revenue addressed the matters raised in the submission.
- The submission suggested that Revenue was looking for original invoices for all claims over a certain value. Revenue stated that this is not the case, Ireland’s preference is not to receive invoices but to request same in some cases. There is no specified value limit applied in cases where invoices are requested. Revenue stated that it expects a system development later this year which will allow scanned invoices to be submitted. Revenue noted that the EVR system has been subject to attempted fraud and therefore delays due to requests for further information are to be expected and are necessary.
- Revenue noted that there were several technical issues with the system last year and unfortunately it took a number of fixes to get the system running properly. However, there have

been no further issues since.

- The submission noted that ROS only allows for total attachments of 5MB which only allows a few invoices to be added to the claim. Revenue noted that the 5MB attachment limit is an EU limit and where the limit is reached, Revenue allows receipt of remaining invoices by email.
- The submission raised concerns that where further information is requested, the request is only emailed to the claimant and there is no further follow up to ensure that the email has been received. Revenue noted that an information request is sent directly to the agent or the claimant and a delivery receipt is requested by Revenue. It has not been Revenue practice to send a reminder but this has been reviewed and a reminder will now be sent.

#### **Item 6 – Brexit Omnibus Bill**

- It was noted that the Seanad stage of the Brexit Omnibus Bill was expected to be completed today.
- Members queried the changes made in the Bill in relation to Section 56 authorisations. Revenue noted that there are few criteria attached to this relief at the moment and that it was felt necessary to address this now. Members queried whether these amendments would be brought in regardless of Brexit. Revenue said it could not say at this time. Currently, issues in relation to Section 56 are not a major concern because of the limited take-up and the profile of participating businesses.
- Members queried the operation of the proposed postponed method of accounting. Revenue confirmed that postponed accounting would be open to all VAT registered importers and that there would be no application process.
- Members also queried the criteria and conditions to be introduced once the scheme has bedded down. Revenue stated that nothing would be brought in immediately. It is expected that conditions to be introduced would relate to a trader's track record, trading history and tax clearance.

#### **Item 7 – Brexit – “no deal” scenario**

- Members queried whether there would be further legislation to cover VAT areas such as triangulation and call off stock not currently covered by the Omnibus Bill. Revenue stated that these were EU simplifications that do not apply to third countries. Businesses should look at UK VAT legislation because they may now be required to register there.

#### **Item 8 – MOSS Registration**

- Revenue briefed Committee members in relation to MOSS Registrations post Brexit. It was agreed that Revenue would circulate a brief note on the matter to the committee.

#### **Item 9 – VAT registration entitlements of exploration businesses - jurisdiction**

- A member queried whether it is possible for an exploration business to register for VAT where their exploration activities are outside the 12-mile radius but within the 200 miles of the Exclusive Economic Zone. Revenue confirmed that Ireland's jurisdiction for VAT purposes only extends to the 12-mile radius. Revenue is not aware whether any other Government Department has adopted the Exclusive Economic Zone.

### **Item 10 – EU Update**

- It was noted that the E-commerce package was endorsed at ECOFIN and that the implementation guidelines are now being considered at working party level.
- Revenue brought members attention to the proposed Payment Service Providers legislation which will put obligations on payment service providers to capture information on cross border and third country supplies. Revenue stated that there had been very little feedback on the proposals and urged members to read the proposals and revert with any concerns. Members were reminded that this type of engagement is key to ensuring that new proposals are designed with a proper understanding of how these matters work in practice.
- It was also noted that the Commission intends to revisit the Financial Services files.

### **Item 11 – Consultation process**

- Revenue reiterated their preference to continue to circulate draft guidance but only with assurance that such drafts are not utilised inappropriately. All bodies agreed that they wished to continue on this basis. Revenue stated that all future draft guidance which is circulated would include an appropriate disclaimer.

### **Item 12 – AOB**

- Review of VAT grouping – Revenue stated that in light of VAT Committee Guidelines and a number of CJEU judgments such as Scandia, Morgan Stanley and FCE, they would have to review the VAT treatment of VAT groups. Revenue requested that three or four individuals, with direct experience in the area, be nominated by the committee to participate in the review process. Nominations were requested within two weeks as Revenue expects to hold the first meeting in April.
- Canteen Services TDM – Members raised a concern that the recently published revised version of the canteen services TDM changed the VAT treatment of canteen management services. Revenue noted that it did not believe that the TDM altered the VAT treatment. Members agreed to send in documentation which pointed to a revised VAT treatment of canteen management services and Revenue agreed to consider the matter.
- Reclaiming VAT outside VAT periods: Members raised a concern that a particular Revenue District was insisting on amended returns being filed to incorporate invoices which were not originally claimed rather than including the invoices in the next VAT return. Revenue stated that there had not been a change in policy from when this was previously raised at this Committee (Revenue accepted that while it does happen that invoices are included in later returns, it is for Districts to determine if this is appropriate on a case by case basis). Revenue agreed to discuss the matter with the District concerned.
- Partnership/Co-ownerships-VAT registration: Members queried whether the views regarding the practical application of TOB treatment to the sale of a partnership interest and/or co-ownership interest, as expressed in Revenue's letter of 4<sup>th</sup> March 2014 to Brian Butler, were still applicable. Revenue agreed to consider the matter further.
- Connected party provisions and sale of property: Members queried whether issues ever arose in relation to a developer selling a common area to a management company for a nominal sum and therefore being subject to connected party legislation. Revenue stated that they were unaware of any issues in this area.
- TOB and intention: Members queried whether, based on the file note which was issued in response to draft TOB guidance, Revenue would not focus on what the intentions of the

transferee was. Revenue stated that the imposition of an obligation on the transferor to establish the intentions of the transferee is not something Revenue would unreasonably enforce. Revenue stated they would always focus on the economic realities of the transaction.

- Website amendment re s94 and the meaning of “in the course of a business of developing immovable goods”: Members noted the amendment to the text on the website and queried whether in certain circumstances the amendment may not be sufficient. Overall it was agreed that the amendment was helpful and Revenue noted this was a matter of objective evidence and would therefore be considered on a case by case basis.

| <b>Action Points</b>   | <b>Responsible</b> | <b>Timescale</b> |
|--|--------------------|------------------|
| Revenue to issue guidance on holding companies' deductibility.   | Revenue            | Q1 2019          |
| Revenue to circulate note on MOSS registrations post Brexit  | Revenue            | Immediately      |
| Members to nominate individuals to participate in meetings in relation to reviewing the VAT treatment of groups.   | Members            | Two weeks        |
| Members to consider whether the recently published TDM differs from previously published guidance on canteen services.                                     | Members/Revenue    | Next meeting     |
| Revenue to discuss internally the requirements for amended VAT returns where invoices have not been claimed in the correct period.                         | Revenue            | Next meeting     |
| Revenue to consider matter raised in relation to when new VAT registrations are required in cases of a TOB sale of a partnership or co-ownership interest. | Revenue            | Next meeting     |

#### **Attendees**

##### **ITI**

Gabrielle Dillon  
Brian Colfer  
Gerry Brennan

##### **CCAB-I**

Kevin Elliott (Chair)  
Philip Nolan

##### **Law Society**

Donal Kennedy  
David Lawless

##### **Revenue**

Gerard Moran\*  
Sinéad O'Meara (Secretary)  
Ita Foster  
Dermot Donegan  
Humphrey O'Sullivan  
Lena McNamara  
Davena Lyons  
Justin Walsh  
Sandra Walsh

#### **Apologies**

##### **CCAB-I**

Cróna Clohisey

##### **Law Society**

Michael O'Connor

\*Designated Public Official, *Regulation of Lobbying Act 2015*