

**Minutes**  
**Indirect TALC Meeting**  
**4<sup>th</sup> October 2017 @10.30 am**  
**Basement Conference Room, Stamping Building, Dublin Castle**

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

- The minutes of the meeting held on 7<sup>th</sup> June 2017 were approved.

**Item 2 – Joint option for taxation – practical application**

- Members decided not to make a further submission on this matter and it was agreed that this item could be removed from the agenda.

**Item 3 – Compulsory Purchase Orders (CPO)**

- The issue of VAT liability arising in respect of a CPO was discussed. It may take months, and sometimes years, for the price of a CPO property to be fixed where arbitration is required. This can lead to practical problems if the service of the Notice to Treat is taken as the taxing point at which the nature of the supply (be it taxable or exempt) is to be determined and tax liability crystallises. The payment and transfer of title might not occur until much later.
- Revenue agreed to consider the matter further but it was also agreed that the committee members would submit more details in relation to the kind of issues arising.

**Item 4 – Litdana C-624/15**

- Revenue confirmed that they consider Revenue practice to be in line with the judgment and that this case does not highlight any deficiencies in the manner in which Revenue reviews these cases. Revenue is also satisfied that the published guidance in this area is up to date. Revenue agreed to raise this issue internally to ensure that there is a consistent approach across Districts, particularly in regard to the motor industry.
- It was agreed that this item could be removed from the agenda.

**Item 5 – Transfer of Business**

- Revenue thanked the committee for the feedback received on the draft guidance and it was noted that some issues needed further consideration. Revenue stated that the revised draft guidance would be circulated to the committee for their observations in 5 weeks.

**Item 6 – Interest on refunds of VAT**

- In light of the fact that the UK Supreme Court is to decide shortly on whether to remit issues arising from Littlewoods case (C-591/10) to the CJEU, the committee requested that deliberations on this matter should be deferred pending developments.
- It was agreed that this item could be removed from the agenda.

### **Item 7 – Right of appeal for a person who suffers the cost of VAT**

- The Law Society members of the Sub-committee have considered Revenue's response on this issue. They note Revenue do not deny that under Irish VAT law certain persons (excluded persons) who suffer the cost of VAT have no right of a tax appeal because they are not included in the legislation entitling a person to appeal. This is unjust in the opinion of the Law Society members. The Law Society members also referred Revenue to the UK legislation which does allow such a right of appeal. The Law Society members had previously directed Revenue to the Finance (Tax Appeals) Act 2015 which introduced a system of appeal for all taxpayers and can see no reason why this system could not apply seamlessly in the case of excluded persons. Despite this, Revenue requests: "a more detailed submission which sets out the proposed system and how it would function". The Law Society members believe that the original submission and accompanying explanations were reasonably comprehensive and are not satisfied with Revenue's request. They therefore see no point in pursuing the matter further at this time in this forum.
- Revenue repeated its view that the problem raised by the Law Society is essentially a contractual one which should be dealt with by the relevant parties in contract negotiations and subsequently in the contract terms. The introduction of a general right of appeal by a third party that has borne VAT would have the effect of imposing costs on the general public in the form of Tax Appeals Commission(TAC) costs and Revenue representation at appeals and input to TAC. If not restricted in some fashion, any person that did not accept the rate of VAT charged to him or her could potentially appeal that charge and this could give rise to a great many cases. The submission by the Law society did not propose a detailed model that would restrict or minimise the volume of such appeals. In the circumstances, Revenue's position is that there is no public policy case for imposing potentially significant costs on the general public to provide a means for resolving a matter that should be settled between the parties to the transaction and their advisors prior to its execution.
- It was agreed that this item could be removed from the agenda.

### **Item 8 – Larentia and Minerva**

- Revenue thanked the committee for the feedback received on the draft guidance and it was agreed that a separate meeting between Revenue and some committee members may be useful.
- Revenue advised that they are continuing to provide guidance to Districts in respect of individual cases.
- Revenue stated that the revised draft guidance would be circulated to the committee for their observations in 4 weeks.

### **Item 9 – Public Private Partnerships**

- Members enquired about Revenue guidance on Public Private Partnerships.
- Revenue stated that they are not currently working on updated guidance in this area and that the priority is to focus on areas where issues are arising.
- It was agreed that members would circulate current available guidance and that a further submission would be made to Revenue if they became aware of issues arising in practice.
- It was agreed that this item could be removed from the agenda.

### Item 10 – EU Update

- Revenue provided an update on four proposals published by the Commission in December 2016 that aim to modernise VAT on e-commerce as part of the Digital Single Market strategy and the VAT Action Plan. These provide that VAT based on destination is extended to Distance Sales, on supplies of goods from third countries into the EU, and to all services. This will be facilitated through the use of the Mini One-Stop Shop (MOSS).
- Simplification measures include the revision of thresholds for micro businesses so that supplies under €10,000 per annum can be treated as domestic supplies and supplies under €100,000 per annum only need 1 piece of evidence to determine the location of the customer. Greater coordination between Member States on cross-border audits is included along with general implementation measures. Discussions have progressed and will be on the November ECOFIN agenda.
- The proposals to allow Member States power to apply any VAT domestic rate to goods and services and to harmonise the rate on books and publications supplied electronically or in physical format have not been concluded.
- Lastly, there is a proposal to make marketplaces and platforms liable for VAT on supplies made through those marketplaces and platforms.
- Additionally, proposals on the Definitive VAT Regime were published in October 2017 by the Commission and this will further move Member States to the concept of taxation at place of consumption. It introduces the concept of Certified Taxable Person (CTP). Additional proposals will be published later this year or in Q1 2018 relating to this.

### Item 11 – AOB

- VAT registration – Members noted that there were improvements to the registration process. However, issues continue to arise where practitioners wish to register as agents only for the purpose of registering the business for VAT and not as agent for filing returns. Members stated that it is now common for practitioners to separate consultancy and compliance work and it would be helpful if the registration process could accommodate this. While a system modification would be required to address this, it was also noted that some changes to internal processes would be of assistance. Members also queried whether it was necessary that a VAT registration would be put on hold pending Central Bank approval for the business. Revenue agreed to consider these issues further.
- Education: outsourced lecturing – It was confirmed that the position in relation to outsourced lecturing services has not changed. Such services are taxable at the standard rate where the provider is not the principal provider of the education.
- Enhancements to the VAT 3 filing process – It was noted that the enhancements were a positive development. Members requested that the phrasing of the question in relation to disclosure of unusual or exceptional expenditure incurred be reconsidered. Members also requested that a facility to view and print the submission be included. Revenue agreed to review these matters.
- Next meeting – Wednesday, 6<sup>th</sup> December at 10.30am.

Action Points	Responsible	Timescale
Committee members to submit details in relation to the issues arising in relation to CPOs. Revenue to consider the matter further	Practitioners & Revenue	
Revenue to raise the issue of due diligence internally to ensure consistent approach	Revenue	
Revenue to circulate revised draft guidance on Transfer of Business	Revenue	5 weeks

Revenue to circulate revised draft guidance on Larentia and Minerva	Revenue	4 weeks
Members to circulate current guidance in relation to Public Private Partnerships and to make a further submission to Revenue if they became aware of issues arising in practice.	Practitioners	
Revenue to consider issues raised in relation to the VAT registration process	Revenue	Next meeting
Revenue to review issues in relation to the enhancements to the VAT 3 filing process	Revenue	Next meeting

Submitted for approval by Secretary – Sinéad O’Meara

Approved by TALC Committee Members

**Law Society**

Michael O’Connor (Chair)  
Donal Kennedy  
David Lawless

**ITI**

Brian Butler  
Breen Cassidy  
Gabrielle Dillon

**CCABI**

Kevin Elliott  
Norah Collender

**Revenue**

Gerard Moran\*  
Ita Foster  
Dermot Donegan  
Humphrey O’Sullivan  
Donal Barry  
Ian McCarthy

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