

Minutes

Indirect TALC Meeting

10.30 am, Wednesday 08th December 2021

On-line Meeting (hosted by Revenue on Microsoft Teams platform)

Item 1 – Minutes of the last meeting

- The minutes of the meeting held on 06th October 2021 were approved. A clarification on item 3, paragraph 2 was requested by CCABI. This clarification was read out to attendees at the meeting and was accepted by both Revenue and other Members. The amended minutes were then forwarded to Members accordingly.

Item 2 – eCommerce - The Low Value Consignment Relief and implications for certain supply chains

- Revenue stated that the eCommerce package has been live since 01 July 2021. Following consultation with Customs, Revenue noted that there is an issue for some companies supplying goods in Ireland on a Delivery Duty Paid basis. Revenue stated that this is really a commercial issue for businesses that had set up their arrangements post Brexit and is generally relevant to UK companies. The Low Value Consignment Relief is for individuals, not for businesses and Revenue are keen to bring the matter to the wider attention of business and practitioners. There is no technical issue as both the VAT and Customs legislation is very clear. The companies involved tend to have a large amount of returns and that requires the company to submit an amended customs document. Revenue stated that the IOSS is a basis under which the returns issue could be dealt with, but they would still have the matter of the duty to consider although the companies involved may be entitled to other reliefs.
- Members asked if Revenue intended to issue a clarification or whether Revenue would like the various bodies to disseminate the information down the chain. Revenue stated that they are currently dealing with it on a case by case basis and would like Members to get the message out. Revenue will continue to assess the situation and will draft a note for Members for circulation.

Item 3 – Finance Bill 2021

- VAT Grouping – Members stated that they had submitted a query to Main TALC a few weeks previously which wasn't discussed at the time. Revenue said that the change from 'taxable person' to 'accountable person' was introduced to address a historic error in the legislation, a VAT group cannot exist if one or more members of the group are not registered for VAT. It does not change the way Revenue has always operated VAT grouping provisions. Members made clear that in their opinion there was no vires under the Directive for the change in VAT grouping. Revenue stated that they did not agree with this interpretation. Members clarified that the example that was provided is a common one where a VAT exempt entity applied for grouping with a VAT registered service provider who only provided back office services to that exempt entity. If these entities are grouped, there is no longer an accountable person and the VAT grouping is not appropriate. Revenue stated that this was the correct analysis if there were no other taxable supplies involved. This would always have been the case regardless of the change in legislation though we had not considered the specific case in the examples provided by Members. Revenue agreed to take it under consideration.

- VRT and Excise Update – Revenue provided an update to Members on the indirect taxes changes in this year’s Finance Bill, including Excise (sections 40 to 47), and VRT (sections 48 and 49). Revenue also provided an update on the progress of the Finance Bill generally within the legislative process.

Item 4 – EU Update

- Rates Proposal – Revenue stated that the file was discussed at the Economic and Financial Affairs Council (ECOFIN) but no feedback has been received on discussions as yet. The Commission are confident that it will be adopted this month. Revenue attended a meeting with Finance (who are negotiating this file), the Commission, and the Presidency, and stated that Finance are satisfied that all outstanding concerns have now been addressed.
- Implementation of the eCommerce Package - Revenue are aware that there have been some issues arising between the Import One Stop Shop (IOSS) and some Member States’ import systems, resulting in double taxation in certain limited circumstances. A joint VAT/Customs meeting was chaired by the Commission to discuss this on 15 November and it is expected that the Commission will shortly issue a working document for Member State agreement. The Commission are proposing that in certain circumstances where double taxation arises as a result of issues with Member States import systems, that the IOSS return should be used to correct the double taxation. This is the most pragmatic solution and avoids the need to invalidate customs declarations where import VAT should not have been charged. Resolving this issue is a priority for the Commission and they are expected to look for Member State agreement on this approach shortly.
- The Commission will also be shortly launching a public consultation reviewing the One Stop Shop/Import One Stop Shop. This is expected soon and will be followed by a comprehensive review of the eCommerce package in 2022.
- Possible extension of OSS and IOSS schemes – This was discussed as part of the recent Fiscalis discussions on the single VAT registration under the ‘VAT in the Digital Age’ package. The outcome from the discussions was that most Member States could agree to an expanded scope of the One Stop Shop (OSS) for Business to Customer (B2C) supplies, but for Business to Business (B2B) supplies, there was a preference to focus on the use of the reverse charge mechanism instead. Revenue have significant concerns about including B2B supplies in a One Stop Shop system because it increases the possibility of extraction fraud. On the IOSS, the Commission has asked Member States to consider expanding the scope of the scheme by either removing the €150 threshold and/or making the IOSS mandatory.
- ‘VAT in the Digital Age’ package - The Commission have advised that they will be conducting a public consultation by the end of the year. Revenue are expecting that the Commission will present an impact assessment and legislative proposals by mid-2022. There are 3 main strands to the package: single VAT registration, platform economy and digital reporting requirements. The package was the subject of a recent Fiscalis seminar in October. Technical discussions on the possible options under each of the 3 topics are at an early stage within the Commission and an IT feasibility study is on-going in respect of the introduction of digital reporting requirements.
- Financial Services - A summary report of the outcome from the public consultation was published in August. The public consultation appears to indicate a general and clear support for the VAT exemptions with a need for improvements such as updated definitions, more efficient VAT group and Cost Sharing mechanisms and the introduction of an option to tax. The Commission have confirmed that they are intending to hold a Fiscalis Seminar on this next year and that they are expecting to present a legislative proposal by 2023.

- The Commission are also currently working on a Travel and Tourism package. This will consist of an evaluation of TAMS, passenger transport and exemptions for non-EU travellers (RES, tax free shops). All 3 topics will be covered by a detailed study, which will support the Commission in preparing an impact assessment and legislative package. The Commission have advised that this is expected in early 2023.
- VAT Committee Guidelines and Comitology – The Commission are also looking at VAT Committee guidelines with a view to introducing implementing acts under Article 397. This follows the previous Commission proposal to turn the VAT Committee into a comitology committee subject to Qualified Majority Voting (QMV). Although no consensus was reached on that proposal in Council, as Member States largely rejected any move towards QMV, Member States were open to reviewing areas that require further clarification/harmonised interpretation.

Item 5 – AOB

- Landlords Concession – Revenue had received a submission from Members regarding insurance recharges being passed on, including under the Landlords concession, where those Landlords were VAT registered and passing on costs that they are incurring on behalf of their tenants within an annual invoice. Members stated that long standing industry practice was to look at the constituent parts of the services and apply VAT accordingly. However, they have received notification from some of their clients that some confusion has arisen, particularly in regard to insurance recharges, with some Revenue Divisions stating that Insurance recharges in these cases should be taxable.

Revenue informed Members that they were not aware of any issues in this area, apart from the submission received and Revenue guidance has not changed. Revenue requested further information regarding the frequency of this issue and further examples for consideration. Members asked that the minutes record that Revenue practice had not changed (to help provide clarity), which Revenue agreed to.

Members clarified that the query concerns the operation of the service charge concession which is still widely in use. Given that the concession is historic, Members stated that it would be very helpful to have a reaffirmation from Revenue regarding the status of the concession to provide clarity to industry. Revenue asked whether the Tax and Duty Manual which exists was adequate and whether Members were looking for further clarification to the issued guidance. Revenue requested Members consider the issue in the context of the available guidance and revert to Revenue with suggestions as to what clarification could be provided.

- Minutes, Revenue Website – Responding to a query from Members, Revenue confirmed that it is currently updating its website to include the agreed minutes of recent meetings and apologised that this had not been completed sooner.
- Importers Seeking to Reclaim VAT Using Freight Handlers – Members sought an update on their request at the last meeting about the possibility of importers getting access to the Customs & Excise weekly transaction listing. Revenue explained that the transaction listing in question is a Customs document and it is not possible for an agent or practitioner to register as an agent under their tax head, so it is not actually possible to get access as suggested. The workaround suggested was that when an importer receives these documents, that they pass them on to their agent.
- SAD document delay – Members stated that an issue has arisen where importers using freight handlers are charged import VAT and Customs duty but are not getting access to the Single Administrative Document (SAD) in a timely manner and as such are not getting visibility as to the calculation of the customs duty. Members had asked how the importer could get this information more quickly, and asked if it would be appropriate to include the commodity code on the weekly transaction list to allow the importers to satisfy themselves as to the amount of

customs duty that they are being required to pay.

Revenue reaffirmed its view at the last meeting that if delays exist between the clearance agent and the importer, then it is a matter for those parties to rectify. As the importer has access to the Customs and Excise weekly statement, it should be a matter of the importer simply passing that document on to their agent. Members noted that the weekly statement in its current form does not include the commodity code, which would be very useful for the importer to provide insight into how the duty is being calculated.

This information is being sent by the freight handler into Revenue, and Members suggested inclusion of that information into the weekly transaction list would be extremely helpful. Revenue agreed to look into the feasibility of this suggestion with Customs and IT colleagues as appropriate, while noting that the fundamental problem here seems to lie between the taxpayers (importers) and the freight forwarders they have taken on as their agents.

- Other:

- Members asked about Revenue's proposed cancellation of the VAT number of a particular business. (This was not an agenda item.) Revenue stated that VAT registration and cancellation are controlled in accordance with the law and guidance and noted that there are situations where a number would be cancelled quite quickly in certain higher risk cases. Revenue was unable to respond further without details and suggested that Members might wish to provide these directly so that the situation could be clarified.
- Revenue proposed a vote of thanks to the Chairman of the Committee for his services throughout the year. The secretary informed members that the chairpersonship rotates to Revenue in 2022. The chair thanked Revenue and Members for their participation throughout the year and closed the meeting.

Action Points	Responsible	Timescale
Revenue to provide members with a note regarding the Low Value Consignment Relief so they can disseminate it to their colleagues accordingly.	Revenue	As soon as possible
Revenue to assess amendment of the Weekly Transaction Listing Customs document by the addition of commodity codes	Revenue	Next Meeting
Members to consider whether clarification or amendment to existing Revenue guidance related to the item on the Landlords Concession above is required and advise Revenue accordingly.	Members	As soon as possible

Attendees

Irish Tax Institute

Oonagh Carney
 Vincent McCullagh
 Nick O'Brien
 Lorraine Sheegar

Consultative Committee of Accountancy Bodies - Ireland

Maud Clear
 Norah Collander
 Mairead Hennessy

Law Society

Donal Kennedy (Chairman)
 David Lawless
 Patricia McCarvill

Revenue

Gerry Coone
 Dermot Donegan
 Ita Foster
 Deirdre Hanlon*
 Siobhan Murray
 Colin O' Farrell (Secretary)
 Olivia Scanlon
 Denis Sheehan
 Paul Wynne

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