

Main TALC
Tuesday 5 December 2023 at 14.30
Chartered Accountants House, Pearse Street
& Virtual via Microsoft Teams

Agenda

1. Minutes of meeting held on 28 September 2023
The minutes were approved and agreed.
2. Standing items
 - 2.1. Matters arising from meeting on 28 September 2023 (Note 1)

Updates to legislation governing the taxation of leases

The Chair noted that the issue of the taxation of leases has been active over several years now. The culmination of this work is the recent legislative amendments. The most recent draft is broadly acceptable to practitioners. The updating of Revenue guidance on leasing is expected before year end.

Update from Revenue regarding VAT56A Authorisation letters

It was noted that an interim arrangement was put in place to address concerns regarding end October renewals. A permanent approach is under discussion under the aegis of the TALC Indirect Taxes Sub-Committee.

Interest Limitation Rule and group elections (Note 3)

The Chair noted the response received from Revenue i.e. that elections in relation to ILR groups cannot be amended using the “self-correction without penalty” arrangement. He noted the issues arising for businesses, including uncertainty around making the election and mistakes in the choices made at the time, given it is the initial year of implementation. Revenue provided a separate note in advance of today’s meeting (see Appendix I).

Practitioners noted the possibility of discussing a proposal for legislation change at the next meeting of the Business Tax Stakeholder Forum.

2.2. Updates from TALC Sub-Committees

The Chair noted the body of work completed throughout the year. In particular, TALC BEPS completed a significant amount of work this year. It was noted that a separate subgroup may be needed to deal with ongoing practical implementation of Pillar Two.

The absence of the Joint TALC Finance Bill meeting minutes was noted. (It is noted for completeness that the minutes were subsequently circulated.)

2.3. Update on the ITI/CCAB-I IT Priority List (see attachment)

The Chair queried the extent to which the list could feed into TALC Modernisation/Simplification Subgroup. Revenue noted it could to an extent.

Revenue noted the following:

- Priority 6 has been actioned and bank details can now be saved on the system.
- Priority 8 is in the final stages of implementation

It was also noted that the list could be updated for matters which have been resolved or are no longer relevant.

3. Update from subgroup on Enhanced Reporting Requirements for Employers (see attached minutes) (Note 2)

Practitioners requested an update on the Ministerial Commencement Order and Regulations. It was understood that the Commencement Order was imminent but no specific date could be provided, as it is a matter for the Minister. Revenue noted that the commencement date of 1 January has been flagged consistently.

Practitioners raised concerns about employers' capacity to implement the new measures effectively from 1 January 2024. There are significant concerns relating to systems integration and filing requirements generally. Revenue confirmed it has not received feedback from employers with the same concerns and that the situation would be monitored.

In relation to concerns about the proposed uploads (JSON and XML) Revenue confirmed, that as previously advised in the ERR subgroup, the system will not accept CSV files. Practitioners noted concerns around converting files to JSON or XML. The options are available but costly and impractical. In practitioners view, the options are either pay for software or upload via ROS on a line-by-line basis. Revenue confirmed, as previously advised, that there are three methods available to employers to file.

The practitioners again raised the issue that there had been no public information campaign. Revenue's view is that the benefit of such a campaign in terms of reaching the relevant people and influencing behaviour is not clear. Revenue confirmed that the approach taken to engagement was targeted, using the ROS inbox and the multiple webinars. It is the view of practitioners that the ROS inbox was not an appropriate means of communication. There is a significant amount of communication processed through the ROS inbox which practitioners consider can easily result in correspondence being overlooked. Revenue noted the practitioner position, but advised that it did not agree that it was an inappropriate means of communication and it would continue to use the ROS inbox for communication.

The Chair queried what lessons could be learned from this process. There have been comments about the effectiveness of the interactions with stakeholders throughout this process. Practitioners took the view that the stakeholder engagement process has not been satisfactory and specifically referenced the absence of Revenue ICT staff to clarify technical issues. Revenue did not agree with the practitioners' view of the engagement, noting that the ERR subgroup had met multiple times and taken feedback on the TDM and FAQ document and that what appears to be the point of difference is the completely opposing views of the parties on certain matters. The Revenue ICT staff engage directly with software providers as part of the Service User Group. Practitioners were of the opinion that the quality of the FAQ document and TDM initially provided were of a very poor quality. Practitioners had to include extensive mark-ups with the final document still not meeting many of the asks of the attendees at the subgroup. Revenue noted the position and confirmed the FAQ is a living document that can be amended, if required, but that there wouldn't always be agreement on what would be included in Revenue publications.

Revenue suggested that the implementation of ERR could remain as a standing item on Main TALC for the initial part of 2024, but that the subgroup may be the best forum for continuing engagement as Main TALC won't meet until March. Practitioners would also welcome a discussion on how the engagement process could best proceed going forward.

ACTION: Practitioners to suggest how improvements can be made to stakeholder engagement for Revenue to consider.

4. The taxation of medical practitioners in section 38 Finance (No. 2) Bill 2023
 The Chair noted the omission of employees and asked for comment from the group. Practitioners queried why the focus is on individual partners. Revenue noted that the Minister, in the Report Stage debate, confirmed that the amendment was to address the issue of partners, which the Minister acknowledged would solve most of the issues, but not all. The Minister also confirmed the remaining issues will be considered by the Department of Health as part of the Strategic Review of GP services.

5. TALC Sub-Committee on Simplification/Modernisation of Business Support Schemes

Revenue explained the purpose of the subgroup is to address concerns noted by the Minister regarding awareness by small businesses of the range of supports available through the tax system and to examine administrative hurdles faced by such businesses in availing of these supports. The group will be chaired by Revenue, and they have committed to producing a report in six-months. This report will be presented to senior Revenue officials for consideration of any recommended changes to administrative processes. The group will be formed as a sub-committee of Main TALC. Practitioners will provide a sample of issues for the group to consider but also expect Revenue to highlight areas where it believes administration could be improved.

It was also noted that Revenue is unable to make policy recommendations. As such, any policy matters will need to be addressed separately. The subgroup could assist on what the representative bodies focus on in their future representations.

Revenue confirmed that the first meeting of the group will take place on Thursday 11 January 2024 and invited each TALC body to nominate a lead representative.

ACTION: Provide items to consider including on the initial agenda. Each body should also put forward a lead representative for the group.

6. AOB

The Chair welcomed the incoming Chair, Joe Howley. It was noted that the first meeting will be arranged in early March 2023.

Attendance:

ITI	Revenue	CCAB-I	Law Society
Anne Gunnell	Brian Boyle	Enda Faughnan (Chair)	Aidan Fahy
Mary Healy	Eugene Creighton	Brian Purcell	Sonya Manzor
Pat Mahon	Tom James	Paul Dillon	Caroline Devlin
David Fennell	Joe Howley	Cróna Clohisey	James Somerville
Tom Maguire	Mairead McGuinness	Gráinne McDermott	
Laura Lynch		Gearóid O'Sullivan (Secretary)	
		Apologies: Peter Vale	

Appendix I

Interest Limitation Rule and group elections (Note 3)

Subsection (3)(c) of Section 835AAK TCA97 provides that an interest group election must be made on or before the specified return date for the accounting period in respect of which the election is made. Section 959V(6)(b) TCA97 operates such that a notice to amend a CT1 in respect of the election cannot be made after the specified return date. Therefore the 4-year time limit in relation to the amendment of a return does not apply to the interest group election.

The provision in the Code to self-correct without penalty operates in parallel with the general 4-year time limit for amending a return. As noted above, the 4-year time limit is not applicable in the context of an interest group election, therefore the group election provision must be considered on its own terms, having regard to the time limit specifically set out in legislation.

Furthermore, section 865(2A) provides that a claim for repayment of tax is not a valid claim unless the return and self-assessment for the period to which the claim relates is amended in accordance with section 959V. As noted above, a notice to amend a CT1 in respect of an interest group election cannot be made after the specified return date. Therefore a valid claim for repayment of tax cannot be made where an interest group election is made after the specified return date.

Having carefully considered the matter, the 12 month 'self-correction without penalty' provision cannot be applied to allow the amendment of an interest group election (possibly giving rise to a repayment of tax) after the specified return date because of the specific legislative requirements set out above."



Main TALC - 8 March 2023

List of Priorities for IT Developments

At the meeting of Main TALC on 6 December 2022, the Committee discussed the outcome of the Main TALC Special Purpose Meeting (SPM) on pre-population and sharing of data on the Form 11 tax return, which took place on 19 October.

Practitioners outlined their concerns about the serious constraints on resources to progress IT developments sought by practitioners, due to Revenue's commitments to IT developments required to comply with changes in the international framework over the coming years. Considering these constraints, ITI and CCAB-I outlined five priority IT developments the professional bodies wish progressed to support the work of their members in assisting taxpayers to comply with their tax obligations.

As the precise nature and timing of the delivery of IT developments to comply with commitments arising under Pillar Two and DAC7 are not yet clear, Revenue invited practitioners to specify in writing their priorities for IT developments, so that Revenue could consider these requests for development should resources become available.

We have outlined 11 priorities for IT developments, as below. Our primary focus is on measures to support the filing of income tax returns, as we believe this would deliver the most benefit in reducing the cost of compliance for taxpayers.

The first five priorities reflect the requests we outlined at Main TALC in December as these developments are of paramount importance. We have included additional explanations on these items where we consider it helpful and where informed by the discussions at the Main TALC SPM last October.

It was evident from the discussions at the Main TALC SPM that a number of the suggestions we made cannot be progressed at this time. This is due primarily to Revenue's wish to dovetail with international developments (for example, in sharing data from third party returns) or limitations in information or the timing of its availability (for example, using data held by the Residential Tenancies Board (RTB)). We have excluded these suggestions from our priorities below on the basis that the suggestions cannot be considered at this time.

Measuring Progress on the Delivery of IT Priorities for Practitioners

It would be important to review, at intervals, the progress made on the priorities identified below. Some of the priorities require less IT development work to deliver and we consider should be implemented in 2023. Other developments would require more intensive work to deliver.

We would suggest that at the December 2023 meeting of Main TALC, the Committee should review what progress has been made on the listed priorities and what items could be scheduled for development in 2024. We would propose to revisit the list again at Main TALC at the end of 2024 to take stock of progress made on the priorities identified.

As a matter of principle, we would seek a commitment from Revenue to fully explore how the data it receives from tax returns and other sources can be shared with the taxpayer to whom it relates, to minimise compliance costs. This should assist in progressing the sharing of further data when opportunities become available.

Requested Priority IT developments to Support Compliance

1. Prioritise an IT development to MyEnquiries to address an ongoing difficulty with the delivery of Revenue-initiated queries

There is an ongoing issue where Revenue-initiated queries on MyEnquiries are not sent to the appropriate staff member in a practice or are sent to staff who are absent. This means that queries may be overlooked or cannot be dealt with promptly.

At the TALC MyEnquiries Sub-group, Revenue noted that it had identified a possible solution to this issue through the use of a designated email address for receipt of Revenue-initiated queries, which could be accessed by practice staff with permissions to access that email address.

However, the Sub-group has been informed that due to IT resourcing constraints, this development cannot be delivered in the first half of this year and it remains uncertain whether it can be implemented in 2023. Effective communication through MyEnquiries is critical. An IT development to resolve this communication difficulty should be prioritised for release in 2023.

2. Allow tax agents to view a list of overdue tax liabilities for their clients

There is a facility on ROS for tax agents to view a list of outstanding tax returns for taxpayers to whom they are agent-linked. This is very useful in helping to ensure clients remain up to date with their tax return filing obligations and any outstanding returns can be identified quickly. A similar facility should be introduced for overdue tax liabilities where the tax agent is agent-linked for the tax-head or for the purposes of a Phased Payment Arrangement.

This is particularly important given tax agents are not copied on payment demands sent to taxpayers and Revenue has returned to its standard debt collection process, including referral to enforcement. In addition, timely payment of current taxes is a key condition for retaining access to the benefits of the Debt Warehousing Scheme.

As part of this, it would also be useful for tax agents to be notified where an issue has arisen with the processing of a tax payment. Under the current system, tax agents are unaware when an issue arises with the processing of tax payments. Therefore, tax agents are then unaware that the payment of tax has become late.

3. Create a database for Tax and Duty Manuals (TDMs), like that maintained by HMRC

HMRC maintain a database of Tax Manuals that is more user-friendly than the Revenue suite of TDMs. Users can search the HMRC database, view more cross-references between manuals and where a manual has been amended, the specific amendments are highlighted. We would request similar functionality for Revenue's TDMs.

A Sub-group of the Direct/Capital Taxes Sub-committee has discussed improving the process around updating TDMs. For example, allowing continued access to TDMs while they are being updated with an appropriate warning message that the TDM is under review and a standardised approach to detailing updates to a TDM e.g., a revision sheet of the relevant amendments. Feedback from the Sub-group should help inform the important features and functionality in developing a TDM database.

4. Include a field on the tax return to allow a taxpayer to make a negligible value claim (under section 538 TCA 1997)

In contrast to most other claims in the Taxes Consolidation Act (TCA), a claim must be submitted separately to make a negligible value claim under Section 538 TCA 1997. Furthermore, Revenue has noted to the ITI that under the legislation, the Inspector must be satisfied that the value of an asset has become negligible before a loss is allowed.

Therefore, a taxpayer cannot treat an asset as having negligible value without the Inspector being satisfied of the loss. This approach is not consistent with self-assessment and the tax return should be updated during 2023 to enable a claim to be made on the return.

5. Share data from tax returns about a taxpayer's acquisition of capital assets with the taxpayer to whom the data relates and their income tax agent

At the Main TALC SPM, we raised how data Revenue receives from Stamp Duty returns, eProbate, LPT etc. about a taxpayer's acquisition of assets could be leveraged to support the preparation of the Form 11 income tax return. For example, in assisting the tax agent to correctly:

- a. Declare the acquisition of an asset on the tax return in the year of acquisition.
- b. Identify a potential income stream to be declared on current or future tax returns.
- c. Calculate a taxable gain/loss and CGT due on a future disposal of the asset e.g., through access to information on the cost and year of acquisition.

There should be a location on ROS where a taxpayer and their appointed income tax agent can view the information Revenue holds on record in relation to the taxpayer's acquisition of capital assets, where this information would be relevant to completion of the income tax return. This ROS record should be updated as the information becomes available to Revenue.

Tax agents could then review the information on record when preparing their clients' Form 11 tax returns, determine what is relevant for the current return or a future return and raise any relevant queries with clients. Any inaccuracies in the information Revenue holds could also be identified at an earlier stage and corrected before an error may trigger a compliance intervention.

At the Main TALC SPM, Revenue considered that locating such information on ROS rather than on the ROS Form 11 would be the preferred option. We would agree with this approach. It would also ensure the information is accessible to tax agents who do not prepare returns using ROS but use commercial tax-preparation packages.

We have focused on sharing data related to the Form 11 income tax return, as discussed at the Main TALC SPM, as we believe this would deliver the greatest benefit in supporting tax compliance. However, a similar facility for taxpayers filing a corporation tax return (Form CT1) would also be worthwhile.

6. Simplify the process for updating bank account details for tax refunds

Currently, taxpayers must separately enter on ROS their bank account(s) details to be used for tax payments and for tax refunds, often across multiple tax heads. If a taxpayer wishes to nominate the same bank account for both tax payments and refunds it should be possible to implement this choice through a simple mechanism such as the selection of a "tick box" or similar option on ROS. This would reduce the time spent in entering the same bank details several times.

It would also help to reduce the number of instances where the payment of a tax refund is delayed, simply because the taxpayer's bank account details for tax refunds have not been provided.

7. Allow tax agents to access the weekly Customs & Excise Reports which are needed to complete postponed accounting entries on VAT returns

Tax agents do not have access to the Customs & Excise (C&E) Weekly Reports for imports which have information needed to complete postponed accounting entries on the Forms VAT3 and VAT Return of Trading Details. Based on discussions at the TALC Collections Sub-committee, an IT development had been planned for Quarter 3, 2022 but this was subsequently deferred.

At other fora, Revenue has advised that it is noticing inaccuracies in the entries for postponed accounting on VAT returns. This is directly related to issues for tax agents in obtaining the information needed to prepare these entries. Therefore, the required IT updates to permit tax agents access to the weekly C&E Reports should be made in 2023 without further delay.

8. Issue automatic reminders in advance of the expiry dates for Tax Clearance Certificates and for PAYE Agent Authorisations

Tax Clearance Certificates (TCC) are generally valid for 1 year or for 4 years. Taxpayers and their agents receive a notification from Revenue when a TCC has expired. However, it would be better if a notification was issued in advance of the expiry date to give sufficient time to renew the TCC, if required, and avoid the potential cash-flow impact and correspondence involved in reinstating expired clearance.

Tax agents could be advised of an upcoming expiry date in advance thorough notification via their TAIN i.e., so that a list of TCCs that will expire shortly could be generated. This would be preferable to issuing notifications to the ROS Inbox due to the volume of notifications that may be issued.

In January 2021, Revenue introduced a 4-year validity period for PAYE Agent Authorisations (Forms PAYE A1 and A2) on a prospective basis. We understand Revenue is considering updates to its internal systems so that Revenue staff can be made aware of expiring authorisations.

As part of this IT build, we would request that tax agents with PAYE Agent Authorisations should receive reminder notifications in advance of the dates of their expiry to help ensure authorisations are renewed in a timely manner, if required. We propose that the reminders would be notified via the agent's TAIN.

9. Expand the activities agents can conduct on MyAccount for taxpayer with PAYE income

It is currently not possible for a tax agent to set up an instruction (RDI) to pay a tax liability for a PAYE taxpayer filing an income tax return, or to set up a payment of tax on the exercise of share options through the Return of Tax on Share Options (RTSO). These functions should be added to ROS.

10. Progress Revenue's current plans on pre-population

At the Main TALC SPM, Revenue advised that it intends to progress a number of further pre-population initiatives, for example, pre-population of tax on the exercise of share options potentially on the 2023 Form 11 and pre-population of data from the Employment Investment Incentive Scheme (EIIS). We would encourage a continued emphasis by Revenue on pre-population of returns wherever possible.

Revenue also noted its interest in including CGT payments on the Form 11 that are derived from the CG50 application process. The CG50A requires the vendor's PPSN so it should be possible to populate CGT payments to the taxpayer's record with Revenue where CGT is paid. It would also be worth exploring a mechanism for crediting tax deducted and remitted by the purchaser, with the CG50B, to the vendor's ROS record.

11. EIS Relief for Qualifying Investment Funds

Finance Act 2021 extended EIS relief to include Qualifying Investment Funds. However, ROS was not updated to accommodate differences between Qualifying Investment Funds and Designated Investment Funds. This includes instances where a Qualifying Investment Fund makes both non-qualifying investments as well as qualifying EIS investments. There is a concern among practitioners that this could lead to significant difficulties when it comes to filing returns. As such, an IT upgrade to facilitate the Finance Act 2021 updates is needed.