Covid-19 clarifications in many areas, with more needed

Tax issues, relating to employment, VAT and Corporation Tax, should be closely monitored at this difficult time say the experts contributing to the Roundtable this month. In line with a recommendation from the EU that countries should provide VAT payment delays and act in unison on this where possible, the Irish Revenue has announced that interest will not be applied on late payments for January/February VAT, nor on either February or March PAYE (Employers) liabilities. Meanwhile, the undertaking of audit and other compliance intervention activities on taxpayers' premises has been suspended until further notice, as has all debt enforcement activity.The Revenue has also expediting for companies that avail of the R&D payable credit mechanism the payment of any instalment of excess R&D tax credit that is due to be paid in 2020. This advances the payment from the normal payment date, which would typically be after the corporation tax return filing date.

The Revenue is also prioritising the processing of tax refunds not just for SMEs but also businesses dealt with by the Medium Enterprises Division and Large Corporates Division. Also announced is the suspension of the 'late surcharge' for corporation tax returns due to be submitted in March. The filing deadline for 2019 share scheme returns is extended from 31 March 2020 to 30 June 2020. Also suspended the Relevant Contracts Tax rate review that had been scheduled for March 2020.

Employee obligations

I have Irish employees currently working overseas as they cannot return to Ireland. What are my obligations?

Niamh Barry

Niamh Barry, Senior Manager Global Employer Services, Deloitte: Firstly, an employer is obliged to know where their employees are physically located from a work perspective. Local health & safety rules may also become relevant.

If an employee who normally works in Ireland is now working from home in another jurisdiction and is now unintentionally out of the country, this may impact the tax residence position. The employee's residency position can impact entitlement to tax credits and certain reliefs, such as SARP and transborder relief.

Revenue have confirmed that they will consider "force majeure" circumstances for individuals who are not able to return to the country of residence as planned. It is likely that Revenue will consider each individual on a case-by-case basis.

While the Irish tax authorities are forthcoming and pragmatic with the guidance, companies might need to consider the obligations in the other jurisdiction. There could be local payroll and social security obligations for the Irish company, which might involve registration and operation of payroll in the other jurisdiction.

"If an employee who normally works in Ireland is now working from home in another jurisdiction and is now unintentionally out of the country, this may impact the tax residence position."

Where an employee performs substantial activity (more than 25%) in another jurisdiction, the applicable state for social security purposes can be effected. Guidance from the DEASP and the EU would be welcomed in this area to provide clarity to employers.

From an immigration perspective, it has been confirmed that absences from Ireland due to COVID-19 will not constitute grounds for revoking employment permits. All such permissions that are due to expire between 20 March and 20 May 2020 are automatically renewed for a period of 2 months.

The company should also consider the permanent establishment risks associated with having employees working overseas.

The April 2020 *Irish Tax Monitor* Roundtable Panel consisted of:

Niamh Barry, Senior Manager Global Employer Services, Deloitte; Debbie Jennings, Senior Manager, Revenue Audit specialist, Deloitte; Seamus Kennedy, Director, Financial Services Tax, Deloitte, Ciara McMullin, Senior Manager, Indirect Taxes, Deloitte.

Audit & Open Cases

Is there anything I should be considering in relation to Revenue interventions during the COVID-19 crisis?

Debbie Jennings

Debbie Jennings, Senior Manager, Revenue Audit specialist, Deloitte: The Revenue Commissioners have announced that they are suspending audit and other compliance intervention

activity on taxpayer's premises until further notice. They have also set out that, where possible, they will continue to engage with businesses to finalise open interventions through MyEnquiries or by telephone.

"There is a potential window of opportunity for taxpayers to consider any open audits/interventions with Revenue ... to explore with Revenue if there would be an appetite for settlement in light of current circumstances."

This will put a sharp focus on the current caseload of Revenue, as it would be reasonable to assume there will be a falloff in field audits/interventions for the foreseeable future. This presents a potential window of opportunity for taxpayers to consider any open audits/interventions with Revenue, some of which may be ongoing for an extended period of time, and explore with Revenue if there would be an appetite for settlement, in light of current circumstances.

During this period of lull there may also be an opportunity for taxpayers, who currently are not the subject of an open intervention, to use this time to review the overall health of their tax function, adopting a proactive approach in relation their tax compliance. This could include undertaking self-reviews of the various tax-heads to identify potential risk areas or areas that may require a disclosure, or reviewing their control procedures, policies and processes to identify any weaknesses in their systems with a view to rectifying.

Cash flow management

What role can tax play in the management of cash flow in the current circumstances?

Seamus Kennedy, Director, Financial Services Tax, Deloitte: While all taxpayers must still file their tax returns by the relevant deadlines, Revenue have encouraged taxpayers to engage with them on a timely basis should they experience challenges in meeting their tax payment obligations due to COVID-19. Revenue have issued guidance on the operation of the COVID-19 Temporary Wage Subsidy Scheme - employers should consult the guidance to determine whether they qualify. In addition, certain businesses who experience difficulties in

Seamus Kennedy

paying January-February 2020 VAT liabilities or February and March 2020 PAYE (employers) liabilities will not face interest on late payments. With regard to corporation tax, taxpayers should ensure they utilise all options properly available to them to manage their tax payments and liabilities e.g. use of available loss reliefs and tax credits, calculation of preliminary tax.

"Taxpayers should ensure they utilise all options properly available to them to manage their tax payments and liabilities."

VAT initiatives

What are the best ways to maximise cash flow through VAT measures?

Ciara McMullin, Senior Manager, Indirect Taxes, Deloitte: There are several mechanisms provided for in VAT law and practice which can be used to gain short term cash flow improvements in times of need. While many of these strategies may be data-intensive, technology can generally assist.

Businesses operating in a partially VAT exempt environment may have experienced a dramatic shift in activity which could warrant revisiting their current VAT recovery methodology. Ultimately all businesses with restricted input VAT recovery need to ensure that the method in place for recovering VAT on dual-use inputs correctly reflects the use to which the underlying costs are put. As a result of such a review, additional costs may be identified as being attributable to VATable supplies which coupled with a change in the basis for calculating the blockage could lead to significant improvements.

Ciara McMullin

A review of Accounts Payable to consider if all input VAT incurred has been recovered, where permitted, can prove fruitful, as there is a tendency to not consider reclaiming any VAT on employee expenses claims. In addition, foreign VAT often remains unclaimed notwithstanding the fact that there are efficient procedures in place to reclaim non-Irish VAT incurred.

"Businesses operating in a partially VAT exempt environment may have experienced a dramatic shift in activity which could warrant revisiting their current VAT recovery methodology."

Operating an input tax accrual with a view to recovering VAT on invoices received but unposted in the earliest possible VAT return is another cash flow optimisation strategy worth considering at this time. Where there are considerable VATable costs between related entities the cash flow benefits of forming a VAT group are also worth bearing in mind."