
Compliance Code for PAYE Taxpayers

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1. Summary

The Compliance Code for Pay As You Earn (PAYE) taxpayers has been developed to set out a clear and consistent approach to PAYE compliance interventions that Revenue conducts in order to detect and deter non-compliance.

For most PAYE taxpayers, at the end of each year, the correct amount of **tax**¹ will have been deducted by their employer from their earnings so that they will neither be due a refund of tax nor owe any tax. However, in some instances the incorrect amount of tax will have been collected or refunded due to innocent error or through no fault on the part of the taxpayer while in other instances it will have been due to careless behaviour or deliberate behaviour on the part of a taxpayer.

The Compliance Code for PAYE taxpayers sets out the details in relation to:

- The scope of this Compliance Code, i.e. to whom this Code applies
- Regularising tax affairs where an error is discovered
- Tackling non-compliance, including by way of PAYE compliance interventions, and the possible outcomes
- Interest charges that may apply to any additional tax
- Different penalties that may apply on tax defaults arising from careless behaviour or deliberate behaviour on the part of the PAYE taxpayer
- Measures relating to persons who knowingly or carelessly assist or induce others to make incorrect claims or to make an incorrect statement or declaration to Revenue
- Penalties for failure to make a tax return
- Publication of the tax default where certain criteria are met
- Payment methods available to discharge additional liability
- Claims of 'Inability to Pay' additional tax arising from PAYE compliance interventions
- Prosecution of cases involving fraud.

This Code came into effect from 18 November 2013. All PAYE compliance interventions undertaken by Revenue from that date will be made under the terms of this Code.

¹ In this document a reference to tax means an individual's liability to income tax and the Universal Social Charge (USC).

Compliance Advice for PAYE Taxpayers

PAYE taxpayers should, at all times, ensure that Revenue is made aware of all the factors that affect the amount of tax deducted from their earnings.

Some important advice to help PAYE taxpayers to meet their compliance obligations is as follows:

- A taxpayer should check his or her Notice of Determination of Tax Credit Certificate (TCC) annually and ensure that he or she is entitled to the tax credits that have been allocated to him or her and that any tax credits he or she may be entitled to are being claimed. To obtain a copy of his or her TCC a taxpayer can:
 - 1) View or print a TCC on Revenue's PAYE Services in [myAccount](#) (click the 'Manage your tax' link). See page 2 for further information on [myAccount](#), or
 - 2) Call Revenue's PAYE 1890 LoCall Phone Service.
- A taxpayer may be unsure about his or her entitlement to a tax credit or may wish to check the criteria that would allow him or her to qualify for a tax credit. In these circumstances, he or she can check the Revenue website at www.revenue.ie, or call Revenue's PAYE 1890 LoCall Phone Service.
- A taxpayer should not assume that Revenue has access to all up-to-date information regarding his or her circumstances. Therefore, he or she should keep Revenue informed of any changes in basic personal details such as a change of address as well as changes in his or her circumstances that may affect his or her entitlement to a tax credit(s). In particular, significant "life events" such as marriage or civil partnership, cohabitation, separation, bereavement or becoming entitled to a Department of Social Protection payment or pension should be brought to Revenue's attention as soon as possible.
- A taxpayer must keep all relevant documentation to support claims for tax credits, reliefs, allowances, etc. (e.g. a taxpayer claiming medical expenses must have receipts to support the expenses claimed). All supporting documentation must be kept for a **period of six years from the end of the year to which the claim or liability refers**.
- It is important to inform Revenue of any other non-PAYE sources of income, e.g. rental income, dividends, Department of Social Protection payments and pensions, etc. Any additional non-PAYE income may be subject to tax or USC or both. Taxpayers should ensure that Revenue is made aware, as soon as possible, of any additional non-PAYE income so that the correct tax and USC liability can be calculated and collected and to prevent the build up of tax and USC arrears.
- A taxpayer should respond to any queries made by Revenue in connection with their tax affairs as quickly and comprehensively as possible.
- If a taxpayer is requested, by Revenue, to complete an income tax return, they should do so as quickly as possible, returning it by no later than 31 October in the year following that to which it relates.

The quickest and easiest way for taxpayers to keep their tax affairs up to date is to use Revenue's [myAccount](#) service.

2. Introduction

The **Customer Service Charter** sets out the fundamental elements of the service that taxpayers are entitled to and what Revenue expects of taxpayers.

The PAYE system of tax deduction operates by employers making deductions of tax from the salaries or wages of their employees and paying over these amounts (along with PRSI) to Revenue on their employees' behalf. These deductions of tax are made by employers on foot of a notification that they receive from Revenue at the start of each year which sets out their employee's tax credit entitlements and tax rate bands for that year.

An employee's tax credit entitlements and tax rate bands are determined by Revenue on the basis of the latest information available to them about the taxpayer's personal circumstances, tax credit claims that he or she has made previously and his or her employment details.

For most taxpayers at the end of each year the correct amount of tax will have been deducted by their employer. However some tax reliefs, e.g. health expenses are generally claimed after the year ends and entitlements to refunds may arise then.

In some instances, underpayments of tax may arise as a result of the following:

- Tax credits, allowances and reliefs granted that the taxpayer was not entitled to
- A change in the taxpayer's personal circumstances meaning that certain tax credits, reliefs and allowances no longer apply
- Minor adjustments to non-PAYE income, e.g. rental income, that is taxed under the PAYE system
- Loss of entitlement to exemption from tax or reduced rate USC.

On the other hand, in some instances, overpayments of tax may arise as a result of the following:

- Tax credits, allowances and reliefs not claimed that the taxpayer is entitled to
- A change in the taxpayer's personal circumstances meaning that certain tax credits, reliefs and allowances are due
- Exemption from tax or reduced rate USC applies.

In order to ensure that the correct tax is collected efficiently and to prevent any build up of tax arrears, it is essential that taxpayers keep Revenue informed with as much up-to-date information as possible about all of the factors that affect the amount of tax deducted from his or her earnings. The sooner Revenue is made aware of any changes the better. Taxpayers should not assume that Revenue has access to all up-to-date information regarding a taxpayer's particular circumstances.

3. Scope of the Compliance Code

This Code applies to PAYE taxpayers and governs compliance interventions in PAYE cases **except** audits and investigations which are governed by the “**Code of Practice for Revenue Audit and other Compliance Interventions**”.

The “Code of Practice for Revenue Audit and other Compliance Interventions” generally applies to:

- Chargeable persons
- Employers and businesses in general
- PAYE taxpayers in circumstances where an audit or investigation is initiated (see **Section 5.2 and 6.3**).

Chargeable persons include proprietary company directors (those who own more than 15% of a company) and those who are or should be registered for Income Tax under the ‘Self-Assessment’ system.

For the purpose of this PAYE Compliance Code, a PAYE taxpayer is **generally** regarded as an individual whose:

- main source of income is taxed within the PAYE system, and
- non-PAYE income (if any), e.g. rental income, dividends, etc. is taxed by reducing their tax credits and tax rate bands (Revenue refers to this method as “coding”), and
- gross non-PAYE income is less than €50,000 and their net non-PAYE income (if any) is €5,000 (€3,174 for years up to and including 2015) or less and the net non-PAYE income is ‘coded’.

The following payments although fully taxable are not included when determining a person’s “non-PAYE income”:

- Department of Social Protection payments and pensions
- Legally enforceable maintenance payments received, excluding the part(s) of the payment that refers to a child or children.

In addition, this Code, in no way, diminishes the role of the employer to operate the PAYE system of deduction accurately and correctly in accordance with tax legislation, the PAYE Regulations and Revenue instructions. As mentioned above, compliance interventions to verify the correct operation of the PAYE system by employers are governed by the “Code of Practice for Revenue Audit and other Compliance Interventions”.

4. Regularising Tax affairs

PAYE taxpayers may correct or regularise errors in their tax affairs by contacting Revenue to give details of the error(s). In particular, underpayments of tax can arise where a taxpayer is in receipt of tax credits, reliefs or allowances that he or she is not entitled to and he or she does not make Revenue aware of this. Similarly he or she may be granted a reduced rate of USC but may not be entitled to it.

Revenue strongly encourages taxpayers to bring to their local Revenue office's attention any issues that they may be unsure of or have concerns about. If those issues relate to the current year, they can be easily rectified and will have the least impact on a taxpayer. If a taxpayer does not discover the issues until after the end of the year, whether those issues relate to the most recent year or prior years, a taxpayer can still regularise his or her affairs by notifying Revenue of all relevant details.

Tax defaults may be corrected by the taxpayer in any of the following ways:

- Declare that an innocent error has been made
- Make a self-correction of the error
- Make a "qualifying disclosure".

The options available to a taxpayer who wishes to regularise his or her tax affairs will depend on the action, inaction or behaviour that has led to the tax default. The action or behaviour categories to be considered are:

Innocent Error: a tax default that is not deliberate and not attributable in any way to the failure, by the taxpayer, to take reasonable care to comply with his or her tax obligations.

Careless behaviour: a lack of due care which leads to the reduction in the amount of the taxpayer's liabilities or exemption from tax. This can be as a result of incorrect claims for tax credits, allowances or reliefs or by the provision of incorrect information required to claim refunds, e.g. claiming incorrect health expenses, providing incorrect pay details or PAYE tax deducted.

Deliberate behaviour: involves either a breach of tax obligations with indications consistent with **intent** on the part of the taxpayer or a breach that cannot be explained solely by carelessness or innocent error on the part of the taxpayer.

Where the aggregate amount of a person's tax or duty default is less than €6,000 and the default is not in the deliberate category, the default shall not render that person liable to a penalty.

Irrespective of how the tax default occurred, payment in settlement of an underpayment is required. This can consist of one single payment or a phased payment arrangement agreed by Revenue (see **Section 12**).

4.1 Declaring an Innocent Error

Revenue is anxious to ensure that cases of innocent error should not be unduly penalised. A penalty will not be payable in respect of a tax default if the caseworker is satisfied that the tax default was not deliberate and was not attributable in any way to failure by the taxpayer to take reasonable care to comply with his or her tax obligations.

To declare an innocent error the taxpayer must notify Revenue of the adjustments to be made to his or her tax affairs, explaining the reason for the innocent error to Revenue's satisfaction and agreeing an appropriate course of action to correct the error.

4.2 Making a Self-Correction

Revenue will allow PAYE taxpayers to **self-correct** an error or omission arising from careless behaviour or non-recurring deliberate behaviour.

To 'self-correct' the taxpayer must notify Revenue of the adjustments to be made to his or her tax affairs, explaining the reasons for the adjustment requirement and agreeing an appropriate course of action to correct the error.

It should be noted that the benefit of "self-correction" is **not** available where the deliberate behaviour is recurring or where Revenue has already contacted the taxpayer regarding his or her tax affairs.

Revenue will allow a taxpayer to '**self-correct without penalty**' if the following conditions apply:

- The self-correction is notified to Revenue **within 12 months of the due date for filing** the return for which the adjustment relates
- The taxpayer must notify Revenue in **writing** of the adjustment to be made.

Whilst no penalty will arise in these circumstances please note a charge to interest may apply.

4.3 Making a Qualifying Disclosure

Where neither self-correction nor innocent error applies a taxpayer may make a **qualifying disclosure** at any time prior to or during a PAYE compliance intervention covered by this Code.

A "qualifying disclosure" is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that may give rise to a penalty. It must be made in writing, be signed by or on behalf of the taxpayer and be accompanied by:

- A declaration, to the best of that person's knowledge, information and belief that all matters contained in the disclosure are correct and complete
- Payment of the tax liability and interest where applicable on the late payment of same.

Where Revenue accepts a qualifying disclosure the following benefits will arise:

- No penalty applies where the tax default arose due to careless behaviour and the total additional liability does not exceed €6,000 or, if a penalty arises, a significant reduction in the penalty applies to the tax default
- The tax settlement is not published in the list of tax defaulters
- The taxpayer is not investigated with a view to prosecution.

5. Detecting and Tackling Non-Compliance

Non-compliance is any action or failure to take action that a PAYE taxpayer is legally obliged to perform accurately that gives rise to insufficient tax being paid on his or her income from all sources, or receiving a refund of tax that he or she is not entitled to, having regard to the allowances, reliefs, deductions, credits or credit for tax deducted that he or she is due. Revenue conducts the following interventions to detect and deter non-compliance:

- Aspect Queries
- Profile Interviews
- Audits
- Investigations.

A PAYE compliance intervention may involve an examination of:

- A taxpayer's declared or undeclared incomes, tax credits, reliefs and allowances claimed
- A tax credit request or a repayment claim
- A claim to exemption from tax
- A claim to reduced rate USC
- An annual tax return of income (Form 12)
- Any other matter that materially affects deductions of tax.

PAYE compliance interventions provide assurance to both Revenue and the taxpayer that:

- The correct amount of tax has been deducted from a taxpayer's income
- The correct tax credits, allowances and reliefs, or reduction in USC have been claimed
- All income has been declared
- All significant "life event" changes such as marriage, separation, civil partnership, bereavement, retirement or divorce as well as changes of address have been notified to Revenue
- **myAccount** online system and other electronic self-service systems have been correctly used by a taxpayer.

5.1 Selection of Cases

Cases are selected for possible PAYE compliance intervention based on the presence of various risk indicators. In addition a small number of cases are selected randomly for possible intervention.

Revenue uses sophisticated analytical computer systems to assist with the identification of risk. These include:

Risk, Evaluation, Analysis and Profiling system (REAP)

- REAP has been designed to analyse data (including a range of third party data such as bank interest, Government payments, etc.) held by or available to Revenue and to assess the risks involved. It prioritises cases based on risk, enabling Revenue to target its attention on those who need it most and minimising contact with compliant taxpayers. It ensures fairness by applying the same rules to all cases.

Real Time Risk Framework (RTRF)

- RTRF has been designed to assist Revenue in the management of non-compliance by analysing all PAYE transactions (e.g. refund claims) using a set of specially designed business rules and predictive analytical models to assess risk. Again, it ensures fairness by applying the same rules to all cases.

5.2 Appraisal of Cases

A caseworker will first appraise a case to establish whether there is need for any action. Appraisal is the process whereby a caseworker checks all the relevant information about the case held by, or available to, Revenue.

The outcome of an appraisal is a recommendation from the caseworker, as to the appropriate PAYE compliance intervention, i.e. aspect query, profile interview, audit or investigation. Alternatively, the caseworker may recommend that no further action is required, where the appraisal has clarified the risk(s).

6. PAYE Compliance Interventions

Where it has been decided that a PAYE compliance intervention is required, the caseworker will determine which intervention is most appropriate in terms of the risk identified and which imposes the least cost to both Revenue and the taxpayer while addressing the perceived risk(s).

Regardless of the type of Revenue intervention undertaken, the taxpayer is required to co-operate fully with the Revenue enquiries.

6.1 Aspect Query

An aspect query for PAYE taxpayers is a targeted intervention for the purpose of checking:

- A particular type of risk(s), e.g. health expenses claim, specific tax credit
- An entire case, i.e. checking all credits, reliefs, allowances, sources of income, etc.

It always involves contact with either the taxpayer or his or her agent by telephone, e-mail, letter or visit.

6.2 Profile Interview

Following appraisal of a case, it may be that the risk(s) evident are not obvious enough to be adequately dealt with by an aspect query. In these cases a profile interview may be scheduled, which will involve a meeting with the taxpayer and an interview during which the risk(s) associated with the case will be discussed. Normally, but not exclusively, a profile interview will take place in the local Revenue office.

6.3 Audit or Investigation

Following appraisal of a case, where a significant tax risk exists, a taxpayer may be selected for audit or investigation. Where this arises, the procedures laid down in the “**Code of Practice for Revenue Audit and other Compliance Interventions**” will apply.

A Revenue Audit may involve an examination of:

- A tax return
- A declaration of liability or a repayment claim
- A statement of liability to Stamp Duty
- An examination of books, records and compliance with tax obligations.

A Revenue Investigation is an examination of a taxpayer's affairs where Revenue has strong concerns of serious tax offences having occurred.

It is expected that a Revenue Audit or Investigation will only arise in a small number of PAYE cases. In these circumstances a 'Notification of Revenue Audit' or 'Notification of Revenue Investigation' letter will issue.

6.4 Notification and documentation required

Where a taxpayer is selected for an intervention covered by this Code (aspect query or profile interview), a taxpayer will be contacted and informed of the format of the intervention. The intervention may be conducted by correspondence, by visit or both.

Revenue will inform the taxpayer of the year(s) under examination and what is to be checked, e.g. whether it is all or part of a claim for tax credits or reliefs, an income source, etc. A taxpayer (or his or her agent) will be asked for information and documentation that relate to the issue(s) being examined. It may be necessary to ask for more information and documentation as the intervention continues. The intervention may also be extended to cover other risks or issues that emerge during the course of the intervention and the number of years to be examined may also be extended.

A taxpayer is required to keep and preserve documentation in support of his or her claim or other documentation relevant to his or her liability to tax, for a **period of six years from the end of the year to which the claim or liability refers**.

The records to be kept by a taxpayer are such records that enable the taxpayer to support any element of his or her liability to tax including any claims for tax credits, reliefs, allowances and deductions as well as any refund claims.

The caseworker will give the taxpayer a minimum **of 30 days notice to produce documents, accounts or particulars that are required**.

6.5 Periods covered

A PAYE compliance intervention usually involves an examination by Revenue of the most recently completed tax year as well as the current year and in some instances it can also relate to earlier years. Where a tax default arises due to deliberate behaviour by a taxpayer all relevant tax years may be examined by Revenue.

A caseworker may make enquiries into a claim for tax credits, reliefs, rate reduction or exemption made by a taxpayer, or any other issues affecting a taxpayer's liability at any time **within four years after the end of the year to which the claim or liability relates**, but there is no time limit where the tax default arises through fraud or neglect on the part of a taxpayer.

6.6 Potential Outcomes

The potential outcomes of a PAYE compliance intervention are that:

- A refund of tax is due
- No additional tax is due
- A tax credit is withdrawn
- Additional tax is due
- Additional tax and interest on late payment may arise (see **Section 7**)

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- Additional tax and penalties may arise (see **Section 8**)
 - Additional tax and interest on late payment and penalties may arise
 - Publication of the tax default may arise where certain criteria are met (see **Section 11**)
 - Case may be escalated to an audit or investigation
 - In some instances, a criminal prosecution can be pursued (see **Section 14**).

6.7 Finalisation

When a caseworker has completed a PAYE compliance intervention he or she will notify the taxpayer of any change in tax liability or if a tax credit has been withdrawn. In the case where an additional tax liability is determined the taxpayer will also be notified if a charge to interest arises and / or if it is Revenue's opinion that a penalty may also be due.

Tax

In the circumstances where there is a change in a taxpayer's tax liability, i.e. additional tax or refund of tax is due, a PAYE Balancing Statement (P21) will issue setting out the revised tax liability. A P21 is a statement of total income, tax credits and tax paid for a particular tax year.

In the circumstances where there is no additional tax liability a caseworker will either write to the taxpayer or issue a P21 confirming same.

In most cases agreement of the additional tax liability will be reached. However, where the taxpayer disagrees with the tax liability set out in the P21, he or she is entitled to lodge an appeal in writing within 30 days of the date of the P21, setting out the reasons why they disagree.

An appeal can be made to the Tax Appeals Commission (TAC) by completing and submitting a 'Notice of Appeal' form. This form is available on the TAC's website www.taxappeals.ie and contains the address to which an appeal is to be sent.

Interest and Penalties

Where a charge to interest arises and if it's Revenue's opinion that a penalty may also be due a letter will issue to the taxpayer setting out the total liability, including the tax amount set out in the P21.

Where an additional tax liability is due or a penalty has been applied, the taxpayer will be invited to forward a written offer of settlement and make a payment of the total liability (tax, interest, penalty where applicable) to Revenue. A draft settlement offer is set out at **Appendix 2**, and may be used by the taxpayer in this regard. Where the settlement offer is agreed by Revenue a letter will issue to confirm same.

Again, in most cases agreement of the additional liability will be reached with the taxpayer.

Statutory interest is only chargeable on the tax liability that is agreed between the taxpayer or his or her agent and the caseworker, or where the liability has been determined by the Tax Appeals Commission following an appeal. As a result statutory interest may not be appealed.

Where a penalty is not agreed or where an agreed penalty has not been paid Revenue may issue a Notice of Opinion and a determination may be made in a relevant court (see **Section 8.3**).

Payment

Where additional tax, interest or penalties arise as a result of a PAYE compliance intervention, payment of the agreed amount must be made in full. Please see **Section 12** for further details regarding the payment of additional amounts.

7. Interest

Where, as a result of a PAYE compliance intervention, an underpayment arises, a charge to interest may apply and is payable on the tax due.

Once a charge to interest arises, the interest is always payable in full and Revenue cannot mitigate or reduce that interest charge. The rate of interest to be applied at present is 0.0219%² per day on the balance outstanding, as set out in Section 1080(2)(c) of the Taxes Consolidation Act (TCA) 1997³.

7.1 Charging Interest on Underpayments arising from Incorrect Claims made on or after 6 February 2011 (see also Section 9)

Specific rules for charging interest apply if an underpayment arises as a result of a taxpayer making an incorrect claim for tax credits, reliefs, allowances, rate reduction, exemption or from the provision of incorrect information required to claim refunds. These rules apply for **incorrect claims made on or after 6 February 2011** and are as follows:

- For incorrect claims made after the end of the tax year, interest is chargeable from the date the payment of amounts by Revenue, arising from the incorrect claim, were made to the taxpayer, to the date on which the proceeds are fully repaid to Revenue
- Where the benefit of a tax credit, relief etc. is granted during the course of a year in an individual's Tax Credit Certificate (TCC) so that he or she benefits through an increase in his or her take-home pay and the TCC issued prior to the 1 July, interest will apply from the 1 July in that year to the date on which the monies are fully repaid to Revenue, or
- Where the TCC issued on or after the 1 July, interest will apply from the subsequent 1 January to the date on which the monies are fully repaid to Revenue.

Example:

In a scenario where a taxpayer claims Home Carer's Tax Credit for the tax year 2012, but following a PAYE compliance intervention in April 2013 it is discovered that the claim was incorrect, interest would apply as follows:

- Where the incorrect claim was made after the end of the 2012 tax year, with Revenue making the payment of the related refund to the taxpayer on 11 February 2013, Revenue will recoup the amount refunded plus interest from the 11 February 2013 to the date the amount is repaid in full.

² Interest Rate correct in December 2016.

³ See Appendix 5 for a list of the relevant provisions relating to this Code.

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- Where the incorrect claim was made on the 29 May 2012 and the tax credit was granted on the TCC that issued on the 30 May 2012, Revenue will recoup the total value of the claim plus interest from the 1 July 2012 to the date the amount is repaid in full.
 - Where the incorrect claim was made on the 29 August 2012 and the tax credit was granted on the TCC that issued on the 30 August 2012, Revenue will recoup the total value of the claim plus interest from the 1 January 2013 to the date the amount is repaid in full.

7.2 Charging Interest on other Underpayments including Incorrect Claims made before 6 February 2011

In all other instances where an underpayment arises, including underpayments arising from incorrect claims made **before the 6 February 2011**, interest can be charged on the underpayment determined in a P21. Interest is due from the date the tax became payable.

Section 960 TCA 1997 sets out that tax is payable on or before the 30 September⁴ in the tax year. Where a P21 is issued after the 30 September in the tax year, the liability is due and payable **not later than one month** from the date of the P21.

Example:

P21 issued after 30 September in the tax year:

A taxpayer claims Tuition Fees for the tax year 2010 on the 1 Feb 2011 and as a result a P21 and a refund for the year 2010 issued on the 4 February 2011. Following a PAYE compliance intervention in March 2013 it is discovered that the claim was incorrect. The credit was withdrawn and an amended P21 issued on the 10 March 2013 outlining the underpayment of tax. If the underpayment of tax is not paid by 10 April 2013, Revenue will recoup the underpayment of tax plus interest from 10 April 2013 until the amount is repaid in full.

8. Penalties

In a case where a penalty arises, the amount of the penalty is generally computed by Revenue, agreed with the taxpayer, and paid. Where a taxpayer does not agree liability to a penalty or does not pay a penalty which that person has agreed liability to, then it is a matter for a court to determine whether the taxpayer is liable to a penalty (see 8.3 below). Where a penalty arises it can be a fixed penalty, a mitigated fixed penalty or a percentage of tax arising from a default.

8.1 Raising a Penalty

A penalty **will not** arise in cases where:

- The default arose due to **innocent error**
- The default arose due to **careless behaviour or non-recurring deliberate behaviour by a taxpayer** and is corrected within the time limit under the self correction procedures set out at 4.2

⁴ For tax years prior to 2011 the income tax due and payable date is the 31 October.

- The error is in the “**careless behaviour**” category and the total default does not exceed €6,000
- The taxpayer is deceased and a penalty on a tax default arising from a PAYE compliance intervention had not been agreed in writing with the taxpayer or his or her agent, or determined by a relevant court prior to the taxpayer’s death.

8.2 Penalty Amounts

Revenue will exercise care in considering whether a taxpayer may be liable to a penalty in any particular case. The categories of default giving rise to penalties include:

- Careless behaviour without significant consequences, or
- Careless behaviour with significant consequences, or
- Deliberate behaviour.

Careless behaviour with significant consequences is distinguished from careless behaviour without significant consequences by reference to the size of the shortfall relative to the correct tax liability concerned, e.g.

- Example A – careless behaviour WITH significant consequences
- Example B – careless behaviour WITHOUT significant consequences

Careless Behaviour	Example A	Example B
Tax payable as per an incorrect tax return, say	€10,000	€55,000
Tax ultimately due	€30,000	€63,000
Tax underpaid	€20,000	€8,000
Penalty	<i>The careless behaviour with significant consequences penalty applies as the tax underpaid exceeds 15% of the €30,000 ultimately due</i>	<i>The careless behaviour without significant consequences penalty applies, as the tax underpaid does not exceed 15% of the €63,000 ultimately due.</i>

Section 1065 TCA 1997 sets out the circumstances in which Revenue may, after due consideration, mitigate penalties.

The Penalty Table below refers to defaults that occur on or after 24/12/2008 where the taxpayer makes a qualifying disclosure and also to defaults where no qualifying disclosure is made.

Liability to a tax-geared percentage penalty arises on the ‘difference’ between the amount of tax that would have been payable if the tax had been computed in accordance with the incorrect or false return, and the amount of tax that would have been payable if the tax was computed in accordance with the true and correct return [s1077E TCA 1997].

PENALTY TABLE	CATEGORY OF BEHAVIOUR	PENALTY	QUALIFYING DISCLOSURE MADE	
DISCLOSURES		%	FULL COOPERATION PENALTY REDUCED TO	
All tax/duty defaults where there is a qualifying disclosure	Penalty table for tax/ duty defaults that occurred on or after 24/12/2008	Where full cooperation not given by taxpayer	Prompted Qualifying Disclosure and full cooperation – penalty reduced to:	Unprompted Qualifying Disclosure and full cooperation – penalty reduced to:
All qualifying disclosures in this category	Careless ¹ behaviour without significant consequences	20%	10%	3%
First qualifying disclosure in these categories	Careless behaviour with significant consequences ²	40%	20%	5%
	Deliberate ³ behaviour	100%	50%	10%
Second qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	30%	20%
	Deliberate behaviour	100%	75%	55%
Third or subsequent qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	40% (no reduction)	40% (no reduction)
	Deliberate behaviour	100%	100% (no reduction)	100% (no reduction)
PENALTY TABLE	CATEGORY OF BEHAVIOUR	PENALTY	NO DISCLOSURE MADE	
NO DISCLOSURE		%	FULL COOPERATION PENALTY REDUCED TO	
All defaults where there is no qualifying disclosure	Careless behaviour without significant consequences	20%	15%	
	Careless behaviour with significant consequences	40%	30%	
	Deliberate behaviour	100%	75%	
Where a ‘qualifying disclosure’ is made, the taxpayer is not subject to prosecution in relation to the matter that gave rise to the tax/duty default or publication on the list of tax defaulters. For third or subsequent qualifying disclosures in the ‘careless behaviour with significant consequences’ or ‘deliberate’ behaviour categories, the percentage penalty is not reduced.				
Liability to a tax-geared percentage penalty arises on the “difference” between the tax liability/tax claim on the incorrect and correct returns				

¹ In tax legislation, instead of 'careless behaviour[etc.], the term used is 'carelessly but not deliberately'. The penalty percentages are as outlined in legislation.

² 'Significant consequences' is explained in paragraph 8.2 of this Code of Practice

³ In tax legislation, the term used is 'deliberately'. The penalty percentages are as outlined in legislation.

8.3 Penalties Determined by a Relevant Court

In most cases where a penalty arises, the amount of the penalty due is generally computed by the caseworker, agreed with the taxpayer and paid. However, where there is no agreement on a penalty or where an agreed penalty is not paid the following will apply:

Revenue may issue a Notice of Opinion to the taxpayer setting out the reasons why a penalty is applicable (**see Appendix 3 for further information**),

-
- A taxpayer will have 30 days to respond
 - Where the taxpayer does not respond or where there is still no agreement on the amount of the penalty or no payment of an agreed penalty, Revenue may apply to a relevant Court for a determination.

9. Additional Measures Relating to Incorrect Tax Credit Claims

An incorrect claim could be made by an individual, by a person who assists an individual with the full consent of the individual, or by a person without the knowledge or consent of the individual.

In each case it will be **the recipient of the proceeds** from the incorrect claim that will be required to return such proceeds to Revenue.

In relation to incorrect claims, Revenue can:

- Recoup any proceeds from the recipient on the basis of an incorrect claim
- Charge interest on the proceeds of incorrect claims from the date the payment was made to the recipient (see **Section 7**)
- Agree a penalty for making an incorrect claim (see **Penalty Table**).

9.1 Penalties for persons assisting or inducing others

Where any person knowingly or carelessly assists in or induces another to make or deliver to the Revenue Commissioners any incorrect statement or declaration, he or she shall also be liable to a fixed penalty of €3,000 under Section 864(3) TCA 1997. Penalties for this category of tax default apply on a per claim basis.

10. Penalties for Failure to Make a Tax Return

Any person who is required to make a return of income by an Inspector of Taxes, and fails to do so, is liable to a fixed penalty of €3,000 under Section 1052 TCA 1997. The penalty is chargeable on a per return basis. In addition, the penalty can be increased to €4,000 per return where the failure to submit the return continues after the end of the tax year in which the person received the tax return from the Inspector.

Fixed Penalties

In certain situations, a person may be liable to a fixed penalty for failure to fulfil an obligation under tax or duty legislation. Examples of such fixed penalties include-

Incorrect Returns

Section 1055 TCA 1997 provides that any person who deliberately assists in or induces the making or delivery for any purposes of income tax or corporation tax of any incorrect return, account, statement or declaration shall be liable to a penalty of €4,000.

Section 1078(2)(b) TCA 1997 provides that a criminal offence is committed by a person who knowingly 'aids, abets, assists, incites or induces' the provision of incorrect returns, statements or accounts in connection with any tax.

It is the intention of Revenue to consider prosecution under Section 1078 in appropriate circumstances.

11. Publication

Section 1086 TCA 1997 imposes an obligation on the Revenue Commissioners to publish a list, within three months of the end of each quarter, of the name, address and occupation of every taxpayer:

- on whom a fine or other penalty was imposed or determined by a court under any of the Acts in respect of tax or duty-related matters during that quarter. Where a taxpayer is publishable under this category, the tax amount on which the court has determined the penalty will be published, whether the tax or penalty is paid or not
- where Revenue has agreed with a taxpayer to refrain from initiating proceedings for the recovery of any fine or penalty and accepted a specified sum of money in settlement of any claim by Revenue for:
 - (i) payment of tax or duty,
 - (ii) payment of interest on that tax or duty, and
 - (iii) a fine or other monetary penalty in respect of that tax or duty including penalties in respect of the failure to deliver returns or other documents in connection with that tax or duty.

Revenue however will not publish the following:

- cases where a qualifying disclosure is accepted; [Section 1086 (4)(a) TCA 1997]
- cases where the specified sum referred to in paragraph (c) or (d) of Section 1086 subsection (2) does not exceed €33,000
- cases where the penalty (agreed with taxpayer or determined by a court) does not exceed 15% of the amount of the tax ultimately due.

The taxpayer (and agent, if relevant) will be informed that the settlement will be published along with the details of same. In addition to the name and address, details of the amount of tax, interest, penalty and occupation, together with information relating to the default are also published.

12. Payment of additional amounts

A number of methods are open to taxpayers to make settlement payments to Revenue on foot of a PAYE compliance intervention. Payments can be made securely online via [myAccount](#) using:

- a debit card
- a credit card, or
- a once-off debit – a ‘Single Debit Instruction’ – using a bank account.

Occasionally, a taxpayer may not have the financial resources at his or her disposal to make a single payment in settlement of the outstanding liability identified following a PAYE compliance intervention. In these circumstances, Revenue may agree to payment of the outstanding amount over a short period of time, usually by way of monthly payments or by reduction of future tax credits. Where a phased payment or reduction of future tax credits is agreed, interest is chargeable until the outstanding balance is paid in full.

If a taxpayer finds that he or she needs to make an application to Revenue to pay the arrears by way of monthly instalments, he or she should write to the caseworker dealing with his or her case setting out the grounds for a phased payment arrangement. The taxpayer should also provide any necessary supporting documentation to substantiate their request. Such documentation would include:

- Details of the proposed duration of any such phased payment arrangement
- A statement of his or her financial affairs, setting out his or her incomings and outgoings
- A list of all assets held and, if relevant, the reason for non-disposal of these assets to pay the liability
- An explanation why a loan cannot be obtained to discharge the liability or evidence of refusal of a loan.

Any PAYE taxpayer with whom Revenue agrees a phased payment arrangement will be required to:

- Sign an agreement with Revenue to adhere to certain terms and conditions (see **Appendix 4** for a copy of the Agreement Form)
- Enter into a direct debit arrangement to make monthly payments from his or her bank account to Revenue’s account
- Agree to pay an interest charge over the term of the repayment period. Monthly instalment payments must include payment of the liability plus interest over the course of the arrangement as well as any penalties agreed and any interest charged to the date of the agreement.

13. Claims of “Inability to Pay”

Occasionally, a taxpayer will find himself or herself in a situation that he or she does not have the financial resources to allow him or her make payment in full of his or her liability.

A taxpayer’s maximum capacity to pay the outstanding amount is determined by his or her assets and his or her earnings level within his or her employment in addition to any other income sources that he or she may have.

It is the responsibility of the taxpayer claiming “inability to pay” to demonstrate that inability to the satisfaction of Revenue.

Documentary evidence of inability to pay may include any or all of the following items that the taxpayer deems appropriate:

- A formal settlement offer document
- A statement of his or her financial affairs, setting out his or her incomings and outgoings
- A list of all assets held and, if relevant, the reason for non-disposal of these assets to pay the liability
- An explanation why a loan cannot be obtained to discharge the liability or evidence of refusal of a loan.

The caseworker will give detailed consideration to claims of inability to pay and may require additional supporting documentation. Such claims that are not substantiated with documentary evidence will not be accepted. All evidence that will support the claim of inability to pay should be included in one comprehensive submission by the taxpayer to Revenue.

All cases where the taxpayer has demonstrated inability to pay will be subsequently pursued where the financial situation of the taxpayer improves.

14. Prosecution of cases involving fraud

Where the circumstances are warranted, **i.e. where there are strong concerns of serious tax offences having occurred** Revenue may initiate a tax investigation with a view to issuing criminal proceedings against a PAYE taxpayer. This will generally arise only in cases of serious fraud. Where it is clear from the facts and circumstances of the case that the default arose due to the innocent error or carelessness on the part of the taxpayer, Revenue is unlikely to refer a case to the Director of Public Prosecutions (DPP). The DPP makes decisions as to whether a case should be prosecuted.

It should also be noted that cases which commence as a compliance intervention including an audit may be pursued with a view to a prosecution. However, where Revenue accepts a qualifying disclosure the taxpayer will not be investigated with a view to prosecution.

The implications of a criminal prosecution for a PAYE taxpayer are that in addition to payment of additional tax, interest and agreed penalties, he or she may also be punished by a fine or by imprisonment or both.

Appendix 1 - Settlement Offer

I, of

Offer €in settlement of:

- | | |
|-------------------------------|---|
| a) Income Tax for the year(s) | € |
| b) USC for the year(s) | € |
| c) Interest on the above | € |
| d) Penalties on the above | € |

Total: €

I acknowledge that where the criteria* for publication under Section 1086 Taxes Consolidation Act 1997 are met my name will be published in the List of Tax Defaulters.

Signed..... Date.....

Witness..... Date.....

* The publication criteria are as follows:

- A qualifying disclosure of a tax default has not been made, and
- An agreement is reached in relation to a settlement, and
- The three elements of tax, interest and penalties are present, and
- The total amount of that settlement exceeds €33,000, and
- The penalty is more than 15% of the tax included in the settlement.

Appendix 2 - Penalty Table

PENALTY TABLE	CATEGORY OF BEHAVIOUR	PENALTY	QUALIFYING DISCLOSURE MADE	
DISCLOSURES		%	FULL COOPERATION PENALTY REDUCED TO	
All tax/duty defaults where there is a qualifying disclosure	Penalty table for tax/ duty defaults that occurred on or after 24/12/2008	Where full cooperation not given by taxpayer	Prompted Qualifying Disclosure and full cooperation – penalty reduced to:	Unprompted Qualifying Disclosure and full cooperation – penalty reduced to:
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	Deliberate ³ behaviour	100%	50%	10%
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Third or subsequent qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	40% (no reduction)	40% (no reduction)
	Deliberate behaviour	100%	100% (no reduction)	100% (no reduction)
PENALTY TABLE	CATEGORY OF BEHAVIOUR	PENALTY	NO DISCLOSURE MADE	
NO DISCLOSURE		%	FULL COOPERATION PENALTY REDUCED TO	
All defaults where there is no qualifying disclosure	Careless behaviour without significant consequences	20%	15%	
	Careless behaviour with significant consequences	40%	30%	
	Deliberate behaviour	100%	75%	
Where a ‘qualifying disclosure’ is made, the taxpayer is not subject to prosecution in relation to the matter that gave rise to the tax/duty default or publication on the list of tax defaulters. For third or subsequent qualifying disclosures in the ‘careless behaviour with significant consequences’ or ‘deliberate’ behaviour categories, the percentage penalty is not reduced.				
Liability to a tax-geared percentage penalty arises on the “difference” between the tax liability/tax claim on the incorrect and correct returns				

¹ In tax legislation, instead of 'careless behaviour[etc.], the term used is 'carelessly but not deliberately'. The penalty percentages are as outlined in legislation.

² 'Significant consequences' is explained in paragraph 8.2 of this Code of Practice

³ In tax legislation, the term used is 'deliberately'. The penalty percentages are as outlined in legislation.

Appendix 3 - Notice of Opinion

The Notice of Opinion will include details of:

- the provisions under which the penalty arises,
- the circumstances in which that person is liable to the penalty,
- the amount of the penalty to which that person is liable, and
- such other details as Revenue considers necessary.

For tax-geared penalties, the amount of the tax due must be finalised before a Notice of Opinion is issued.

A caseworker may at any time amend an Opinion and will give notice of the amended Opinion to the taxpayer (taxpayer's agent) in the same manner as the original Notice of Opinion outline above. [Section 1077B(2) TCA 1997]

For consistency and ease of administration, all Revenue Regions and Districts will use a standard Notice of Opinion. The Notice of Opinion will issue **with the express written approval of a Principal Officer or a grade higher than Principal**.

When forming an opinion on the amount of a tax-geared penalty due, Revenue will take into account whether a disclosure has been submitted and whether co-operation has been given by the taxpayer.

The Notice of Opinion will be issued to the taxpayer (taxpayer's agent).

Where a taxpayer does not respond to correspondence relating to a Notice of Opinion of Revenue, Revenue cannot assume or decide that the taxpayer is liable to a penalty – that is up to a relevant court to determine [Section 1077A, Section 1077B and Section 1077C TCA 1997]

Appendix 4 - Phased Payment Arrangement Agreement Form

PPS Number:

Name:

Address:

I hereby acknowledge my debt of income tax, USC, interest and penalties as shown overleaf and agree to the payment of €xxxxx by YY monthly direct debit payments of €xxxxx per month commencing on DDMMYY.

If there is any departure from the above terms, collection will be enforced for all tax and statutory interest due to the date of enforcement action.

The Revenue Commissioners are not bound by this agreement unless this form is completed, signed and returned within 15 days, together with completed phased payment arrangement direct debit mandate.

Signed: _____

Date: _____

Any queries on this agreement should be directed to XXXXX at 1234567.

Appendix 5 - Powers and Penalties Legislation

The Taxes Consolidation Act, 1997 outlines the powers available to Revenue officials and the penalties applicable where a tax default arises.

Section 864	<i>Making of claims, penalty, etc.</i> The Revenue Commissioners shall determine all claims. Incorrect claims shall be liable to a penalty of €3,000*
Section 876	<i>Notification of Liability to Income Tax</i> An individual should notify Revenue if they are liable to tax within one year of the end of any year that they have a liability
Section 877	<i>Requirement to deliver a return</i>
Section 886A	<i>Retention and inspection of records in relation to claims by individuals</i> An individual shall keep all such records as may be requisite for the purpose of enabling the individual to make a correct and complete claim. Specifies 30 day notice period for taxpayer to produce records
Section 900	<i>Powers to call for production of books, information etc.*</i>
Section 902	<i>Information to be furnished by third party: request of an authorised officer*</i>
Section 933	<i>Appeals against assessments</i>
Section 949	<i>Taxpayer's Right of Appeal</i> Sets out conditions around making an appeal and requirements to appeal
Section 959B	<i>Supplemental interpretation provisions</i> Explains who is not a chargeable person
Section 959Y	<i>Assessment made or amended by Revenue officer</i> Right to make or amend a Revenue assessment
Section 959Z	<i>Right of Revenue officer to make enquiries</i>
Section 959AB	<i>Time limits on Revenue assessment and amended assessment</i>
Section 959AD	<i>Revenue assessment and amended assessments where there is fraud or neglect</i>

Section 959AF	<i>Appeal in relation to time limit on assessment made or amended by Revenue officer</i>
Section 959AI	<i>No appeal against agreed amounts</i>
Section 959AJ	<i>Grounds for appeal</i>
Section 959AK	<i>Appeal against amended assessment</i>
Section 959AL	<i>Other rules</i> Amount of tax to be paid prior to appeal
Section 960	<i>Date of payment of income tax other than under self assessment</i> For incorrect claims after the year of assessment, income tax is due and payable on the date the repayment was given
Section 960Q	<i>Recovery of amounts received by a person following the lodgement of an incorrect account, etc.</i> All amounts of money received on the basis of an incorrect claim shall be repaid
Section 997(3)	<i>Supplementary Provisions (Chapter 4)</i> Provides that P21 (Statement of Liability to employee) may be treated as assessment for Appeal purpose
Section 1052	<i>Penalties for failure to make certain returns</i>
Section 1055	<i>Penalty for assisting in making incorrect returns etc.</i>
Section 1065	<i>Mitigation of Penalties by Revenue</i> Sets out circumstances in which Revenue may mitigate penalties
Section 1077A	<i>Determination of Penalties and Recovery of Penalties</i> For all tax defaults where penalty is not agreed and paid a relevant court will decide the penalty due
Section 1077B	<i>Penalty for deliberately or carelessly making incorrect returns, etc.</i> Outlines conditions for a qualifying disclosure and tax geared penalties
Section 1077C	
Section 1077E	

Section 1078	<i>Revenue Offences*</i>
Section 1080	<i>Interest on overdue income tax, corporation tax and capital gains tax</i> Rates of interest charged on overdue debts
Section 1086	<i>Publication of Names of Tax Defaulters</i> Sets out circumstances in which names of tax defaulters are published

*** Authorised Officers Only**