

## **Guidelines for Approved Intermediaries (AIs) and Personal Insolvency Practitioners (PIPs) with regard to arrangements as laid down in the Personal Insolvency Act 2012**

### **Introduction**

The Personal Insolvency Act, which was signed into law on 26 December 2012, introduces fundamental reforms to Ireland's insolvency and bankruptcy laws. It brings new concepts to Irish law in the form of three debt resolution processes including Debt Relief Notices (DRN), Debt Settlement Arrangements (DSA) and Personal Insolvency Arrangements (PIA). This guidance note has been prepared to ensure a streamlined and efficient process between Revenue and insolvency practitioners operating in the new environment.

### **Background**

Revenue already has well-developed procedures to deal with taxpayers who do not, or cannot meet their tax obligations. These procedures include assigning designated caseworkers to individual cases with tax debts and applying escalatory interventions where necessary to ensure compliance, including phased payment arrangements, the charging of interest, and where necessary debt recovery through enforcement. The application of the various strategies, which can be viewed in more detail at

<http://www.revenue.ie/en/about/foi/s16/templates/collection/debt-management/> and <http://www.revenue.ie/en/about/foi/s16/templates/collection/enforcement/> are deployed depending on the level of engagement encountered and the level of tax debt at risk. These procedures are now being modified to take account of the commencement of Personal Insolvency, with a particular focus on ensuring efficient communications between Revenue caseworkers and practitioners.

### **Procedures**

To ensure clear and streamlined engagement between Revenue and key stakeholders operating in the personal insolvency environment, including the Insolvency Service of Ireland (ISI), Authorised Intermediaries (AI) for DRN, and Personal Insolvency Practitioners (PIP) for DSA/PIA, the Insolvency Unit in the Collector-General's Office will act as the first point of contact for all queries. The Unit can be contacted through a designated secure email<sup>1</sup> – [personalinsolvency@revenue.ie](mailto:personalinsolvency@revenue.ie) or by telephone at 061 488061.

Where an AI or PIP makes contact with the Insolvency Unit in regard to a specific taxpayer, the Unit will then organise for the practitioner and the relevant caseworker to discuss the issues. The Insolvency Unit will also monitor progress on all cases from a Revenue perspective to ensure that statutory deadlines are adhered to. The actual decisions regarding whether to 'opt in'<sup>2</sup>/ 'opt out', or in due course whether to accept/reject any proposed arrangement will be made by the relevant caseworker in consultation with his/her management stream where necessary. While the Insolvency Unit will offer advice to caseworkers as required it will not be the final decision maker on individual cases.

Revenue would welcome and encourage AIs and PIPs to engage as early as possible during the preparatory stage of Personal Insolvency submissions, in circumstances where there is any doubt about the level of information required. Such communication will help to clarify the requirement and will help increase the possibility of Revenue opting into any arrangement.

Attached at Appendix 1 is an outline of the information that the Revenue caseworker will require, to be in a position to make a decision on whether to "opt in" or "opt out" of a DRN, DSA, or PIA. It is important to note that in circumstances where there is failure by the practitioner to provide the required level of information, the caseworker will have no option but to "opt out".

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<sup>1</sup> Revenue has a system in place that facilitates the secure sending and receiving of e-mail messages. The link below is a direct connection to revenue.ie where users can enrol for the service or learn more about its operation - <http://www.revenue.ie/en/online/secure-email.html#enrol>

<sup>2</sup> 'Opt in', in the case of a DRN, means consenting to the issue of a DRN in respect of the Revenue debt. 'Opt in', in the case of a DSA or PIA, means consenting to the inclusion of the Revenue debt in any proposed arrangement.

In regard to DRNs, Revenue will apply the same 70-day protective period to this arrangement type, as is provided for in the Act in regard to DSA's and PIA's. As a consequence the caseworker will not initiate any enforcement action for 70 days from the date that formal notification of a debtors intention to seek a DRN is received.

Attached at Appendix 2 is an outline of the information that a caseworker will require to facilitate him/her in deciding whether to accept or reject any proposed arrangement once the initial decision has been made to 'opt in'. This information can be in addition to the documentation the PIP is obliged to provide under either Section 71 or Section 107 of the Act. In circumstances where there is failure to provide the required information, the caseworker will have no choice but to vote against the proposed arrangement.

Revenue also reserves the right to request further relevant information in relation to any proposed arrangement where the caseworker feels it is necessary to do so before he/she can decide whether to accept or reject the proposal.

### **Phased Payment Arrangements**

Where any agreed arrangement includes Revenue receiving phased payments, the arrangement must, in line with current procedures, operate by direct debit.

### **Current Taxes**

In regard to the payment of current taxes, Section 100(3) of the Finance Act 2013 amends Section 65(2)(e) and section 99(2)(f) of the Personal Insolvency Act 2012 to provide that a DSA or PIA agreement must make provision for the payment of all current tax liabilities incurred by the debtor as they become due during the course of the arrangement. As such, Revenue can only consider a proposed arrangement that includes this mandatory requirement.

### **Revenue Audits**

Where audits are ongoing or scheduled to commence in a case applying for Personal Insolvency, the AI/PIP should contact the Personal Insolvency Unit who will in turn contact the auditor to discuss the financial circumstances of the person in question. The key issue in the case of an open audit will be whether Revenue should 'opt in' or 'opt out' of the formal arrangement. Where the auditor is of the opinion that the audit should proceed because he/she feels that there are significant issues that merit investigation such as evidence of hidden assets or profits, then Revenue will have no choice but to 'opt out' of any arrangement until the audit is concluded.

### **Appeals**

In circumstances where the person applying for Personal Insolvency has an outstanding Appeal listed for hearing, Revenue will have no choice but to 'opt out' until that Appeal is concluded or withdrawn because the debt cannot be fully quantified.

### **Quality Assurance**

Revenue has noted the regulations published by the ISI in regard to AIs and PIPs and has agreed with the ISI that it will report back any circumstances of inadequate or incomplete submissions.

## APPENDIX 1

### Details required by Revenue from AI/PIP in 'opt in' / 'opt out' of DRN, DSA, PIA submissions

Taxpayer details to include name, address, PPSN	
Confirmation from taxpayer that PIP / AI can act on their behalf	
All tax returns up-to-date	
For DRN	The information set out in the PFS (Prescribed Financial Statement)
For DSA/PIA	The information set out in the PFS (Prescribed Financial Statement)
	Approximate cost of PIP

## APPENDIX 2

Details required by Revenue from PIPs in proposed DSA or PIA arrangement submissions	
<b>DSAs/PIAs with Revenue debts &gt; €20,000</b>	Details and supporting Schedule of Assets (including any charges) and Liabilities (inc. PIP fees)
	Details of measures taken to address debt leading up to current situation
	Details and supporting documentation of any future projections included in the submission
	Details of any gifts/other income incorporated in the arrangement
	Details of any debt not included in the arrangement that will continue to be paid outside of the DSA/PIA
<b>DSAs/PIAs with Revenue debt &lt; €20,000</b>	Details and supporting Schedule of Assets (including any charges) and Liabilities (inc. PIP fees)
	Details of measures taken to address debt leading up to current situation
	Details and supporting documentation of any future projections included in the submission
	Details of any gifts/other income incorporated in arrangement