

Statement of Practice

SP1

Incentive to bring Tax Affairs Up to Date

A copy of Statement of Practice SP1 is attached.

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Incentive to bring Tax Affairs Up to Date

Section 72 of the Finance Act, 1988 provides that, if a taxpayer brings his total liability to tax, PRSI, health contribution and levies up to date at any time between 27 January and 30 September, 1988, he will be entitled to -

- (i) a waiver of certain unpaid interest charges in respect of tax which was due for payment on or before 31 December, 1987 or which would have been due for payment on or before that date if all sources of income or tax liability had been declared at the proper time, and
- (ii) freedom from prosecution for recovery of penalties in relation to such tax.

In the case of PAYE, PRSI, construction industry tax and VAT the interest being waived is that which was due up to 29 the February, 1988. In the case of income tax, sur-tax, corporation profits tax, corporation tax and capital gains tax, the interest being waived is that which was due up to the 30 April, 1988.

There has been an enormous response to the incentive. In particular, as the 30 September deadline approaches, many taxpayers and their agents have filed papers with Inspectors of Taxes in an attempt to qualify for the incentive. This has resulted in a large volume of work in dealing with incentive cases in tax districts. Concern has been expressed that, with the approach of the termination date and, despite the fact that Inspectors have been instructed to deal with appeal cases promptly, Inspectors may not be able to finalise all incentive cases before them with the result that some taxpayers seeking the incentive may not in fact qualify.

The Revenue Commissioners are anxious to allay such fears and wish to indicate that, in cases where the taxpayer has submitted to the Inspector before 30 September, 1988, all necessary returns, together with full and comprehensive supporting

documentation, required to enable his correct liability to be determined, the following practice adapted from the new Self Assessment procedures will be followed in relation to the incentive:

APPEAL CASES

(i) Cases requiring determination by the Appeal Commissioners.

In the case of assessments under appeal and requiring a decision from the Appeal Commissioners, it should be possible to identify the liability which is due in accordance with the taxpayer's own return i.e. the tax which is not in dispute. In essence, this will be the tax as determined on the basis of the taxpayer's figures. If the taxpayer pays this amount on or before 30 September he will be given the benefit of the incentive in respect of that amount. On determination of the appeal, any additional liability due will not result in the withdrawal of the incentive already granted in respect of the liability paid. Neither, however, will such additional liability qualify for the incentive.

Where the full amount assessed is in dispute, it will still be open to the taxpayer, while maintaining his appeal, to pay an amount before 30 September, and so benefit from the incentive in respect of that amount in the event of the appeal not being decided in his favour. Should the appeal be decided in his favour any tax overpaid will be refundable in the normal way.

(ii) Other appeal cases

In these cases formal appeal hearings are unnecessary as appeals can be settled between the Inspector and the taxpayer. Where a case of this kind has not been agreed with the Inspector but the taxpayer pays the tax due on the basis of his own computation of tax liability on or before 30 September, he will be given the benefit of the incentive to the extent of the tax paid by him. Additional tax liability, if any, which may become due when the Inspector subsequently agrees

the liability will not result in the withdrawal of the incentive already granted in respect of the liability paid, nor itself qualify for the incentive.

CASES WHERE NO APPEAL HAS BEEN LODGED

In such cases, in order to qualify for the incentive, the taxpayer must pay the tax as assessed. However, if the taxpayer has grounds for, and makes, a late appeal and pays on or before 30 September, the tax due on the basis of his own computation together with any enforcement costs (e.g. sheriff's fees) he may have incurred he will be given the benefit of the incentive. Any additional liability which becomes due when the Inspector has agreed the liability will not result in the withdrawal of the incentive already granted in respect of the liability paid. The additional liability will not of course qualify for the incentive.

CASES OF PREVIOUSLY UNDISCLOSED INCOME

Provided that the taxpayer pays on or before 30 September the tax due on the basis of his own computation he will be regarded as entitled to the benefit of the incentive. As indicated in the other instances above, any additional liability which becomes due when the Inspector has agreed the liability will not result in the withdrawal of the incentive already granted in respect of the liability paid. Neither will such additional liability come within the ambit of the incentive.

**Revenue Commissioners,
September, 1988.**