

Full self-assessment – consideration of standards of proof when making or amending Revenue assessments

Part 41A-05-01

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1 What standards of proof apply to actions taken by Revenue officers?

The Tax Acts provide for various standards of proof which a Revenue officer must meet before taking a specific action. For example, in Part 41A Taxes Consolidation Act 1997 (TCA), which deals with self-assessment:

- under section 959Y TCA, a Revenue officer may make or amend an assessment on a person which, **in the officer's best judgement**, ought to be charged on that person;

Example 1: A self-employed individual declares income of €60,000. On review a Revenue Officer finds undeclared income sources and estimates the actual income to be €100,000. The officer amends the assessment under s959Y TCA.

- under section 959Z(4) TCA, a Revenue officer may make enquiries after the expiry of the normal four year timeframe **if the officer has reasonable grounds** to believe that any form of fraud or neglect has been committed (please refer to Tax and Duty Manual (TDM) [Part 41A-05-04](#) for additional material relating to the time limits for making enquiries and making or amending assessments);

Example 2: Five years after a return has been filed by a company, it comes to Revenue's attention that offshore transactions were made by the business and not declared in the Company's accounts. The Revenue officer is entitled to make enquiries under section 959Z(4) TCA.

- under section 959AC(2) TCA, **if a Revenue officer has reasonable grounds** to believe that a return does not contain a full and true disclosure of all material facts necessary for the making of an assessment, the officer may make an assessment for the amount of tax which, in the officer's best judgement, ought to be charged on that person (please refer to TDM [Part 41A-05-02](#) for additional material relating to Revenue assessments in the absence of a return, etc.);

Example 3: A taxpayer omits rental income from their tax return, but a Revenue officer has reasonable grounds to suspect the taxpayer is in receipt of rental income. The officer amends the assessment under section 959AC(2) TCA.

- under section 959AD (3) TCA **if a Revenue officer has reasonable grounds** to believe that any form of fraud or neglect has been committed, the officer may make an assessment for the amount of tax which, **in the officer's best judgement**, ought to be charged on that person.

Example 4: It comes to Revenue's attention that a company has manipulated financial statements to understate profits. A Revenue officer amends the assessment under section 959AD(3) TCA to assess the correct Corporation Tax liability.

Standard of proof tests are also found elsewhere in the TCA; for example:

- under section 530N TCA **if a Revenue officer has reason to believe** that a tax return was not made, the officer may make an assessment for the amount of tax which in their opinion is due;

Example: A contractor fails to file a Relevant Contract Tax (RCT) return. A Revenue officer estimates the tax liability based on typical contract values and industry standards and issues an assessment.

- under section 865 TCA a claim for repayment becomes a valid claim **when a Revenue officer has all the information which they could reasonably require**.

Example: A taxpayer claims a refund for overpaid taxes. As provided in section 865 TCA, the claim is a valid claim when the taxpayer provides Revenue with all information and supporting documentation which might reasonably be required to validate the claim. The claim can then be processed by Revenue if it is received within the relevant time limits provided for in section 865 TCA.

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2 Consequences of failing to meet a standard of proof

Whether or not a Revenue officer met the requisite standard of proof can be subject to four different types of review.

- (i) Where a taxpayer believes that a Revenue officer was not acting reasonably, that the officer's conduct was inappropriate, that the officer did not apply Revenue powers fairly, or that the officer failed to give due consideration to the taxpayer's viewpoint, then the taxpayer may seek a Local Review on these issues.

Example: A taxpayer feels that a Revenue officer did not give due consideration to their viewpoint in that he / she feels that the reply from the Revenue officer in response to their issue did not adequately address the points raised. He or she can make a complaint in accordance with [Revenue's Complaint and Review Procedures](#).

- (ii) Where a taxpayer is unhappy with the outcome of a Local Review, they may seek an Internal or External Review on the same grounds.

Example: After an unfavourable Local Review decision, a taxpayer believes that procedural errors occurred. They request an Internal Review to have the case examined by a senior Revenue official.

- (iii) Certain sections within the Act provide that the standard of proof may be the subject of an appeal to the Appeal Commissioners. For instance, section 959AJ TCA includes the right of appeal where a chargeable person believes Revenue was precluded from carrying out an enquiry under section 959Z TCA after the end of the four-year period.

Example: If the chargeable person asserts that the Revenue officer did not have reasonable grounds for believing that the taxpayer's return did not contain a full and true disclosure of all material facts before carrying out an enquiry into a return outside of the four-year period, they can appeal to the Tax Appeals Commission under section 959AJ TCA.

- (iv) In other cases, where the Acts do not give the Tax Appeal Commissioners jurisdiction over such matters, the issue may be raised in the High Court as a Judicial Review.

Example: A taxpayer contends that the position taken by Revenue in a case is unconstitutional. He / she can make an application for leave to bring judicial review proceedings to the High Court. Details of how to make such a application are contained on the [Courts' website](#).

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