

## Full self-assessment

### Revenue assessment in the absence of a return

#### Part 41A-05-02

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## 1 Failure to submit a return

Where a taxpayer has failed to submit a Form 11, CG1 or CT1, as appropriate, section 959O Taxes Consolidation Act 1997 (TCA) provides that penalties under section 1052 and 1054 TCA may arise. In addition, a surcharge under section 1084 TCA may apply (please see [Tax and Duty Manual \(TDM\) Part 47-06-01](#)). Notwithstanding the provisions of sections 1052, 1054 and 1084 TCA, outstanding returns are pursued under the Return Non-Filer Programme and, where appropriate, prosecution is considered under section 1078 TCA.

## 2 Making an assessment in the absence of a return

Where a taxpayer has not filed a return (whether a Form 11, CG1 or CT1), then a Revenue officer may, under section 959AC TCA, make a Revenue assessment on that person for the amount of tax, which in the best of the officer's judgment is due.

### 2.1 Time limits

Section 959AC(2) TCA specifically provides that Revenue assessments in the absence of a return may be made at any time. The normal four-year restriction contained in section 959AA(1) TCA (which provides that where a taxpayer has made a full and true disclosure of all material facts, Revenue cannot make or amend an assessment later than four years after the end of the chargeable period to which the return relates) does not apply.

[TDM 41a-05-04](#) (Full self-assessment - Time limits for making enquiries and making or amending assessments) sets out the time limits within which Revenue may make enquiries. Section 959Z(4) TCA specifically provides that Revenue may carry out enquiries at any time where those enquiries relate to a tax liability where there is no return - the normal four-year time limit on enquiries does not apply.

### 2.2 Notice of assessment

The normal rules for what must be contained in a notice of assessment under Part 41A of the TCA do not apply. Instead, the officer may issue, under s.959AC(3) TCA, a short notice which sets out only the amount of tax payable by the person for the chargeable period.

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[...]

### 3 Amending a Revenue assessment

Section 959AC(4) TCA provides that a Revenue officer may, if s/he considers it necessary, amend a Revenue assessment which was issued in the absence of a return.

If a taxpayer submits a return and the officer accepts that return as a full and true disclosure of all material facts, then the officer can replace the Revenue assessment in the absence of a return with an amended Revenue assessment.

If the officer accepts parts of that return, the officer should issue an amended Revenue assessment which the taxpayer may then appeal under section 959AF TCA, as with all other amended assessments.

### 4 Rights of appeal against a Revenue assessment in the absence of a return

In accordance with section 957(2) (for years of assessment preceding 2013 and accounting periods starting before 1 January 2013) and section 959AH TCA (for years of assessment from 2013 onwards and accounting periods starting on or after 1 January 2013) a taxpayer may not appeal against an assessment or an amended assessment unless the relevant return has been filed and the self-assessed tax liability (including any interest due and collection costs, if applicable) has been paid.

The period within which a timely appeal may be made against an assessment is 30 days after the date of the notice of assessment. After this 30-day period, the assessment becomes “final and conclusive”, which means that the tax is collectible. However, a late appeal is possible in certain circumstances, for example, where the taxpayer was prevented from making an appeal within the 30-day period because of absence, illness or other reasonable cause and the appeal is made after that period without unreasonable delay.

There is an additional condition in the case of a late appeal made more than 12 months after the end of the 30-day period, which is that the full amount charged by the assessment must have been paid (including any interest due and collection costs, if applicable).

For appeals made to Revenue prior to 21 March 2016, a Revenue officer could refuse an appeal, whether timely or late, where the required conditions for making the appeal had not been met. This refusal was appealable to the Appeal Commissioners within the period of 15 days after the refusal. For appeals made on or after 21 March 2016, a taxpayer must appeal directly to the Tax Appeals Commission who will make the decision on whether to accept an appeal. As the appeal criteria and timings under Part 41A are different to those under Part 41, Revenue officers must be certain which set of rules apply, by virtue of the year of assessment or accounting period to which the assessment relates.

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