

[38.04.03]

OPERATIONS MANUAL - OUTDOOR POWERS

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Background

The Finance Act, 1992, rationalised and harmonised the powers then available to Revenue officers.

During the passage of the Finance Bill, 1992, through the Oireachtas the Minister for Finance said:“.... the Board of the Revenue Commissioners has emphasised that the officers concerned will receive appropriate training and guidance in the use of these powers, particularly as regards entry to, and searches of, premises, and that the use of the powers will be closely monitored by the Board.”

On the enactment of the Finance Act, 1992, the Revenue Commissioners commenced a process whereby procedures would be put in place to ensure the proper use of the powers. This manual, containing instructions on the use of the powers, originally issued in 1994 and now updated, forms part of that process. The procedures for the authorisation of officers for the use of particular powers forms an integral part of these arrangements.

Taxpayers are normally co-operative, having already been advised of the date and time of the intended visit. To that extent the instructions in Chapter 6 on the use of sensitive powers will not be of relevance in the vast majority of cases visited by officers.

In routine operations, officers will have the implied consent of their Principal Officer to carry out routine duties in the normal way and do not require special consent except where the case develops into one where the use of a more sensitive power is required and for which the prior approval of certain superior officers must be obtained.

Cases which call for the use of powers, for which prior approval is required, will be exceptional and should, where possible, be dealt with by way of pre planned visit by more than one officer, with the required approvals being obtained beforehand.

Training on the use of Revenue Powers is given to all staff on outdoor duty. This complements the training already given to audit staff by Training Branch on the application of Revenue Powers to audit work and on dealing with conflict situations.

The Revenue Commissioners in May 1994 issued a Statement of Practice on Revenue Powers setting out their policy on the exercise of powers by Revenue officers in dealings with taxpayers in places other than at Revenue office. A copy of this document [SP-Gen/1/94 \(Revised February 2006\)](#) is attached at Appendix 4.

The powers for which an officer is authorised are shown on the officer's "Identity Card". The production by an officer of the "Identity Card" to a person satisfies the obligation to produce an officer's authorisation to that person, when required to so.

Following the introduction of new and updated powers (mostly information powers) in the Finance Act 1999, Revenue issued a further [Statement of Practice - Revenue Powers \(Finance Act 1999\) SP-Gen/1/99](#).

Updated guidelines on the use of the Finance Act 1999 – Information Powers are contained in [Part 38.04.04](#).

Scope of the Manual

This manual contains instructions on the use of outdoor powers i.e. powers used outdoors in relation to the public. The instructions specify the officers who may use the powers, the officers from whom permission to use the more sensitive powers must be obtained, and, legal and administrative restrictions imposed on officers when using the powers. It includes information on the administration of the powers and the impact of the powers on customer services.

It also sets out the relationship with An Garda Síochána in the use of the powers.

The manual is intended as a reference book for general operations. The instructions therefore outline general requirements and limitations on the use of powers. The instructions cover a variety of situations. The level of detail in the instructions regarding non-routine powers is greater than that included for routine situations. However, the manual cannot attempt to anticipate every situation which may arise. Officers' judgement and experience must be exercised at all times and guidance and prior approvals should be sought where appropriate in accordance with these instructions.

Being a guide for general operations, the manual does not contain detailed instructions on the use of the more sensitive powers. Since the need for the use of these powers will only arise infrequently, detailed instructions will be issued to the officers concerned as the need arises.

Neither does the manual purport to be a legal interpretation of the statutory provisions relating to Revenue powers. It sets out the manner in which the Revenue Commissioners wish the powers to be used for the generality of cases, including instances where a taxpayer is not fully co-operative. It complements the [Statement of Practice SPGen/1/94 \(Revised February 2006\)](#). It underlies the guidelines contained in the Audit Procedures Manual (at present being completed) and the [Audit Code of Practice](#).

Officers are reminded that it is a legal imperative that all Revenue powers are exercised in a reasonable manner with due regard to the right to privacy enjoyed by all citizens. It is therefore important that officers proceed in accordance with these instructions, Revenue Code of Ethics and the Revenue Customer Service Charter.

While the emphasis in this manual is on following the proper procedures and on safeguarding taxpayers' rights, it should be noted that the powers exist because they are needed to deal with serious tax evasion, obstruction and determined refusal to cooperate. Where such cases arise, officers should be prepared to use the appropriate powers so as to deal effectively with them. Officers making appropriate use of the powers in such cases will have the full backing of the Revenue Board.

Officers are encouraged to submit any suggestions for additions or improvements to the manual in the light of their own experience. These should be forwarded to their Regional Powers Co-ordinator (paragraph 2.5.2) via the Principal Officer.

[Any case where serious evasion is suspected should be taken up with the liaison officer in Investigations and Prosecutions Division, at the earliest opportunity, as it may be suitable for prosecution. Details of the Tax Prosecution Criteria are contained in Appendix 1 of the [Code of Practice for Revenue Auditors](#).]

CHAPTER 1

Introduction

The contents of this Chapter are dealt with under the following headings: -

- 1.1 Powers differentiated**
- 1.2 The outdoor powers explained**
- 1.3 Powers and operational objectives**

1.1 Powers differentiated

1.1.1 General

1.1.1.1 Revenue officers carry out their functions by use of a series of powers. Some of these are routine and in everyday use. Some, however, will be used only in exceptional circumstances.

1.1.1.2 In the exercise of any powers Revenue officers should not put themselves in danger and should withdraw if they feel themselves to be in danger.

1.1.2 Different types of powers

1.1.2.1 There are four broad categories of powers.

1.1.2.2 The first of these categories **contains powers exercised in writing, which are in everyday use**. An example of such a power is the power to raise assessments e.g. Section 918 TCA 1997

1.1.2.3 The second category is those **powers exercised in writing, which are used only in exceptional circumstances**. An example of this category is the power, under Section 906A TCA 1997, to require information from a financial institution in relation to a person. These are generally known as information powers. Guidelines on their use are contained in [Part 38.04.04](#).

1.1.2.4 The third category is **powers exercised other than in writing, which arise in the course of regular or routine visits** to taxpayers' premises. An example of such a power is the power to enter premises to examine records e.g. Section 905 TCA 1997.

1.1.2.5 The final category is **powers exercised other than in writing, which are used only in exceptional circumstances**. An example of such a power is the power to search taxpayers' premises, under warrant from the District Court e.g. Section 905(2A) TCA 1997.

1.1.2.6 The same power, for example the power to enter premises, may fall into the third and fourth category. Therefore, the distinction between the third and fourth category may arise from the context in which the powers are used.

1.1.2.7 This manual is concerned primarily with the powers in the third category i.e. **powers exercised other than in writing, which arise in the course of regular or routine visits**, and to a lesser extent those in the fourth category i.e. **powers exercised other than in writing which are used only in exceptional circumstances**.

1.1.3 Consequence of powers falling into different categories

1.1.3.1 There are two broad consequences arising from powers being divided into different categories. The first of these is that the number of officers permitted to use powers will vary significantly from one category to another. **Powers, which are used regularly, will be used by a larger number of officers. On the other hand, powers, which are for use in exceptional circumstances, will only be used by a small number of officers.**

1.1.3.2 The second consequence is that officers are required to obtain the permission of superior officers to use the powers, which are used only in exceptional circumstances. With **powers which are used regularly, officers are understood to have permission to use these powers** once they are allocated to duties which require their use, and have the required written authorisation.

1.2 The outdoor powers explained

1.2.1 Introduction

1.2.1.1 Outdoor powers are contained in a series of legislative provisions. Many sections contain powers which are used only in exceptional circumstances (sometimes referred to as sensitive powers) and routine powers, side by side and while officers may be authorised for a section as a whole they may not have administrative clearance to use the entire section. Officers are entitled to do what is provided for in the particular legislative provision **only insofar as it is allowed** by current administrative arrangements. **Officers must be aware of the legislative provisions and the instructions on their use which are contained in this manual.** It should be particularly noted that before certain powers can be exercised approval must be obtained on a case-by-case basis.

1.2.2 General outdoor powers sections included on the Identity Card

1.2.2.1 The following sections provide general outdoor powers for authorised officers: Section 903 TCA 1997 [Pay As You Earn (PAYE)], Section 904 TCA [Relevant Contracts Tax (R.C.T.)], Section 905 TCA 1997 [All Taxes, Duties, Charges and Levies], and Section 18 VAT Act, 1972 [Value Added Tax].

These sections allow officers to enter premises to examine records, to retain records and to search for records not produced. The sections also allow officers to require assistance from the taxpayer or from third persons.

1.2.2.2 Section 905 TCA 1997 also applies to property, as well as records, and provides for obtaining a court warrant to allow officers to enter a private residence, and in certain circumstances to obtain a warrant to enter and search a premises. Section 18 of the VAT Act 1972 permits officers to search for goods not recorded in the records and to examine and take particulars of such goods. Section 18 also allows officers, in certain situations, to search individuals for evidence of criminal activity in relation to VAT.

1.2.2.3 Sections 851(3), 961 and 962 TCA 1997 allow officers to demand and collect tax on behalf of the Collector General and to refer tax for collection by the Sheriff or County Registrar.

1.2.2.4 Section 27(9A) and (10) of the VAT Act, 1972 permit officers to detain and, subsequently, to seize goods where certain types of fraud are suspected.

1.2.2.5 Section 62 Finance Act 1993, Section 134 to 141 Finance Act 2001 and Regulation 7, European Communities (Intrastat) Regulations, 1993 provide general powers which are for use by officers whose control or audit functions, extend to excise duty (including vehicle registration tax) and the Intrastat system - see Paragraph 2.1.3.1.

1.2.2.6 Article 78 of the Community Customs Code (Council Regulation (EEC) No 2913/92) provides that customs authorities may inspect the commercial documents and data relating to any imports or exports or to subsequent commercial operations involving them. Such inspections may be carried out at the premises of the declarant or the premises of any person directly or indirectly involved in these operations. Customs authorities may also examine the goods where possible. This power is not specifically listed on the Identity Card.

1.2.3 Sections providing for particular powers which are not included in the Identity Card [See Appendix 2 for Table of Revenue Powers]

1.2.3.1 Section 27(11) of the VAT Act, 1992 permits officers in certain circumstances to arrest individuals who are suspected of a criminal VAT offence and about to leave the country.
(This manual does not contain operational instructions on Section 27(11) powers, as only a small number of officers will ever be authorised under that sub-section. If a situation arises where the use of this power may be required the matter should be taken up with Investigations and Prosecutions Division at the earliest opportunity.)

1.2.3.2 Article 17 of the Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001 SI No 605 of 2001 provides power of entry and inspection in relation to the plastic bags levy. The authorisation to use this power is not on the Identity Card and needs to be obtained separately.

1.2.3.3 Section 482 TCA 1997 provides power of entry and inspection of a building in respect of which relief has been claimed for expenditure on significant buildings and gardens to which the public are allowed access. An officer requires to be specifically authorised under this section to use this power.

1.2.3.4 Section 904A and 904C to 904J TCA 1997 (which have been added since 1999) provide for the inspection of records etc in relation to certain returns required to be made by Financial Institutions, Insurance companies and others and generally in relation to dividend withholding tax and professional services withholding tax. A more detailed list of these powers is attached at Appendix 2. Officers require separate authorisation to use these powers.

1.2.3.5 Section 899 TCA 1997 permits an Inspector of Taxes to use his/her powers to audit 3rd party returns. Section 956, dealing with self-assessment, permits an Inspector to make enquiries and amend assessments

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1.2.3.6 Section 912 TCA 1997 allows officers, who are authorised for the use of the general outdoor powers, to operate and remove computer equipment and records

1.2.3.7 Section 906 TCA 1997 allows officers, who are authorised for the use of the general outdoor powers, to be accompanied by members of An Garda Síochána.

1.2.3.8 [Note for Information]

Section 900, 901, 902, 902A, 902B, 906A 907, 908 and 908B TCA 1997 contain powers exercised in writing to obtain information in relation to unco-operative taxpayers. A list of these is attached at Appendix 2. An officer requires to be specially authorised to use any of these powers. Their use requires approval/consent varying from that of a Principal Officer, Assistant Secretary or Revenue Commissioner to that of the Appeal Commissioners and in some cases a High Court Order.

Instructions on the use of these powers are contained in

[Part 38.04.04](#)

Authorisation to use these powers are gradually being extended to all officers who may be required to use them in the course of their work.]

1.3 Powers and operational objectives

1.3.1 The principal objective of the Revenue Commissioners is to collect revenue on behalf of the State. It is their responsibility to ensure that all taxpayers pay their correct share of revenue.

1.3.2 To fulfil these objectives, various programmes have been put in place. Amongst these are programmes which involve officers verifying tax returns which have been made, collecting outstanding tax and seeking tax returns which are outstanding.

1.3.3 These programmes include visits to taxpayers premises and other enquiries. To ensure that officers are able to carry out these programmes successfully it is necessary that they have available to them various powers of enquiry such as those outlined at Paragraph 1.2 above.

1.3.4 It is essential that officers understand that the powers **are only to** be used pursuant to the objectives of the Revenue Commissioners and subject to the stringent preconditions for their use and for no other purpose.

CHAPTER 2

Administration

The contents of the Chapter are dealt with under the following headings:-

2.1 Authorisations

2.2 Advance approvals

2.3 Authorisation - issue and control

2.4 Communication with local headquarters

2.5 Reports to the Board of the Revenue Commissioners

Note: This manual is currently subject to review and may not reflect up-to-date position. Most recent version.

2.1 Authorisations

2.1.1 Introduction

2.1.1.1 Most legislation, granting powers to officers, requires that those powers can only be exercised by officers who have been specifically authorised for that purpose by the Revenue Commissioners. Principal Officers should, therefore, ensure that all officers for whom they have responsibility have proper authorisations for the work to which they are assigned.

2.1.1.2 Some legislation does not require a specific authorisation. However, the Revenue Commissioners have decided that such powers may be exercised only by certain grades or by certain nominated officers.

2.1.1.3 Certain powers can only be used with the approval of officers of more senior grade.

2.1.2 Form of authorisations

2.1.2.1 Each authorised officer has a card, which is evidence that he or she is so authorised. This card is known as the “Identity Card” and provision is made for it in Section 858 of the Taxes Consolidation Act, 1997, which sets down its properties. The actual authorisation papers of officers are retained in the Authorisation Unit of Operations Policy and Evaluations Division.

2.1.2.2 Section 858 provides that the production by an officer of this card to a person will be taken as evidence of authorisation to exercise the powers and functions under the provisions listed on the card. It will also satisfy the obligation to produce an officer’s authorisation to that person when requested to do so. These Identity Cards are issued to all outdoor officers. A copy of Section 858, “Evidence of Authorisation”, is attached at Appendix 1.

2.1.2.3 There are two forms of Identity Card. One is the Standard Identity Card, which is the card in general use. The other is the Combination Identity Card. The only difference between them is that the Combination Identity Card combines the powers and functions authorised by the provisions listed on the Standard Identity Card with the Customs & Excise Commission Powers.

2.1.2.4 The Identity Card is evidence of an officer’s authorisation to exercise power on outdoor operations. The Identity Card contains, on one side, the Revenue logo, a declaration that the officer is an authorised person, and a Revenue Commissioner’s specimen signature; and, on the other side, the officer’s photograph, name and signature, the legislation for which the officer is authorised and the number of the card.

- 2.1.2.5** Following the restructuring of the Revenue organisation, and the integration of the grades, an officers on outdoor duties need to be conscious of the whole range of Revenue taxes and Custom and Excise duties where these apply to the taxpayer being visited.
Standard Identity Cards are therefore being replaced by Combination Identity Cards as they become due for renewal. Further information on this is contained in [Part 38.04.13](#), which can also be found in Appendix 1.
- 2.1.2.6** Authorisations for the following outdoor powers are incorporated on both the Standard Identity Card and the Combination Identity Card
- Collection
- Sections 851, 961 and 962 Taxes Consolidation Act, 1997
- PAYE
- Section 903 Taxes Consolidation Act, 1997
- Subcontractors
- Section 904 of the Taxes Consolidation Act, 1997,
- All taxes, duties, levies and charges.
- Section 905 Taxes Consolidation Act, 1997
- Value Added Tax
- Section 18, Value Added Tax Act, 1972
Section 27(9A) and (10) VAT Act 1972 - (Seizure of Goods.)
- Vehicle Registration Tax
- Section 62, Finance Act 1993
- Intrastat
- Regulation 7, European Communities (Intrastat) Regulations, 1993.
- Excise Duties including VRT
- Section 134, 135, 136, 138, 139, 140 and 141 Finance Act 2001
- 2.1.2.7** All Officers on outdoor duty requiring the use of powers, are authorised under these provisions. Each of those officers carries either a Standard or a Combination Identity Card.
- 2.1.2.8** Where an officer is being given an authorisation other than those listed above at 2.1.2.6, it will be in the form of a separate document (often referred to as a paper authorisation).
- 2.1.2.9** The formats of the Standard and the Combination Identity Cards are shown at Appendix 1,
- 2.1.2.10** Officers on outdoor duties, who have been dealing only with tax matters, have the Standard Identity Card at present. They will be issued with the Combination Identity Card as the need arises.
- 2.1.2.11** Meanwhile, in applying for Identity Card authorisations, for officers who do not already have an Identity Card, it is the Combination Card only that should be requisitioned.
- 2.1.2.12** Officers should receive training on the use of Powers (to include Custom and Excise aspects of same) before an application is made to have them authorised.

- 2.1.2.13** Each District/Business Unit should maintain its own record of the authorisations held by staff in its area.

2.1.3 Certain powers not to be used without Express Instruction

- 2.1.3.1** Except for the furtherance of an authorised officer's normal functions, based on the work they are engaged in, the powers should not be used without express instructions in that regard. That is, for example, although an officer engaged in tax audits may hold a combination identity card he/she should not seek to exercise Customs and Excise powers without receiving instructions in that regard.

This does not prevent an officer from **requesting the production** of and **inspecting** records which the officer considers relevant but which might not otherwise be produced for inspection.

2.1.4 Limits of authorisations on use of powers

- 2.1.4.1** Where legislation requires a specific authorisation, only officers specially authorised may exercise these powers.

- 2.1.4.2** Under no circumstances should an officer not specifically authorised to do so attempt to exercise Revenue powers.

2.1.5 Effect of instructions

- 2.1.5.1** Even though officers are authorised to exercise certain powers or allocated to work requiring certain powers to be exercised, officers **should always act in accordance with the instructions contained in this manual**.

- 2.1.5.2** Officers **should always** obtain the permission, which the instructions specify must be obtained. This applies also to Revenue officers who are in Joint Investigation Units (JIUs) with officers of the Department of Social and Family affairs.

2.1.6 Summary - Table of Powers, and Prior Approvals Required

2.1.6.1 A table of the powers, the officers who may exercise them and of the officers who may grant permission for their exercise is set out at Appendix 1.

2.1.6.2 The following is the position regarding the provisions referred to in the table of Powers, and Prior Approval required, but which **are not** included on the Identity Card.

- Only certain officers will be given the power of arrest which is contained in Section 27 (11) VATA 1972.
- Instructions are contained in this manual on the use of outdoor powers in relation to the following sections which are not on the identity card:

Section 906 Taxes Consolidation Act, 1997 - Being accompanied by a Garda - Paragraph 7.2

Section 912 Taxes Consolidation Act, 1997 - Operation and removal of computer equipment – Paragraph 5.4.

(A specific authorisation is not required for Section 906 or 912, which are subject to holding other authorisations)

2.1.7 Use of Identity Card

2.1.7.1 The Identity Card is the property of the Revenue Commissioners and is for use on official duties only. It is not to be used as an ID card for any other purpose. Misuse of the card will be regarded very seriously.

2.1.7.2 On meeting with taxpayers, officers in the exercise of powers on outdoor duty should identify themselves, show their Identity Card and state the purpose of the meeting. Officers should also provide business cards showing the address and telephone number of their office.

2.2 Advance approvals

2.2.1 Requirement for advance approvals

2.2.1.1 Once authorised by the Revenue Commissioners, officers are empowered to exercise the powers granted under the particular provision. **However**, in view of the sensitive nature of certain powers and the need to ensure that they are exercised only when circumstances justify their use, **it is necessary that the exercise of these powers be subject to appropriate approval from superior officers.**

Therefore, even a person who has such an authorisation may not use certain powers except with the prior approval of certain superior officers and subject to certain conditions as set down in this manual.

2.2.1.2 Some of the administrative restrictions set down in the manual will not cover certain Investigations and Prosecutions Division operations where more extensive clearance may be given in certain circumstances by the Assistant Secretary of that Division.

2.2.1.3 It is emphasised that, even when it is not required by instructions, officers should keep their superiors informed of the specific exercise of particular powers.

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- 2.2.1.4** Officers requesting permission should be completely frank and open with their superior officers and should set out the complete facts of the situation.

2.2.2 Basic requirement for authorised officers

- 2.2.2.1** Apart from simple or routine calls or calls where the taxpayer has been notified in advance of the visit and does not object, officers must obtain the express approval of the superior officer specified in these instructions.

- 2.2.2.2** In relation to simple or routine calls or calls where the taxpayer has been notified in advance of the visit and does not object, authorised officers may use routine powers without specific approval.

2.2.3 Method for obtaining permission

- 2.2.3.1** For calls, in respect of which the permission of the local Principal Officer is required (see paragraph 5.1.5.2, 5.2.5.2 and 5.3.4.2), arrangements should be put in place locally to allow officers to obtain the required permission.

- 2.2.3.2** Where the approval of an Assistant Secretary, is required for the exercise of a power, it should be requested via the Principal Officer (or the appropriate Assistant Principal Officer when the Principal Officer is not available) on behalf of the officer requiring the approval.

- 2.2.3.3** Approval may be obtained by telephone, if necessary. It is not necessary that written approval be obtained. A record of the time and the giver of the approval should be kept. However in any case where time allows, an outline of the case should first be supplied in writing to the superior officer.

2.2.4 Absences

- 2.2.4.1** When the specified superior officer is on leave, approval must be obtained from the officer carrying out the duties of the specified superior officer.

- 2.2.4.2** When the specified superior officer is not available, the approval must be obtained from that officer's superior.

2.2.5 Summary

- 2.2.5.1** A table of the powers, the officers who may exercise them and of the officers who may grant approval for their exercise is set out in Appendix 1.

2.3 Authorisations - Issue and Control

2.3.1 Introduction

- 2.3.1.1** As staff are allocated to Districts/Business Units, Principal Officers should review the authorisations which those staff hold, in the light of current requirements. There should also be annual review of the authorisations held in a District/Business Unit and these should be revised as necessary, depending on the requirements of the District/Unit. Those authorisations no longer required should be returned to OPED Authorisations Unit with a note to that effect.

2.3.2 Issue of Authorisations: Procedures

- 2.3.2.1** When an officer is allocated duties, which require authorisations in relation to outdoor work, the Principal Officer should request the Combined Authorisations Identity Card (see Par 2.1.2.11) on behalf of that officer. Before doing so, the Principal Officer should ensure that the officer has received the powers training course provided by the Revenue Training Branch. When forwarding the request the Principal Officer should indicate if the officer has received the training on the use of powers.
- 2.3.2.2** The request should be directed to OPED Authorisations Unit. A copy of the Application Form for authorisation is attached at Appendix 1 and should be completed in typing. Two passport type photos of the officer, with his or her name written on the back, should accompany the application.
- 2.3.2.3** The actual authorisations will be retained in OPED. An Identity Card will be issued by OPED, to the authorised officer with a covering letter drawing the officer's attention to restrictions on use, including those set out in this manual (see par. 2.1.2 for details of this card). A copy of the letter and acknowledgement form issued with the authorisation Identity Card is attached at Appendix 1.
- 2.3.2.4** When an Identity Card is issued to an officer, the officer should acknowledge its receipt including a reference to the card number and confirm that he/she is aware of restrictions on its use, including those set out in this manual on the use of powers. The officer should also return any previous authorisation under those sections.

2.3.3 Return of Authorisations: Resignations or Career Breaks

- 2.3.3.1** Authorised officers resigning from the service of the Revenue Commissioners or leaving on career break should return their Identity Cards and any other authorisations or nominations held by them, through their Principal Officer to OPED Authorisations Unit.
- 2.3.3.2** Principal Officers should ensure that such officers return their Identity Card and authorisations.

2.3.4 Return of Authorisations: Change of duties

2.3.4.1 When for any reason, an officer is no longer engaged in work which requires the exercise of powers under the authorisation(s) which the officer holds, the officer should return the Identity Card, and any other authorisations where appropriate, through his or her Principal Officer, to OPED. The District/Business Unit record of authorisations should be updated accordingly. (see 2.3.6.3 over)

2.3.4.2 Temporary transfers for short periods of time may be ignored.

2.3.5. Loss of Identity Card

2.3.5.1 If an officer loses an Identity Card he or she should inform the Principal Officer who should request a new card from OPED. A brief note on how the card was lost should be attached with details of any action taken locally.

2.3.5.2 If the occasion of the loss suggests that an attempt may be made to use the card fraudulently, e.g. as a result of theft, this fact should be reported to the local Garda Station.

2.3.6 Maintenance of list of Authorised Officers

2.3.6.1 OPED Authorisation Unit, will maintain a record of authorised officers. This will be available to Regions on the shared Human Resources Computer system, in due course.

2.3.6.2 The record of authorisations will include:

- the name, grade, official address and P.P.S. number of the officer;
- the authorisation(s) issued;
- the date of the authorisation(s);
- the number of the Identity Card;
- the date on which the details on the list were last verified;
- and
- the date of the return of the authorisation(s).

2.3.6.3 Principal Officers should maintain a Register for their own District/Business Unit with details of authorised officers and the authorisations held by them.

2.3.6.4 Pending the availability of details of authorisations on the shared Human Resources Computer System, an extract from the OPED record of authorised officers will be forwarded to the Principal Officer from time to time. The Principal Officer should verify or correct the contents as appropriate and return the verified corrected extract to OPED.

2.3.6.5 When an authorised officer is promoted or transferred, the District/Business Unit Register of authorisations should be updated.

2.4 Communication with Local District/Business Unit

2.4.1 General

- 2.4.1.1** It is important that an appropriate line of communication is available between officers in the field and an appointed person in the District/Business Unit, **when this is likely to be required**. Such a line of communication might be appropriate if it is considered that an officer on a particular call may need help by way of advice, information, approval for use of a particular power or the presence of another colleague.

2.5 Reports to the Board of the Revenue Commissioners

2.5.1 Introduction

- 2.5.1.1** The Revenue Commissioners require to be kept advised regarding the operation of powers, their effectiveness and of any difficulties arising. This is necessary so that they may be in a position to report to the Government, deal with Parliamentary Questions and the Public Accounts Committee etc, respond to any public comment on the issue and monitor the efficiency and effectiveness of operations involving the exercise of the powers.

- 2.5.1.2** The system for recording the use of certain powers has been by means of the completion of a Power Report Sheet and its retention in the District/Unit until required.

The powers in question are the more sensitive powers e.g. the power of **search** in certain situations, the more routine powers of entry and inspection where the **taxpayer withheld consent**, and certain **information powers**.

[The **Information Powers** referred to are those dealt with in [Part 38.04.04](#) viz Section 900 and 901 [First Party]; Section 902, 902A and 902 B [Third Party]; and Section 906A, 907 and 908 [Financial Institutions] in addition to Section 908A and Section 908B, and any similar power provided subsequent to this Operational Instruction.]

2.5.2 Regional Powers Co-ordinator

- 2.5.2.1** Each Region has its own Regional Powers Co-ordinator, nominated by their respective Assistant Secretary. In East South East (ESE), South West (SW) and Border Midlands West (BMW) regions the relevant person is the Principal Officer in charge of the Special Compliance District. In the Dublin Region it is the Principal Officer in charge of the Dublin Investigations District. In Large Cases Division it is the Principal Officer, nominated for that purpose from time to time, by the Assistant Secretary.

- 2.5.2.2** The role of the Regional Powers Co-ordinator is to co-ordinate powers requirements within their region and to liaise with OPED (Enforcement Powers Area) towards achieving more regional discretion in the use of powers (in particular information powers), and hence greater efficiency, in dealing with unco-operative and non-compliant taxpayers.

2.5.3 New System for Recording the Use of Powers

A new facility to allow the use of powers to be recorded electronically has now been provided - see [Part 38.04.09](#)

From the 1 April 2005, the use of these powers in a case can be recorded on the Customer Notes System, which is common to, and can be accessed via, CRS/ITP/AIM etc.

This replaces the existing manual system of recording and reporting on the use of powers.

2.5.4 Reports by Authorised Officers

As soon as possible after each visit involving the exercise of the non-routine powers, or of the routine powers where consent was withheld, or of the use of the information powers, the details should be recorded under Revenue Powers in the Customers Notes field of the Common Registration System (CRS).

2.5.5 Customer Notes Field Extension

2.5.5.1 Revenue Powers

A new entry called “Revenue Powers” has been added to the headings in the Customers Notes list of topics.

2.5.5.2 Subtopics

Under the topic “Revenue Powers” there is a drop down list of subtopics, for each of the following entries:

- Information Powers
- Power of Entry and Inspection etc - TCA 1997
- Power of Entry and Inspection etc - VATA 1972
- Power of Entry and Inspection etc – C & E
- Other Enforcement Powers

2.5.5.3 Data Capture Fields under each Subtopic

On each subtopic screen there is the facility to record the following:

- Date of Visit / Operation
- Number of Officers involved
- Section relied upon
- Address of Premises visited
- Whether Purpose of visit / exercise was achieved
- Brief report of the case (in the untitled space to the right)

2.5.5.4 Short Text Description Box

At the head of each subtopic screen is a box headed “Short Text” which can take up to 100 characters. An entry should be made here to show the nature of the power used. This will form the heading for the abbreviated report for the whole entry.

2.5.5.5 Corporate Performance Reports

The recording of the use of the powers in this way will allow statistics to be extracted for the Corporate Performance Reporting System on a monthly basis showing for each District the number of times a particular category of power was used and whether its use achieved the outcome required. Further details will be available to the Regional Powers Coordinators in relation to the cases in which the use of the powers is recorded.

2.5.6 Certain Reports to be made immediately

When the result of a particular exercise of powers may lead to unfavourable public comment, **officers should report the matter** immediately to their Principal Officer. The Principal Officer may refer the matter to the Regional Powers Co-ordinator.

Note: This manual is currently subject to review and may not reflect up-to-date position.

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CHAPTER 3

Meeting the Taxpayer

The contents of this Chapter are dealt with under the following headings:-

- 3.1 Introduction**
- 3.2 Revenue Customer Service Charter**
- 3.3 Dealing with Taxpayers**
- 3.4 Taxpayers with disabilities**
- 3.5 Conflict situations**
- 3.6 Sensitive cases**
- 3.7 Confidentiality Requirements**

3.1 Introduction

3.1.1 The use of powers in context

- 3.1.1.1** The use of the powers is not an end in itself but rather a means of encouraging compliance and addressing tax evasion. Effective countering of evasion is essential to the creation of commercial neutrality vis a vis the tax system.
- 3.1.1.2** The audit and investigative functions of Revenue are the basic tools in combating evasion. The powers are enabling provisions for these functions.
- 3.1.1.3** The use of powers must be carried out within the **Revenue Customer Service Charter**. This Charter sets out the role of Revenue and taxpayers rights and duties in that regard.
- 3.1.1.4** Under the heading of “Presumption of Honesty” the Charter reads as follows:
“You can expect to be treated as honest in your dealings with Revenue unless there is clear reason to believe otherwise and subject to Revenue’s responsibility for ensuring compliance with tax and customs law.
Revenue expects you to maintain proper records and accounts and to ensure that your Returns and Declarations are completed fully, accurately and in a timely manner.”
- 3.1.1.5** The use of powers and the behaviour of officers generally in relation to taxpayers must be in keeping with the key principles set out in the **Revenue Code of Ethics** as to integrity, impartiality, professionalism and confidentiality etc.
- 3.1.1.6** When entering a premises or place, or exercising powers there, an officer should comply with the health and safety regulations in force there. See [“Health and Safety Guidelines for Outdoor Staff”](#).

3.1.2 The effect of the use of powers on taxpayers

- 3.1.2.1** For Revenue officers on outdoor duties the exercise of powers is part of their routine, daily work. However, this is not the case for taxpayers. Officers must be aware that even taxpayers who are totally compliant may be apprehensive of Revenue officers, audit etc.
- 3.1.2.2** Officers, therefore, in their approach to compliant taxpayers should seek to allay any apprehension that the taxpayers may have. In certain limited circumstances this will not be possible because of the nature of the particular Revenue operation. It should also be understood that some taxpayers may remain firm in their apprehension.

3.1.3 Targeting use of powers

- 3.1.3.1** Using powers in an effective manner in proper circumstances must be the norm. Approval for the use of the more sensitive powers will only be given, where appropriate, in cases involving evasion or obstruction.

- 3.1.3.2** Officers should not alienate taxpayers by inappropriate use of the powers. Therefore, officers should be prepared to withdraw if circumstances are not appropriate for the use of the powers.

3.1.4 Customer service in the context of the use of powers

- 3.1.4.1** When exercising powers as part of the audit or investigative functions, officers should remain conscious that they are also fulfilling a customer service function and ensure that their approach to taxpayers reflects this. Officers may, at the same time, be firm and direct in their dealings with taxpayers.

- 3.1.4.2** A very good customer service in the context of the exercise of the powers will ensure that challenges to their use will be less frequent and more readily defended. Such customer service will also ensure that the Revenue's image is not tarnished by their inappropriate use.

- 3.1.4.3** While the emphasis in this manual is on following the proper procedures and on safeguarding taxpayers rights, it should be noted that the powers exist because they are needed to deal with serious tax evasion, obstruction and determined refusal to cooperate. Where such cases arise, officers should be prepared to use the appropriate powers so as to deal effectively with them. Officers making appropriate use of the powers in such cases will have the full backing of the Revenue Board.

3.2 Revenue Customer Service Charter

3.2.1 Introduction

- 3.2.1.1** The Customer Service Charter sets out the fundamental elements of the service that taxpayers are entitled to and what Revenue expects of taxpayers. The charter covers all dealings with taxpayers including situations where officers exercise powers.

It points out the mutual expectations of both Revenue and taxpayers i.e. what the taxpayer is entitled to expect from Revenue and what Revenue is entitled to expect from the taxpayer, under the headings of "Courtesy and Consideration", "Information and Assistance", "Presumption of Honesty" and "Compliance/Costs".

- 3.2.1.2** A copy of the [Customer Service Charter](#) is attached at Appendix 6.

3.2.2 Requirements on officers

- 3.2.2.1** Officers should have a thorough knowledge of the terms of the Customer Service Charter. Officers should be aware of the importance of the Customer Service Charter to the operations of the Revenue Commissioners.

- 3.2.2.2** Officers should understand the need to act in accordance with its terms and should relate the terms of the Customer Service Charter to their use of the powers and ensure that, when exercising the powers, they operate at all times in accordance with its terms.

3.2.3 Use of the Charter

3.2.3.1 Officers, when initiating the exercise of the powers, should refer the taxpayer to the Customer Service Charter and make sure that the taxpayer is fully aware of the Charter.

3.2.3.2 Officers should have copies of the Customer Service Charter available. These should be given to taxpayers or their agents, as necessary.

3.2.4 Reliance on the Customer Service Charter by Taxpayers

3.2.4.1 Taxpayers are entitled to rely on the Customer Service Charter and to require officers to comply with its terms.

3.2.4.2 Officers should be prepared to explain the terms of the Customer Service Charter to taxpayers in order to gain the consent of the taxpayer for their actions.

3.2.4.3 Officers should not see reliance by taxpayers on the terms of the Customer Service Charter as obstructive. Officers **should not** react in an aggressive or dismissive manner to taxpayers who seek to rely on the Charter.

3.3 Dealing with Taxpayers

3.3.1 General

3.3.1.1 On meeting with taxpayers, officers in the exercise of powers on outdoor should identify themselves, show their Identity Card and state the purpose of the meeting. Officers should also provide business cards showing the address and telephone number of their office.
(See Paragraph 2.1 for further details on authorisations).

3.3.1.2 Officers must be **courteous**, polite, helpful and professional each time they meet a taxpayer. In particular, officers should obtain information from taxpayers by questioning them without aggression and with regard to the sensitivity of particular situations.
This is covered in the Customer Service Charter under the heading “Courtesy and Consideration”.

3.3.1.3 To the greatest extent possible, there should be **consistent treatment** of individuals by officers. Officers should, therefore, act in an impartial manner towards all taxpayers.
This is also covered in the Customer Service Charter under the heading “Consistency, Equity and Confidentiality”.

3.3.1.4 Officers should be aware of any particular problems the taxpayer may have, for example, financial difficulties or ill health and be considerate in their approach to the taxpayer as a result.

3.3.1.5 Officers should be conscious that the exercise of the powers may cause stress to taxpayers, even to those who have fully complied with their taxation obligations. Officers should not take such signs of stress on the taxpayer’s part

as evidence of evasion by the taxpayer. Officers should seek to minimise stress which the exercise of powers may cause to taxpayers.

3.3.2 Initiation of the use of the powers

3.3.2.1 Officers should first explain to the taxpayer the reason for the use of powers. They should initially set out what it is intended will be involved.

This is covered in the Customer Service Charter under the heading “Information and Assistance”.

3.3.2.2 Officers should explicitly refer to the Customer Service Charter in an informal way and ensure that the taxpayer has a copy of the Charter prior to the initiation of the use of the powers.

3.3.3 Taxpayer’s consent

3.3.3.1 Officers should, where possible, conduct their outdoor duties with the consent of taxpayers. This is the most efficient method of exercising Revenue powers and enhances the reputation of the Revenue. As the majority of taxpayers fully co-operate with Revenue requirements it may be assumed, in the absence of any contrary expression, that such consent exists.

3.3.3.2 In any case of difficulty, consent should be achieved by explaining to the taxpayers that it is the officers preference that such cooperation be forthcoming.

3.3.3.3 Unless it is clear that a delay would result in evidence of evasion being destroyed, officers should be prepared to spend a considerable amount of time in obtaining the cooperation of the taxpayer.

3.3.3.4 Officers should be aware that the exercise of powers without the consent of the taxpayer may damage the reputation of the Revenue. However it should also be understood that it will be necessary in certain circumstances to exercise powers without the consent of the taxpayer.

3.3.4 Officers’ judgement

3.3.4.1 Officers should be aware that in some instances it is in Revenues interest not to pursue a point and that it is better to accept an explanation proffered even if that explanation is not fully satisfactory. This is particularly the case if the amount of tax involved is small.

3.3.5 Conclusion of the use of powers

3.3.5.1 When the exercise of powers is concluded, officers should inform taxpayers of the outcome and the likely future developments. If appropriate, officers should thank the taxpayer for his/her cooperation. Otherwise, officers should seek to reassure the taxpayer and seek an amicable end to the visit.

3.3.5.2 Officers **should not** conclude a visit abruptly without explanation. If the taxpayer is uncooperative and the officer sees no further benefit in continuing the visit, the officer should inform the taxpayer that he/she intends to bring the visit to a conclusion because of the lack of cooperation. The officer should

inform the taxpayer that such behaviour on the part of the taxpayer may amount to obstruction of or an interference with an officer and, therefore, constitute a criminal offence.

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3.4 Taxpayers with disabilities

3.4.1 Basic points

- 3.4.1.1** Officers should be especially sensitive to the needs of disabled taxpayers. At the same time, officers should not focus on the taxpayer's disability but continue their work in the ordinary way.

3.4.2 Useful hints

- 3.4.2.1** Officers should be patient and endeavour to put the taxpayer at his/her ease.
- 3.4.2.2** If the disabled person is accompanied by an agent or another person, officers should resist the temptation to talk to that person rather than the disabled person.

3.4.3 Taxpayers with impaired hearing

- 3.4.3.1** Officers should make sure that the taxpayer is happy with the place where the exercise of the powers is to take place. If possible, officers should facilitate the taxpayer as background noise may impair the efficiency of the taxpayer's hearing aid.
- 3.4.3.2** Officers before speaking should always ensure that they have the taxpayer's attention.
- 3.4.3.3** Officers should always remember to face the person when speaking. An officer should speak clearly in a normal voice. If requested to do so by the taxpayer, an officer should write down requests or questions for the taxpayer. Officers should be prepared to repeat or rephrase requests or questions.

3.5 Conflict situations

3.5.1 Basic requirements

- 3.5.1.1** **Under no circumstances** should officers act in an aggressive manner or use abusive language. At the same time, officers should not allow themselves to be browbeaten or intimidated.
- 3.5.1.2** Officers should attempt to focus on their job and to ignore anger or rudeness on the part of the taxpayer. **They should be firm but courteous.**
- 3.5.1.3** Officers should always withdraw if they feel themselves to be in danger.

3.5.2 Angry or rude taxpayers

- 3.5.2.1** Officers may find that it helps avoid conflict if they allow the taxpayer to have his/her say.
- 3.5.2.2** Officers should keep calm. Officers should not react personally to anger or rudeness on the part of the taxpayer. To do so is unproductive and often counter-productive (and in the interests of a tax evader).

- 3.5.2.3** Officers should be aware that anger on the part of the taxpayer is not an excuse for similar behaviour on their part. Apparent aggression by a taxpayer may be natural and genuine and reflect unfounded fears. On the other hand, it may be deliberate and calculated, aimed at a certain result. In some instances it will be appropriate for the officer to withdraw rather than try to persuade the taxpayer to co-operate.

3.5.3 When to invoke assistance

- 3.5.3.1** If a taxpayer withdraws consent to the exercise of power by an officer and **if the officer believes that it is necessary to continue the operation**, the officer should seek assistance. The officer should not continue the use of the powers, until a second officer arrives.
- 3.5.3.2** If evidence of serious evasion is found, the assistance of a second officer should be arranged.
- 3.5.3.3** If an officer is obstructed or interfered with in the exercise of his/her duties, the assistance of a second officer should be requested.
- 3.5.3.4** Arrangements may be put in place locally to allow officers to obtain the necessary permissions required for situations where taxpayers do not co-operate (see Paragraph 2.4 regarding communication with local headquarters, and 7.2 re **Garda** assistance).

3.5.4 When to withdraw

- 3.5.4.1** If, in the course of a routine visit, evidence of serious evasion is found and it is anticipated that the taxpayer will not consent to the officer removing the evidence, the officer should withdraw discreetly in order to decide the best method of obtaining the evidence (but see paragraph 5.5.3 re where such records should be removed and retained). The officer should withdraw without referring to the evidence. In these circumstances, the officer need not withdraw immediately but may remain on the premises and conclude the visit in the normal way so as to not alert the taxpayer. (see also Chapter 7.2. re: accompaniment by a **Garda**.)
- 3.5.4.2** If the taxpayer is aggressive or abusive and it is clear that the taxpayer is unlikely to co-operate, officers should withdraw. In these circumstances, officers may only remain on the premises if there is evidence of serious evasion and it is clear that, if they withdraw, the evidence may be destroyed. In this latter situation officers should seek the assistance of another officer and get the necessary clearance for anticipated “worst scenario” actions.
- 3.5.4.3** Officers should be conscious of any early signs of aggression on the part of the taxpayer and seek to calm the taxpayer. This may not always be possible.
- 3.5.4.4** If there is threatened violence during a visit an officer should withdraw and report the matter to the Principal Officer who may invoke the assistance of other officers or of members of **An Garda Siochána**.

- 3.5.4.5** If an officer is actually assaulted he or she should, as soon as possible thereafter make a note of the details and report the matter to the Principal Officer and the Gardai as appropriate. The report “Form A” attached to circular 5/86 dealing with “Assaults on Staff” should be completed and forwarded to the Regional Powers Co-ordinator (see paragraph 2.5.2) together with the detailed note of the incident through the Principal Officer. (A copy of this circular is attached at Appendix 6).

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3.5.5 Assistance of and accompaniment by members of An Garda Síochána

- 3.5.5.1** Instructions on invoking the assistance of or being accompanied by members of An Garda Síochána, including the circumstances when that assistance may be invoked, are set out at Chapter 7.

3.5.6 Requirements on officers

- 3.5.6.1** Where a conflict situation has arisen, officers should make detailed notes of the incident, contemporaneously or as soon as possible thereafter.
- 3.5.6.2** Officers should immediately inform their Principal Officer via their local Assistant Principal where applicable.
- 3.5.6.3** Under no circumstances should officers put themselves in danger.

3.6 Sensitive cases

3.6.1 Requirement for two officers

- 3.6.1.1** Two officers should be involved in the use of powers when there are grounds for expecting that the taxpayer may be obstructive, aggressive or abusive.

3.6.2 Bereavements

- 3.6.2.1** Visits should not be made to a taxpayer who is known to have suffered a recent family bereavement unless absolutely necessary.
- 3.6.2.2** If during the course of a visit an officer discovers that the taxpayer has suffered a recent family bereavement, the officer should offer to postpone the visit to a later date if the taxpayer wishes.

3.7 Confidentiality Requirements

3.7.1 Introduction

- 3.7.1.1** It is a fundamental principle of the operations of the Revenue Commissioners that any information provided to them is treated in confidence and used for tax purposes only.
This is covered in the Charter of Rights under the heading “Consistency, Equity and Confidentiality”.

3.7.2 Requirements on officers

- 3.7.2.1** When using the powers, officers must be careful not to disclose to a taxpayer directly or indirectly the tax affairs of another taxpayer.
- 3.7.2.2** Officers **must not** discuss the tax affairs of one person with any other person. The following are examples of individuals with whom particular care is needed:
spouse,

partners,
directors,
customers and suppliers, and
employers and employees.

- 3.7.2.3** Officers should always keep in mind, when exercising powers, that powers may only be exercised in relation to individuals who come within the terms of the section.

3.7.3 Particular situations

- 3.7.3.1 Interviews.** Officers interviewing taxpayers during visits should seek to afford the greatest privacy possible to the taxpayer. Where possible, interviews should be conducted in room affording privacy.

- 3.7.3.2 Verification visit.** Officers must be careful, when using powers to verify information, that where possible they do not identify the trader into whose affairs they are enquiring. Therefore, when verifying information in relation to one taxpayer, officers should note information relating to more than one taxpayer, even though information relating to only one taxpayer is required.

CHAPTER 4

Exercise of Powers

This Chapter is made up of a general note and an outline of the format of the following three Chapters which are as follows:-

Chapter 5 Instructions for Routine Situations

Chapter 6 Instructions for Non Routine Situations

Chapter 7 Garda Assistance

Note: This manual is currently subject to review and may not reflect up-to-date position.

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4.1 General

4.1.1 Purpose of instructions

- 4.1.1.1** The instructions set out a framework for the exercise of the powers. The instructions specify how officers should approach the exercise of each power and, also, emphasise actions which officers should not take.

4.1.2 Requirement on officers

- 4.1.2.1** Officers must inform themselves on, and act in accordance with, these instructions.

- 4.1.2.2** Officers are encouraged to suggest improvements in the manual in the light of their own experience. These should be forwarded to their Regional Powers Co-ordinator (para 2.5.2) via the Principal Officer.

4.1.3 Format of instructions for the use of specific powers

- 4.1.3.1** These instructions are divided into a number of chapters as follows:

- a)** Instructions on routine situations (Chapter 5);
- b)** Instructions on non-routine situations (Chapter 6);
- c)** Garda assistance (Chapter 7).

- 4.1.3.2** The chapters are subdivided into sections which deal with the exercise of each specific power e.g. power to enter; power to examine records.

4.1.4 Format of each chapter

- 4.1.4.1** Each chapter is subdivided into paragraphs, which in general follow a pattern. Where necessary, definitions and explanations necessary to a complete understanding of the chapter are provided at the beginning of the appropriate chapter.

- 4.1.4.2** The first paragraph sets out the legislative provisions or “Sections” which provide for the exercise of the particular power.

- 4.1.4.3** The second paragraph specifies what officers may use the powers. Where a specific authorisation is required only those officers who are specifically authorised may exercise the power and the paragraph sets out the grades of officers who will normally be authorised. The grades authorised are normally Executive Officer, Higher Executive Officer, Assistant Principal and Principal Officer or their equivalent.

- 4.1.4.4** The third paragraph sets out the officers from whom permission to exercise the power must be obtained. These will generally be the authorised officers’ superior officers, though, exceptionally, other officers are nominated for this purpose.

In simple and routine cases, or where the taxpayer has been notified in advance of the visit and has not objected, officers will be able to exercise routine powers, such as entry and inspection, without express permission in each case. These powers are dealt with in Chapter 5.

In other cases or in relation to the exercise of sensitive powers, officers must actually obtain the permission of the superior officer specified. These powers are set out in Chapter 6 and 7.

See Paragraph 2.2 for details on “Advance Approvals”.

4.1.4.5 The fourth and fifth paragraphs set out the restrictions on the exercise of the particular power. These restrictions set out the steps officers are to follow when exercising the powers. They are divided between those which are to be found either in the section itself which are referred to as legal restrictions, or in administrative practice, which are referred to as administrative restrictions. This distinction is drawn to help officers in reading the legislation and in understanding the restrictions. However, officers must comply with all the restrictions when exercising the powers.

4.1.4.6 Where appropriate, at the end of some chapters, a paragraph sets out how officers are to react in cases of obstruction.

4.1.5 Main Sections Dealt With in Chapter 5 and 6

The main Sections dealt with in Chapter 5 and 6 are Section 18 Value Added Tax 1972, and Section 903,904 and 905 Taxes Consolidation Act 1997. These latter sections are contained in Chapter 4 of Part 38 of TCA 1997. Other powers of entry and inspection for specific purposes (viz Section 904A to 904J) are also contained in Chapter 4 of Part 38 of TCA 1997. A detailed list of these is shown at Appendix 2.

[Those latter sections contain powers of inspection which range from the that relating to Deposit Interest Retention Tax in Section 904A, to that relating to Professional Services withholding tax, in Section 904J. Officers are authorised and instructed in relation to these powers of inspection as the need arises. These powers are in essence the same as those dealt with here except that they are adapted so that each section suits the particular type of tax deduction system for which it is intended.]

CHAPTER 5

Instructions for Routine Situations

This Chapter deals with routine situations involving a visit to a taxpayer's premises. Generally the taxpayer will have been given notice of the Revenue officers intention to call e.g. self-assessment audit. Although the officer will, in the course of the visit, be exercising various powers he or she will not expect to experience any lack of co-operation from the taxpayer.

The instructions in this Chapter will therefore cover most outdoor calls made by Revenue officers.

[Note the 4 year time limit (under section 956 TCA 1997) on the use of an Inspectors powers of enquiry in relation to self-assessment returns unless he/she has reasonable grounds for believing that the return is insufficient due to its having been completed in a fraudulent or negligent manner.]

(Exceptional and/or sensitive situations are dealt with in Chapter 6).

The Chapter contains the following headings:

- 1. Power to enter business premises**
- 2. Power to enter premises used wholly and exclusively as a private residence**
- 3. Examination of records after entry to premises**
- 4. Inspection of data equipment (mainly computers and electronic cash registers) and software**
- 5. Power to remove and retain records**
- 6. Inspection of "property"**
- 7. Power to require reasonable assistance from taxpayer**

A general note on the format of these instructions is contained in Chapter 4.

5.1 Power to enter business premises (with consent of taxpayer)

5.1.1 Sections

Section 903(2) TCA [Pay As You Earn (PAYE),
Section 904(2) TCA 1997 [Relevant Contracts Tax (R.C.T.)],
Section 905(2)(a) TCA 1997 [All Taxes, Duties, Charges and Levies], and
Section 18(1)(a) VAT Act, 1972 [Value Added Tax (VAT)].
{Related Provisions:
Section 482(7) TCA 1997 [Heritage Houses and Gardens]
Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]
Section 904A & 904 C to 904J TCA 1997 [Various Withholding Tax
Arrangements]
Articles 3 & 7, S.I. 136 of 1993 [Intrastat]
Article 78 of the Community Customs Code (Council Regulation (EEC) No
2913/92 [Customs]
Section 136 F. A. 2001[Excise]}

5.1.2 Definitions

5.1.2.1 Meaning of premises

“Premises” includes any property other than public thoroughfares and is not restricted to buildings.

5.1.2.2 Meaning of business premises

A business premises is a premises, or a portion of a premises, where a trade, profession, business, employment, relevant operation, other taxable activity or any thing connected with such activity is carried on or in which records relating to such activity are kept.

5.1.3. Premises which may be entered with consent

(Paragraph 6.1 below deals with power to enter without consent)

5.1.3.1 Any business premises as above may be entered with the consent of the taxpayer.

5.1.3.2 A premises or building open to the public may be entered in the literal sense without obtaining express consent. Officers should, however, immediately go to the reception area or office. Until they have established their status, officers are in the same position as other members of the public on the premises.

5.1.3.3 Officers may enter driveways or paths leading to buildings to make contact with the occupier.

5.1.4 Officers who may exercise the power

- 5.1.4.1** The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

5.1.5 Officers from whom permission must be obtained

- 5.1.5.1** If the call is of a simple or routine nature or if the taxpayer has been notified of the call and has not indicated any objection to it, officers authorised under these sections have a general power of entry, which may be exercised without specific permission from superior officers.

- 5.1.5.2** If the call is not of a regular or routine nature and the taxpayer has not been notified of it, or if the taxpayer has indicated an **objection** to the call, the express **permission of the Principal Officer** must be sought before the call is made.

This would be an unusual situation and if the taxpayer refused permission for entry or examination of records, the prior approval of the Principal Officer, as set out in Paragraph 6.1 would be required.

5.1.6 Legal restrictions on the use of the power

- 5.1.6.1** Entry must be at reasonable times, i.e. during normal business hours.

- 5.1.6.2** The officer must honestly believe on the basis of evidence available to him/her either that a trade, profession or other chargeable activity, or something connected with it, is or has been carried on in the premises or that relevant records are kept in the premises. An officer **cannot** enter any premises other than those coming within the terms of the section, which he/she is relying upon.

5.1.7 Administrative restrictions on the use of the power

- 5.1.7.1** Officers should always give adequate notice of the call, where appropriate.

- 5.1.7.2** On first entering a premises, officers should seek out the taxpayer or someone acting on his/her behalf.

- 5.1.7.3** Officers should produce their Identity Card on first meeting with the taxpayer or someone acting on his behalf. The officer should if requested, allow the taxpayer, or the person acting on his behalf, to read the card and to take notes from it but should not give the card to either person.

- 5.1.7.4** Officers should only remain on the premises with the consent of the taxpayer.

- 5.1.7.5** Immediately on meeting the taxpayer, the officer should explain the purpose of the call.

- 5.1.7.6** Officers should have a copy of the relevant legislation available for the taxpayer, if requested.

5.1.8 Refusal of entry

- 5.1.8.1** If entry is refused, the officer should withdraw and call on a second officer to give assistance.

- 5.1.8.2** If the refusal continues, the officers should make every effort to point out their entitlement to enter, under the relevant section, and that the refusal amounts to obstruction, which is an offence, and allow the occupier the opportunity to reconsider his/her position so as to permit entry to the premises.
- 5.1.8.3** Where there is refusal to cooperate, Officers should make a detailed, contemporaneous note of the incident and, in due course, submit the case to their Principal Officer (who may consult with the Regional Powers Coordinator), for consideration of whether the case should be submitted to Investigations and Prosecutions Division for consideration of prosecution for obstruction, or for other appropriate action.
- 5.1.8.4** Under no circumstances should officers in this situation attempt to gain access by force or subterfuge.

5.2 Entry to premises used wholly and exclusively as a private residence

IMPORTANT

Any premises, or any portion of a premises, which is occupied wholly and exclusively as a private residence can only be entered with the consent of the occupier or, if the occupier does not consent, with a Court Order.

5.2.1 Sections

Section 905(2)(e) TCA 1997 [All Taxes, Duties, Charges and Levies]
Section 903(2A) TCA 1997 [Pay as You Earn (PAYE)]
Section 904(2A) TCA 1997 [Relevant Contracts Tax (RCT)]
{Related Provision:
Section 482(7) TCA 1997 [Heritage Houses and Gardens]}

5.2.2 Private residences which cannot be entered

- 5.2.2.1** A private residence, or any portion of it, which does not come within the terms of Section 905(2)(a) **CANNOT** be entered. That is a private residence, or any portion of it cannot be entered if it is one in which an officer has no reason to believe that a trade, profession, business, employment, relevant operation, other taxable activity or anything connected with these activities (“any taxable activity”) is carried on in it or in which an officer has no reason to believe that records relating to tax may be kept. A similar restriction applies under Section 903(2) in relation to employments and under Section 904(2) in relation to relevant operations.

5.2.3 Private residences which may be entered

- 5.2.3.1** A premises, or any portion of it, which, although used as a private residence, comes within the terms of Section 905(2)(a) may be entered (see 5.2.2.1 above).
However, the overriding consideration is that no private residence may be entered without either (a) the consent of the occupier or (b) a court order (see paragraph 5.2.6)

5.2.3.2 A premises, or that portion of it, in which an officer has reason to believe that any taxable activity is carried on, may be entered as it **is not** used wholly and exclusively as a private residence (but see paragraph 5.2.3.4 below). This belief must be based on evidence and must be honestly held.

5.2.3.3 A private residence, or that portion of it, in which an officer has reason to believe that records relating to tax may be kept is still a premises used wholly and exclusively as a private residence and may be entered only with the consent of the occupier or by a Court Order.

5.2.3.4 A private residence, or that portion of it, in which an officer has reason to believe that a taxable activity is carried on but entry to which is barred by the taxpayer may only be entered by a Court Order.

5.2.4 Officers who may exercise the power

5.2.4.1 Only officers authorised under Section 903,904 or 905 may enter premises used wholly and exclusively as a private residence and then only by consent or on foot of a Court Order.

5.2.4.2 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

5.2.5 Officers from whom permission must be obtained when taxpayer consents to entry to private residence

5.2.5.1 Officers authorised under these sections have a general power of entry which may be exercised without prior permission, if the taxpayer has been notified of the call and consents to it, or if the call is of a simple and routine nature and the taxpayer consents.

5.2.5.2 If the taxpayer has not been notified of or has not consented in advance to the call or if the call is not of a simple and routine nature, but an officer expects the taxpayer to consent to the entry, the express permission of the **Principal Officer must** be sought before the call is made.

5.2.6 Officers from whom permission must be obtained when it is intended to seek a Court Order

5.2.6.1 Where, exceptionally, it is necessary to seek a Court Order, officers **MUST** obtain the express permission of their Assistant Secretary. This should be sought through their Principal Officer who may consult with the Regional Powers Co-ordinator. Officers should apply in writing. They should set out the evidence on which they base their belief that a taxable activity is carried on in the private residence or that records relating to tax may be kept there.

5.2.7 Legal restrictions on the use of the power

5.2.7.1 Consent for entry must be obtained by the officer from the occupier of the private residence. Such consent must be clear and unequivocal (see Paragraph 5.1 above).

5.2.7.2 If an officer enters a private residence with the consent of the occupier and the taxable activity is carried on or the records relating to tax are kept in a portion of the private residence, then only that portion may be entered.

5.2.7.3 Where only a portion of a private residence may be entered and to do so it is necessary to enter the portion of the private residence used wholly and exclusively as a private residence, officers should simply come and go through the portion used wholly and exclusively as a private residence. They should not carry out any enquiries in that portion.

5.2.7.4 If, after an officer has entered a private residence with the consent of the occupier, the occupier withdraws that consent, the officer should withdraw immediately and without question.

5.2.7.5 If a taxpayer does not consent to entry to a premises or to the portion of it used wholly and exclusively as a private residence but an officer has reason to believe that a taxable activity is carried on in the premises or that records relating to tax may be kept there, then to gain entry to that premises a Court Order would have to be obtained.

5.2.8 Administrative restrictions on the use of the power

5.2.8.1 Officers should make every effort to obtain the consent of the occupier by arranging calls at times suitable to the taxpayer.

5.2.8.2 Officers should respect the privacy of taxpayers when carrying out a call in a private residence. Officers should only enter those portions of a private residence where a taxable activity is carried on or where records are kept. Under no circumstances should officers enter those portions of a private residence, which are obviously private.

5.2.8.3 When an officer has left a private residence after the occupier has withdrawn his consent, the officer should immediately seek to obtain the occupier's consent to re-enter the premises. If re-entry is refused, the officer should follow the procedure set out at Paragraph 5.1.8 i.e. withdraw and call on a second officer etc. Under no circumstances should officers in this situation attempt to gain access by force or subterfuge.

5.2.8.4 An officer should only seek to obtain a Court Order if there are compelling reasons why the call should go ahead or if an investigation into the taxpayer's affairs is being carried out e.g. if the taxpayer has not produced records or goods required for examination when requested to do so and the officer has reason to believe that the records or goods required for examination are in the premises and **would constitute evidence of serious evasion.**

However where serious evasion is suspected the officer should consult with the liaison officer in Investigations and Prosecutions Division before taking any further action.

See also Paragraph 6.1.

5.3 Examination of records after entry to premises (with consent of taxpayer)

5.3.1 Sections

Section 903(2)(c) TCA 1997 [Pay As You Earn (PAYE)]
Section 904(2)(iii) TCA 1997 [Relevant Contracts Tax (R.C.T.)]
Section 905(2)(a)(c) TCA 1997 [All Taxes, Duties, Charges and Levies], and
Section 18 VAT Act, 1972 [Value Added Tax (VAT)]
{Related Provisions:
Section 482(7) TCA 1997 [Heritage Houses and Gardens]
Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]
Section 904A & 904 C to 904J TCA 1997 [Various Withholding Tax Arrangements]
Articles 3 & 7, S.I. 136 of 1993 [Intrastat]
Article 78 of the Community Customs Code (Council Regulation (EEC) No 2913/92 [Customs]
Section 136 F.A. 2001 [Excise]}

5.3.2 Definition

5.3.2.1 Records are broadly defined in the legislation.
For example in Section 905 TCA 1997 “records” is defined so as to include all written, printed and computer stored information which relates to a business carried on by a person or which a person is obliged to either keep or produce for tax purposes. This covers management accounts and company minutes etc.

5.3.2.2 Officers should be familiar with the definition of records in each section.

5.3.3 Officers who may exercise the power

5.3.3.1 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

5.3.4 Officers from whom permission must be obtained

5.3.4.1 Officers authorised under these sections have a general power to inspect records, which may be exercised without specific permission if the call is of a simple or routine nature or if the taxpayer has been notified of the call and does not object to it.

5.3.4.2 If the call is not of a simple or routine nature and the taxpayer has not been notified of it or if the taxpayer has objected to the call, then the express permission of the Principal Officer must be sought before the call is made. This would be an unusual situation and if the taxpayer refused permission for entry or examination of records, the Regional Powers Co-ordinator should be consulted.

5.3.5 Legal restrictions on the use of the power

5.3.5.1 The records may be examined only after entry to premises coming within the terms of the specific section (see Paragraph 5.1 above).

5.3.5.2 The officer should first request the records to be produced.

5.3.5.3 The only records which may be examined are those defined in each section; Section 905(1) TCA 1997, Section 18(1)(a)(i) and Section 18(1B) VAT Act, 1972; Section 903(1) TCA, 1997; and Section 904(1) TCA, 1997.

5.3.5.4 The definition of records in Section 903(1) allows an officer to request information or documents, which the officer may reasonably require. This information or these documents should relate to the specific records itemised earlier in the definition and the officer should have a reason for requiring the information or documents to be produced.

5.3.5.5 The officer may require a person carrying on a profession to produce records only relating to the payments of fees to that person and to the financial transactions of that person in relation to his or her **own liability** to tax. An officer should not seek access to files containing confidential professional advice given, by a person carrying on a profession, to clients unless that is the only way of examining the financial transactions of the professional and, if this is the case, the officer should permit the professional to exclude that portion of documents containing confidential professional advice given to a client from the files to be examined.

5.3.6 Administrative restrictions on the use of the power

5.3.6.1 Records should be examined in:

- a)** the business premises, or
- b)** the part of a private dwelling used for business, or
- c)** the part of a private dwelling made available for the purpose of examining the records.

Otherwise, for example if the premises are unsuitable for such an examination, records should be removed, with the consent of the taxpayer, to the officers' local headquarters for inspection.

Where records are removed, a receipt is to be given to the taxpayer - see Paragraph 5.5.

5.3.6.2 Under no circumstances, should records be examined in a bedroom.

5.4 Inspection of data equipment (mainly computers and electronic cash registers)

5.4.1 General

- 5.4.1.1** The carrying out of a computer audit i.e. an audit of computerised systems and their associated data requires special training and equipment. The material included here is for general guidance only.
- 5.4.1.2** There are a number of aspects to the examination of computerised records. One is the examination of the taxpayers relevant application software and equipment. In other words, testing the operation of the computerised system itself, to ascertain the reliability and validity of the information processed and stored on it. Other areas of interest revolve around the authorisation levels, file maintenance responsibilities, operational practices and override capabilities, which are given to operators of the equipment and to officers of the business.
- 5.4.1.3** The second aspect of computer audit concerns examination of the accounts data. This is done by downloading the material onto storage media such as DVD, CD, memory sticks etc for transmission to a laptop computer and subjecting the data to testing. Only officers who have received specialised training for that purpose and have the equipment required may do this.
- 5.4.1.4** In addition auditors may conduct an examination around the computerised system (i.e. paper produced by the computerised system). No special approval is required for this.
- 5.4.1.5** It is important to remember that only officers who have been specially trained will carry out computer audits. Prior approval at Principal Officer level is required where the taxpayer's agreement is not forthcoming or where it is necessary to remove computer equipment.

5.4.2 Audit (examination of records) around computer equipment

- 5.4.2.1** The powers available to officers under the four main examination of records provisions (viz Section 903 TCA 1997, Section 904 TCA 1997, Section 905 TCA 1997 and Section 18 VATA 1972) are adequate to cover an audit or examination 'around the computer equipment' and these are enhanced by the power in those sections to require reasonable assistance in that exercise e.g. in ascertaining what files are maintained on the computer equipment and in requesting a download of the relevant records required.
- 5.4.2.2** The directions and restrictions in relation to the examination of records generally, and the arrangements for prior approval where required, as set out in Paragraph 5.3, apply also to the audit (examination of records) around computer equipment.

5.4.3 Audit (examination of records) by means of a computer systems audit

- 5.4.3.1** Such an audit would involve testing the computer equipment itself and the software.
Officers involved in the operation of computer equipment need detailed knowledge of computers and software.
Each Region has officers trained in computer systems audit and can call on the central unit in Large Cases Division for assistance if required in conducting an audit.

5.4.4 Sections

- 5.4.4.1** Section 912 TCA 1997 is the relevant provision and it applies the powers of an authorised officer, where records are processed by data equipment, in relation to:-
- the inspection of records;
 - entering premises and searching for records;
 - taking extracts from or copies from records; or,
 - removing any records
- to that data equipment and any associated software, data, apparatus or material. It also empowers the officer to require the taxpayer or any person having charge of or concerned in operating the data equipment or any associated apparatus or material to afford him/her all **reasonable assistance** in relation to it.

5.4.5 Prior Approval

- 5.4.5.1** The prior approval of a Principal Officer is required for a computer audit. The prior approval of an Assistant Secretary is required for the removal of computer equipment. The removal of computer equipment, where appropriate, will generally only arise for consideration in Investigations and Prosecutions Division. That Division should always be consulted in any case where removal may be required, as the case may be more appropriate for investigation by officers from that Division.

5.5 Power to remove and retain records (with consent of taxpayer)

5.5.1 Sections

Section 903(2)(c) TCA 1997 [Pay As You Earn (PAYE)]

Section 904(2)(iii) TCA 1997 [Relevant Contracts Tax (R.C.T.)]

Section 905(2)(a)(D) TCA 1997 [All Taxes, Duties, Charges and Levies], and

Section 18(1)(a)(iii) VAT Act, 1972 [Value Added tax (VAT)]

{Related Provisions:

Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]

Articles 3 & 7, S.I. 136 of 1993 [Intrastat]

5.5.2 Officers who may exercise the power

- 5.5.2.1** The grades authorised will normally be from Executive Officer to Principal Officer or equivalent grades.

5.5.3 Officers from whom permission must be obtained

- 5.5.3.1** Officers authorised under these sections have a general power to remove and retain records which may be exercised without specific permission unless the taxpayer objects.

- 5.5.3.2** Normally the exercise of the power to remove and retain records (**without** the consent of the taxpayer) requires the prior permission of a Principal Officer (see Paragraph 6.4.3). However if, in the course of a routine visit, an officer discovers documentary evidence indicating serious tax irregularities or fraud and the officer forms the view that there is a risk that the relevant documents may not subsequently be made available or may be destroyed, such documents may be removed and retained even if the taxpayer does not consent. An example of such records would be false invoices or analogous documentation [see also paragraph 3.5.4 re when to withdraw]

5.5.4 Legal restrictions on the use of the power

- 5.5.4.1** The only records which may be removed are those which an officer may examine (see Paragraph 5.3).
- 5.5.4.2** Records may be removed and retained only for the purposes of their further examination or if they are likely to be needed in any later legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal prosecution.
- 5.5.4.3** The records can be retained only for a reasonable time. This would be the length of time necessary for their examination or until the end of the legal proceedings, where appropriate.

5.5.5 Administrative restrictions on the use of the power

- 5.5.5.1** The officer should provide a receipt signed by the officer for the records removed.
- 5.5.5.2** The officer should, where feasible, request the taxpayer to acknowledge the receipt, if possible by signing a copy of the receipt. If the taxpayer refuses, this fact should be noted on the officer's copy of the receipt.
- 5.5.5.3** The taxpayer should be informed of the estimated length of time the records removed will be retained and the circumstances in which they will be returned. Records should be examined and returned as soon as possible and should not be retained beyond 30 day unless required for the purposes of legal proceedings.

- 5.5.5.4** Controlled access to the records removed should be available to the taxpayer and this facility should be made known to the taxpayer.
- 5.5.5.5** Copies of the records should be made available to the taxpayer, where appropriate.
- 5.5.5.6** Officers should not exercise this power to remove documents which form part of the taxpayer's legal briefing for any judicial proceedings, including an appeal hearing or which cannot be examined because of professional privilege (see paragraph 5.3.5.5).

5.6 Inspection of property (with consent of taxpayer)

5.6.1 Sections

Section 905(2)(a)(A) to (E) TCA 1997.

{Related Provisions:

Section 482(7) TCA 1997 [Heritage Houses and Gardens]

Section 911 TCA 1997 [Capital Gains Tax Inspection/Valuation]}

5.6.2 Officers who may exercise the power

- 5.6.2.1** The grades authorised will normally be from Executive Officer to Principal Officer or equivalent grades.

5.6.3 Officers from whom permission must be obtained

- 5.6.3.1** Officers authorised under these provisions will have a power to inspect property, which may be exercised without specific permission if the taxpayer agrees.

5.6.4 Legal restrictions on the use of the power

- 5.6.4.1** An authorised officer may, under Section 905(2)(a)(A) to (E), examine property, which includes all assets, relating to a tax liability of the taxpayer.
- 5.6.4.2** The inspection of property may take place only at reasonable times i.e. during normal working hours or at another time suggested by the taxpayer.

5.6.5 Inspection of Stock-in Trade etc

- 5.6.5.1** Under Section 905(2)(a)(A) to (E) TCA 1997 an officer has authority to examine property. Since property is defined as meaning "any asset relating to a tax liability". This covers the premise in which the business is carried on, plant and machinery, stock-in-trade etc
- 5.6.5.2** This power to inspect stock should be used with discretion, as the stock will be that on hands at the time of the audit while the return being audited will relate to an earlier period.

- 5.6.5.3** In any examination of stock or other assets, the consent of the taxpayer should be obtained and care should be taken to comply with the taxpayer's safety, security and hygiene procedures in relation to all stock and assets.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

5.7 Power to require reasonable assistance from a person on the premises

IMPORTANT:

This power is to be distinguished from normal requests to taxpayers and others for assistance. Officers can only rely on this power if such requests fail to elicit the assistance requested.

It is also to be distinguished from routine enquiries from third parties by officers on outdoor enquiry work.

5.7.1 Sections

Section 903(3) TCA 1998 [Pay As You Earn (PAYE)]

Section 904(3) TCA 1997 [Relevant Contracts Tax (R.C.T.)]

Section 905(2)(b) TCA 1997 [All Taxes, Duties, Charges and Levies]

Section 912(3) TCA 1997 [Computer documents and records]

Section 18(1)(a)(v) VAT Act, 1972 [Value Added Tax]

{Related Provisions:

Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]

Section 904A & 904 C to 904J TCA1997 [Various Withholding Tax Arrangements]

Articles 3 & 7, S.I. 136 of 1993 [Intrastat]

Section 136 TCA 1997 [Excise]}

5.7.2 Officers who may exercise the power

- 5.7.2.1 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

5.7.3 Officers from whom permission must be obtained

- 5.7.3.1 Officers MUST obtain the express permission of their Principal Officer before formally exercising this power in respect of any person other than the person whose premises are entered or who is under direct enquiry.

5.7.4 Legal preconditions for the exercise of the power

- 5.7.4.1 The officer can only “**require**” reasonable assistance from persons at premises, which he or she has entered under the relevant sections. The persons from whom reasonable assistance can be required are specified in each section. **Reasonable assistance includes providing the officer with information, explanations and documents as required by the officer and assisting the officer to operate computer equipment.**
- 5.7.4.2 The officer can only ‘require’ reasonable assistance when exercising other powers, such as examination of records, under these sections.

- 5.7.4.3** The person to whom the request is directed must be capable of providing the assistance. Officers cannot make unreasonable requests by requiring individuals to provide information, which is not available to them or to produce documents, which are not within their power or procurement.

5.7.5 Administrative restrictions on the use of the power

- 5.7.5.1** At least two officers should be present if the power is being formally used.
- 5.7.5.2** Officers should clearly state that they are relying on the particular legislative provision and refer the individual to the relevant provisions of the section before seeking assistance. They should ensure that the individual is aware that the request is statutorily based.
- 5.7.5.3** Assistance should first be sought from the person whose premises are entered or who is under direct enquiry. This person must first refuse to provide the assistance required and must be informed of the officers' intention to seek the assistance required from a third party before assistance is required from a third party-see par 5.7.5.6.
- 5.7.5.4** On the premises of a public company, initially assistance should always be sought from the person who has been delegated to provide assistance to the officers, the company secretary, the managing director or the financial controller.
- 5.7.5.5** On the premises of a private company, initially assistance should always be sought from the proprietary directors.
- 5.7.5.6** Officers may 'require' information from employees about their own tax affairs or their role in the operation of the business by their employer. This does not restrict officers from requesting such information from employees in the first instance, in appropriate situations, without the formal invocation of this power. Officers must not direct enquiries to employees about the personal tax affairs of their employer.
- 5.7.5.7** Before an officer "requires" a person to provide information or assistance he or she should seek to obtain it by consent in the first place.

CHAPTER 6

Instructions for Non Routine Situations

This Chapter deals mainly with situations where the consent of the taxpayer is withheld and the prior approval of a superior officer is necessary, before the authorised officer is allowed to exercise his or her power so as to enable the officer carry out his or her function in relation to the taxpayer.

Knowing when to invoke these powers calls for experience, maturity and discretion. Overzealous use of these powers would be counterproductive, if a more persuasive approach with a reluctant taxpayer would have achieved the co-operation required for an effective visit.

The Chapter also sets out how less common situations are to be approached e.g. operating computer equipment, obtaining of 3rd party information etc.

The Chapter contains the following headings:

- | | |
|--|----------------------|
| 1. Power to enter business premises | (Non Routine) |
| 2. Entry to private residence | (") |
| 3. Examination of records | (") |
| 4. Power to remove and retain records | (") |
| 5. Operation and removal of computer equipment and software | (") |
| 6. Inspection of "property" | (") |
| 7. Power to require reasonable assistance from 3rd party | (") |
| 8. Search of premises | |
| 9. Other outdoor powers | |

(Prior approval is required for the use of all these powers)

A general note on the format of these instructions is contained in Chapter 4.

6.1 Power to enter business premises

(without consent of taxpayer)

(See Paragraph 5.2 re entry to Private Residence)

Important

Entry to premises without the consent of the occupier will arise only in exceptional situations.

Before such an entry is attempted, officers must have accurate recent information to indicate that such an entry is necessary to secure evidence of serious evasion or serious criminal activity. Uncorroborated anonymous information would not be sufficient for this purpose.

6.1.1 Sections

Section 903(2) TCA 1997 [Pay As You Earn (PAYE)]

Section 904(2) TCA 1997 [Relevant Contracts Tax (R.C.T.)]

Section 905(2)(a) TCA 1997 [All Taxes, Duties, Charges and Levies]

Section 18(1)(a) Vat Act, 1972. [Value Added Tax]

{Related Provisions:

Section 482(7) TCA 1997 [Heritage Houses and Gardens]

Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]

Section 904A & 904 C to 904J TCA1997 [Various Withholding Tax Arrangements]

Articles 3 & 7, S.I. 136 of 1993 [Intrastat]

Article 78 of the Community Customs Code (Council Regulation (EEC) No 2913/92 [Customs]

Section 136 F.A. 2001 Excise}}

6.1.2 Definitions

6.1.2.1 Meaning of business premises

A business premises is a premises, or a portion of a premises, where a trade, profession, business, employment, relevant operation, other taxable activity or any thing connected with such activity is carried on or records relating to such activity are kept.

6.1.3 Officers who may exercise this power

6.1.3.1 The grades authorised will normally be from Executive Officer to Principal Officer or equivalent grades.

6.1.4 Officers from whom permission must be obtained

6.1.4.1 Officers MUST obtain the **express permission** of their Principal Officer before exercising this power.

6.1.4.2 The Principal Officer should consult with the Regional Powers Coordinator and Investigations and Prosecutions Division, when necessary.

6.1.5 Legal preconditions to exercise of power

6.1.5.1 An officer can only enter premises where the officer honestly believes on the basis of information available to him/her either that a trade, profession or other chargeable activity, or something connected with it, is or has been carried on in the premises or that the relevant records, including computer records, are kept or may be kept there, or that an asset related to a tax liability is, or was, located there.

6.1.5.2 The records are those which a taxpayer is required to keep and have available or produce for inspection, under any taxation legislation, including Section 886 TCA 1997 (formerly Section 6 of Finance Act, 1968). Specific definitions are given in each section (Section 903(1) TCA 1997; Section 904(1) TCA 1997; Section 905(1) TCA 1997; and Section 18(1)(a)(i) and Section 18(1B) VAT Act, 1972).

6.1.5.3 Entry must be at reasonable times i.e. during taxpayers normal business hours.

6.1.5.4 Under no circumstances should an officer enter premises, or a portion of premises, used wholly and exclusively as a private residence without the consent of the occupier unless a Court Order has been obtained. (See Paragraph 5.2).

6.1.6 Administrative restrictions on the use of the power

6.1.6.1 At least two officers should always be present.

6.1.6.2 Prior to the exercise of the power, an officer should verify that the particular premises to which entry is to be sought is the correct premises.

6.1.6.3 Prior to entering the premises, officers should make every effort to obtain the consent of the occupier. This is not necessary if officers have reason to believe that doing so would lead to evidence being destroyed or removed or a material witness not being available. It is also not necessary to do so if the officers have reason to believe that to do so might endanger the officers concerned.

6.1.6.4 If officers are unable to obtain the consent of the occupier to their entering the premises, officers may, in consultation with their Principal Officer, arrange to be accompanied by a Garda when entering the premises if they have reason to believe that records constituting evidence of serious evasion are available on the premises (see Paragraph 7.2). Serious evasion involves the loss of substantial amounts of tax or the commission of a serious criminal offence. The officers' belief must be reasonable.

[Any case where serious evasion is suspected should, of course, be taken up with the liaison officer in Investigations and Prosecutions Division at the earliest opportunity as it may be suitable for prosecution.]

6.1.6.5 Officers should produce their Identity Card and explain the purpose of the call immediately on meeting the occupier.

Officers should not part with the card but should allow the taxpayer to read it and to take notes if he wishes.

6.1.6.6 Officers should have a copy of the relevant legislation available for the taxpayer, is requested.

6.1.7 Failure to gain access to premises

6.1.7.1 If officers fail to enter the premises involved due to the actions of the occupier, officers should make every effort to point out to the occupier the officers power of entry and that such actions by the occupier amount to obstruction which is an offence under Revenue Law, and allow the occupier the opportunity to reconsider the position so as to permit entry to the premises.
[It is a criminal offence for a person to obstruct or interfere with an officer in the exercise or performance of his /her powers or duties under the Acts - Section 1078(2)(j) TCA 1997.]

6.1.7.2 Officers should make a detailed, contemporaneous note of the incident and, in due course, submit the case to their Principal Officer (who may consult with the Regional Powers Coordinator), for consideration of whether the case should be submitted to Investigations and Prosecutions Division for consideration of prosecution for obstruction, or for other appropriate action.

6.1.7.3 Under no circumstances, should officers put themselves in danger.

6.2 Entry to Private Residence (without consent of the taxpayer)

6.2.1 Sections

Section 903(2A) TCA 1997 [Pay as You Earn (PAYE)]

Section 904(2A) TCA 1997 [Relevant Contracts Tax (RCT)]

Section 905(2)(e) TCA 1997 [All Taxes, Duties, Charges and Levies]

6.2.2 Restriction

6.2.2.1 Under these sections a private residence, or that part of it, occupied wholly or exclusively as a private residence may not be entered without the consent of the occupier. There is only one exception to this rule and that is where the authorised officer produces a warrant issued by a Judge of the District Court, under the above provisions, authorising such entry (or a search warrant under Section 905 (2A) TCA 1997) .

6.2.3 Prior Approval

6.2.3.1 The prior approval of an Assistant Secretary must be obtained for seeking a warrant from the District Court for entry to a private residence. **The matter should be taken up initially with the Regional Powers Coordinator and Investigations and Prosecutions Division.**

6.2.4 Private Residence - General Notes

See Paragraph 5.2 for more details regarding entry to a private residence.

6.3 Examination of records (without consent of the taxpayer)

(See Paragraph 5.4 re computer documents and records)

6.3.1 Sections

Section 903(2)(c) TCA 1997 [Pay as You Earn (PAYE)]

Section 904(2)(iii) TCA 1997 [Relevant Contract Tax (RCT)]

Section 905(2)(a)(c) TCA 1997 [All Taxes, Duties, Charges and Levies]

Section 18 VAT Act, 1972 [Value Added Tax]

{Related Provisions:

Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]

Section 904A & 904 C to 904J TCA1997 [Various Withholding Tax Arrangements]

Articles 3 & 7, S.I. 136 of 1993 [Intrastat]

Article 78 of the Community Customs Code (Council Regulation (EEC) No 2913/92 [Customs]

Section 136 F.A. 2001[Excise]}

6.3.2 Definition

6.3.2.1 Records are broadly defined in the legislation.

For example in Section 905 TCA 1997 “records” is defined so as to include all written, printed and computer stored information which relates to a business carried on by a person or which a person is obliged to either keep or produce for tax purposes.

6.3.2.2 Officers should be familiar with the definition of records in each section. The definition in Section 905 TCA 1997 and Section 18 VATA 1972 is quite broad, while that in Section 903 and 904 is more specific to the tax in question.

6.3.3 Officers who may exercise the power

6.3.3.1 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

6.3.4 Officers from whom permission must be obtained

6.3.4.1 Officers must obtain the express permission of their Principal Officer.

6.3.5 Legal restrictions on the use of the power

6.3.5.1 The records may be examined only after entry to premises coming within the terms of the specific section (see Paragraphs 5.1 and 6.1).

6.3.5.2 The officer should first request the records to be produced.

6.3.5.3 The only records which may be examined are those defined in each section (see Section 903(1) TCA 1997; Section 904(1) TCA 1997; Section 905 TCA 1997 and Section 18(1)(a)(i) and Section 18(1B) VAT Act, 1972.)

6.3.5.4 Section 903(1) TCA 1997 allows an officer to request information or documents which the officer may reasonably require. This information or these documents should relate to the specific records itemised earlier in the definition and the officer should have a reason for requiring the information or documents to be produced.

6.3.5.5 The officer may require a professional to produce only records relating to the payments of fees to the professional and to the financial transactions of the professional in relation to his or her own tax liability. An officer should not seek access to files containing confidential professional advice given by professionals to clients unless that is the only way of examining the financial transactions of the professional and, if this is the case, the officer should permit the professional to exclude that portion of documents containing confidential professional advice given to a client from the files to be examined.

6.3.6 Administrative restrictions on the use of the power

6.3.6.1 At least two officers should always be present.

6.3.6.2 Every effort should be made to obtain the consent of the taxpayer to the examination of the records.

6.3.6.3 Records should be examined in:
a) the business premises; or
b) the part of a private building dwelling used for business purposes; or
c) the part of a private dwelling made available for the purpose of examining the records.

Otherwise, or in the event of the taxpayer objecting strongly to the examination of the records, the records should be removed from the premises (see Paragraph 5.5) and examined in the officers' local headquarters.

6.3.6.4 See paragraph 6.1.7 for situation where, due to the actions of the taxpayer, an officer fails to gain access to premises to examine records

6.3.6.5 Under no circumstances should records be examined in a bedroom.

6.3.7 Examination of Stock-in-Trade

The right, under Section 905 TCA 1997, subsection 2(a)(A), (B) and (C), to require records to be produced, to search for them if not produced and to examine them, applies also to "property". "Property" is defined as meaning "any asset relating to a tax liability". Thus, in particular, it covers stock in trade. However any **search** for stock-in-trade, where that was required, would be made under Section 18(1)(a)(iv) VATA 1972 which is dealt with in Paragraph 6.9.

(See also paragraph 5.6 regarding the inspection of other assets relating to the business).

6.4 Power to remove and retain records (without consent of the taxpayer)

6.4.1 Sections

Section 903(2)(c) TCA 1997 [Pay As You Earn (PAYE)]
Section 904(2)(iii) TCA 1997 [Relevant Contracts Tax (RCT)]
Section 905(2)(a)(D) TCA 1997 [All Taxes, Duties, Charges and Levies]
Section 18(1)(a)(iii) VAT Act, 1972 [Value Added Tax]
{Related Provisions:
Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]
Articles 3 & 7, S.I. 136 of 1993 [Intrastat]
Section 136 F.A.2001 [Excise]}

6.4.2 Officers who may exercise the power

6.4.2.1 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

6.4.3 Officers from whom permission must be obtained

6.4.3.1 Officers must obtain the express permission of their Principal Officer before exercising this power [but see Paragraph 5.5.3.2 for situations where records can be removed and retained without prior permission.]

6.4.3.2 The Principal Officer should consult with Investigations and Prosecutions Division when necessary.

6.4.4 Legal restrictions on the use of the power

6.4.4.1 The only records which may be removed are those which an officer may examine.

6.4.4.2 Records may be removed and retained only if this is necessary for their further examination or if they are likely to be needed in any later legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal prosecution.

6.4.4.3 The records can be retained only for a reasonable time. This would be the length of time necessary for their examination or until the end of the legal proceedings.

6.4.5 Administrative restrictions on the use of the power (including after a search, see notes in Chapter 5.1 and 5.3)

6.4.5.1 At least two officers should be present, as this will normally be a pre planned operation where the need for the removal of records is anticipated as a likely outcome

6.4.5.2 Prior to the removal of records, the officers should make every effort to ensure that only relevant records are removed.

- 6.4.5.3** Prior to the removal of records, every effort should be made to obtain the consent of the taxpayer to their removal.
- 6.4.5.4** The officer should provide a receipt on the headed paper of his or her District/Business Unit, for the records removed. This receipt should be signed by the officer.
- 6.4.5.5** The officer should, where feasible, request the taxpayer to acknowledge the receipt, if possible by signing the copy of the receipt retained by the officer. If the taxpayer refuses, this fact should be noted on the officers copy of the receipt.
- 6.4.5.6** The taxpayer should be informed of the estimated length of time the records removed will be retained and the circumstances in which they will be returned. Records should be examined and returned as soon as possible and should not be retained beyond 30 day unless required for the purposes of legal proceedings.
- 6.4.5.7** Controlled access to the records removed should be available to the taxpayer and this facility should be made known to the taxpayer.
- 6.4.5.8** Copies of the records should be made available to the taxpayer, where appropriate.
- 6.4.5.9** Officers should not exercise this power to remove documents which form part of the taxpayer's legal briefing for any judicial proceedings, including an appeal hearing or which cannot be examined because of professional privilege (see Paragraph 5.3.5.5).
- 6.4.6 Failure to obtain records required**
- 6.4.6.1** If officers fail to obtain the records required due to the actions of the taxpayer, the officers should make every effort to point out to the taxpayer that such actions amount to obstruction which is an offence under Revenue Law and allow the taxpayer the opportunity to reconsider the position so as to permit the records to be removed.
- 6.4.6.2** Officers should make a detailed, contemporaneous note of the incident and, in due course, submit the case to their Principal Officer (who may consult with the Regional Powers Coordinator), for consideration of whether the case should be submitted to the Revenue Solicitor for consideration of prosecution for obstruction, or for other appropriate action.

6.5 Operation and removal of computer equipment and software

6.5.1 Sections

Section 912 TCA 1997 [Computer Documents and records]

See Paragraph 5.4 for information on this power.

Note: This manual is currently subject to review and may not reflect up-to-date position.

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6.6 Inspection of “property” (without consent of the taxpayer)

6.6.1 Sections

Section 905(2)(a)(E) TCA 1997 [All Taxes, Duties, Charges and Levies]

{Related Provisions:

Section 482(7) TCA 1997 [Heritage Houses and Gardens]

Section 911 TCA 1997 [Capital Gains Tax Inspection/Valuation]}

6.6.2 Officers who may exercise the power

6.6.2.1 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

6.6.3 Officers from whom permission must be obtained

6.6.3.1 Officers MUST obtain the express permission of their Principal Officer.

6.6.4 Legal restrictions on the exercise of the power

6.6.4.1 The only property which an authorised officer under Section 905 may inspect is property, meaning **any asset, relating to a tax liability**, and the reason for examining the asset must relate to a tax liability of the taxpayer. Since property is defined as meaning “any asset relating to a tax liability”, this covers the premise in which the business is carried on, plant and machinery, stock-in-trade etc
(See Paragraph 5.6.5 and 6.3.7).

6.6.4.2 The Inspection of property must be at a reasonable time i.e. during normal working hours or at a time suggested by the taxpayer.

6.6.5 Administrative restrictions on the use of the power

6.6.5.1 An officer should, if possible, conduct the inspection of the property which comprises house, building or land without entering the premises.

6.6.5.2 An officer should where appropriate be prepared to take photographs of the property and to make notes of what is photographed, giving a number to each photograph. An officer should also make notes relating to the processing of the film and keep any documentary evidence provided by the processor relating to the film. The individual photographs should be annotated, initialled and dated by the officer.

6.6.5.3 Only if it is necessary for the purpose of inspecting the relevant property should an officer enter the taxpayer’s premises. Officers should then follow the instructions at Paragraphs 6.1 and 6.2 above and, in particular, should note that at least two officers should be present before entering a premises.

6.6.5.4 Officers should make a detailed note of the inspection, including a map of the area inspected, as soon as possible after the inspection.

6.6.6 Obstruction of inspection

- 6.6.6.1** If officers are obstructed from inspecting property by action of another person, officers should make every effort to point out to that person that such actions amount to obstruction.
- 6.6.6.2** Officers should make a detailed contemporaneous note of the incident and submit the case for consideration of a prosecution.
- 6.6.6.3** Under no circumstances should officers put themselves in danger.

6.6.7 Examination of Stock-in-Trade etc

- 6.6.7.1** The right, under Section 905 TCA 1997, subsection 2(a)(A), (B) and (C), to require records to be produced, to search for them if not produced and to examine them, applies also to “property”. “Property” is defined as meaning “any asset relating to a tax liability. Thus, in particular, it covers stock-in-trade.
- 6.6.7.2** However, if a taxpayer refuses consent to an examination/inspection of his stock-in-trade, a **search** of the premises for the stock may be appropriate. If such a search is required, it would be carried out under Section 18(1)(a)(iv) VATA 1972, in accordance with the procedures outlined in Paragraph 6.9 following. (See also Paragraph 5.6 and 6.3.7 for further details on the examination of stock-in-trade).

6.7 Power to require reasonable assistance from third party

6.7.1 Sections

Section 903(3) TCA 1997 [Pay As You Earn (PAYE)]
Section 904(3) TCA 1997 [Relevant Contracts Tax (RCT)]
Section 905(2)(b) TCA 1997 [All taxes, Duties, Charges and Levies]
Section 912(3) TCA 1997 [Computer documents and records]
Section 18(1)(a)(v) VAT Act, 1972 [Value Added Tax]
{Related Provisions:
Article 17, S.I. 605 of 2001 [Plastic Bag Environmental Levy]
Articles 3 & 7, S.I. 136 of 1993 [Intrastat]
Section 136 F.A. 2001 [Excise]}

6.7.2 Prior Approval

The prior approval of the Principal Officer is required for the use of this power in relation to a person other than the taxpayer whose premises are entered or who is under direct enquiry.

6.7.3 Reasonable Assistance - Generally

See Paragraph 5.7 for further information.

6.8 Search of Premises

6.8.1 General Powers

- 6.8.1.1** The power (without a search warrant) to search premises for records or property, or for goods not recorded in accounts, is always a non-routine power. It is not covered in detail in this manual (see paragraph 6.8.5.3 below).
- 6.8.1.2** The exercise of this power would only arise in exceptional situations where approved pre planned operations would be necessary.
- 6.8.1.3** If a search of premises is warranted in a case it is likely to be more appropriate to proceed by way of seeking to obtain a search warrant from a Judge of the District Court [see 6.8.2.3]. Any case where it is felt that a search warrant may be appropriate should be taken up with the liaison officer in Investigations and Prosecutions Division in the first instance as the case may be suitable for investigation with a view to prosecution.

6.8.2 Sections

- 6.8.2.1** The power (without a search warrant) to search premises for records or property is provided in the following sections:
Section 903(2)(ii) TCA 1997 [Pay As You Earn (PAYE)]
Section 904(2)(ii) TCA 1997 [Relevant Contracts Tax (RCT)]
Section 905(2)(a)(B) TCA 1997 [All Taxes, Duties, Charges and Levies]
Section 18(1)(a)(iii) VAT Act, 1972 [Value Added Tax]
- 6.8.2.2** The power, to search premises for goods not recorded is specifically provided for in the following Section 18(1)(a)(iv) VATA 1972.
- 6.8.2.3** The power to apply to a Judge of the District Court for a warrant to search for records on a premises, in a case where serious evasion is suspected, is provided for in Section 905(2A) TCA 1997. This power is used mainly by Investigations and Prosecutions Division. It may also be appropriate in a case where a combined cross Revenue unannounced visit is planned but where IPD is not taking it on as a prosecution investigation case. Assistant Secretary approval is required for making an application for a search warrant. IPD will advise on how to proceed in any such case.

6.8.3 IMPORTANT

- 6.8.3.1** Before any search of premises is carried out under these provisions, officers would need to have accurate, recent information that a search is likely to result in evidence, of serious evasion or serious criminal activity, being found. Uncorroborated anonymous information would not constitute grounds for this purpose (see paragraph 6.9.3 re search warrants, and 7.2.5.3 re Garda assistance)
- 6.8.3.2** Under no circumstances should an officer search a premises, or any portion of a premises, used wholly and exclusively as a private residence unless a Court Warrant (see Paragraph 6.2) permitting entry to that particular premises has been obtained.

6.8.4 Officers who may exercise this power

6.8.4.1 The grades authorised will normally be from Executive Officers to Principal Officer or their equivalent.

6.8.5 Officers from whom permission must be obtained

6.8.5.1 Officers MUST obtain the express permission of their Principal Officer before exercising this power.

6.8.5.2 The Principal Officer will consult with the Regional Powers Coordinator and Investigations and Prosecutions Division as appropriate.

6.8.5.3 Where the search is authorised, Investigations and Prosecutions Division will give guidance in relation to the specific case to the officers who will carry out the search.

6.9 Other Outdoor Powers

6.9.1 General

6.9.1.1 There are other sensitive powers in relation to VAT, viz **personal search, seizure of goods and arrest of persons**, which are not covered in this manual as they relate to special operations. Officers only will be given the power of arrest, for operations under Section 27(11) of the VATA 1972, as the need arises.

6.9.1.2 While the power of personal search in relation to certain criminal VAT offences is included in Section 18(1)(a)(ii) VAT Act 1972 and likewise while the power of seizure in certain VAT situations under Sec. 27(9A) and (10) of the VAT Act 1972 is given to all officers on outdoor duties, **these powers are not for use** except in special operations and then only, as appropriate, by certain officers who will have been given special instructions on their use.

6.9.1.3 These sensitive powers were introduced to deal with VAT abuse related to the introduction of the Single European Market and are for use in combating serious VAT fraud. The utmost care is required in the use and the control of these powers to safeguard against any possible misuse.

6.9.1.4 Section 38 of the Criminal Justice Act 1994 [as amended by the Proceeds of Crime (Amd) Act 2005] provides power for an officer of the Revenue Commissioners to seize cash any where in the State, which is suspected of representing the proceeds of crime or for use in criminal activity, including cash found during a search of a person who is suspected of importing or exporting it.

This is another example of a sensitive power which is not for use except in by certain officers who will have been given special instructions for that purpose.

CHAPTER 7

Garda Assistance

This Chapter contains the following headings:

1. **Officer's right to call on assistance from members of An Garda Síochána**
2. **Accompaniment of authorised officer by members of An Garda Síochána**

7.1 Garda Assistance: Officer's right to call on assistance from members of An Garda Síochána

7.1.1 Ordinary Citizen's right to assistance

7.1.1.1 Any officer, whether authorised or not, may as an ordinary citizen call on assistance from members of An Garda Síochána. This should only be done when circumstances are sufficiently serious to warrant it but this is a matter for the individual officer involved. This right exists independently of Section 906 TCA 1997 (see Paragraph 7.2 below).

7.1.1.2 Officers and Principal Officer are referred to D.P.S. Circular 5/86 (attached at Appendix 5).

7.1.2 Actions to be taken by the officer

7.1.2.1 When an officer calls on assistance from members of An Garda Síochána, this fact should be reported to the officer's Principal Officer as soon as possible.

7.1.3 Action to be taken by the Principal Officer / District Manager

7.1.3.1 The Principal Officer should inform the Regional Powers Coordinator.

7.1.3.2 The Principal Officer should give every assistance to the officer involved and to the members of the Garda Síochána.

7.1.4 Reference to Section 906 TCA 1997

7.1.4.1 Where Garda assistance is being invoked by Principal Officer and officers as ordinary citizens, reference should not be made to Section 906 TCA 1997. If members of the Garda Síochána refer to the section, it should be made clear that the section is not being relied on.

7.2 Accompaniment of authorised officers by members of An Garda Síochána Important

This power is separate from any officer's right, as an ordinary citizen, to call on the assistance of An Garda Síochána (see Paragraph 7.1 previous).

7.2.1 Section

Section 906 TCA 1997. Authorised Officers and An Garda Síochána.

7.2.2 Officers who may exercise the power

7.2.2.1 Only officers authorised under Section 903 TCA 1997; Section 904 TCA 1997 or Section 905 TCA 1997 may exercise this power.

7.2.2.2 The grades authorised will normally be from Executive Officer to Principal Officer or their equivalent.

7.2.3 Officers from whom permission must be obtained

- 7.2.3.1** Officers should obtain the express permission of the Principal Officer who will make the necessary arrangement through the local Garda Superintendent.

7.2.4 Legal restrictions on the exercise of the power

- 7.2.4.1** When members of An Garda Síochána enter premises in accordance with Section 906 TCA 1997, they must be accompanied by an officer authorised under Section 903 TCA 1997; Section 904 TCA 1997; or Section 905 TCA 1997. Members of An Garda Síochána should not enter premises on their own on foot of this section.
- 7.2.4.2** If officers are obstructed or interfered with in the exercise of their powers under Section 903 TCA 1997; Section 904 TCA 1997, or Section 906 TCA 1997, they should report the facts to the members of An Garda Síochána present. Officers should leave the decision as to the action to be taken to the members of An Garda Síochána.
- 7.2.4.3** Officers should not direct the members of An Garda Síochána to take any particular course of action but should outline the reason for their presence and ensure that those members are aware of their power under Section 906 TCA 1997.
- 7.2.4.4** Under no circumstances, should officers request members of An Garda Síochána to make any enquiries or carry out any operations relating to tax. Members of An Garda Síochána are not permitted to become involved in ordinary work relating to tax.

7.2.5 Administrative restrictions on the exercise of the power

- 7.2.5.1** If possible, the request to be accompanied by members of An Garda Síochána should be made through the Principal Officer prior to making any enquiries or the commencement of any operations.
- 7.2.5.2** At least two officers should always be involved when they intend to be accompanied by members of An Garda Síochána.
- 7.2.5.3** Officers should only request to be accompanied by members of An Garda Síochána when:
- there is a real risk of violence based on previous experience;
 - there is threatened or actual violence during a visit;
 - there is evidence of serious evasion or criminal activity and an entry or a search without consent is envisaged to secure the evidence; or
 - an officer is obstructed during a visit and evidence of evasion is believed to be on the premises.

[Any case where serious evasion is suspected should be taken up with the liaison officer in Investigations and Prosecutions Division at the earliest opportunity, as it may be suitable for prosecution.]

List of Appendices

Appendix 1	Authorisations
Appendix 2	Tables of Revenue Powers
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Note: This manual is currently subject to review and may not reflect up-to-date position.

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Appendix 1 Authorisations

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

Evidence of Authorisation

Section 858 Taxes Consolidation Act, 1997

Evidence of authorisation.

858 ~ (1) In this section, except where the context otherwise requires—
“the Acts” means –

- (a) (i) the Customs Acts,
- (ii) the statutes relating to the duties of excise and to the management of those duties,
- (iii) the Tax Acts,
- (iv) the Capital Gains Tax Acts,
- (v) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (vi) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
- (vii) the statutes relating to stamp duty and to the management of that duty, and any instruments made thereunder or under any other enactment and relating to tax, and
- (b) the European Communities (Intrastat) Regulations, 1993 (S.I. No. 136 of 1993);

“authorised officer” means an officer of the Revenue Commissioners who is authorised, nominated or appointed under any provision of the Acts to exercise or perform any functions under any of the specified provisions, and “authorised” and “authorisation” shall be construed accordingly;

“functions” includes powers and duties;

“identity card”, in relation to an authorised officer, means a card which is issued to the officer by the Revenue Commissioners and which contains—

- (a) a statement to the effect that the officer—
- (i) is an officer of the Revenue Commissioners, and
- (ii) is an authorised officer for the purposes of the specified provisions,
- (b) a photograph and signature of the officer,
- (c) a hologram showing the logo of the Office of the Revenue Commissioners,
- (d) the facsimile signature of a Revenue Commissioner, and
- (e) particulars of the specified provisions under which the officer is authorised;

“specified provisions”, in relation to an authorised officer, means either or both the provisions of the Acts under which the authorised officer—

- (a) is authorised and which are specified on his or her identity card, and
- (b) exercises or performs functions under the Customs Acts or any statutes relating to the duties of excise and to the management of those duties;

“tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) Where, in the exercise or performance of any functions under any of the specified provisions in relation to him or her, an authorised officer is requested to produce or show his or her authorisation for the purposes of that provision, the production by the authorised officer of his or her identity card—

- (a) shall be taken as evidence of authorisation under that provision, and
- (b) shall satisfy any obligation under that provision which requires the authorised officer to produce such authorisation on request.

(3) This section shall come into operation on such day as the Minister for Finance may appoint by order.

Appendix 2 Tables of Powers

Table of Powers – Section 899 to 912A TCA 199775

Table of Powers – Section 904A to 904J TCA 199776

**Note: This manual is currently subject to review and
may not reflect up-to-date position.**

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Appendix 2

Table of Powers – Section 899 to 912A TCA 1997

Section 899	Inspectors right to make enquiries
Section 900	Power to call for the production of books, information etc. from the taxpayer
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Section 910	Power to obtain information from a minister of the Government or Public Body
Section 911	Valuation of assets: power to inspect
Section 912	Computer documents and records
Section 912A	Information for other tax authorities

*Section 902 B mainly used by the Single Premium Policy Investigation Unit of Investigations and Prosecutions Division

Section 908A mainly used by the Criminal Investigation Units of Investigations and Prosecutions Division to obtain evidence for the purposes of criminal prosecutions.

Section 908B mainly used by the Overseas Assets Group in IPD

Sections 908C and 908D (inserted by FA 2007) mainly for use by IPD

Table of Powers - Section 904A to 904J TCA 1997

From the year 1999 onwards a number of additional powers of inspection were added to the Taxes Consolidation Act (TCA) 1997 viz Section 904A and 904C to 904J TCA 1997. These relate to the operation of deposit interest withholding tax, certain aspects of the business of assurance companies, investment undertakings, authorised insurers, qualifying lenders and savings managers and to the operation of dividend withholdings tax and professional services withholding tax – the following is a list of these powers.

Taxes Consolidation Act 1997	
Section 904A	Power of inspection (returns and collection of appropriate tax) financial institutions
Section 904C	Power of inspection (returns and collection of appropriate tax) assurance companies
Section 904D	Power of inspection (returns and collection of appropriate tax) investment undertakings
Section 904E	Power of inspection: claims by authorised insurers
Section 904F	Power of inspection: claims by qualifying lenders
Section 904G	Power of inspection: claims by qualifying insurers
Section 904H	Power of inspection: qualifying savings managers
Section 904I	Power of inspection: returns and collection of dividend withholding tax
Section 904J	Power of inspection: tax deduction from payments in respect of professional services by certain persons

Appendix 3 Wording of the Relevant Statutory Provisions

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B: REVENUE OFFENCES	106
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Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

Appendix 3

Wording of the Relevant Statutory Provisions

The following provisions are given in full for ease of reference:

A: POWER PROVISIONS specified On Identity Card

Actual Sections

- | | | |
|----------------------------|----------------------------------|---|
| 1 | S. 858 TCA 1997 | Evidence of Authorisation |
| 2 | S. 851 TCA 1997 | Collector General. |
| 3 | S. 961 TCA 1997 | Issue of Demand Notes & Receipts. |
| 4 | S. 962 TCA 1997 | Recovery by Sheriff or County Registrar. |
| 5 | S. 903 TCA 1997 | Powers of Inspection: PAYE. |
| 6 | S. 904 TCA 1997 | Powers of Inspection: RCT. |
| 7 | S. 905 TCA 1997 | Inspection of Documents and Records. |
| 8 | S. 912 TCA 1997 | Inspection of Computer Documents and Records. |
| 9 | S. 18 VATA 1972 | Inspection and Removal of Records. |
| 10 | S. 27(9A), (10) & (11) VATA 1972 | Forfeiture, Seizure. |
| 11 | S. 62 FA 1993 | Powers re: Vehicle Registration Tax. |
| 12 | S. 133- 141 FA 2001 | Powers re: Excise Duties (inc. VRT). |
| 13 | Reg. 7 of S.I. 136 of 1993 | European Communities (Intrastat) Regulations 1993 |
| B: REVENUE OFFENCES | | |
| 14 | S. 531(14) TCA 1997 | Offences: RCT |
| 15 | S. 1056 TCA 1997 | Penalty for False Statement made to obtain allowance etc. |
| 16 | S. 1078 TCA 1997 | Revenue Offences: General. |
| 17 | S. 1078A TCA 1997 | Concealing Facts Disclosed by Documents |
| 18 | S. 1079 TCA 1997 | Duty to Report Offence |

Appendix 3

C: OTHER PROVISIONS

19	S.482 (7) TCA 997	Relief for expenditure on significant buildings and gardens
20	S. 886 TCA 1997	Obligation to keep certain Records.
21	S. 899 TCA 1997	Inspectors right to make enquiries (re 3rd Party Returns).
22	S.956 TCA 1997	Inspectors right to make enquiries and amend assessments
23	S. 906 TCA 1997	Authorised Officers and Garda Síochana.
24	Art. 78 of Council Regulation (EEC) No 2913/92	Community Customs Code
25	Article 17 of SI No 605 of 2001	Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001
26	Taxes Consolidation Act 1997 Taxes Consolidation Act 1997 Guidance Notes Value Added Tax Act, 1972	Revenue.ie Revenue Law Acts/TCA 1997 Revenue.ie Revenue Law VATA 1972

A: Power Provisions specified on Identity Card

S. 858 TCA 1997 Evidence of authorisation

Evidence of authorisation.

858 ~ (1) In this section, except where the context otherwise requires--

"the Acts" means --

- (c) (i) the Customs Acts,
 - (ii) the statutes relating to the duties of excise and to the management of those duties,
 - (iii) the Tax Acts,
 - (iv) the Capital Gains Tax Acts,
 - (v) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
 - (vi) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
 - (vii) the statutes relating to stamp duty and to the management of that duty, and any instruments made thereunder or under any other enactment and relating to tax, and
- (d) the European Communities (Intrastat) Regulations, 1993 (S.I. No. 136 of 1993);

"authorised officer" means an officer of the Revenue Commissioners who is authorised, nominated or appointed under any provision of the Acts to exercise or perform any functions under any of the specified provisions, and "authorised" and "authorisation" shall be construed accordingly;

"functions" includes powers and duties;

"identity card", in relation to an authorised officer, means a card which is issued to the officer by the Revenue Commissioners and which contains--

- (f) a statement to the effect that the officer--
 - (i) is an officer of the Revenue Commissioners, and
 - (ii) is an authorised officer for the purposes of the specified provisions,
- (g) a photograph and signature of the officer,
- (h) a hologram showing the logo of the Office of the Revenue Commissioners,
- (i) the facsimile signature of a Revenue Commissioner, and
- (j) particulars of the specified provisions under which the officer is authorised;

"specified provisions", in relation to an authorised officer, means either or both the provisions of the Acts under which the authorised officer--

- (c) is authorised and which are specified on his or her identity card, and
- (d) exercises or performs functions under the Customs Acts or any statutes relating to the duties of excise and to the management of those duties;

"tax" means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) Where, in the exercise or performance of any functions under any of the specified provisions in relation to him or her, an authorised officer is requested to produce or show his or her authorisation for the purposes of that provision, the production by the authorised officer of his or her identity card—

- (c) shall be taken as evidence of authorisation under that provision, and
- (d) shall satisfy any obligation under that provision which requires the authorised officer to produce such authorisation on request.

(3) This section shall come into operation on such day as the Minister for Finance may appoint by order.

S. 851 TCA 1997 Collector-General

- (1) There shall be a Collector-General, who shall be appointed by the Revenue Commissioners from among their officers and who shall hold such office at their will and pleasure.
- (2) The Collector-General shall collect and levy the tax from time to time charged in all assessments to income tax, corporation tax and capital gains tax of which particulars have been transmitted to him or her under Section 928.
- (3)
 - (a) The Revenue Commissioners may nominate persons to exercise on behalf of the Collector-General any or all of the powers and functions conferred on the Collector-General by the Tax Acts and the Capital Gains Tax Acts.
 - (b) Those powers and functions, as well as being exercisable by the Collector-General, shall also be exercisable on his or her behalf by persons nominated under this subsection.
 - (c) A person shall not be nominated under this subsection unless he or she is an officer or employee of the Revenue Commissioners.
- (4) If and so long as the office of Collector-General is vacant or the holder of that office is unable through illness, absence or other cause to fulfil his or her duties, a person nominated in that behalf by the Revenue Commissioners from among their officers shall act as the Collector-General, and any reference in this or any other Act to the Collector-General shall be construed as including, where appropriate, a reference to a person nominated under this subsection.
- (5) The Revenue Commissioners may revoke a nomination under this section.

S. 961 TCA 1997 Issue of demand notes and receipts

- (1) When income tax becomes due and payable, the Collector-General shall make demand of the respective sums given to him or her in charge to collect from the persons charged with those sums, or at the places of their last abode, or on the premises in respect of which the tax is charged, as the case may require.
- (2) On payment of income tax, the Collector-General shall furnish the person concerned with a receipt in respect of that payment; such a receipt shall consist of whichever of the following the Collector-General considers appropriate, namely-
 - (a) a separate receipt on the prescribed form in respect of each such payment, or
 - (b) a receipt on the prescribed form in respect of all such payments that have been made within a period specified in the receipt.

S. 962 TCA 1997 Recovery by sheriff or county registrar

- (1) Whenever any person makes default in paying any sum which may be levied on that person in respect of income tax, the Collector-General may issue a certificate to the county registrar or sheriff of the county in which the defaulter resides or has a place of business certifying the amount of the sum so in default and the person on whom the sum is leviable.

- (1A) (a) A certificate to be issued by the Collector-General under this section may—
- (i) be issued in an electronic or other format, and
 - (ii) where the certificate is issued in a non-paper format, be reproduced in a paper format by the county registrar or sheriff or by persons authorised by the county registrar or sheriff to do so.
- (b) A certificate issued in a non-paper format in accordance with *paragraph (a)* shall—
- (i) constitute a valid certificate for all the purposes of this section,
 - (ii) be deemed to have been made by the Collector General, and
 - (iii) be deemed to have been issued on the date that the Collector-General caused the certificate to issue.
- (c) (i) Where a certificate issued by the Collector-General in a non-paper format is reproduced in a paper format in accordance with *paragraph (a)(ii)* and—
- (I) the reproduction contains, or there is appended to it, a note to the effect that it is a copy of a certificate so issued, and
 - (II) the note contains the signature of the county registrar or sheriff or of the person authorised under *paragraph (a)(ii)* and the date of such signing,
- then the copy of the certificate with the note so signed and dated shall, for all purposes, have effect as if it was the certificate itself.
- (ii) A signature and date in a note, on a copy of, or appended to, a certificate issued in a non-paper format by the Collector-General, and reproduced in a paper format in accordance with *paragraph (a)(ii)*, that—
- (I) in respect of such signature, purports to be that of the county registrar or sheriff or of a person authorised to make a copy, shall be taken until the contrary is shown to be the signature of the county registrar or sheriff or of a person who at the material time was so authorised, and
 - (II) in respect of such date, shall be taken until the contrary is shown to have been duly dated.
- (d) For the purposes of this subsection—
- “electronic” has the meaning assigned to it by the Electronic Commerce Act 2000 and an “electronic certificate” shall be construed accordingly; “issued in a non-paper format” includes issued by facsimile.

- (2) Immediately on receipt of the certificate the county registrar or sheriff shall proceed to levy the sum certified in the certificate to be in default by seizing all or any of the goods, animals and other chattels within his or her bailiwick belonging to the defaulter, and for such purposes the county registrar or sheriff shall (in addition to the rights, powers and duties conferred on him or her by this section) have all such rights, powers and duties as are for the time being vested in him or her by law in relation to the execution of a writ of *fiери facias* in so far as those rights, powers and duties are not inconsistent with the additional rights, powers and duties conferred on him or her by this section.

(3) A county registrar or sheriff executing a certificate under this section shall be entitled -

- (a) if the sum certified in the certificate to be in default exceeds €19,050, to charge and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated according to the scales appointed by the Minister for Justice, Equality and Law Reform under section 14(1)(a) of the Enforcement of Court Orders Act, 1926, and for the time being in force, as the county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order within the meaning of the Enforcement of Court Orders Act, 1926, (in this section referred to as an “execution order”) of the High Court,
- (b) if the sum certified in the certificate to be in default exceeds €3,175 but does not exceed €19,050, to charge and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated according to the scales referred to in *paragraph (a)*, as the county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order of the Circuit Court, and
- (c) if the sum certified in the certificate to be in default does not exceed €3,175, to charge and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated according to the scales referred to in *paragraph (a)*, as the county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order of the District Court.

S. 903 TCA 1997 Powers of Inspection: PAYE

- (1) In this section-
“authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;
“emoluments”, “employer” and “tax deduction card” have the same meanings respectively as in *Chapter 4* of Part 42;
“records” means any personnel records relating to the payment of emoluments or the provision of benefits in kind or perquisites, payroll files, wages sheets, certificates of tax credits and standard rate cut-off point, tax deduction cards, certificates issued in accordance with Regulation 20 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), including any data (within the meaning of Section 912) if or by any other means or any other information or documents which the authorised officer may reasonably require.
- (2) An authorised officer may at all reasonable times enter any premises or place where the authorised officer has reason to believe that-
- (a) an employer is or has been carrying on any activity as an employer,
 - (b) any person is or was either paying emoluments or providing benefits in kind or perquisites,
 - (c) any person is or was in receipt of emoluments, benefits in kind or perquisites, or
 - (d) records are or may be kept,
- and the authorised officer-
- (i) may require any employer or any other person who is on those premises or in that place, other than a person who is there to purchase goods or to receive a service, to produce any records which the authorised officer requires for the purposes of his or her enquiry,
 - (ii) may, if the authorised officer has reason to believe that any of the records he or she has required to be produced to him or her under *paragraph (i)* have not been so produced, search on those premises or in that place for those records, and
 - (iii) may examine, make copies of, take extracts from, remove and retain any records for further examination or for the purposes of any legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal proceedings.
- (2A) (a) An authorised officer shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by such officer of a warrant issued by a Judge of the District Court expressly authorising the authorised officer to so enter.
- (b) A Judge of the District Court may issue a warrant under *paragraph (a)* if satisfied by information on oath that it is proper to do so for the purposes of this section.
- (3) An authorised officer may require any person, other than a person purchasing goods or receiving a service from an employer, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents required by the authorised officer.
- (4) An authorised officer when exercising or performing his or her powers or duties under this section shall on request produce his or her authorisation for the purposes of this section.

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- (5) A person who does not comply with the requirements of an authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €1,265.
- (6) The records referred to in this section shall be retained by the employer for a period of 6 years after the end of the year to which they refer or for such shorter period as the Revenue Commissioners may authorise in writing to the employer.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

S. 904 TCA 1997 Powers of Inspection: RCT

- (1) In this section-
- “authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;
 - “principal”, “relevant contract”, “relevant operations” and “subcontractor” have the same meanings respectively as in *Chapter 2 of Part 18*;
 - “records” means those records required to be kept-
 - (a) under *Section 531* and regulations made under that section, and
 - (b) under *Section 886*.
- (2) An authorised officer may at all reasonable times enter any premises or place where the authorised officer has reason to believe that-
- (a) any relevant operations are or have been carried on,
 - (b) any person is making or has made payments to a subcontractor in connection with the performance by the subcontractor of a relevant contract in relation to which that person is the principal,
 - (c) any person is or has been in receipt of such payments, or
 - (d) records are or may be kept,
- and the authorised officer may-
- (i) require any principal or subcontractor, or any employee of, or any other person providing bookkeeping, clerical or other administrative services to, any principal or subcontractor, who is on that premises or in that place to produce any records which the authorised officer requires for the purpose of his or her enquiry,
 - (ii) if the authorised officer has reason to believe that any of the records he or she has required to be produced to him or her under this subsection have not been so produced, search on those premises or in that place for those records, and
 - (iii) examine, make copies of, take extracts from, remove and retain any records for a reasonable period for their further examination or for the purpose of any legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal proceedings.
- (2A) (a) An authorised officer shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by such officer of a warrant issued by a Judge of the District Court expressly authorising the authorised officer to so enter.
- (b) A Judge of the District Court may issue a warrant under *paragraph (a)* if satisfied by information on oath that it is proper to do so for the purposes of this section.
- (3) An authorised officer may require any principal or subcontractor, or any employee of, or any other person providing bookkeeping, clerical or other administrative services to, any principal or subcontractor, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents required by the authorised officer.
- (4) An authorised officer when exercising or performing his or her powers or duties under this section shall on request produce his or her authorisation for the purposes of this section.

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- (5) A person who does not comply with the requirements of an authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €1,265.
- (6) The records referred to in this section shall be retained for a period of 6 years after the end of the year to which they refer or for such shorter period as the Revenue Commissioners may authorise in writing.

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S. 905 TCA 1997 Inspection of documents and records

- (1) In this section-
- “authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;
 - “property” means any asset relating to a tax liability;
 - “records” means any document or any other written or printed material in any form, and includes any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form -
 - (i) which relates to a business carried on by a person, or
 - (ii) which a person is obliged by any provision relating to tax to keep, retain, issue or produce for inspection or which may be inspected under any provision relating to tax;
 - “tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners;
 - “tax liability” means any existing liability to tax or further liability to tax which may be established by an authorised officer following the exercise or performance of his or her powers or duties under this section.
- (2)(a) An authorised officer may at all reasonable times enter any premises or place where the authorised officer has reason to believe that-
- (i) any trade, profession or other activity, the profits or gains of which are chargeable to tax, is or has been carried on,
 - (ii) anything is or has been done in connection with any trade, profession or other activity the profits or gains of which are chargeable to tax,
 - (iii) any records relating to-
 - (I) any trade, profession, other source of profits or gains or chargeable gains,
 - (II) any tax liability, or
 - (III) any repayments of tax in regard to any person,are or may be kept, or
 - (iv) any property is or has been located,
- and the authorised officer may-
- (A) require any person who is on those premises or in that place, other than a person who is there to purchase goods or to receive a service, to produce any records or property,
 - (B) if the authorised officer has reason to believe that any of the records or property which he or she has required to be produced to him or her under this subsection have not been produced, search on those premises or in that place for those records or property,
 - (C) examine any records or property and take copies of or extracts from any records,
 - (D) remove any records and retain them for a reasonable time for the purposes of their further examination or for the purposes of any legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal proceedings, and
 - (E) examine property listed in any records.
- (b) An authorised officer may in the exercise or performance of his or her powers or duties under this section require any person whom he or she has reason to believe-
- (i) is or was carrying on any trade, profession or other activity the profits or gains of which are chargeable to tax,
 - (ii) is or was liable to any tax, or

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(iii) has information relating to any tax liability, to give the authorised officer all reasonable assistance, including providing information and explanations or furnishing documents and making available for inspection property as required by the authorised officer in relation to any tax liability or any repayment of tax in regard to any person.

- (c) Nothing in this subsection shall be construed as requiring any person carrying on a profession, or any person employed by any person carrying on a profession, to produce to an authorised officer any documents relating to a client, other than such documents-
- (i) as pertain to the payment of fees to the person carrying on the profession or to other financial transactions of the person carrying on the profession,
 - (ii) as are otherwise material to the tax liability of the person carrying on the profession, or
 - (iii) as are already required to be provided following a request issued under *Section 128* of the Stamp Duties Consolidation Act, 1999
- and in particular that person shall not be required to disclose any information or professional advice of a confidential nature given to a client.
- (d) [...]
- (e) An authorised officer shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by the officer of a warrant issued under subsection (2A).
- (f) [...]
- (2A)(a) In this subsection “the Acts” has the meaning assigned to it by *Section 1078(1)*.
- (b) Without prejudice to any power conferred by *subsection (2)*, if a Judge of the District Court is satisfied by information on oath that there are reasonable grounds for suspecting-
- (i) that a person may have failed or may fail to comply with any provision of the Acts,
 - (ii) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax (having regard to the amount of any tax liability that arises or might arise from such failure), and
 - (iii) that records, which are material to the proper assessment or collection of tax are likely to be kept or concealed at any premises or place,
- the Judge may issue a search warrant.
- (c) A search warrant issued under this subsection shall be expressed and shall operate to authorise an authorised officer accompanied by such other named officers of the Revenue Commissioners and such other named persons as the authorised officer considers necessary, at any time or times within one month of the date of issue of the warrant, to enter (if need be by force) the premises or other place named or specified in the warrant, to search such premises or other place, to examine anything found there, to inspect any records found there and, if there are reasonable grounds for suspecting that any records found there are material to the proper assessment or collection of tax, or that the records may be required for the purpose of any legal proceedings instituted by an officer of the Revenue Commissioners [...], remove such records and retain them for so long as they are reasonably required for the purpose aforesaid.

- (3) A person who does not comply with any requirement of an authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €1,265.
- (4) An authorised officer when exercising or performing his or her powers or duties under this section shall on request show his or her authorisation for the purposes of this section.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

S. 912 TCA 1997 Inspection of Computer Documents and Records

- (1) In this section-
- “the Acts” means-
- (a) the Customs Acts,
 - (b) the statutes relating to the duties of excise and to the management of those duties,
 - (c) the Tax Acts,
 - (d) the Capital Gains Tax Acts,
 - (e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
 - (f) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act, and
 - (g) Part VI of the Finance Act, 1983,
- and any instruments made thereunder;
- “data” means information in a form in which it can be processed;
- “data equipment” means any electronic, photographic, magnetic, optical or other equipment for processing data;
- “processing” means performing automatically logical or arithmetical operations on data, or the storing, maintenance, transmission, reproduction or communication of data;
- “records” means documents which a person is obliged by any provision of the Acts to keep, issue or produce for inspection, and any other written or printed material;
- “software” means any sequence of instructions used in conjunction with data equipment for the purpose of processing data or controlling the operation of the data equipment.
- (2) Any provision under the Acts which-
- (a) requires a person to keep, retain, issue or produce any records or cause any records to be kept, retained, issued or produced, or
 - (b) permits an officer of the Revenue Commissioners-
 - (i) to inspect any records,
 - (ii) to enter premises and search for any records, or
 - (iii) to take extracts from or copies of or remove any records,shall, where the records are processed by data equipment, apply to the data equipment together with any associated software, data, apparatus or material as it applies to the records.
- (3) An officer of the Revenue Commissioners may in the exercise or performance of his or her powers or duties require-
- (a) the person by or on whose behalf the data equipment is or has been used, or
 - (b) any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material,

to afford him or her all reasonable assistance in relation to the exercise or performance of those powers or duties.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Section 18 Value Added Tax 1972 (as amended)

Inspection and removal of records

18. (1) (a) For the purposes of this Act and regulations, an authorised officer may at all reasonable times enter any premises or place where he has reason to believe that business is carried on or anything is done in connection with business and-
- (i) may require the person carrying on the business, or any person on those premises or in that place who is employed by the person carrying on the business or who is associated with him in the carrying on of the business, to produce any books, records, accounts or other documents relating to the business or to any other business which he has reason to believe may be, or have been, connected with the said business or have, or have had, trading relations with the said business,
 - (ii) may, if he has reason to believe that any of the books, records, accounts or other documents, which he has required to be produced to him under the provisions of this subsection have not been so produced, search in those premises or that place for those books, records, accounts or other documents,
 - (iia) may, if he has reason to believe that a person is carrying or has in his possession any records which may be required as evidence in criminal proceedings in accordance with section 1078 of the Taxes Consolidation Act, 1997, in relation to the tax, request the person to produce any such records, and if that person should fail to do so, the authorised officer or a member of the Garda Síochána may search that person:
Provided that-
 - (A) the officer or the member of the Garda Síochána conducting the search shall ensure, as far as practicable, that the person understands the reason for the search,
 - (B) the search is conducted with due regard to the privacy of that person,
 - (C) the person being searched shall not be searched by an officer or member of the Garda Síochána of the opposite sex, and
 - (D) the person being searched shall not be requested to remove any clothing other than headgear or a coat, jacket, glove or a similar article of clothing.
 - (iii) may, in the case of any such books, records, accounts or other documents produced to or found by him, take copies of or extracts from them and remove and retain them for such period as may be reasonable for their further examination or for the purposes of any proceedings in relation to tax,
 - (iv) may, if he has reason to believe that goods connected with taxable supplies, intra-Community acquisitions or importations are held on those premises or in that place and that particulars of such goods have not been kept and retained, as required by this Act or by regulations, in the books, records, accounts or other documents of the business or of any other business similarly required to keep and retain particulars of those goods, search those premises or that place for the said goods and, on their discovery, examine and take particulars of them,
 - (v) may require the person carrying on the business, or any person on those premises or in that place, who is employed by the person carrying on the business or who is associated with him in the carrying on of the business, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents in connection with the business, as required by the authorised officer.
- (b) Nothing in this subsection shall be construed as requiring any person carrying on a profession, or any person employed by any person carrying on a profession, to produce to an authorised officer any documents relating to a client, other than such

documents as are material to the tax affairs of the person carrying on the profession, and, in particular, he shall not be required to disclose any information or professional advice of a confidential nature given to a client.

(1A) A taxable person shall, on request from an authorised officer, furnish to that officer, in respect of a specified period, the following information:

- (a) the name and address of each of his customers and the total consideration payable in respect of supplies of goods and services made by him to each customer and the tax thereon and the value and description of any gifts or promotional items given by him to any person in connection with such supplies or any other payments made by him to any person in connection with such supplies, and
- (b) the name, address and registration number of each of his suppliers and the total consideration payable in respect of goods and services supplied to him from each supplier and the tax thereon.

(1B) In this section '**records**' means any document, or any other written or printed material in any form, including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form, which a person is required to keep, retain, issue or produce for inspection or which may be inspected under any provision relating to tax.

[...]

- (3) A person shall not wilfully obstruct or delay an authorised officer in the exercise of his powers under this section.
- (4) Where, in pursuance of this section, an authorised officer enters any premises, carries out any search or requests production of any documents, he shall, on request, show his authorisation for the purpose of this section to the person concerned.
- (5) In this section '**authorised officer**' means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section.

S. 27 (9A), (10) & (11) VATA 1972

(9A) (1) Where goods-

- (a) were supplied at the rate of zero per cent, subject to the condition that they were to be dispatched or transported outside the State in accordance with subparagraph (a), (b) or (c) of paragraph (i) of the Second Schedule and the goods were not so dispatched or transported,
- (b) were acquired without payment of value-added tax referred to in Council Directive No. 77/388/EEC of 17 May 1977 in another Member State as a result of the declaration of an incorrect registration number, or
- (c) are being supplied by a taxable person who has not complied with the provisions of section 9(2),

the goods shall be liable to forfeiture.

- (2) Whenever an officer authorised by the Revenue Commissioners reasonably suspects that goods are liable to forfeiture in accordance with subsection (1) the goods may be detained by the said officer until such examination, enquiries or investigations as may be deemed necessary by the said officer, or by another authorised officer of the Revenue Commissioners, have been made for the purpose of determining to the satisfaction of either officer whether or not the goods were so supplied or acquired.
- (3) When a determination referred to in subsection (2) has been made in respect of any goods, or upon the expiry of a period of two months from the date on which the said goods were detained under the said subsection, whichever is the earlier, the said goods shall be seized as liable to forfeiture or released.
- (4) For the purposes of this section, 'the declaration of an incorrect registration number' means-
 - (a) the declaration by a person of another person's registration number,
 - (b) the declaration by a person of a number which is not an actual registration number which he purports to be his registration number,
 - (bb) the declaration by a person of a registration number which is cancelled,
 - (c) the declaration by a person of a registration number which was obtained from the Revenue Commissioners by supplying incorrect information, or
 - (d) the declaration by a person of a registration number which was obtained from the Revenue Commissioners for the purposes of acquiring goods without payment of value-added tax referred to in Council Directive No. 77/388/EEC of 17 May, 1977, and not for any bona fide business purpose.
- (10) The provisions of the Customs Acts relating to forfeiture and condemnation of goods shall apply to goods liable to forfeiture under subsection (9) or (9A) as if they had become liable to forfeiture under those Acts and all powers which may be exercised by an officer of Customs and Excise under those Acts may be exercised by officers of the Revenue Commissioners authorised to exercise those powers for the purposes of the said subsections and any provisions in relation to offences under those Acts shall apply, with any necessary modifications, in relation to the said subsections.
- (11) Where an officer authorised by the Revenue Commissioners for the purposes of this subsection or a member of the Garda Síochána has reasonable grounds for suspecting

that a criminal offence has been committed under the provisions of section 1078 of the Taxes Consolidation Act, 1997, in relation to tax, by a person who is not established in the State, or whom he believes is likely to leave the State, he may arrest that person.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

Section 62 Finance Act 1993

Miscellaneous.

- 62.-** (1) The Minister may give the Commissioner of An Garda Síochána and the Revenue Commissioners particulars of any vehicles that have been entered in the register but in respect of which a licence under section 1 of the Act of 1952 has not been taken out within 7 working days after the date of the entry.
- (2) (a) A member of An Garda Síochána or an officer of the Revenue Commissioners duly authorised in writing in that behalf by the Revenue Commissioners and on production of his authorisation to the person concerned, if so requested, may require a person who uses, parks or otherwise keeps a vehicle in a public place to give him evidence of the ownership of the vehicle and may, using such force, if any, as may be necessary inspect the vehicle.
- (b) A person who—
- (i) obstructs or interferes with a member of An Garda Síochána or an officer of the Revenue Commissioners in the performance of his functions under this section,
- or
- (ii) fails or refuses to give the member or officer his name and address when required by the member or officer to do so or gives him a name or address that is false or misleading shall be guilty of an offence and shall be liable on summary conviction—
- (i) if the offence is under subparagraph (i), to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or
- (ii) if the offence is under subparagraph (ii), to a fine not exceeding £1,000.

S. 133 – 141 FA 2001 Powers re: Excise Duties (inc. VRT)

Interpretation

133. - In this Chapter, except where the context otherwise provides, "officer" means an officer of the Commissioners authorised by them to exercise the powers conferred on officers by this Chapter.

Power to stop vehicles.

Subsection 1(a)
substituted by section
59 of Finance Act 2005

- 134.** - (1) An officer in uniform may stop any vehicle in order -
- (a) that such officer, or any officer accompanying such officer, may exercise any power conferred on them by *section 135* in relation to excisable products, any other products chargeable with a duty of excise, or any prohibited goods, where there are reasonable grounds to believe that such products or goods are being transported in or on such vehicle, or
 - (b) to examine and take samples of mineral oil under *section 135(2)(a)*.
- (2) An officer in uniform or a member of the Garda Síochána may stop any vehicle for any purpose related to vehicle registration tax or the registration of vehicles in any of the registers established and maintained under Chapter IV of Part II of the Finance Act, 1992.
- (3) Any person in charge of a moving vehicle shall, at the request of an officer in uniform or a member of the Garda Síochána, stop such vehicle.
- (4) Any person in charge of a vehicle shall, whether such vehicle has been stopped by an officer or member of the Garda Síochána under this section, or is already stationary, at the request of an officer or member of the Garda Síochána -
- (a) keep such vehicle stationary for such period as is reasonably required to enable an officer or member to exercise any power conferred on such officer or member by *section 135*, or
 - (b) where such vehicle is in the opinion of such officer or member situated in a place unsuitable for the exercise of any power conferred on such officer or member by *section 135*, take such vehicle or cause it to be taken to such place as such officer or member may consider suitable for the exercise of such power.

Power to examine and search vehicles and to take samples.

- 135.** - (1) An officer, on production of the authorisation of such officer if so requested by any person affected, or any officer accompanying such officer, may -
- (a) examine a vehicle,
 - (b) carry out such searches of a vehicle as may appear to the officer to be necessary to establish whether –
 - (i) anything on or in the vehicle or in any manner attached to the vehicle is liable to forfeiture under the law relating to excise, or
 - (ii) any excisable products being

transported in or on, or in any manner attached to, the vehicle correspond in every material respect with the description of any such products in a document referred to in *paragraph (d)(iii)*,

- (c) take samples, without payment, of any excisable products in or on, or in any manner attached to the vehicle, and
- (d) question the person in charge of the vehicle in relation to the vehicle or anything on or in or in any manner attached to the vehicle, and require such person -
 - (i) to give, within such time and in such form and manner as may be specified by the officer or accompanying officer, all such information in relation to the vehicle as may reasonably be required by the officer or accompanying officer and is in the possession or procurement of such person,
 - (ii) within such time and in such manner as may be specified by the officer or accompanying officer, to produce and permit the inspection of and the taking of copies of, or of extracts from, all such records relating to the vehicle and any products being so transported, as are reasonably required by the officer or accompanying officer and are in the possession or procurement of the person, and

- (iii) to produce to the officer or accompanying officer any accompanying document, duty document or exemption certificate accompanying any excisable products being transported in or on, or in any manner attached to, the vehicle.

(2) An officer, on production of the authorisation of such officer if so requested by any person affected, or a member of the Garda Síochána, may -

- (a) examine and take samples of any mineral oil in any fuel tank or otherwise present on or in any vehicle, or anything attached to any vehicle, for use or capable of being used for combustion in the engine of the vehicle, whether or not the vehicle is attended,
- (b) examine or inspect any vehicle or anything attached to any vehicle for the purposes of *paragraph (a)*,
- (c) question –
 - (i) the owner of any vehicle,
 - (ii) any person who for the time being stands registered as the owner of any vehicle in any of the registers established and maintained under Chapter IV of Part II of the Finance Act, 1992,
 - (iii) any director, manager or principal officer of such owner where the registered owner is not one or more individuals, or
 - (iv) the person in charge of any vehicle,in relation to such mineral oil, and require such owner, person, director, manager or principal officer to give to him or her any information in relation to such mineral oil as may reasonably be required and which is in the possession or procurement of such owner, person, director, manager or principal officer, as the case may be.

Entry and search of premises.

136. - (1) An officer may, at all reasonable times, on production of the authorisation of such officer if so requested by any person affected, enter a premises or other place (other than a dwelling) in which -

- (a) the production, processing, holding, storage, keeping, importation, purchase, packaging, offering for sale, sale or disposal of any product referred to in *section 97(1)* is being or is reasonably believed by the officer to be carried on,
 - (b) the manufacture, distribution, storage, repair, modification, importation, dealing, delivery or disposal of mechanically propelled vehicles is being, or is reasonably believed by the officer to be carried on, or
- (bb) bets liable to betting duty are reasonably

*Inserted by section 87
Finance Act 2002.*

believed to be accepted, or,

- (c) any records relating to, or reasonably believed by the officer to relate to, the products or activities referred to in *paragraphs (a), (b) and (b,b)* are being kept or are reasonably believed by the officer to be kept.
- (2) An officer, on production of the authorisation of such officer if so requested by any person affected, or a member of the Garda Síochána, may -
 - (a) enter and inspect any premises or other place (other than a dwelling) for the purposes of *section 135(2)* and bring onto those premises any vehicle being used in the course of his or her duties,
 - (b) make such search and investigation of such premises or place as he or she may consider to be proper.
- (3) An officer in or on any premises or place pursuant to *subsection (1)* may there -
 - (a) carry out such search and investigation as such officer may consider to be proper,
 - (b) take account of, and without payment, take samples of any product referred to in *section 97(1)* and of any materials, ingredients and substances used or to be used in the manufacture of such product,
 - (c) in relation to any records referred to in *subsection (1)(c)* -
 - (i) search for, inspect and take copies of or extracts from any such records (including, in the case of any information in a non-legible form, a copy of, or of an extract from, such information in a permanent legible form),
 - (ii) remove and retain such records for such period as may reasonably be required for their further examination, and
 - (iii) require any person to produce any such records which are in that person's possession, custody or procurement and in the case of information in a non-legible form, to produce it in a legible form or to reproduce it in a permanent legible form.
 - (d) question any person present in relation to -
 - (i) any product referred to in *subsection (1)(a)* or any materials, ingredients or other substances used or intended to be used in the manufacture of such product,
 - (ii) any vehicle,
 - (iii) (any records referred to in *subsection (1)(c)*,

produced or found in or on such premises or place, and such person shall give to such officer all information required of such person which is in his or her possession, custody or procurement.

Inserted by section 87
Finance Act 2002.

(e) exercise the powers of detention provided for under section 140.

- (4) An officer in or on any premises or place pursuant to this section, or any person accompanying an officer pursuant to *subsection (5)*, may require any person present to give to such officer or such other person his or her name and address.
- (4A)(a) Where an officer in or on any premises or place pursuant to this section has reason to believe that any concealed pipe, conveyance, utensil or other equipment is being kept or made use of in or on such premises or place with intent to evade alcohol products tax, then such officer or any person assisting such officer may break open any floor or wall of such premises or place, or any ground in or adjoining it, to search for such concealed pipe, conveyance, utensil or equipment.
- (b) Where no concealed pipe, conveyance, utensil or other equipment, to which paragraph (a) relates, is found as a result of the breaking open of any floor or wall of any premises or place, then nothing in that paragraph shall be used as a defence in any civil proceedings to a claim arising out of any damage caused by that breaking open.
- (5) Without prejudice to any power conferred by *subsections (1) to (4)*, a judge of the District Court may, if satisfied on the sworn information of an officer that there are reasonable grounds for suspecting that -
- (a) anything liable to forfeiture under the law relating to excise, or
- (b) any records relating to transactions in contravention of the laws relating to excise, are kept or concealed on or at any premises or place, issue a search warrant.
- (6) A search warrant issued under this section shall be expressed and to operate to authorise a named officer accompanied by such other officers and such other persons as the officer considers necessary, at any time or times within one month of the date of issue of the warrant, to enter (if need be by force) the premises or other place named or specified in the warrant, to search such premises or other place, to examine anything found there, to inspect any record found there and, if there are reasonable grounds for suspecting that anything found there is liable to forfeiture under the law relating to excise, or that a record found there may be required as evidence in proceedings under the law relating to excise, to detain or seize the thing as liable to

Inserted by section 90 of
the Finance Act 2003.

- forfeiture or, in the case of a record, to detain it for so long as it is reasonably required for such purpose.
- General provision concerning samples. **137. -** (1) The provisions of section 6 of the Customs and Inland Revenue Act, 1888, shall apply to the taking of samples of excisable products, except where *section 135(1)(c)* or *136(3)(b)* applies.
- (2) The provisions of sections 101 and 102 of the Finance Act, 1998, shall apply to samples of excisable products or other samples taken under the laws relating to excise.
- Obligation to answer certain questions in respect of certain tobacco products. **138. -** An officer or a member of the Garda Síochána may require any person whom such officer or member has reasonable cause to believe to be guilty of an offence under **section 78 of the Finance Act 2005**, to furnish to such officer or member of the Garda Síochána -
- (a) his or her name, address and date of birth,
- (b) all such information in relation to the tobacco products in question as may be reasonably required by such officer or member and which is in the possession or procurement of the person.
- Power of arrest and detention of persons. **139. -** (1) **Where an officer or a member of the Garda Síochána has reasonable grounds to suspect that a person is committing or has committed an offence under -**
- (a) **section 119,**
- (b) **section 102(3) of the Finance Act, 1999, or**
- (c) **section 79(5) (inserted by the Finance Act 2005) of the Finance Act 2003,**
- then such officer or member may arrest such person without warrant.**
- Substituted by section 60 of the Finance Act 2005
- (2) (a) Where an officer has reasonable grounds to believe that a person is committing or has committed an offence under **section 78 of the Finance Act 2005**, then such officer may detain the person and, as soon as practicable thereafter -
- (i) present the person, or
- (ii) bring and present the person, to a member of the Garda Síochána.
- Amended by section 93 of the Finance Act 2005.

(b) Where a member of the Garda Síochána has reasonable grounds to believe -

- DO -

(i) that a person is committing or has committed an offence under **section 78 of the Finance Act 2005**, or

- DO -

(ii) in case of a person presented or brought and presented to such member by an officer, that an offence under the said **section 78** was or had been committed by the person and the person was duly detained by an officer under *paragraph (a)* for the offence and was either presented or brought and presented to such member in accordance with that paragraph,

then, such member may arrest the person without warrant.

Detention of goods and vehicles.

140. - (1) Where an officer reasonably suspects that any excisable products, or any other goods, are liable to forfeiture under the law relating to excise then -

- (a) all such excisable products or other goods,
- (b) any other thing being made use of in the conveyance of such products or goods, and
- (c) any vehicle in or on which or attached to which in any manner any such excisable products or goods are found,

may be detained by such officer until such examination, enquiries or investigations as may be deemed necessary by such officer or another officer, have been made for the purposes of determining whether or not such products, goods, thing or vehicle are liable to forfeiture.

Amended by section 93 of the Finance Act 2005.

(2) Where a member of the Garda Síochána reasonably suspects that any excisable products, other goods or other thing or any vehicle is liable to forfeiture under **section 78 of the Finance Act 2005**, such products, goods, other thing or vehicle may be detained by such member until such examination, enquiries or investigations as may be deemed necessary by such member or another member, or by an officer, have been made for the purposes of determining whether or not such products, goods, other thing or vehicle are liable to forfeiture.

(3) Where an officer or a member of the Garda Síochána reasonably suspects -

- (a) that a vehicle has not been registered in any of the registers established and maintained under Chapter IV of Part II of the Finance Act, 1992,
- (b) that a vehicle has been converted (within the meaning of that Chapter) and a declaration in relation to such conversion has not been made under section 131 of the Finance Act, 1992, or
- (c) that vehicle registration tax has not been paid in respect of a vehicle,

then such officer or member may detain such vehicle for such period as is required to carry out such examination, enquiries or investigations as may be deemed necessary by such officer or member to determine to his or her satisfaction whether or not -

- (i) such vehicle has been registered,
- (ii) such declaration has been made, or
- (iii) such vehicle registration tax has been paid.

- (4) When a determination referred to in *subsection (1), (2) or (3)* has been made in respect of any excisable products, other goods, other thing or a vehicle or on the expiry of a period of one month from the date on which such products, goods, other thing or vehicle were or was detained under that subsection, whichever is the earlier, such products, goods, other thing or vehicle are to be either seized as liable to forfeiture under the Customs Acts or under *section 141*, or released.

Seizure of goods and vehicles.

Amended by section 93 of the Finance Act 2005.

- 141.** - (1) Any goods or vehicles that are liable to forfeiture under the law relating to excise may be seized by an officer.
- (2) Anything liable to forfeiture under **section 78 of the Finance Act 2005**, may be seized by a member of the Garda Síochána and shall be delivered to an officer.

**EUROPEAN COMMUNITIES (INTRASTAT) REGULATIONS, 1993
REGULATION 3 AND 7**

3. (1) In these Regulations - “authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers of an authorised officer referred to in these Regulations.
7. (1) An authorised officer may at all reasonable times enter any premises or place where he reasonably believes records relating to goods to which Intrastat system applies are kept and may require any person on these premises or in that place to produce to him the said records or such of them as he specifies and may search for, inspect and take copies of, or extracts from, the said records and may remove the said records from those premises or that place for further inspection.
- (2) A person who obstructs, hinders or interferes with an authorised officer in the exercise of the powers conferred on him by paragraph (1) of this Regulation or who refuses without lawful excuse to produce to such an officer records which he is required by such an officer to produce under the said paragraph shall be guilty of an offence under these Regulations.

B: Revenue Offences

S. 531(14) TCA 1997 Offences: RCT

(14) (a) Where any person -

- (i) for the purpose of obtaining a certificate of authorisation or a relevant payments card makes any false statement or furnishes any document which is false in a material particular,
- (ii) disposes of a certificate of authorisation otherwise than by the return of the certificate to the Revenue Commissioners,
- (iii) fails to return a certificate of authorisation to the Revenue Commissioners when required to do so in accordance with *subsection (13)(c)*,
- (iv) is in possession of a certificate of authorisation that was not issued to such person by the Revenue Commissioners, or
- (v) produces to a principal a certificate of authorisation after such person has been advised by the Revenue Commissioners of the issue of a notice under *subsection (13)(c)*,

such person shall be guilty of an offence and shall be liable on summary conviction to a fine of €1,265 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(b) Any person who aids, abets, counsels or procures -

- (i) the obtaining of a certificate of authorisation by means of a false statement,
- (ii) the use by any person, other than the person to whom it was issued by the Revenue Commissioners, of a certificate of authorisation, or
- (iii) the production to a principal of a document that is not a certificate of authorisation but purports to be such a certificate,

shall be guilty of an offence and shall be liable on summary conviction to a fine of €1,265 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(c) Any person who -

- (i) fails to enter on a relevant payments card or relevant tax deduction card such particulars as are required to be entered on that card by virtue of this section and any regulations made under this section,
- (ii) fails to return to the Revenue Commissioners the relevant payments card or relevant tax deduction card in accordance with *subsection (13)(b)*,
- (iii) returns to the Revenue Commissioners any such card on which are entered particulars which are incorrect in any material particular,
- (iv) fails to comply with any provision of regulations made under this section requiring such person -
 - (I) to make any declaration,
 - (II) to provide any information or particulars to principals, or
 - (III) to keep or produce any records, documents or declarations,
- (v) fails to give a subcontractor from whom tax has been deducted under *subsection (1)* a certificate of deduction in the prescribed form containing such particulars as are required to be entered in that certificate by virtue of any regulations made under this section, or
- (vi) being a company to which a certificate of authorisation has been issued under *subsection (11)*, fails to notify the Revenue Commissioners of a change in control (within the meaning of *Section 432*) of the company,

shall be guilty of an offence and shall be liable on summary conviction to a fine of €1,265.

S. 1056 TCA 1997 Penalty for False Statement made to obtain allowance etc.

- (1) In this section, “the specified difference”, in relation to a person, means the difference between-
- (a) the amount of income tax or, as the case may be, corporation tax payable in relation to the person’s or, as may be appropriate, another person’s liability to income tax for a year of assessment or to corporation tax for an accounting period, as the case may be, and
 - (b) the amount which would have been the amount so payable if-
 - (i) any statement or representation referred to in *subsection (2)(a)* had not been false,
 - (ii) any account, return, list, declaration or statement referred to in *subsection (2)(b)(i)* had not been false or fraudulent, or
 - (iii) the full amount of income referred to in *subsection (2)(b)(ii)* had been disclosed.
- (2) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if-
- (a) in relation to the person’s liability to income tax for a year of assessment or to corporation tax for an accounting period, as the case may be, the person knowingly makes any false statement or false representation-
 - (i) in any return, statement or declaration made with reference to tax, or
 - (ii) for the purpose of obtaining any allowance, reduction, rebate or repayment of tax, or
 - (b) in relation to liability to income tax of any other person for a year of assessment or to liability to corporation tax of any other person for an accounting period, as the case may be, the person knowingly and wilfully aids, abets, assists, incites or induces that other person-
 - (i) to make or deliver a false or fraudulent account, return, list, declaration or statement with reference to property, profits or gains or to tax, or
 - (ii) unlawfully to avoid liability to tax by failing to disclose the full amount of that other person’s income from all sources.
- (3) A person guilty of an offence under this section shall be liable-
- (a) on summary conviction where the amount of the specified difference is-
 - (i) less than € 1,520, to a fine not exceeding 25 per cent of the amount of the specified difference or, at the discretion of the court, to a term of imprisonment not exceeding 12 months or to both;
 - (ii) equal to or greater than €1,520, to a fine not exceeding €1,520 or, at the discretion of the court, to a term of imprisonment not exceeding 12 months or to both;or
 - (b) on conviction on indictment where the amount of the specified difference is-
 - (i) less than € 6,345, to a fine not exceeding 25 per cent of the amount of the specified difference or, at the discretion of the court, to a term of imprisonment not exceeding 2 years or to both;
 - (ii) equal to or greater than €6,345 but less than €12,695, to a fine not exceeding 50 per cent of the amount of the specified difference or, at the discretion of the court, to a term of imprisonment not exceeding 3 years or to both;
 - (iii) equal to or greater than €12,695 but less than €31,740, to a fine not exceeding the amount of the specified difference or, at the discretion of the court, to a term of imprisonment not exceeding 4 years or to both;

Appendix 3

- (iv) equal to or greater than €31,740 but less than €126,970, to a fine not exceeding twice the amount of the specified difference or, at the discretion of the court, to a term of imprisonment not exceeding 8 years or to both;
- (v) equal to or greater than €126,970, to a fine not exceeding twice the amount of the specified difference and to a term of imprisonment not exceeding 8 years.

(4) *Subsections (4) and (6) to (8) of section 1078 shall, with any necessary modifications, apply for the purposes of this section as they apply for the purposes of that section.*

(5) This section shall not apply to a declaration given under section 2 or 3 of the Waiver of Certain Tax, Interest and Penalties Act, 1993, by reason only of any false statement or false representation made in relation to subsection (3)(a)(iii) of section 2 of that Act or subsection (6)(b)(III) of section 3 of that Act, as the case may be.

S. 1078 TCA 1997 Revenue Offences: General

(1) In this Part-

“the Acts” means-

- (a) the Customs Acts,
 - (b) the statutes relating to the duties of excise and to the management of those duties,
 - (c) the Tax Acts,
 - (d) the Capital Gains Tax Acts,
 - (e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
 - (f) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,
 - (g) the statutes relating to stamp duty and to the management of that duty, and
 - (h) Part VI of the Finance Act, 1983,
- and any instruments made thereunder and any instruments made under any other enactment and relating to tax;

“authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise any of the powers conferred by the Acts;

“tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(1A)

(a) In this subsection -

“facilitating” means aiding, abetting, assisting, inciting or inducing;

“fraudulent evasion of tax by a person” means the person -

- (a) evading or attempting to evade any payment or deduction of tax required under the Acts to be paid by the person or, as the case may be, required under the Acts to be deducted from amounts due to the person, or
- (b) claiming or obtaining, or attempting to claim or obtain, relief or exemption from, or payment or repayment of, any tax, being relief, exemption, payment or repayment, to which the person is not entitled under the Acts,

where, for those purposes, the person deceives, omits, conceals or uses any other dishonest means including -

- (i) providing false, incomplete or misleading information, or
- (ii) failing to furnish information,

to the Revenue Commissioners or to any other person.

- (b) For the purposes of this subsection and *subsection (5)* a person (in this paragraph referred to as the “first-mentioned person”) is reckless as to whether or not he or she is concerned in facilitating -

- (i) the fraudulent evasion of tax by a person, being another person, or
- (ii) the commission of an offence under *subsection (2)* by a person, being another person,

if the first-mentioned person disregards a substantial risk that he or she is so concerned, and for those purposes “substantial risk” means a risk of such a nature and degree that, having regard to all the circumstances and the extent of the information available to the first-mentioned person, its disregard by that person involves culpability of a high degree.

- (c) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person -
 - (i) is knowingly concerned in the fraudulent evasion of tax by the person or any other person,

- (ii) **is knowingly concerned in, or is reckless as to whether or not the person is concerned in, facilitating -**
 - (I) **the fraudulent evasion of tax, or**
 - (II) **the commission of an offence under *subsection (2)* (other than an offence under *paragraph (b)* of that subsection), by any other person, or**
- (iii) **is knowingly concerned in the fraudulent evasion or attempted fraudulent evasion of any prohibition or restriction on importation for the time being in force, or the removal of any goods from the State, in contravention of any provision of the Acts.**

- (2) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person-
 - (a) knowingly or wilfully delivers any incorrect return, statement or accounts or knowingly or wilfully furnishes any incorrect information in connection with any tax,
 - (b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return, statement or accounts in connection with any tax,
 - (c) claims or obtains relief or exemption from, or repayment of, any tax, being a relief, exemption or repayment to which, to the person's knowledge, the person is not entitled,
 - (d) knowingly or wilfully issues or produces any incorrect invoice, receipt, instrument or other document in connection with any tax,
 - (dd)
 - (i) fails to make any deduction of dividend withholding tax (within the meaning of *Chapter 8A of Part 6*) required to be made by the person under *section 172B(1)*,
 - (ii) fails, having made that deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in *section 172K(2)*,
 - (iii) fails to make any reduction required to be made by the person under *section 172B(2)*,
 - (iv) fails, having made that reduction, to pay to the Collector-General the amount referred to in *section 172B(2)(d)*, which amount is treated under that section as if it were a deduction of dividend withholding tax (within the meaning of *Chapter 8A of Part 6*), within the time specified in that behalf in *section 172K(2)*, or
 - (v) fails to pay to the Collector-General, within the time specified in that behalf in *section 172K(2)*, an amount referred to in *section 172B(3)(a)* which is required to be paid by the person to the Collector-General and which is treated under that section as if it were a deduction of dividend withholding tax (within the meaning of *Chapter 8A of Part 6*),
 - (e)
 - (i) fails to make any deduction required to be made by the person under *section 257(1)*,
 - (ii) fails, having made the deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in *section 258(3)*, or
 - (iii) fails to pay to the Collector-General an amount on account of appropriate tax (within the meaning of *Chapter 4 of Part 8*) within the time specified in that behalf in *section 258(4)*,
 - (f) **fails to pay to the Collector-General appropriate tax (within the meaning of *section 739E*) within the time specified in that behalf in *section 739F*,**

- (g) fails without reasonable excuse to comply with any provision of the Acts requiring-
- (i) the furnishing of a return of income, profits or gains, or of sources of income, profits or gains, for the purposes of any tax,
 - (ii) the furnishing of any other return, certificate, notification, particulars, or any statement or evidence, for the purposes of any tax,
 - (iii) the keeping or retention of books, records, accounts or other documents for the purposes of any tax, or
 - (iv) the production of books, records, accounts or other documents, when so requested, for the purposes of any tax,
- (h) knowingly or wilfully, and within the time limits specified for their retention, destroys, defaces or conceals from an authorised officer-
- (i) any documents, or
 - (ii) any other written or printed material in any form, including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form, which a person is obliged by any provision of the Acts to keep, to issue or to produce for inspection,
- (hh) knowingly or wilfully falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, any books, records or other documents-
- (i) which the person has been given the opportunity to deliver, or as the case may be, to make available in accordance with *section 900(3)*, or
 - (ii) which the person has been required to deliver or, as the case may be, to make available in accordance with a notice served under *section 900, 902, 906A or 907*, or an order made under *section 901, 902A or 908*,
- (i) fails to remit any income tax payable pursuant to *Chapter 4 of Part 42*, and the regulations under that Chapter, or value-added tax within the time specified in that behalf in relation to income tax or value-added tax, as the case may be, **[by the Acts,]**
- (ii)
- (i) **fails to deduct tax required to be deducted by the person under *section 531(1)*, or**
 - (ii) **fails, having made that deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in *section 531(3A)*,**
- or**
- (j) obstructs or interferes with any officer of the Revenue Commissioners, or any other person, in the exercise or performance of powers or duties under the Acts for the purposes of any tax.
- (3) A person convicted of an offence under this section shall be liable-
- (a) on summary conviction to a fine of [€3,000] which may be mitigated to not less than one fourth part of such fine or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment, or
 - (b) on conviction on indictment, to a fine not exceeding [€126,970] or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

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- (3A) Where a person has been convicted of an offence referred to in *subparagraph (i), (ii) or (iv) of subsection (2)(g)*, then, if an application is made, or caused to be made to the court in that regard, the court may make an order requiring the person concerned to comply with any provision of the Acts relating to the requirements specified in the said *subparagraph (i), (ii) or (iv)*, as the case may be.
- (3B) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person fails or refuses to comply with an order referred to in *subsection (3A)*.]¹¹
- (4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by *subsection (3)(a)*, and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act, 1967, to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.
- (5) Where an offence under this section is committed by a body corporate and the offence is shown **[to have been committed with the consent or connivance of or to be attributable to any recklessness (as provided for by subsection (1A)(b)) on the part of]** any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of the offence and may be proceeded against and punished accordingly.
- (6) In any proceedings under this section, a return or statement delivered to an inspector or other officer of the Revenue Commissioners under any provision of the Acts and purporting to be signed by any person shall be deemed until the contrary is proved to have been so delivered and to have been signed by that person.
- (7) Notwithstanding any other enactment, proceedings in respect of an offence under this section may be instituted within 10 years from the date of the commission of the offence or incurring of the penalty, as the case may be.
- (8) Section 1 of the Probation of Offenders Act, 1907, shall not apply in relation to offences under this section.
- (9) *Sections 987(4) and 1052(4), subsections (3) and (7) of section 1053, and sections 1068 and 1069 and sections 26(6) and 27(7) of the Value-Added Tax Act, 1972,* shall, with any necessary modifications, apply for the purposes of this section as they apply for the purposes of those sections, including, in the case of such of those sections as are applied by the Capital Gains Tax Acts, the Corporation Tax Acts, or Part VI of the Finance Act, 1983, the purposes of those sections as so applied.

Notes on FA05 Amendments

Inserts a new subsection to create new offences of being knowingly concerned in the fraudulent evasion of tax or being knowingly concerned in, or being reckless as to whether or not one is concerned in, facilitating the fraudulent evasion of tax (or other Revenue offences). Subsection (5) is amended so that where a body corporate has committed a revenue offence, and the offence is shown to be attributable to any recklessness on the part of certain officers of the body corporate, those officers will be deemed to be guilty of that

offence and may be proceeded against accordingly. The FA05 changes take effect from 25 March 2005 (the date of passing of FA05).

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

S. 1078A TCA 1997 Concealing Facts Disclosed by Documents

- (1) Any person who-
- (a) knows or suspects that an investigation by an officer of the Revenue Commissioners into an offence under the Acts or the Waiver of Certain Tax, Interest and Penalties Act 1993 is being, or is likely to be, carried out, and
 - (b) falsifies, conceals, destroys or otherwise disposes of material which the person knows or suspects is or would be relevant to the investigation or causes or permits its falsification, concealment, destruction or disposal,
- is guilty of an offence.
- (2) Where a person -
- (a) falsifies, conceals, destroys or otherwise disposes of material, or
 - (b) causes or permits its falsification, concealment, destruction or disposal, in such circumstances that it is reasonable to conclude that the person knew or suspected -
- (i) that an investigation by an officer of the Revenue Commissioners into an offence under the Acts or the Waiver of Certain Tax, Interest and Penalties Act 1993 was being, or was likely to be, carried out, and
 - (ii) that the material was or would be relevant to the investigation,
- the person shall be taken, for the purposes of this section, to have so known or suspected, unless the court or the jury, as the case may be, is satisfied having regard to all the evidence that there is a reasonable doubt as to whether the person so knew or suspected.
- (3) A person guilty of an offence under this section is liable -
- (a) on summary conviction to a fine not exceeding €3,000, or at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment, or
 - (b) on conviction on indictment, to a fine not exceeding €127,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

Section inserted by FA03 s161 with effect from 28 March 2003

S. 1079 TCA 1997 Duty to Report Offence

(1) In this section-

“the Acts” means-

- (a) the Customs Acts,
- (b) the statutes relating to the duties of excise and to the management of those duties,
- (c) the Tax Acts,
- (d) the Capital Gains Tax Acts,
- (e) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (f) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,
- (g) the statutes relating to stamp duty and to the management of that duty, and any instruments made thereunder and any instruments made under any other enactment and relating to tax;

“appropriate officer” means any officer nominated by the Revenue Commissioners to be an appropriate officer for the purposes of this section;

“company” means any body corporate;

“relevant person”, in relation to a company and subject to *subsection (2)*, means a person who-

- (a) (i) is an auditor to the company appointed in accordance with section 160 of the Companies Act, 1963 (as amended by the Companies Act, 1990), or
- (ii) in the case of an industrial and provident society or a friendly society, is a public auditor to the society for the purposes of the Industrial and Provident Societies Acts, 1893 to 1978, and the Friendly Societies Acts, 1896 to 1977,
- or
- (b) with a view to reward, assists or advises the company in the preparation or delivery of any information, declaration, return, records, accounts or other document which he or she knows will be or is likely to be used for any purpose of tax;

“relevant offence” means an offence committed by a company which consists of the company-

- (a) knowingly or wilfully delivering any incorrect return, statement or accounts or knowingly or wilfully furnishing or causing to be furnished any incorrect information in connection with any tax,
- (b) knowingly or wilfully claiming or obtaining relief or exemption from, or repayment of, any tax, being a relief, exemption or repayment to which there is no entitlement,
- (c) knowingly or wilfully issuing or producing any incorrect invoice, receipt, instrument or other document in connection with any tax, or
- (d) knowingly or wilfully failing to comply with any provision of the Acts requiring the furnishing of a return of income, profits or gains, or of sources of income, profits or gains, for the purposes of any tax, but an offence under this paragraph committed by a company shall not be a relevant offence if the company has made a return of income, profits or gains to the Revenue Commissioners in respect of an accounting period falling wholly or partly in the period of 3 years preceding the accounting period in respect of which the offence was committed;

“tax” means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

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- (2) For the purposes of *paragraph (b)* of the definition of “relevant person”, a person who but for this subsection would be treated as a relevant person in relation to a company shall not be so treated if the person assists or advises the company solely in the person’s capacity as an employee of the company, and a person shall be treated as assisting or advising the company in that capacity where the person’s income from assisting or advising the company consists solely of emoluments to which *Chapter 4* of *Part 42* applies.
- (3) If, having regard solely to information obtained in the course of examining the accounts of a company, or in the course of assisting or advising a company in the preparation or delivery of any information, declaration, return, records, accounts or other document for the purposes of tax, as the case may be, a person who is a relevant person in relation to the company becomes aware that the company has committed, or is in the course of committing, one or more relevant offences, the person shall, if the offence or offences are material-
- (a) communicate particulars of the offence or offences in writing to the company without undue delay and request the company to-
 - (i) take such action as is necessary for the purposes of rectifying the matter, or
 - (ii) notify an appropriate officer of the offence or offences,not later than 6 months after the time of communication, and
 - (b)
 - (i) unless it is established to the person’s satisfaction that the necessary action has been taken or notification made, as the case may be, under *paragraph (a)*, cease to act as the auditor to the company or to assist or advise the company in such preparation or delivery as is specified in *paragraph (b)* of the definition of “relevant person”, and
 - (ii) shall not so act, assist or advise before a time which is the earlier of-
 - (I) 3 years after the time at which the particulars were communicated under *paragraph (a)*, and
 - (II) the time at which it is established to the person’s satisfaction that the necessary action has been taken or notification made, as the case may be, under *paragraph (a)*.
- (4) Nothing in *paragraph (b)* of *subsection (3)* shall prevent a person from assisting or advising a company in preparing for, or conducting, legal proceedings, either civil or criminal, which are extant or pending at a time which is 6 months after the time of communication under *paragraph (a)* of that subsection.
- (5) Where a person, being in relation to a company a relevant person within the meaning of *paragraph (a)* of the definition of “relevant person”, ceases under this section to act as auditor to the company, then, the person shall deliver-
- (a) a notice in writing to the company stating that he or she is so resigning, and
 - (b) a copy of the notice to an appropriate officer not later than 14 days after he or she has delivered the notice to the company.
- (6) A person shall be guilty of an offence under this section if the person-
- (a) fails to comply with *subsection (3)* or *(5)*, or
 - (b) knowingly or wilfully makes a communication under *subsection (3)* which is incorrect.
- (7) Where a relevant person is convicted of an offence under this section, the person shall be liable-

- (a) on summary conviction, to a fine of €1,265 which may be mitigated to not less than one-fourth part of such fine, or
- (b) on conviction on indictment, to a fine not exceeding €6,345 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both the fine and the imprisonment.
- (8) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by *subsection (7)(a)*, and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act, 1967, to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.
- (9) Notwithstanding any other enactment, proceedings in respect of this section may be instituted within 6 years from the time at which a person is required under *subsection (3)* to communicate particulars of an offence or offences in writing to a company.
- (10) It shall be a good defence in a prosecution for an offence under *subsection (6)(a)* in relation to a failure to comply with *subsection (3)* for an accused (being a person who is a relevant person in relation to a company) to show that he or she was in the ordinary scope of professional engagement assisting or advising the company in preparing for legal proceedings and would not have become aware that one or more relevant offences had been committed by the company if he or she had not been so assisting or advising.
- (11) Where a person who is a relevant person takes any action required by *subsection (3)* or (5), no duty to which the person may be subject shall be regarded as having been contravened and no liability or action shall lie against the person in any court for having taken such action.
- (12) The Revenue Commissioners may nominate an officer to be an appropriate officer for the purposes of this section, and the name of an officer so nominated and the address to which copies of notices under *subsection (3)* or (5) shall be delivered shall be published in Iris Oifigiúil.
- (13) This section shall apply as respects a relevant offence committed by a company in respect of tax which is-
- (a) assessable by reference to accounting periods, for any accounting period beginning after the 30th day of June, 1995,
 - (b) assessable by reference to years of assessment, for the year 1995-96 and subsequent years of assessment,
 - (c) payable by reference to a taxable period, for a taxable period beginning after the 30th day of June, 1995,
 - (d) chargeable on gifts or inheritances taken on or after the 30th day of June, 1995,
 - (e) chargeable on instruments executed on or after the 30th day of June, 1995, or
 - (f) payable in any other case, on or after the 30th day of June, 1995.

C: Other Provisions

S.482 (7) TCA 1997 Relief for expenditure on significant buildings and gardens

- (7) (a) Where a person makes a claim under *subsection (2)*, an authorised person may at any reasonable time enter the building in respect of which the qualifying expenditure has been incurred for the purpose of -
- (i) inspecting, as the case may be, the building or an object or of examining any work in respect of which the expenditure to which the claim relates was incurred, or
 - (ii) ensuring that the requirements in relation to reasonable access set out in *subsection (5)* are being complied with.
- (b) Whenever an authorised person exercises any power conferred on him or her by this subsection, the authorised person shall on request produce his or her authorisation for the purposes of this section to any person concerned.
- (c) Any person who obstructs or interferes with an authorised person in the course of exercising a power conferred on the authorised person by this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €630.

S. 886 TCA 1997 Obligation to keep certain Records

- (1) In this section-
- “linking documents” means documents drawn up in the making up of accounts and showing details of the calculations linking the records to the accounts;
- “records” includes accounts, books of account, documents and any other data maintained manually or by any electronic, photographic or other process, relating to-
- (a) all sums of money received and expended in the course of the carrying on or exercising of a trade, profession or other activity and the matters in respect of which the receipt and expenditure take place,
 - (b) all sales and purchases of goods and services where the carrying on or exercising of a trade, profession or other activity involves the purchase or sale of goods or services,
 - (c) the assets and liabilities of the trade, profession or other activity referred to in *paragraph (a) or (b)*, and
 - (d) all transactions which constitute an acquisition or disposal of an asset for capital gains tax purposes.
- (2) (a) Every person who-
- (i) on that person’s own behalf or on behalf of any other person, carries on or exercises any trade, profession or other activity the profits or gains of which are chargeable under Schedule D,
 - (ii) is chargeable to tax under Schedule D or F in respect of any other source of income, or
 - (iii) is chargeable to capital gains tax in respect of chargeable gains,
- shall keep, or cause to be kept on that person’s behalf, such records as will enable true returns to be made for the purposes of income tax, corporation tax and capital gains tax of such profits or gains or chargeable gains.
- (b) The records shall be kept on a continuous and consistent basis, that is, the entries in the records shall be made in a timely manner and be consistent from one year to the next.
 - (c) Where accounts are made up to show the profits or gains from any such trade, profession or activity, or in relation to a source of income, of any person, that person shall retain, or cause to be retained on that person’s behalf, linking documents.
 - (d) Where any such trade, profession or other activity is carried on in partnership, the precedent partner (within the meaning of *section 1007*) shall for the purposes of this section be deemed to be the person carrying on that trade, profession or other activity.
- (3) Records required to be kept or retained by virtue of this section shall be kept-
- (a) in written form in an official language of the State, or
 - (b) subject to *section 887(2)*, by means of any electronic, photographic or other process.
- (4) (a) Subject to *paragraph (b)*, linking documents and records kept in accordance with *subsections (2) and (3)* shall be retained by the person required to keep the records-
- (i) for a period of 6 years after the completion of the transactions, acts or operations to which they relate, or
 - (ii) in the case of a person who fails to comply with *section 951(1)* requiring the preparation and delivery of a return on or before the specified return date for a year of assessment or an accounting period, as the case may be,

until the expiry of a period of 6 years from the end of the year of assessment or accounting period, as the case may be, in which a return has been delivered showing the profits or gains or chargeable gains derived from those transactions, acts or operations.

(b) *Paragraph (a)* shall not-

- (i) require the retention of linking documents and records in respect of which the inspector notifies in writing the person who is required to retain them that retention is not required, or
- (ii) apply to the books and papers of a company which have been disposed of in accordance with section 305(1) of the Companies Act, 1963.

(5) Any person who fails to comply with *subsection (2), (3) or (4)* in respect of any records or linking documents in relation to a return for any year of assessment or accounting period shall be liable to a penalty of €1,520; but a penalty shall not be imposed under this subsection if it is proved that no person is chargeable to tax in respect of the profits or gains for that year of assessment or accounting period, as the case may be.

**S. 899 TCA 1997 Inspectors right to make enquiries
(re 3rd Party Returns)**

- (1) In this section, “specified provisions” means paragraphs (d) and (e) of section 888(2) and sections 889 to 896
- (2) An inspector may make such enquiries or take such action within his or her powers as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of any return, list, statement or particulars prepared and delivered under a specified provision.
- (3) [...]

Sections referred to in text

Section 888 [Returns, etc by lessors, lessees and agents]
Section 889 [Returns of fees, commissions, etc paid by certain persons]
Section 890 [Returns by persons in receipt of income belonging to others]
Section 891 [Returns of interest paid or credited without deduction of tax]
Section 892 [Returns by nominee holders of securities]
Section 893 [Returns by certain intermediaries in relation to UCITS]
Section 894 [Returns of certain information by third parties]
Section 895 [Returns in relation to foreign accounts]
Section 896 [Returns in relation to certain offshore products]

S. 956 TCA 1997 Inspectors right to make enquiries and amend assessments

- (1) (a) For the purpose of making an assessment on a chargeable person for a chargeable period or for the purpose of amending such an assessment, the inspector -
- (i) may accept either in whole or in part any statement or other particular contained in a return delivered by the chargeable person for that chargeable period, and
 - (ii) may assess any amount of income, profits or gains or, as respects capital gains tax, chargeable gains, or allow any deduction, allowance or relief by reference to such statement or particular.
- (b) The making of an assessment or the amendment of an assessment by reference to any statement or particular referred to in *paragraph (a)(i)* shall not preclude the inspector-
- (i) from making such enquiries or taking such actions within his or her powers as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of that statement or particular, and
 - (ii) subject to *section 955(2)*, from amending or further amending an assessment in such manner as he or she considers appropriate.
- (c) Any enquiries and actions referred to in *paragraph (b)* shall not be made in the case of any chargeable person for any chargeable period at any time after the expiry of the period of [4 years]¹ commencing at the end of the chargeable period in which the chargeable person has delivered a return for the chargeable period unless at that time the inspector has reasonable grounds for believing that the return is insufficient due to its having been completed in a fraudulent or negligent manner.
- (2) (a) A chargeable person who is aggrieved by any enquiry made or action taken by an inspector for a chargeable period, after the expiry of the period referred to in *subsection (1)(c)* in respect of that chargeable period, on the grounds that the chargeable person considers that the inspector is precluded from making that enquiry or taking that action by reason of *subsection (1)(c)* may, by notice in writing given to the inspector within 30 days of the inspector making that enquiry or taking that action, appeal to the Appeal Commissioners, and the Appeal Commissioners shall hear the appeal in all respects as if it were an appeal against an assessment.
- (b) Any action required to be taken by the chargeable person and any further action proposed to be taken by the inspector pursuant to the inspector's enquiry or action shall be suspended pending the determination of the appeal.
- (c) Where on the hearing of the appeal the Appeal Commissioners -
- (i) determine that the inspector was precluded from making the enquiry or taking the action by reason of *subsection (1)(c)*, the chargeable person shall not be required to take any action pursuant to the inspector's enquiry or action and the inspector shall be prohibited from pursuing his enquiry or action, or
 - (ii) decide that the inspector was not so precluded, it shall be lawful for the inspector to continue with his or her enquiry or action.

Amendments

1 Substituted by FA03 s17(1), to have effect in relation to enquiries and actions referred to in subsection (1)(b) made on or after 1 January 2005, per SI 508 of 2003

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

S. 906 TCA 1997 Authorised Officers and Garda Síochána

Where an authorised officer (within the meaning of *section 903, 904 or 905*, as the case may be) in accordance with *section 903, 904 or 905* enters any premises or place, the authorised officer may be accompanied by a member or members of the Garda Síochána, and any such member may arrest without warrant any person who obstructs or interferes with the authorised officer in the exercise or performance of his or her powers or duties under any of those sections.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

**COUNCIL REGULATION (EEC) No 2913/92 of 12 October 1992
establishing the Community Customs Code**

Article 78

1. The customs authorities may, on their own initiative or at the request of the declarant, amend the declaration after release of the goods.
2. The customs authorities may, after releasing the goods and in order to satisfy themselves as to the accuracy of the particulars contained in the declaration, inspect the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document and data for business purposes. Those authorities may also examine the goods where it is still possible for them to be produced.
3. Where revision of the declaration or post-clearance examination indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs authorities shall, in accordance with any provisions laid down, take the measures necessary to regularize the situation, taking account of the new information available to them.

**S.I. No. 605/2001: WASTE MANAGEMENT
(ENVIRONMENTAL LEVY) (PLASTIC BAG)
REGULATIONS, 2001**

S.I. No. 605 of 2001

WASTE MANAGEMENT (ENVIRONMENTAL LEVY) (PLASTIC
BAG) REGULATIONS, 2001

Dublin

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**WASTE MANAGEMENT (ENVIRONMENTAL LEVY)
(PLASTIC BAG) REGULATIONS, 2001.**

The Minister for the Environment and Local Government, in exercise of the powers conferred on him by sections 7 and 29 of the Waste Management Act, 1996 (No. 10 of 1996) and section 72 of that Act, as inserted by section 9 of the Waste Management (Amendment) Act, 2001 (No. 36 of 2001), and with the consent of the Government, hereby makes the following Regulations:-

Citation. 1. These Regulations may be cited as the Waste Management (Environmental Levy) (Plastic Bag) Regulations, 2001.

Interpretation. 2. (1) In these Regulations—

"the Act" means the Waste Management Act, 1996 (No.10 of 1996) as amended by the Waste Management (Amendment) Act, 2001 (No. 36 of 2001);

"accounting period" means the period commencing on the 4th day of March, 2002 and ending on the last day of June, 2002 and thereafter each period of three months beginning on the first day of July, October, January or April,

"accountable person" means a person within the meaning of section 72(4) of the Act;

"Appeal Commissioners" has the meaning assigned to it by section 850 of the Taxes Consolidation Act, 1997 (No. 39 of 1997).

(2) In these Regulations

(a) a reference to an article is to an article of these Regulations, unless it appears that reference to some other provision is intended;

(b) a reference to a sub-article is to the sub-article of the provision in which the reference occurs, unless it appears that reference to some other provision is intended.

(3) Subject to sub-article (1), a word or expression that is used in these Regulations and is also used in any provision of the Act has, except where the context otherwise requires, the same meaning in these Regulations as it has in that provision.

Imposition of levy, person liable, rate of levy and exceptions.

3. (1) On and from the 4th day of March 2002 there shall be charged, levied and paid a levy (which shall be known as an 'environmental levy' and is in these Regulations referred to as 'the levy') in respect of the supply to customers, at the point of sale to them of goods or products to be placed in the bags, or otherwise of plastic bags in or at any shop, supermarket, service station or other sales outlet.

(2) An accountable person shall be accountable for and liable to pay the levy.

Levy amount.

4. The amount of the levy shall be 15 cent for each plastic bag.

Excepted bags

5. The following classes of plastic bags are excepted from the definition of a plastic bag -

(a) plastic bags solely used to contain-

(i) fresh fish and fresh fish products,

(ii) fresh meat and fresh meat products, or

(iii) fresh poultry and fresh poultry products

provided that such bags are not greater in dimension than 225mm in width (exclusive of any gussets), by 345mm in depth (inclusive of any gussets), by 450mm in length, (inclusive of any handles);

(b) plastic bags solely used to contain the products referred to in paragraph (a) where such products are contained in packaging, (including a bag), provided that such plastic bags are not greater in dimension than the dimensions referred to in paragraph (a);

(c) plastic bags solely used to contain-

(i) fruit, nuts or vegetables,

(ii) confectionery,

(iii) dairy products,

(iv) cooked food, whether cold or hot, or

(v) ice

provided that such products are not otherwise contained in packaging and where such bags are not greater in dimension than the dimensions referred to in paragraph (a);

(d) plastic bags used to contain goods or products sold:

(iii) on board a ship or aircraft used for carrying passengers for reward, or

(iv) in an area of a port or airport to which intending passengers are denied access unless in possession of a valid ticket or boarding card, for the purposes of carrying the goods on board the ship or aircraft referred to in

subparagraph (i);

- (e) plastic bags designed for re-use, which are used to contain goods or products and which are sold to customers for a sum of not less than 70 cent each.

Charging the levy and evidence of charging.

- 6. An accountable person shall impose a charge equivalent to the amount of the levy on a customer in respect of the provision by him or her to the customer of a plastic bag, other than a plastic bag excepted under article 5.

Itemisation of levy.

- 7. Where a charge under article 6 is imposed the charge shall be itemised on any invoice, receipt or docket issued to the customer.

Exclusion of employees.

- 8. References in these Regulations to a person who supplies plastic bags do not include references to a person who supplies plastic bags in his or her capacity as an employee of another person but include references to a person whose employee supplies plastic bags in his or her capacity as such employee.

Collection authority.

- 9. (1) The Minister hereby specifies that the Revenue Commissioners shall be the collection authority to whom the levy shall be payable.
(2) An accountable person shall pay the levy to the Revenue Commissioners in accordance with article 10.
(3) The Minister hereby confers powers on the Revenue Commissioners to authorise officers of the Revenue Commissioners for the purposes of article 17.

Returns and payment.

10. (1) An accountable person or any person who has been required to do so by notice in writing from the Revenue Commissioners, shall, not later than the 19th day of the month following the end of an accounting period furnish to the Revenue Commissioners a full and true return in such form as may be specified by the Revenue Commissioners of the amount of the levy which became payable by him or her during the accounting period and he or she shall authorise the Revenue Commissioners to debit the amount payable, if any, from the account of that person in a financial institution indicated by that person on the return form.
- (2) Notwithstanding the provisions of sub-article (1), the Revenue Commissioners may, from time to time, by notice in writing, authorise an accountable person to furnish to them within 19 days of the end of a period longer than an accounting period but not exceeding a year (hereinafter referred to as the specified period), a full and true return in such form as may be specified by the Revenue Commissioners of the amount of the levy which became payable by him or her during the specified period and he or she shall authorise the Revenue Commissioners to debit the amount payable, if any, from the account of that person in a financial institution indicated by that person on the return form.
- (3) The Revenue Commissioners may, by notice in writing, authorise two or more accountable persons who are closely bound by financial, economic or organisational links to submit one return in respect of the levy due by all such persons.
- (4) An authorisation under sub-article (2) or (3) may be issued by the Revenue Commissioners subject to such conditions as they consider proper to ensure that there is no loss of levy and that the accountable persons will meet their obligations under the Regulations and such authorisations shall, in each case, take effect on the date specified in the notice of authorisation.
- (5) The Revenue Commissioners may, by notice in writing to the accountable person or persons concerned, terminate an authorisation issued in accordance with sub-article (2) or (3) and the said termination shall take effect from the date specified in the notice of termination.

Records

11. (1) An accountable person shall keep in a permanent from a full and true record of-
- (a) the number of plastic bags, other than those excepted from the definition of plastic bag by reason of article 5, in stock before the commencement of business on the 4th day of March, 2002,
 - (b) the number of plastic bags excepted from the definition of plastic bag by reason of paragraphs (a), (b), (c) and (d) of article 5, in stock before the commencement of business on the 4th day of March, 2002,
 - (c) the number of plastic bags, other than those excepted from the definition of plastic bag by reason of article 5, purchased or acquired by him or her in each accounting period,
 - (d) the number of plastic bags excepted from the definition of plastic bag by reason of paragraphs (a), (b), (c) and (d) of article 5, purchased or acquired by him or her in each accounting period,
 - (e) the number of plastic bags, other than those excepted from the definition of plastic bag by reason of article 5, supplied by him or her to customers in each accounting period.
- (2). An accountable person shall retain the records referred to in sub-article (1), together with all other books and documents containing particulars on which the records are based, for a period of not less than six years.

Estimation in the case of non-payment.

12. (1) If within the time specified in article 10 a person, being an accountable person or a person who has been required to do so in writing by the Revenue Commissioners, fails to furnish a return in respect of any period, then without prejudice to any other action that may be taken, the Revenue Commissioners may estimate the amount of levy payable by that person in respect of that period and serve notice on that person of the amount estimated:

Provided that where the Revenue Commissioners are satisfied that the amount so estimated is excessive, they may amend the amount so estimated by reducing it and serve notice on the person concerned of the revised amount estimated and such notice shall supersede any previous notice issued under this sub-article.

- (2) Where a notice is served under sub-article (1) on a person, the following provisions shall apply:
- (c) the person may, if he or she claims that he or she is not an accountable person, by giving notice in writing to the Revenue Commissioners within the period of fourteen days from date of service of the notice, require the claim to be referred for decision of the Appeal Commissioners and their decision shall be final and conclusive,
 - (d) on the expiration of the said period, if no such claim is required to be referred, or, if such is required to be so referred, on final determination against the claim, the estimated levy shall be recoverable in the like manner and by the like proceedings as if the amount specified in the notice were the amount of levy which the person was liable to pay for the period referred to in the notice,
 - (e) if, at any time after the service of the notice the person makes the return required under article 10 and, pays the levy due, if any, together with any costs which may have been incurred in connection with the default, the notice shall stand discharged and any excess of levy which may have been paid shall be repaid.
- (3) A notice given by the Revenue Commissioners under sub-article (1) may extend to two or more consecutive accounting periods.

Estimation in the case of underpayment.

13. (1) Where the Revenue Commissioners have reason to believe that the total amount of levy payable by an accountable person in relation to any period, consisting of one accounting period or of two or more consecutive accounting periods, was greater than the total amount of levy (if any) paid by him or her in relation to that period, then, without prejudice to any other action which may be taken, they may make an estimate in one sum of the total amount of levy which in their opinion should have been paid in respect of the accounting period or periods comprised in such period and may serve a notice on the person specifying-
- (a) the total amount of levy so estimated,
 - (b) the total amount of levy (if any) paid by the person in relation to the said period, and
 - (c) the balance of levy remaining unpaid.

- (2) Where notice is served on an accountable person under sub-article (1), the following provisions shall apply:
- (a) the person may, if he or she claims that the total amount of levy or the balance of levy remaining unpaid is excessive, on giving notice in writing to the Revenue Commissioners within the period of twenty-one days from the date of the service of the notice, appeal to the Appeal Commissioners,
 - (b) on the expiration of the said period, if no notice of appeal is received or, if notice of appeal is received, on determination of the appeal by agreement or otherwise, the balance of levy remaining unpaid as specified in the notice or the amended balance of levy as determined in relation to the appeal shall become due and payable as if the levy were levy which the person was liable to pay for the accounting period during which the period of fourteen days from the date of the service of the notice under sub-article (1) expired or the appeal was determined by agreement or otherwise, whichever period is the later.

Proof of notice in relation to estimation.

14. For the purposes of articles 12 and 13, where any officer of the Revenue Commissioners nominated by them for the purposes of article 12 or 13, or any other officer of the Revenue Commissioners acting with the knowledge of the nominated officer causes, for the purposes of article 12 or 13, to be issued, manually or by any electronic, photographic or other process, and to be served, a notice bearing the name of the nominated officer, the estimate to which the notice relates shall be deemed to have been made by the nominated officer.

Recovery

15. (1) Without prejudice to any other mode of recovery, the provisions of any enactment relating to the recovery of income tax and the provisions of any rule of court so relating shall apply to the recovery of any levy payable as they apply in relation to the recovery of income tax.
- (2) In particular and without prejudice to the generally of sub-article (1), that sub-article applies the provisions of sections 962, 963, 964(1), 966 and 1002 of the Taxes Consolidation Act, 1997.
- (3) In proceedings instituted for the recovery of any amount of levy-

- (a) a certificate signed by an officer of the Revenue Commissioners which certifies that a stated amount of levy is due and payable by the defendant shall be evidence, until the contrary is proved, that that amount is so due and payable, and
- (b) a certificate certifying as aforesaid and purporting to be signed by an officer of the Revenue Commissioners may be tendered in evidence without proof and shall be deemed, until the contrary is proved, to have been signed by an officer of the Revenue Commissioners.
- (4) Subject to this article, the rules of the court concerned for the time being applicable to civil proceedings shall apply to proceedings by virtue of this article.

Appeals

16. The provisions of the Taxes Consolidation Act, 1997 relating to-

- (a) the appointment of times and places for the hearing of appeals;
- (b) the giving of notice to each person who has given notice of appeal of the time and place appointed for the hearing of his or her appeal;
- (c) the determination of an appeal by agreement between the appellant and an officer appointed by the Revenue Commissioners in that behalf;
- (d) the determination of an appeal by the appellant giving notice of his intention not to proceed with the appeal;
- (e) the refusal of an application for an appeal hearing;
- (f) the hearing and the determination of an appeal by the Appeal Commissioners including the hearing and determination of an appeal by one Appeal Commissioner;
- (g) the publication of reports of determinations of the Appeal Commissioners;
- (h) the determination of an appeal through the failure of a person who has given notice of an appeal to attend before the Appeal Commissioners at the time and place appointed;
- (i) the refusal of an application for the adjournment of any proceedings in relation to an appeal and the dismissing of an appeal by the Appeal Commissioners;
- (j) the extension of the time for giving notice of appeal and the readmission of appeals by the Appeal Commissioners;
- (k) the rehearing of an appeal by a judge of the Circuit Court and the statement of a case for the opinion of the High Court on a point of law;
- (l) the payment of the levy in accordance with the

determination of the Appeal Commissioners notwithstanding that a case for the opinion of the High Court on a point of law has been required to be stated or is pending;

- (m) the payment of levy which is agreed not to be in dispute in relation to an appeal; and
 - (n) the procedures for appeal,
- shall, subject to any necessary modifications, apply to an estimate under articles 12 or 13 of these regulations as if the estimate or appeal were an appeal against an assessment to income tax.

Powers of officers.

17. (1) In this article, "authorised officer" means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this article.
- (2) An accountable person or any person employed by the accountable person shall on request by an authorised officer produce all records, books and documents required to be retained under article 11 and furnish the authorised officer with all reasonable assistance, including the provision of information and explanations in relation to the acquisition, supply, disposal and stocks held of plastic bags as may be required by the authorised officer.
- (3) An authorised officer may, at all reasonable times, enter premises in which plastic bags in respect of which the levy is or was chargeable are reasonably believed by the officer to be kept and may inspect and carry out such search and investigation as such officer may consider to be proper and take particulars of -
- (a) any such plastic bags there found, or
 - (b) any records, books or other documents there found and reasonably believed by the officer to relate to the acquisition and the supply of such plastic bags or, in the case of such information in a non-legible form (including such information in a computer), require the person in charge of such premises to produce it to the officer in a permanent legible form.
- (4) An authorised officer may remove and retain all records, books and documents required to be retained under article 11 for such period as may be reasonable for their further examination or for the purposes of any proceedings in relation to the levy.

Obstruction

18. A person shall not resist, obstruct or impede an officer of the Revenue Commissioners in the exercise of a power conferred on that officer by article 17.

Application of Section 14 of the Act — avoidance of doubt.

19. For the avoidance of doubt, it is hereby declared that the provisions of section 14 of the Act shall apply in relation to these Regulations.

Information to be provided by distributors etc.

20. (1) In this article "authorised officer" means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this article.
- (2) A person who supplies plastic bags to a person who carries on the business of selling goods or products at any shop, supermarket, service station or other sales outlet and who has been required to do so by notice in writing from an authorised officer, shall, not later than one month after the receipt of such notice, advise the authorised officer in writing of -
- (a) the number of plastic bags not greater in dimension than 225mm in width (exclusive of any gussets) by 345mm in depth (inclusive of any gussets) by 450mm in length (inclusive of any handles), and
- (b) the number of plastic bags (other than those of the type referred to in paragraph (a) above or in paragraph (e) of article 5)
- supplied by him or her, during the accounting period or periods specified in the notice, to each accountable person specified in the notice and shall, on request by an authorised officer, produce to the authorised officer all records, books and documents retained by him or her in relation to such supplies.

Nomination of officers.

21. The Revenue Commissioners may nominate any officer of the Revenue Commissioners to perform any acts and discharge any functions authorised by these Regulations to be performed or discharged by the Revenue Commissioners.



Given under the Official Seal of the Minister for the Environment and Local Government this 19th day of December 2001.

NOEL DEMPSEY

Minister for the Environment and Local Government.

EXPLANATORY NOTE.

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations provide for the imposition of an environmental levy on plastic bags and provide for the arrangements for the collection of the levy and specify the times at which the levy shall be paid.

These Regulations were notified to the European Commission in draft form in accordance with EU Council Directive 98/34/EC.

Appendix 4 Relevant Statements of Practice and Operational Instructions

Statement of Practice 1/94 (Revised February 2006)	140
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See next page for a list of other relevant documents (to which a link is provided).

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

Appendix 4

Relevant Statements of Practice and Operational Instructions

Document Title		Navigational Route on Revnet
Statement of Practice Revenue Powers [Outdoor Powers]	Statement of Practice 1/94 (SP-GEN/1/94 Revised February/2006) SP-GEN/1/94 Revised Feb 2006	Revenue.ie Publications “Statement of Practice” 1994 or 2006
New System for Recording and Reporting the Use of Powers	Part 38.04.09	
Authorisations [Replacement of Standard Identity Card with Combination Identity Card]	Part 38.04.12	
European Convention on Human Rights Act, 2003	Part 38.04.13	
Statement of Practice Revenue Powers (Finance Act 1999)	SP-GEN/1/99	Revenue.ie Publications “Statement of Practice” 1999
Revenue Information Powers – Guidance Notes and Instructions for Authorised Revenue Officers	Part 38.04.04	
Revenue Internal Review Procedures Audit and Use of Powers	Statement of Practice SP GEN/2/99 [Revised Jan 2005]	Revenue.ie Publications “Statement of Practice” 1999
Customs and Excise Enforcement Procedures Manual		
Audit Guidelines for Various Taxes Duties		

Recording the use of Powers via Common Registration System [CRS]

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

Note: This manual is currently subject to review and may not reflect up-to-date position. Most recent version.

Appendix 5 Circular 5/86: Assaults on Staff

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Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

5/86 (PC 158)

(01) 779601

Roinn na Seirbhíse Poiblí, Sraid Chill Dara
Ath Cliath 2

Telex 4806 DPS
Tagairt

Department of the Public Service, Kildare Street,
Dublin 2

Reference E109/77/83

21 April 1986

Circular 5/86: Assaults on Staff

A Dhuine Uasail

I am directed by the Minister for the Public Service to state that he has accepted an agreed recommendation made by the General Council under the scheme of conciliation and arbitration for the civil service, regarding the procedures to apply where staff are assaulted in the course of (or in connection with) carrying out their official duties (Report 1047).

2. While Departments will, of course, continue to take appropriate measures to prevent, as far as possible, staff being assaulted in the course of their duties, it has been decided to issue some general instructions on the procedures to be followed when such assaults do occur. It has been agreed, in particular, to introduce a standard report form for cases of alleged assault. A copy of this report form is attached at Appendix A.
3. Officers should be advised that the onus is on them as individuals to report cases of alleged assault to the Gardai and/or their employing Department as appropriate. Officers should be facilitated in this regard by the grant of time off where necessary. The importance of furnishing such reports as soon after the event as possible should also be brought to their notice. Departments themselves may, of course, report such cases to the Gardai where they consider it appropriate, e.g. where the individual concerned is unable, for some reason, to do so.
4. It is important that the approach adopted by Departments in dealing with cases of reported assaults be as helpful and as positive as possible. Officers assaulted while acting bona fide in the execution of their duties are entitled to expect their Department not only to advise them fully of any benefits to which they might be entitled (e.g. sick leave and recoupment of medical expenses), but also to adopt a supportive attitude in any legal action of a criminal nature which they decide to pursue.
5. Departments should, in addition, regularly review and if necessary improve their existing preventive measures in the light of any cases of assault reported to them.
6. For ease of reference, a summary of the benefits available to civil servants who are assaulted in the course of their duties is attached at Appendix B. A short note on the legal position in relation to assaults is also attached at Appendix C.
7. Some of the provisions referred to in Appendix B to this circular may also be applied in situations where officers are not on duty at the time of an assault, where it is claimed that the assault arose as a direct result of the nature of the officer's employment. Details of any such cases should be submitted to the Department of the Public Service.
8. Any enquiries from Departments about this circular should be made to Room 3.22, Department of the Public Service, South Frederick Street, Dublin 2 (Telephone 779601, Ext. 444). Personal enquiries should be made to the Personnel Unit of the employing Department.
9. Please bring this circular to the attention of all officers in your Department.

Mise le meas

WILLIAM P. SMITH
Deputy Secretary

To/
All Departments, etc.

**Note: This manual is currently subject to review and
may not reflect up-to-date position.**

Most recent version.

APPENDIX A TO CIRCULAR 5/86 (PC 158)

REPORT FORM**ASSAULT ON STAFF MEMBER WHILE ON OFFICIAL DUTIES**

This report form should be completed and submitted as soon as possible after the alleged assault.

Department/Office/Service _____

1.

Employee's Name	_____	Grade	_____
Home Address	_____	Branch	_____
	_____	Phone No.	_____
Phone No.	_____		

2.

Name of alleged	_____	Name of	_____
-----------------	-------	---------	-------

3.

Please give details of the incident (including details of personal injuries received and damage to official or personal property, if any)

4.

Are you making a claim for compensation

If "Yes" give details

YES		NO	
-----	--	----	--

Have you taken, or do you propose to take,
legal action

If "Yes" state action

YES		NO	
-----	--	----	--

5.

The above replies are correct to the best of my knowledge and belief

Signed: _____

Date: _____

Subject to review and
state position.

Summary of provisions governing occupational injuries suffered by civil servants

General

1. The purpose of this summary is to outline in broad terms the existing provisions in regard to injuries or other damages suffered as a result of assaults on staff in the course of their official duties (such injuries would normally be classed as occupational injuries). The summary is intended to act only as a general guide to these provisions, most of which are set out in detail in a number of DPS circulars. Copies of the relevant circulars may be obtained on request from the Personnel Unit of the employing Department.

Injury Warrant

2. The benefits payable to civil servants or their dependants under the Injury Warrant 1946 (as amended by the Injury Warrant 1978) may be summarised as follows:

Persons injured in the actual discharge of their duties and not by their own default by an injury specifically attributable to the nature of their duties who have to retire may be paid an annual amount ranging from one-eighth of salary (or of the difference between salary and superannuation award, if the latter is payable) if they are slightly impaired up to a half if totally impaired.

In the case of persons who **die** within 7 years of their injuries and as a direct result thereof, annual allowances (in addition to the death gratuity) of the following proportions of salary and emoluments at the date of injury may be paid to the following:

Relations	Proportion of salary and emoluments
The widow	50%
Each child, where the deceased leaves a widow to whom an award is granted	13 1/3%
For one child, where the deceased does not leave a widow to whom an award is granted	26 2/3%
For two or more children where the deceased does not leave a widow to whom an award is granted	40%
The dependant mother, where the deceased leaves a widow, but no children	5 5/9%
The dependant mother, where the deceased leaves a child or children but no widow	11 1/9%
The dependant mother, where the deceased leaves neither a widow nor any children	33 1/3%

The aggregate of children's allowances may not exceed 40% of salary and emoluments. Any contributions already paid under the civil service Spouses' and Children's Pension Scheme are refunded (as the pension under that scheme is not payable).

3. The Injury Warrant 1974 (as amended by the Injury Warrant 1975) applies only to persons who are injured (in the discharge of their duties) while travelling by air or injured by an injury directly attributable to war, civil commotion or the like. A special gratuity of up to £20,000 or three and one half times the amount of the annual salary and emoluments, whichever is the greater, is payable where persons die as a result of the injury or lose a limb or an eye or suffer total disablement rendering them unable to follow their employment. Where a person suffers temporary disablement a special allowance in respect of loss of earnings may be paid for 104 weeks. The special allowance together with sick pay (including Social Welfare benefits) must not exceed 5/6 of the person's weekly pay and emoluments at the date of the injury. Any person to whom the Warrant supplies may get vouched expenditure up to a total of £1,000 in respect of medical surgical or hospital expenses etc. Any award under this Warrant is

in addition to that under the 1946 Warrant or to any award under the Superannuation Acts.

4. Circular 20/46 and Circular Letters 3/74, 8/75 and 10/78 should be consulted for further details.

Sick Leave

5. Officers who are unfit for work as a result of having been assaulted in the course of their official duties are, of course, covered by the normal sick leave arrangements outlined in Circular 25/78. Moreover, in accordance with the terms of Circular 1/82, periods of sick leave due to occupational injury will not normally be combined with periods of “ordinary” sick leave provided the officer concerned has not been negligent. In assessing officers’ sick absence records for the purposes of promotion certain categories of absences need not be reckoned against the prescribed limits (paragraph 3.4 of Circular 34/76 refers).

Occupational Injuries Act, 1966

6. Civil Servants who pay the full Class A rate of PRSI contribution are fully covered by the Social Welfare (Occupational Injuries) Act, 1966 and are entitled to various benefits under this Act. Established officers (who pay the Class B rate of PRSI contribution) are only partially covered by the 1966 Act but the reduced benefits payable are supplemented as necessary by the employing Departments to ensure that the aggregate payments are no less than such officers would receive if fully covered. Circular 25/75 should be consulted for further details.

Medical Care

7. Claims in respect of the cost of medical care incurred as a result of an occupational injury should be made direct to the Department of Social Welfare in the case of officers who are fully covered by the Occupational Injuries Act, 1966 (see paragraph 6 of Circular 25/75). Established officers should submit such claims to their employing Department (see paragraph 14 of Circular 25/75).

Loss or damage to property

8. Civil Servants are not liable for any loss or damage to **unofficial** property as a result of being assaulted in the course of their official duties provided, of course, that there is no question of negligence on the part of the officer concerned.
9. While the State accepts no liability for **personal** property lost or damaged in the course of employment, ex gratia payments may be made in certain circumstances. Details of any such cases should, therefore, be reported to the Personnel Unit as soon after the event as possible.

Scheme of compensation for Personal Injuries Criminally Inflicted

10. While this scheme is not particular to the civil service, officers may wish to note that it provides for the payment, subject to certain conditions, of ex gratia compensation in respect of personal injury where the injury is directly attributable to a crime of violence or to circumstances arising from the action of the victim in assisting or attempting to assist the prevention of crime or the saving of human life. Full details of the scheme may be obtained from the Criminal Injuries Compensation Tribunal, 26 Pembroke St. Upper, Dublin 2, but two important points to note are
 - (a) Applications should be made as soon as possible and normally not later than 3 months after the event giving rise to the injury.
 - (b) To qualify for compensation it normally has to be shown that the offence giving rise to injury has been the subject of criminal proceedings or that it was reported to the Gardai without delay.

Conclusion

11. In order to ensure that claims in respect of any of the above are dealt with promptly it is in officers' own interests to give notice and full details of any occupational injury to their Personnel Units as soon as possible.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

Notes on the legal position in relation to assault

Important:

It must be stressed that the purpose of these notes is to outline in broad terms and in a highly simplified form the legal position in relation to assault. These notes have no legal standing whatsoever and the onus is on officers themselves to seek the necessary professional advice.

Definition of Assault

1. The word assault is commonly used to signify the two offences of assault and battery. Although not the only difference between these two offences, an important distinction is that in an assault there is no actual bodily injury, while in a battery the causing of actual bodily injury or harm is the essential ingredient. Thus, striking at another person with a stick and missing is an assault whereas if the stick had hit the other person it would be a battery.

The Civil and Criminal processes

2. Crimes are offences against the State; in this they differ from civil wrongs (i.e. Torts) which are either solely or primarily wrong to individuals. The aim of the criminal process is to determine whether an offence has been committed and to punish the offenders or to ensure that, as far as possible, a climate is provided in which their offences will not be repeated. In a civil action one party (the "Plaintiff") makes a claim against another party (the "Defendant"); the object of civil proceedings is to determine the rights of the parties and to satisfy the claim of the injured party (e.g. by way of damages or an injunction). Since crimes are offences against the State, the State takes the initiative in prosecuting criminals. The State has no function in civil cases however beyond ensuring that, so far as is possible, justice is done between the parties and the taking of a civil action is therefore a matter for the individual concerned.

Assault - a Crime and a "Tort"

3. The same set of facts can, in law constitute both a crime and a civil wrong. Both assault and battery are misdemeanours at common law (i.e. the body of "case" law which has evolved over time as opposed to statutory law) and are also statutory offences under the Offences Against the Person Act, 1861 and the Criminal Justice Act, 1951. In addition, however, assault and battery are regarded as a "tort" (i.e. a civil wrong which entitles a person who is injured by its commission to claim damages for his loss) and may, therefore, give rise to a civil action as well as a criminal prosecution.
4. As already indicated (paragraph 2 above) the initiative for taking a civil action rests with the aggrieved person. A criminal prosecution, on the other hand is normally taken by the State on foot of a complaint made by the aggrieved party although private persons may initiate a prosecution and in the case of less serious (summary) offences may conduct it as well to a conclusion.

Appendix 6 Other Materials

Revenue Customer Service Charter	166
Revenue Code of Ethics	168
Tax Prosecution Criteria	181

See next page for a list of other relevant documents (to which a link is provided).

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

Appendix 6

Other Materials

Document Title		Navigational Route
Revenue Customer Service Charter	Unnumbered	Revenue.ie About Us Revenue Customer Service Charter
Revenue Code of Ethics		
Tax Prosecution Criteria		Revenue.ie For Practitioners Key Topics Code of Practice for Revenue Auditors – Appendix 1
Code of Practice for Revenue Auditors		
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Revenue Customer Service Charter

Revenue collects taxes and duties which fund the provision of public services for the benefit of all citizens.

Revenue protects society through its Customs Service working on frontier control.

The effective and fair administration of tax and customs law requires Revenue and citizens to recognise certain basic rights and responsibilities.

This Customer Charter sets out mutual expectations in this context.

Consistency, Equity and Confidentiality

- Revenue will administer the law fairly, reasonably and consistently and will seek to collect no more than the correct amount of tax or duty.
- Revenue will treat the information you give us in confidence and ensure that it will not be used or disclosed except as provided for by law.

Courtesy and Consideration

You can expect

- to be treated courteously, with consideration and in a non- discriminatory way in your dealings with Revenue.

We expect you

- to treat Revenue officials with courtesy and to give them all reasonable cooperation.

Information and Assistance

You can expect

- to be given the necessary information and all reasonable assistance to enable you to clearly understand and meet your tax and customs obligations and to claim your entitlements and credits.

We expect you

- to provide true and correct information in all your contacts with Revenue and to advise Revenue in a timely manner of developments (such as change of address, commencement or cessation of business) that are relevant to your tax and customs affairs.

Presumption of Honesty

You can expect

- to be treated as honest in your dealings with Revenue unless there is clear reason to believe otherwise and subject to Revenue's responsibility for ensuring compliance with tax and customs law.

We expect you

- to deal in an honest way with Revenue by returning the tax and duty which you are due to pay and seeking only those entitlements and credits to which you are due.

Compliance Costs

You can expect

- that Revenue will administer the tax and duty regimes in a way that will minimise, as far as possible, compliance costs.

We expect you

- to maintain proper records and accounts and to ensure that your Returns and Declarations are completed fully, accurately and in a timely manner.

Complaints, Review and Appeal

There are comprehensive complaints and appeal procedures open to all customers of Revenue and we encourage you to avail of these if you are in any way dissatisfied with the service you receive from us.

You can expect

- That if you make a complaint, Revenue will deal with it promptly, impartially and in confidence.
- That availing of Revenue's own complaints procedures will never prejudice your rights to raise issues with the Ombudsman or lodge, within the statutory time limits, a formal appeal to the Office of the Appeal Commissioners against an assessment raised by Revenue or against certain determinations made by Revenue officials.

Full details, including contact points, are contained in [Leaflet CS4](#) which is also available in any Revenue public office and from our Forms and Leaflets LoCall number 1890 30 67 06.

Revenue Code of Ethics

Revenue Code of Ethics Key Principles

Under the terms of the Revenue Code of Ethics, as Revenue officials, we must:

Act with integrity and honesty, and within the law, at all times and in all business dealings;

Ensure that there is no conflict of interest between our duties in Revenue and any external interest;

When acting in the course of Revenue employment, comply with all applicable Revenue laws, policies and procedures and with conditions of employment;

Treat all our customers and colleagues with professionalism, courtesy and impartiality, bearing in mind our Customer and Workplace Charters;

Use established internal channels to deal with any grievances or concerns;

Maintain appropriate confidentiality and act with discretion with regard to Revenue matters;

Ensure that all Revenue resources and facilities are used in an appropriate manner;

AND

Under the terms of the Revenue Code of Ethics, as Revenue officials, we must not:

Without authorisation, disclose details of confidential matters to third parties including the media;

Accept any money, significant gift or significant hospitality;

Behave in any manner which may bring Revenue into disrepute;

Make public comment on any matter of current political interest, unless authorised to do so;

Make improper use of: (a) inside information, (b) our duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for ourselves or for any other person;

Falsify or destroy documents to conceal any mistakes or cover up any wrongdoing.

Introduction

As Revenue officials we enjoy a high reputation for honesty, integrity and maintaining the highest possible standards of professional conduct. In order to maintain taxpayer confidence, and in turn, increase compliance Revenue staff must not only be both open and impartial in all their dealings but must be seen to be so.

This Code of Ethics is for the guidance of staff and managers and as with all such codes it is not intended to be exhaustive. It addresses, in a common-sense way, situations that we may encounter in the course of our work. In case of doubt about any issue the appropriate manager should be consulted.

It is envisaged that this Code will complement the Civil Service Code of Standards and Behaviour (currently being developed), the Ethics in Public Office Acts, the Prevention of Corruption Acts, the Official Secrets Act and relevant Finance and Revenue Circulars. It is the responsibility of all staff to ensure that they are familiar with all relevant legislation and circulars that apply to their positions and to abide by the principles and provisions contained in them and in this document. Managers should be aware of their responsibilities in this regard. This Code will be issued to all staff and included in the Induction training and Management training processes.

It was considered useful that some material on Anti Fraud should be available and this has been included in Appendix 2. The Charter on Ethics in Public Procurement produced by the Forum on Public Procurement in Ireland has been included in Appendix 3 for information. A list of some of the main circulars on related issues has also been included in Appendix 4.

It is acknowledged that Revenue officials, while also acting as union officials, or who are branch representatives or spokespersons, may from time to time, make representations on behalf of their union in relation to official matters. On occasion they make public comment on matters of current public interest. These issues may arise in their role under the Civil Service Conciliation and Arbitration Scheme (e.g. in deputations to Government Departments, at Union conferences or other forums). These representations and comments, subject to the normal legal and other constraints, are generally allowable under this Code. However it must be emphasised that this applies only when officers are acting in their union capacity as distinct from their positions as Revenue officials, and where their union role is clearly understood from the context.

1. Impartiality and Fairness

Acting with impartiality means acting objectively with justice and fairness always in mind.

Revenue officials generally deal with members of the public with the utmost courtesy and impartiality and are well aware of their obligations in this regard. The high standards of Revenue in this matter should be scrupulously maintained. (In this context it should be noted that Revenue's existing Taxpayers Charter of Rights is to be revised and a New Customer Charter published in line with the action plans under "Sustaining Progress".)

Each officer should continually bear in mind the obligations to act with due courtesy and consideration in all his/her official contacts whether at meetings, personal interviews, written, email, telephone or otherwise and to avoid any suggestions of prejudice. Impartiality, fairness and freedom from prejudice in official contacts are fundamental ingredients of the integrity expected of Revenue officials.

Officials must ensure that their work is guided by our commitment to fairness in all business dealings. Officials must accept the need to value all customers and treat all customers equitably. With this in mind, all officials must ensure that they do not discriminate unlawfully against any individual, colleague or client. We should familiarise ourselves with Equality legislation and guidelines that prohibit discrimination and harassment.

2. Conflict of Interest

Revenue officials must not involve themselves in any case, personal, family or otherwise, which does not fall to be dealt with by them in the normal course of their duties or responsibilities. This includes processing or otherwise dealing with records of such cases. The official must not seek to direct or influence a subordinate or colleague to deal with such cases in any manner outside of normal procedures.

If, in the course of official duties, a Revenue official is actually assigned, or comes across, a case in which they (or a relative or friend) have a personal or business interest the nature and extent of the interest must immediately be disclosed to their manager. They must not deal with that case unless, in exceptional circumstances, their manager directs him/her to deal with it. This applies to staff engaged in policy-type work as well as the more operational work.

While acknowledging that a member of staff may engage in another occupation, we, as Revenue officials, must not engage in any outside activity (including any business activity) which conflicts in any way with official duties, impairs performance or compromises our integrity as Revenue officials. For example, no Revenue official should act as an agent, advisor, etc. in relation to Revenue matters. Any official considering engaging in, or getting involved in, any outside business or employment must inform his or her manager.

Within this context, Revenue officials are required to keep their financial affairs in order. This includes the obligation to keep tax affairs in order. This obligation extends

to the affairs of any outside occupation or business activity including the affairs of any company (including any workrelated entity) of which an official might be a principal, such as a director or secretary. If a company, social club or other organisation with which they are associated, has difficulties meeting its debts, including its tax liabilities, the official should inform their manager.

Revenue officials must never seek to use confidential knowledge acquired in the performance, or as a result of, their official duties to benefit themselves, or others which whom they have personal, family or other ties. An officer who, in the course of his or her official duties, comes into contact with any matter affecting any commercial undertaking in which he or she has an interest, must immediately disclose the nature and extent of that interest to their manager.

A Revenue official is not permitted to make representations on behalf of an outside association or organisation, either as an individual or as a member of a delegation, in relation to specific tax or customs matters where they have knowledge or information acquired in the course of their work. In any case of doubt the staff member should consult his/her manager. This does not affect trade union officials' activities under the Conciliation and Arbitration Scheme for the Civil Service.

Disclosure of Conflicts of Interests

If there is any doubt about whether a conflict of interest exists, the official must consult his/her manager.

Ethics in Public Office Acts

Officials who occupy positions which are 'designated positions' for the purposes of the Ethics in Public Office Acts 1995 and 2001 have certain statutory obligations in relation to disclosure of interests on an annual basis and on an ad hoc basis. (Generally, 'designated positions' are all positions at Principal level and above and some less senior positions having responsibility in relation to contracts for the purchases of goods and services and/or approving payments for goods and services). It should be noted that the Civil Service Code of Standards and Behaviour (which applies to all civil servants) has more stringent conditions in relation to the acceptance of gifts and hospitality than the Ethics in Public Office Acts. Managers must notify an officer on taking up duty in a designated position of the obligations attaching to that position.

3. Gifts and Hospitality

Because of the kind of the work Revenue staff do and in particular, the continuous interaction with taxpayers, officials need to be particularly careful in relation to the acceptance of hospitality, gifts, discounts or favours of any kind as this may leave them open to the perception that they are inducements which could put them under an obligation. An overriding principle is that to solicit or request any such gift, favour or hospitality is absolutely prohibited. The Civil Service Code of Standards and Behaviour gives general guidelines as to regulations concerning gifts and hospitality. Some examples given in this code are:

- "Cash or cash vouchers may not be accepted regardless of the amount.
- Subject to any rules which the Head of the Department/Office may determine, an officer may accept or retain gifts of modest value (e.g. diaries, pens, etc). Any gift of more significant value should be refused or, if such refusal would cause offence, should be handed over by the civil servant concerned to his/her Department/Office.
- Particular care should be taken in relation to gifts from donors who stand to derive a personal or commercial benefit from the relationship with the Department/Office concerned."

The appropriate reaction to an offer of a gift or hospitality will depend very much on the context in which it is offered. Minor hospitality may be accepted when placed in a context where no inference or perception of favourable treatment may be drawn. Care should be taken that the acceptance of such hospitality by Revenue staff will not influence them, or be seen to influence them, when discharging their official functions.

On occasion staff in Revenue may receive an unsolicited low-value gift or small amount of cash from a customer as a gesture of appreciation for some task they have carried out. It is appreciated that it might be a source of embarrassment to the customer should it be returned. However all such instances should be reported to the District Manager/Head of Branch who will decide what action to take.

The mere transmission of a gift or packet by reception staff to, or on behalf of another individual, is not regarded as "acceptance of a gift" by reception staff in the context of this Code.

To **solicit** or request any gift or hospitality is expressly forbidden.

The following situations are examples of where the **acceptance** of gifts/hospitality are expressly forbidden:

- Officers who are involved in procurement/tendering may not accept any gifts/hospitality in the context of those processes.
- Officers who are involved in challenging members of the public e.g. Customs and Excise operations, tax anti-evasion work, should not accept gifts/hospitality under any circumstances.
- Staff visiting a taxpayer premises, should be particularly aware never to accept significant hospitality/gifts/etc. While the acceptance of light refreshments e.g. tea/coffee, biscuits, use of the staff canteen, etc. will not usually cause difficulty, this will depend very much on the context.

If an officer has any doubts, he/she should consult his/her manager.

- The acceptance of hospitality such as weekends away/ free or cheap flights is not permitted.

In any case of doubt or uncertainty in relation to any of the above, the manager should be consulted.

4. Integrity and Honesty

Integrity can be broadly defined as adherence to moral principles. It relates to supporting the values of being honest and upright. Within the context of this document, this means that Revenue officials should bear these principles in mind when carrying out their official duties and should apply these principles consistently.

Abuse of knowledge or Influence

Any knowledge of procedures, practices, policies, activities or systems gained in the course of official duties, such as information on verification procedures and audit risk rating, Tax or Customs policy issues or indeed Personnel and Human Resources issues must not be used to seek an advantage for the official or for others. Such knowledge may only be used within the normal course of an officer's assigned duties and must not be made known outside the official's normal areas of work.

Likewise, when an officer leaves Revenue on retirement, resignation or career break they must not seek any similar or otherwise inappropriate advantage from such information gained in the course of their work when in Revenue.

Revenue staff must not use their official position to gain any private advantage. For example, any identity or other Revenue card issued must not be used for any purpose other than the specific one for which it was issued. As Revenue officials we must never use our official position in connection with any personal conflict (for example, a dispute with a neighbour). Our official position must not be used to gain sponsorship or support or any other benefit from any person or business for any club, association, or other organisation. See also Section 3 on Gifts and Hospitality.

5. Discretion

Discretion means demonstrating sound judgement and prudence, for example, caution in managing one's activities, being circumspect in conduct and communication, etc. Bearing this in mind, all Revenue officials must act with appropriate discretion and keep secret any fact or information that they acquire which is considered confidential. When Revenue officials exercise discretion (i.e. judgement) in the course of their work, it is critical that such discretion is applied fairly and without bias.

Confidentiality

The Official Secrets and the Taxes and Customs Acts etc. continue to apply to the disclosure of information, other than Revenue's specific procedures for compliance with Freedom of Information legislation. Certain Revenue officials are designated to provide information under Freedom of Information legislation.

Issues may arise in the course of court cases/enforcement proceedings in relation to disclosure of taxpayer or other confidential information. Where possible, officers should consult with their manager in advance.

Revenue officials must not communicate directly with the media. There is a need at all times for a high standard of behaviour in matters touching on official secrecy. It is essential that officials should never make unauthorised communications directly or indirectly in reference to matters which come to their knowledge in the course of their official work and should refrain from mentioning such matters to anyone outside their work area.

Particular care should be taken to safeguard information concerning the private affairs of members of the public or concerning the commercial affairs of companies or organisations. Officers are reminded of the Declaration of Confidentiality and Department of Finance circular 15/79 concerning official secrecy and integrity which they signed when they joined Revenue, and must safeguard information they may come across in their work, in accordance with those declarations and undertakings.

Revenue officials should remember that the application of this Declaration, of the Official Secrets Act and of this Code of Ethics extends beyond the normal working day. Revenue officials who have retired or are on career break or special leave should also be aware of and adhere to their obligations. We must remember not to discuss any sensitive aspect of our work in the public domain, or in social situations where we may be overheard.

Particular care and discretion should also be exercised with regard to the private affairs of all Revenue staff.

Grievances

There are well-established procedures in Revenue and the civil service for dealing with individual concerns and grievances. These include the processes set out in Department of Finance Circular 11/2001 (Grievance Procedure) and in such publications as “A Positive Working Environment –An Anti Harassment, Sexual Harassment and Bullying Policy for the Civil Service”. For advice in relation to these issues, Personnel Branch and the Employee Assistance Service in Human Resources Division are available and line managers also have a role in relation to these matters. Staff members may also wish to contact their own trade union.

6. Professionalism

Dress Code

Revenue officials should be dressed in a clean, neat, tidy and appropriate manner and having regard to the nature of the work being performed. A practical and reasonable approach should be adopted by all concerned. We should bear in mind when dealing with the public and indeed with our own colleagues, that we represent Revenue, and should convey the professional image of the organisation. Where uniforms are provided, they should be clean and tidy.

Courtesy

Civility and courtesy mean treating others with respect, kindness and diligence. A number of guidelines can be listed: being polite, avoiding all forms of discrimination or harassment, respecting the confidentiality/secrecy of personal and tax information, handling files diligently, returning calls, being highly attentive in order to avoid errors that may have serious consequences for citizens, striving always to provide the information requested, in compliance with Freedom of Information and other relevant legislation.

The standards set out in the Revenue Taxpayers Charter of Rights (currently being updated) should influence our dealings with the public. In our dealings with members of the public, we should always be aware of the above principles of courtesy and ensure that members of the public are always dealt with efficiently and in a respectful manner.

Workplace Charter

Officers should familiarise themselves with both the Workplace Charter and the Internal Communications Statement of Policy and the principles embodied in them. These documents outline how staff can expect to be treated, and how they, in turn, should treat their colleagues.

7. Payment for work on behalf of outside bodies

It is not uncommon for Revenue officials to carry out tasks for which they receive payment or other benefit in kind on behalf of bodies other than the Revenue Commissioners, as a consequence of their official positions. While, in many instances, this practice does not give rise to problems, there are certain circumstances where difficulties may arise, such as where the task performed forms part of the official duties of a civil servant or is performed during normal working hours. The guidelines laid out in Appendix 1 should provide a framework within which decisions in this area can be made. Managers should ensure that they understand these standards and that they have been clearly articulated to all staff. There should be a consistent, appropriate and clear standard applied across Revenue in relation to the acceptance of payment or other benefit in kind for work carried out on behalf of other organisations.

Appendix 1 to Revenue Code of Ethics

Extract from the proposed Civil Service Code of Standards and Behaviour:

Payment for work on behalf of outside bodies:

• Where because of his/her official position, a civil servant is invited to carry out work on behalf of an outside body, he/she shall notify his/her Personnel Officer in advance and may not seek or retain payment (other than appropriate travel and subsistence expenses) or other benefit in kind where the proposed activity is part of the civil servant duties. Where a payment is made, it should be surrendered to the Personnel Officer, who will lodge it to the Department's account. Any benefit in kind should be returned to the body in question.

- A civil servant may accept a modest payment or benefit in kind if the task, while work related, is not an integral part of his official duties and if it is carried on outside of normal working hours.
- The question of whether or not a task is an integral part of a civil servant's official duties may normally be determined by reference to the relevant work programmes. In case of doubt the civil servant should request his/her manager to determine if the task is an integral part of official duties.
- In cases where no payment or other compensation arises a small token gift may be accepted by a civil servant by way of recognition.
- Where a civil servant has any doubts concerning the acceptance of payment/compensation from bodies outside of the Department/Office, the matter should be referred to a manager for determination in accordance with the guidelines outlined above. If a civil servant is unhappy with the decision of a senior officer, they may appeal the matter to the Personnel Officer or the Head of the Department/Office as appropriate.

Appendix 2 to Revenue Code of Ethics

Anti Fraud issues

This appendix outlines some of the issues involved in combating fraud and outlines some guidelines for managers and staff.

Fraud

Fraud usually involves taking money or services to which an individual is not entitled. The European Union has defined fraud as being:

“any intentional act or omission” relating to

- *The use or presentation of false, incorrect or incomplete statements or documents.*
- *Non-disclosure of information in violation of a specific obligation.*
- *Misapplication of Community funds for purposes other than those for which they were granted which has the effect of misappropriating or wrongfully retaining Community funds or the illegal diminution of Community own resources.”*

At the outset it must be stated that the incidence of fraud in Revenue has been quite rare and that Revenue officials have an excellent reputation in this regard.

Despite our good record in this area to date officers in Revenue still need to be particularly aware of the risks of fraud within their own section. Because Revenue constantly deals with a vast amount of money, all of us need to be particularly vigilant, and ensure that all procedures are carried out correctly. There are certain actions that all members of staff can carry out to combat fraud, both in the public domain and in our own section. It is important to understand that fraud can occur, and that all staff must be aware of this fact.

It is the duty of the line manager to ensure that all procedures and controls are understood by staff, and applied correctly. These controls should be reviewed regularly. Line managers should also ensure that jobs and duties are rotated as necessary. They should also ensure that their section's procedures are robust so as to reduce the opportunity for fraud.

If a member of staff reports a suspected fraud to a line manager or if a suspected fraud is otherwise uncovered, a preliminary assessment must be arranged by the local senior manager. The assessment and subsequent report to the Assistant Secretary for transmission to the Board and the Personnel Officer must be completed immediately, or at the very latest, must take no longer than seven days in order to avoid any delays in resolving the matter. The line manager should be careful not to prejudice any disciplinary or other action that may be necessary when the investigation has been completed. An Internal Investigator may then be appointed.

Under no circumstances should an individual officer confront or interview suspects, or contact the Gardai. This is a matter for senior managers to initiate. [The actual decision to call in the Gardai in the case of suspected fraud would normally rest with the Board (or the appropriate Assistant Secretary following appropriate consultations

with the Personnel Officer and/or the Board.)) At all stages during investigation into a suspected fraud, the Workplace Charter must be considered, and the presumption of honesty of officials must be upheld, unless there is evidence to the contrary.

Bearing this in mind, the possibility of false allegations must be realised by managers, and every precaution should be taken to ensure that this situation is avoided where possible. However it is important to act quickly in cases of suspected fraud to preserve evidence and it is vital that all allegations of fraud are taken seriously and are recognised as being taken seriously by staff.

Management bears primary responsibility for the prevention and detection of fraud. Line managers and individual officers in Revenue should be aware of the contents of Department of Finance Circulars 11/2001 and 1/92 which set out the procedures for dealing with grievance and disciplinary matters in the civil service.

Internal Audit performs a central role in the examination and assessment of internal controls and senior managers should consult with Internal Audit on any concerns they may have in relation to matters of probity that may impact on such controls.

Appendix 3 to Revenue Code of Ethics

CHARTER ON ETHICS IN PUBLIC PROCUREMENT

This Charter was produced by the Forum on Public Procurement in Ireland (FPP), a non-profit body concerned with purchasing within the Public Sector.

Bearing in mind the scale and value of expenditure involved in the public procurement market, the Forum on Public Procurement has consulted with representatives of the public agencies and suppliers engaged in the marketplace in order to seek a consensus on the appropriate ethical behaviour which should apply in transacting business.

While it is recognized that good working relationships between buyers and suppliers are essential to the delivery of a quality public service, it is acknowledged that ethical standards must be maintained at all times and by all parties.

The purpose of this Charter is to set appropriate boundaries for ethical behaviour to be adhered to by all those involved in the procurement process.

Those involved in the public procurement process should adopt a suitable Code of Ethics based on this Charter requiring all relevant personnel to behave in accordance with strict ethical rules in discharging their duties in the procurement field. (This is a requirement under the existing Code of Practice for Governance of State Bodies.) In particular, personnel directly engaged in procurement, or in a position to influence decisions on contract awards to any extent, should be required formally to commit themselves to adhere to the in-house Code of Ethics.

The Chairperson of each State Body in his/her annual report to the relevant Minister should affirm that a Code of Ethics is in place and adhered to (see also Code of Practice for the Governance of State Bodies, para. 10.2(iv)).

Codes of Ethics as drawn up and implemented should address at least the following areas:

- Gifts
- Hospitality
- Sponsorship
- Conflict of Interest
- Confidentiality
- Anti-Competitive Behaviour

GIFTS

Gifts or financial rewards of any significance may under no circumstances be offered, accepted or solicited.

Without prejudice to the above, however, unsolicited gifts of low or nominal intrinsic value may be offered and accepted.

HOSPITALITY

Hospitality must never be solicited.

Meals: normal business practice may occasionally justify dining with a supplier, but only subject to internal guidelines.

Golf Outings and other Entertainment: these may be accepted as hospitality only on a limited basis and again subject to internal guidelines.

Travel and/or Accommodation Expenses: may never be accepted or paid for by suppliers.

SPONSORSHIP

Sponsorship must never be solicited from suppliers and where offered may only be accepted when expressly approved in writing by management.

CONFLICT OF INTEREST

Persons operating within the purchasing/supply chain must refrain from using either their personal position or the organisation's resources for gain.

All forms of personal interest in supplier and purchasing organisations other than in publicly quoted companies, including any shareholdings and/or personal relationships which could give rise to conflict of interest, must be disclosed to management in writing.

CONFIDENTIALITY

All supplier and tender information relating to the tender process must be treated in the strictest confidence, at least up to the time of contract award. Disclosure of such information, and in particular to another interested party, is strictly prohibited. Adherence to this principle is fundamental to the participation of all parties to the procurement process.

After the award of contract information may be provided in accordance with the FPP Debriefing Charter, or may be subject to FOI legislation where invoked or to the provisions of EU procurement directives.

All confidential information must be properly safeguarded.

ANTI-COMPETITIVE BEHAVIOUR

Suppliers and purchasers must not engage in any practice which distorts or is likely to distort fair and open competition.

This Charter on Ethics in Public Procurement has been formally approved by the board of FPP.

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Appendix 4 to Revenue Code of Ethics

Selection of Revenue and Department of Finance Circulars and letters relevant to this code

Revenue

- E 4998 Conflicts of Interest (07/05/92),
- E 5476 Freedom of Information (21/04/98),
- Letter to all staff concerning Confidentiality (May 1994)

Dept of Finance

Civil Servants and Political Activity

- 7/99 Civil Servants as Candidates for Local Authority Elections (12/03/99)
- 22/74 Civil Servants as Candidates for Local Authority Elections (17/05/74)
- 21/32 Civil Servants and Politics (03/06/1932)
- Letter– Representations made through political and other channels (18/12/1922)

Ethics

- 4/2002 Standards in Public Office Act, 2001 (14/01/02)
- 2/97 Ethics in Public Office Act, 1995 (17/01/97)
- 37/95 Ethics in Public Office Act, 1995 (14/12/95)

Grievance and Disciplinary Procedures

- 11/2001 Revised procedure for dealing with grievance problems (Feb 2001)
- 1/92 Procedures for dealing with grievance and disciplinary problems (03/02/92)
- 9/84 Procedures for dealing with grievance and disciplinary problems (16/04/84)

Other

- 15/79 Official Secrecy and Integrity (02/04/79)
- 7/98 Freedom of Information Act (21/04/98)

More information on Department of Finance circulars is available at www.codpearsanra.gov.ie

Tax Prosecution Criteria

[Appendix 1 of Code of Practice for Revenue Auditors]

Introduction

The main drive against tax evasion is through the Revenue Audit and Investigation programmes. These have proved to be extremely effective in collecting tax and interest and in penalising tax fraud and tax evasion. The tougher stance being taken against the most serious tax offenders/offences through the prosecution programme means that those convicted (in addition to paying tax, interest and penalties due) can also be punished by a fine or imprisonment or both.

Directions that a case should be prosecuted are made by the Director of Public Prosecutions only if the Director is satisfied, on the evidence, that there is a case to answer. The work involved in collating such evidence and in the processing of a prosecution case, is time consuming and resource intensive. As resources are finite, it is important that they are employed only on the most important cases. Less worthy cases should not be prosecuted at the expense of more important cases. It is equally important that the approach to prosecution is fair and consistent (without being rigid). To achieve these objectives, a set of criteria to identify the type of offences that are most likely to be prosecuted, and the factors which influence the decision to investigate with a view to prosecution, has been compiled as follows:

Type of tax offences which are most likely to be prosecuted.

- Use of forged or falsified documents
- Systematic scheme to evade tax
- False claims for repayment
- Failure (as distinct from minor delays) in remitting fiduciary taxes
- Deliberate and serious omissions from tax returns
- Use of offshore bank accounts to evade tax
- Insidious schemes of tax evasion
- Aiding and abetting the commission of a tax offence
- Offences under the *Waiver of Certain Tax, Interest and Penalties Act, 1993*.

Having identified an offence of the type described above, the following factors will be considered before the decision to investigate with a view to prosecution is taken:

- The strength of the available (or likely to be available) admissible evidence. It must be considered sufficiently strong to enable the Prosecution to prove beyond reasonable doubt that the alleged offender was guilty of the alleged offence.

- The period of time since the alleged offence was discovered bearing in mind that delay in initiating proceedings may damage a case
- The likely length and expense of a trial. The cost of pursuing prosecution should not be disproportionate to the possible benefit to be obtained.
- The degree of culpability, responsibility and experience of the alleged offender
- The need for deterrence, both personal and general, in relation to particular offences
- Whether the alleged offender has made a full disclosure of the irregularities, has cooperated in reaching settlement and has paid all the tax, interest and penalties which are due.

The list of criteria is not exhaustive but aims to give Revenue officials an outline of the type of offences which can be prosecuted and the factors which, alone or in combination, can influence a decision to investigate a case with a view to prosecution.