

Failure to cooperate fully with a Revenue Compliance Intervention

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1. Self-Assessment

It is a fundamental principle of self-assessment tax systems that returns filed by compliant taxpayers are accepted as the basis for computing their tax liabilities. Revenue promotes compliance with the tax system by vigorously pursuing those who do not file returns, by auditing, investigating or making enquiries into selected returns and by taking appropriate action against tax evaders. Revenue challenges aggressive tax avoidance schemes and the unintended use of legislation that may threaten tax yields and the perceived fairness of the tax system.

Revenue's programme of compliance interventions aims to minimise the burden on the compliant taxpayer and tackle, in a thorough and effective way, the non-compliant taxpayer.

2. Failure to cooperate fully with a Revenue compliance intervention

Where a case is selected for a Revenue compliance intervention, it is expected that the taxpayer and his/her accountant and/or tax practitioner will cooperate fully with the compliance intervention so that the matters under enquiry by Revenue can be resolved without delay. Whilst full cooperation is a matter to be examined on a case-by-case basis, certain scenarios *may* be regarded as 'failure to cooperate fully' with a Revenue compliance intervention. Such scenarios include a failure to:

- facilitate scheduled compliance interventions or related meetings;
- have appropriate personnel available at the time of the compliance intervention;
- provide some or all of the books, records, linking papers or other documents of the business, on a timely basis;
- communicate with Revenue in a timely, responsible and reasonable manner;
- meet agreed deadlines for the submission of outstanding returns or replies to outstanding queries;
- reply fully to specific written queries raised by Revenue;

- supply the required clarification and/or technical support at a pre-audit preliminary meeting organised to identify and understand the accounting/electronic systems in use in the business;
- provide specific electronic books, records, other documents of the business or access requested by Revenue, which includes failure to:
 - provide access to specified electronic records at all reasonable times;
 - facilitate the extraction of specified data files from electronic records;
 - provide data extracts in an accessible format;
 - provide details as to how and where data is stored on systems (e.g. location, file name, passwords, etc.);
 - provide access to back-ups of data.

The frequency of occurrence of the above failures is a factor to be taken into account in considering whether 'failure to cooperate fully' arises. However, where a person believes that reasonable grounds prevent him/her from cooperating fully with a Revenue compliance intervention, he/she should be requested to make a written submission on the matter.

3. Penalty consequences of failure to cooperate fully

The types of compliance interventions conducted by Revenue are outlined in detail at paragraph 2.2 of the [Code of Practice for Revenue Audit and other Compliance Interventions](#) (the Code). Revenue compliance interventions generally include Revenue Investigation, Revenue Audit, Aspect Query and Profile Interview.

Legislation provides that, where a person has deliberately or carelessly made an incorrect return etc., that person shall be liable to a penalty. That penalty may be reduced where that person fully cooperates with a Revenue intervention. Such tax geared penalties and reductions are provided for in section 1077E Taxes Consolidation Act (TCA) 1997; section 116 VAT Consolidation Act 2010; section 58 Capital Acquisitions Tax Consolidation Act 2003 and section 134A Stamp Duties Consolidation Act 1999.

Details on penalties and reductions in penalties for cooperating fully are as set out in the Code.

4. Use of Revenue Powers

The majority of taxpayers appreciate that a self-assessment system of tax administration needs to be backed up by appropriate procedures to verify returns and liabilities, and they cooperate fully with Revenue requirements in this regard. This means that in everyday verification situations only basic powers are relied upon, for example, those allowing entry to a business premises to examine books and records. Most taxpayers cooperate voluntarily even without the formal use of these powers.

However, a small minority of taxpayers seek to evade their obligations and do not cooperate with Revenue. There are, therefore, situations where the formal use of powers is necessary to obtain the books, records and other information required to determine a person's tax and duty liabilities. Various enactments enable authorised Revenue officers to request a person to produce various books, records, information, etc.

Revenue is conscious of its responsibility to use these powers with discretion and in a manner which is even-handed and ensures fairness of procedures, having due regard to the rights, as well as the obligations, of taxpayers who are the subject of these powers. These powers include:

- Power to call for production of books, information, etc. (section 900 TCA 1997);
- Application to High Court: production of books, information, etc. (section 901 TCA 1997); and
- Information to be furnished by third party: request of an authorised officer (section 902 TCA 1997).

Further information is available in the [Guidance Notes and Instructions on the use of Revenue Information Powers](#).

Where that person does not comply with such a request, that person is liable to penalty [see, for example, the fixed penalty in section 900 TCA 1997 (Power to call for production of books, information, etc.); section 903 TCA 1997 (Power of Inspection: PAYE) and section 904 TCA 1997 (Power of inspection re RCT)]. Such a penalty is 'stand alone' from the tax geared penalties.

5. Action to be taken where there is failure to cooperate fully

5.1 Agent cases

When there is a delay in initiating, progressing or finalising a Revenue compliance intervention, the case worker/manager should -

- (a) prepare a file note setting out the information requested, the nature and date of contacts and the responses (if any) received;
- (b) prepare a letter to the agent -
 - (i) outlining the information previously requested;
 - (ii) expressing dissatisfaction with the delays experienced in submitting the information requested;
 - (iii) informing that if the required information is not received within 21 days, Revenue will consider the matter as one of non-cooperation with a Revenue investigation or inquiry for the purposes of the client's liabilities (if any) to penalties; and
 - (iv) advising that a copy of the letter has issued to the client.

Template letters are included at Appendix A and Appendix B and a copy of the Penalty Matrix at Appendix C, should also be included with these letters. These letters should be signed by the Principal Officer and a copy retained on file.

5.2 Non-Agent cases

Where there is no agent or tax practitioner involved in a case but there is a failure to cooperate fully by the taxpayer with the Revenue compliance intervention, the taxpayer should be advised by letter that:

- Where any person deliberately or carelessly fails to comply with a requirement to deliver a return or delivers an incorrect return, and a tax or duty default arises, that person shall be liable to a penalty;
- Where that person does not cooperate fully with the Revenue compliance intervention, that person is not entitled to the benefit of a reduced penalty;
- The person shall be liable to a penalty commensurate with this lack of full cooperation.

A template letter is attached at Appendix D. A copy of the Penalty Matrix should also be attached to this letter which should be signed by a Principal Officer and a copy retained on file.

6. Revenue Compliance Interventions - Taxpayer's Responsibilities

Where an agent/tax practitioner has prepared a tax return or other information for submission to Revenue, the taxpayer is nevertheless responsible for the accuracy of the return and/or information provided.

Ultimately, it is the taxpayer's responsibility to ensure that all Revenue queries are fully resolved to the satisfaction of the Revenue officer.

Appendix A – Letter to Agent/Tax Practitioner

Dear Agent / Tax Practitioner

Re:

I refer to previous correspondence.

Despite requests, I have not received the following:

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If the above information is not received within 21 days, Revenue will consider the matter as one of non-cooperation by your client with a Revenue compliance intervention for the purposes of the client's liabilities (if any) to penalties (see penalties matrix attached). A copy of this letter has been sent directly to your client today, a copy of which is attached for your information.

Yours faithfully,

Principal Officer

Appendix B – Letter to the Taxpayer (where the taxpayer has an agent).

Dear Taxpayer,

I attach copies of recent correspondence issued to your Agent/Tax Practitioner.

You may be aware that Revenue has been corresponding with your Agent seeking information relating to various aspects of your tax affairs. However, to date, such information has not been submitted. Notwithstanding that you may have an agent acting on your behalf, compliance with your tax and duty obligations is your responsibility as is the provision of information requested by Revenue.

It is appreciated if you would give this matter your immediate attention by providing, or arranging for your Agent to provide, the requested information within the next 21 days.

I wish to bring to your attention that, if it is the case that you are liable to penalties, such penalties (see penalties matrix attached) may be reduced where you make a voluntary disclosure of undisclosed tax liabilities and/or cooperate fully with a Revenue compliance intervention.

Yours faithfully,

Principal Officer

Appendix C – Penalties Matrix to be included with compliance letter issued

Where liability to a penalty arises, the penalty is calculated using the percentages outlined in the Penalty Matrix below:

PENALTY MATRIX	CATEGORY OF DEFAULT	PENALTY	QUALIFYING DISCLOSURE MADE – FULL COOPERATION	
			Prompted Qualifying Disclosure and full cooperation – penalty reduced to:	Unprompted Qualifying Disclosure and full cooperation – penalty reduced to:
All tax/duty defaults where there is a qualifying disclosure	Penalty table for tax/duty defaults that occurred on or after 24/12/2008	Where full cooperation not given by taxpayer		
All qualifying disclosures in this category	<i>Careless¹ behaviour without significant consequences</i>	20%	10%	3%
First qualifying disclosure in these categories	<i>Careless behaviour with significant consequences²</i>	40%	20%	5%
	<i>Deliberate³ behaviour</i>	100%	50%	10%
Second qualifying disclosure in these categories	<i>Careless behaviour with significant consequences</i>	40%	30%	20%
	<i>Deliberate behaviour</i>	100%	75%	55%
Third or subsequent qualifying disclosure in these categories	<i>Careless behaviour with significant consequences</i>	40%	40% (no reduction)	40% (no reduction)
	<i>Deliberate behaviour</i>	100%	100% (no reduction)	100% (no reduction)
NO DISCLOSURE MADE	CATEGORY OF DEFAULT	PENALTY	FULL COOPERATION PENALTY REDUCED TO:	
All defaults where there is no qualifying disclosure	<i>Careless behaviour without significant consequences</i>	20%	15% of tax/duty default	
	<i>Careless behaviour with significant consequences</i>	40%	30% of tax/duty default	
	<i>Deliberate behaviour</i>	100%	75% of tax/duty default	
Where a 'qualifying disclosure' is made, the taxpayer is not subject to prosecution or publication on the list of tax defaulters in relation to the matter that gave rise to the tax/duty default. For third or subsequent qualifying disclosures in the 'careless behaviour with significant consequences' or 'deliberate' behaviour categories, the percentage penalty is not reduced.				
Liability to a tax-gearred percentage penalty arises on the "difference" (see paragraph 5.5.1 Code of Practice 2017) between the tax liability / tax claim on the incorrect and correct returns				

Revenue policy and procedures in relation to all Revenue Compliance Interventions are outlined in the [Code of Practice for Revenue Audit and other Compliance Interventions](#) which is available on www.revenue.ie

¹ In tax legislation, the term used is 'carelessly but not deliberately'. The penalty percentages shown are as outlined in legislation.

² 'Significant consequences' is explained in paragraph 5.6.1 (b) of the Code of Practice 2014

³ In tax legislation, the term used is 'deliberately'. The penalty percentages shown are as outlined in legislation.

Appendix D – Letter to taxpayer with no agent

Dear Taxpayer,

Re:

I refer to previous correspondence.

Despite requests, I have not received the following:

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If the above information is not received within 21 days, Revenue will consider the matter as one of non-cooperation by you with a Revenue compliance intervention for the purposes of liabilities (if any) to penalties (see penalties matrix attached).

I wish to bring to your attention that, if it is the case that you are liable to penalties, such penalties (see penalties matrix attached) may be reduced where you make a voluntary disclosure of undisclosed tax liabilities and/or cooperate fully with a Revenue compliance intervention

Yours faithfully,

Principal Officer