

## **Cessation of a trade or profession or change in accounting date – review of preceding year**

### **Part 04-03-05**

This document should be read in conjunction with sections 65 and 67 of the Taxes Consolidation Act 1997

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## 1. Introduction

This manual sets out the approach to be adopted when a revision of a preceding year is required either because of the permanent cessation of a trade or profession or because of a change in accounting date.

Where such an adjustment is required, the taxpayer is obliged to bring the revision of the preceding year to the notice of Revenue.

## 2. Cessation of a trade or profession

Where a trade or profession is treated as ceasing permanently and the taxpayer has been charged for the tax year preceding the year of cessation on the basis of the profits of a period of 12 months ending in that year, the profits of that year must be recalculated on an actual (Calendar year) basis.

Where this profit is higher than the profit already assessed for that year, the assessment for that year must be increased to the profits as recalculated (section 67 Taxes Consolidation Act 1997). Where the recalculated profits are the same or lower than the profits already assessed for that year, no adjustment is required to be made (section 67 provides only for an upward adjustment of the profits).

Where an adjustment is required, the computation of the profits to be included in the return for the preceding year is the recalculated profits. The return is to be amended at the same time as the return for the final year of trading is submitted and the additional tax due paid.

### Example 1

Mr Z, a painter, permanently ceased to trade on the 31st May 2018. His accounts were normally prepared to year end 31st August.

Taxable profits for the 9-month period ended 31st May 2018:	€30,950
Taxable profits for the year ended 31st August 2017:	€34,510

For tax year **2018** the profits assessable from the painting trade are those from the 1st January 2018 to the 31st May 2018 (section 67):

$€30,950 / 9 \times 5 = €17,194$ .

**Assessable profit tax year 2018:      €17,194**

For tax year **2017** the profits are to be recalculated based on the calendar year January 2017 to December 2017 (section 67) as follows:

$€34,510 / 12 \times 8 = €23,007$	(8 months January 2017 to August 2017)
$€30,950 / 9 \times 4 = €13,756$	(4 months September 2017 to December 2017)

Total assessable profits on actual (calendar year) basis:

$€23,007 + €13,756 = €36,763$

As this amount is higher than the profits already assessed, €34,510, an adjustment of the 2017 return or assessment **is** required to be made under the provisions of section 67 Taxes Consolidation Act 1997.

### Example 2

Ms Y, a carpenter, permanently ceased to trade on the 31<sup>st</sup> July 2018. Her accounts were normally prepared to year end 31<sup>st</sup> August.

Taxable profits for the 11-month period ended 31 <sup>st</sup> July 2018:	€28,950
Taxable profits for the year ended 31 <sup>st</sup> August 2017:	€35,420

For tax year **2018** the profits assessable from the carpentry trade are those from the 1<sup>st</sup> January 2018 to the 31<sup>st</sup> July 2018:

$$€28,950 / 11 \times 7 = €18,422$$

### Assessable profit tax year 2018: €18,422

For tax year **2017** the profits are to be recalculated based on the calendar year (January 2017 to December 2017) as follows:

$$\begin{aligned} €35,420 / 12 \times 8 &= €23,613 && (8 \text{ months January to August 2017}) \\ €28,950 / 11 \times 4 &= €10,527 && (4 \text{ months September to December 2017}) \end{aligned}$$

Total assessable profits on actual (calendar year) basis:  
 $€23,613 + €10,527 = €34,140$

As this amount is lower than the profits already assessed, €35,420, an adjustment of the 2017 return or assessment **is not** required to be made under the provisions of section 67 Taxes Consolidation Act 1997.

## 3. Change in accounting date

Similarly, where in a tax year there is a change in accounting date, the assessment for the preceding year must be increased to the profits of a corresponding period of 12 months (section 65(3) Taxes Consolidation Act 1997).

Section 879 Taxes Consolidation Act 1997 provides that the amount of profits or gains to be included in a return of income are the profits computed in accordance with the Income Tax Acts. Where under section 65 the profits of a year ending on a date within the year of assessment are to be taken as the profits of a year of assessment, the profits to be included in the return are the profits of that 12-month period.

Where an adjustment under section 65(3) is required, the computation of the profits to be included in the return for the preceding year is changed. The taxpayer is charged on the profits of a corresponding period of 12 months ending in the tax year. Accordingly, the profits or gains returned for the preceding year are no longer the profits or gains on which the taxpayer is to be charged to tax and the return requires amendment. The return is no longer correct, in view of the adjustment that is required.

#### 4. Obligation of taxpayer to bring the adjustment to the notice of Revenue

Section 1084(1)(b)(ii) Taxes Consolidation Act 1997 provides that where a person delivers an incorrect return but does not do so either deliberately or carelessly and it comes to that person's notice, that person will be regarded as not having delivered a timely return unless the error is rectified without unreasonable delay. Where the error is not so rectified, a surcharge will arise.

Section 1053(3) Taxes Consolidation Act 1997 treats a return as having been made negligently where an error is not corrected without unreasonable delay.

In the case of a return that requires to be corrected by reference to a review under either section 67 or section 65(3), the taxpayer will be regarded as having remedied the error without unreasonable delay if he or she brings the cessation or the change in accounting date to the attention of Revenue when making a timely return for the tax year in which the cessation or change in accounting date takes place.

#### 5. Due date for additional tax due

Additional tax due as a result of an amendment under section 67 will be due one month after the date of the amendment provided that the taxpayer has filed a 'full and true' return for the relevant tax before the date of the original assessment (section 959AU Taxes Consolidation Act 1997).

Additional tax due as a result of an amendment under section 65(3) will be due and payable on or before the specified return date for the following year of assessment (section 959AO Taxes Consolidation Act 1997).

#### 6. Procedure in audit cases

Where a review for a preceding year under sections 67 or 65 comes to light when a case is selected for audit, the question of interest and penalties should be dealt with in the light of the contents of these instructions.

#### 7. Further information

For further information in relation to amending returns and self-assessments, please refer to Tax and Duty Manual [Part 41A-04-01](#).