

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

Part 41A-05-01

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

Throughout the Tax Acts there are a number of standards of proof which a Revenue officer must meet before taking a specific action. For example:

- Under section 959Y a Revenue officer may make or amend an assessment on a person which, in the officer's best judgement, ought to be charged on that person.
- Under section 959Z(4) a Revenue officer may make enquiries after the expiry of the normal 4 year timeframe if the officer has reasonable grounds for believing that any form of fraud or neglect has been committed (refer to Part 41A-05-04 for additional material relating to the time limits for making enquiries and making or amending assessments). Under section 959AC if a Revenue officer has reasonable grounds for believing that a return does not contain a full and true disclosure of all material facts necessary for the making of an assessment, the officer may make an assessment for the amount of tax which, in the officer's best judgement, ought to be charged on that person (refer to Part 41A-05-02 for additional material relating to Revenue assessments in the absence of a return etc.). Under section 959AD if a Revenue officer has reasonable grounds for believing that any form of fraud or neglect has been committed, the officer may make an assessment for the amount of tax which, in the officer's best judgement, ought to be charged on that person.

Standard of proof tests are also found outside of Part 41A of the TCA 1997, for example:

- Under section 530N if a Revenue officer has reason to believe that a return was not made, the officer may make an assessment for the amount of tax which in his or her opinion is due.
- Under section 865 a claim for repayment becomes a valid claim when a Revenue officer has all the information which he/she could reasonably require.

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[...]

2 Consequences of failing to meet a standard of proof

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

- (i) Where a taxpayer believes that a Revenue officer was not acting reasonably, that the officer's conduct was inappropriate, that the officer did not apply Revenue powers fairly, or that the officer failed to give due consideration to the taxpayer's view point, then the taxpayer may seek a Local Review on these issues.
- (ii) Where a taxpayer is unhappy with the outcome of a Local Review, they may seek an Internal or External review on the same grounds.
- (iii) Certain sections within the Act provide that the standard of proof may be the subject of an appeal to the Appeal Commissioners. For example, section 959AJ includes the right of appeal where a chargeable person believes Revenue was precluded from carrying out an enquiry under section 959Z after the end of the 4 year period. That is, where, for example, the chargeable person asserts that the Revenue officer did not have reasonable grounds for believing that fraud or neglect was committed.
- (iv) In other cases, where the Acts do not give the Appeal Commissioners jurisdiction over such matters, the issue may be raised in the High Court as a Judicial Review.

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