

## Full self assessment Revenue assessment in the absence of a return

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<b>1</b>	<b>Failing to submit a return .....</b>	<b>2</b>
<b>2</b>	<b>Making an assessment in the absence of a return.....</b>	<b>2</b>
1.1.	Time Limits .....	2
1.2.	Notice of assessment.....	2
<b>3</b>	<b>Amending such an assessment .....</b>	<b>2</b>
<b>4</b>	<b>Rights of appeal against a Revenue assessment in the absence of a return.....</b>	<b>3</b>

## 1 Failing to submit a return

Where a taxpayer has failed to submit a Form 11, CG1 or CT1, as appropriate, section 959O of the TCA 1997 provides that penalties under section 1052 and 1054 may arise. In addition, a surcharge under section 1084 may apply (refer to [Part 47-06-01](#))

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

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

### 1.1. Time Limits

Section 959AC(2) specifically provides that Revenue assessments in the absence of a return can be made at any time. The normal 4 year restriction contained in section 959AA(1) (which provides that where a taxpayer has made a full and true disclosure of all material facts, Revenue cannot make or amend an assessment later than 4 years after the end of the chargeable period to which the return relates) does not apply.

In addition, section 959Z(4), which sets out the time limits within which Revenue may make enquiries, specifically provides that Revenue may carry out enquiries at any time where those enquiries relate to a tax liability where there is no return. That is, the normal 4 year time limit on enquiries does not apply.

### 1.2. Notice of assessment

The normal rules for what must be contained in a notice of assessment under Part 41A of the TCA 1997 do not apply and instead, under s.959AC(3), a short notice which sets out only the amount of tax payable by the person for the chargeable period, need issue.

## 3 Amending such an assessment

If a Revenue Officer considers that it is necessary to amend a Revenue assessment which was issued in the absence of a return, then section 959AC(4) provides that they may do so.

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

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

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

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

The period within which a timely appeal may be made against an assessment is 30 days after the date of the notice of assessment. After this 30-day period, the assessment becomes “final and conclusive” which means that the tax is collectible. However, a late appeal is possible in certain circumstances, i.e. where the taxpayer was prevented from making an appeal within the 30-day period because of absence, illness or other reasonable cause and the appeal is made after that period without unreasonable delay. There is an additional condition in the case of a late appeal made more than 12 months after the end of the 30-day period which is that the full amount charged by the assessment must have been paid (including any interest due and collection costs, if applicable).

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

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