

# How to Prepare for a Revenue Audit

Paul Dillon highlights the various interventions available to Revenue and explains how a taxpayer can prepare for a Revenue Audit.



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Before dealing with the basis of preparation for a Revenue Audit, it is worth reviewing what a Revenue Audit is and comparing it to other Revenue Interventions.

A Revenue Audit is a review of tax returns, books and records for accuracy and validity.

The Revenue Audit process is an important component of the self-assessment system of taxation. It provides the Revenue Commissioners with a mechanism for reviewing some of the significant number of tax returns filed on an annual basis.

A question often asked by taxpayers is how many years and how far back can a Revenue Audit go?

A Revenue Audit can normally cover any period within the previous four years from when the return is filed, Revenue Audits can however extend to any period without limitation where the Revenue Officer has reasonable grounds for believing that the return filed does not contain 'A Full and True Disclosure'.

Before discussing the documentation required for a Revenue Audit, it is useful to review briefly other types of Revenue intervention.

## I. Revenue investigations

A Revenue investigation is an examination of taxpayer's affairs where Revenue has concerns of serious tax offences occurring. Normally the taxpayer is advised of the commencement of an investigation.

A Revenue Investigation is generally a very serious matter and in certain circumstances can be taken with a view to criminal prosecution; this should be established with Revenue in advance of their review.

There are no provisions for making a voluntary disclosure or avoiding publication where a taxpayer is under investigation.

## II. Other Revenue type enquires / Aspect enquires etc.

Revenue undertake many types of enquires outside of the Revenue audit process. Examples of these types of interventions include:

- a. Assurance Checks.
- b. Letters requesting back up information to a return.
- c. Unannounced visits.
- d. Sectorial review where they review a particular industry or sector.
- e. Streetscape reviews.

These types of interventions are outside of the Revenue audit process and allows the tax payer to make an unprompted qualifying disclosure. An unprompted qualifying disclosure is one where the taxpayer discloses an underpayment of taxes to Revenue without any Revenue notice of an audit. An unprompted disclosure differs from a prompted disclosure in that there is a greater mitigation of penalties and the disclosure is made outside the audit process.

## Preparation for a Revenue Audit

The Audit notification letter will normally provide 21 days' notice. The notice normally covers the details of the taxes and years to be covered by the Audit and the date and time of the audit.

In advance of a Revenue Audit it is advisable for the taxpayer to meet with their accountant/agent.

The main points to be covered during these meetings with your agent are as follows:

- i. Identify any problem areas in respect of the taxes to be reviewed during the course of the audit. This would cover areas where back up documentation may be required for a particular claim or where there are specific issues that the

client is aware of where taxes may be incorrectly operated e.g. non vouched expenses, cash payment to casual workers etc.

- ii. Identify queries and information that may arise during the course of the audit. It is essential that all information is available including linking documentation.
- iii. E- Type audits are becoming more common place where Revenue use computer programmes to interrogate taxpayer records. Revenue may require particular records and data files to be provided in electronic format. It is imperative that where required, this information is available to Revenue. Where an e-audit is being conducted, Revenue will inform the tax payer in advance and it may require the tax payer discussing how to extract information with their software providers prior to the commencement of an audit.

► Continued on Page 30

► Continued from Page 29

- iv. Another important decision to be made by the tax payer is where to accommodate the Revenue officials during the course of the Revenue Audit. The Revenue Audit code is very specific in stating that Revenue's preference is to carry out the Revenue Audit at the clients' premises. It is important that Revenue is accommodated in suitable offices in a manner that avoids disruption to the business or its customers.
- v. Another critical issue to decide is what personnel will attend the opening meeting with Revenue and who will oversee and deal with Revenue queries.
- vi. A 'dry-run' of the information to be audited should be conducted in advance to ensure that no problem areas remain unidentified in advance of the Audit.
- vii. Where an underpayment of tax is identified, the individual or entity should consider making what is termed as a 'prompted qualifying disclosure' to Revenue at the opening Audit meeting. If additional time is required to make a disclosure an extension of 60 days to make the qualifying disclosure can be sought.

### Qualifying Disclosure

A qualifying disclosure is where a tax payer goes voluntarily forward to Revenue in advance of the commencement of a Revenue Audit and discloses the underpayment of tax. This disclosure can in practice be made at

This disclosure can in practice be made at the opening meeting of the audit where the Revenue Official usually asks the taxpayer if they wish to make a disclosure.

To be a qualifying disclosure, Revenue has to be satisfied that the disclosure has to be complete in relation to all matters giving rise to the tax liability.

The disclosure needs to be in writing and contain a calculation of tax and interest together with a payment.

Revenue calculates the penalty based on the category of tax default. Penalties range from 3% to 100% of the tax. The level of penalties also vary depending on whether there were previous disclosures within a 5 year period. There are various types of disclosure that can be made depending on the type of tax default.

Tax default are categorised as follows:

- i. Deliberate Behaviour
- ii. Careless Behaviour
- iii. Other Careless Behaviour

#### ***I. Deliberate Behaviour & Qualifying Disclosures***

This term is not defined specifically in the legislation but Revenue guidelines state that in general deliberate behaviour involves either a breach of a tax obligation with indicators consistent with intent on the part of the taxpayer or a breach that cannot be explained solely by carelessness.

Deliberate behaviour is more akin to fraud and it is the highest category of tax default.

If the disclosure you wish to make falls under the deliberate behaviour category you must state amounts of all tax liability in respect of all tax-heads and all periods that were previously undisclosed.

#### ***II. Prompted Disclosure & Careless Behaviour***

In the case of a prompted qualifying disclosure in the 'careless behaviour' category tax default, the disclosure must state the amounts of all liabilities to tax and interest in respect of the relevant tax-head and periods within the scope of the proposed audit

#### ***III. Other careless behaviour***

These are other defaults where the underpayment of the tax is less than 15% of the total liability.

In the case of an unprompted Qualifying Disclosure in the 'careless behaviour' category of tax default, the disclosure must state the amounts of all liabilities to tax and interest in respect of the tax-head and periods that are the subject of the unprompted Qualifying Disclosure.

#### **Advantages of making a prompted Qualifying Disclosure**

The main advantage of making a prompted qualifying disclosure is as follows:

- i. Avoiding of Publication regardless of the size of the settlement.
- ii. Mitigation of Penalties

There is a significant mitigation in penalties. For example, penalties are reduced from 100% to 50% for a 1<sup>st</sup> qualifying disclosure in the deliberate behaviour category and penalties are reduced from 40% to 20% for careless behaviour with significant consequences.

#### **Other provisions in Code of Practice**

There are other provisions with the code that can help settle a liability and provide for a mitigation of penalties. These include:

No loss of Revenue - where the penalty is reduced where Revenue are provided with evidence that there is no actual loss of Revenue. This is provided in the code on a concessionary basis

Technical Adjustments relate to complex tax matters - where the taxpayer took all reasonable steps in terms of the tax treatment of a certain item. Technical adjustments can be made without penalty.

Inability to Pay - these provisions in the code provide for certain taxpayers who are unable to pay their liability.

Please note that there are no provisions that allow for the mitigation of interest in a settlement.

Instalment arrangements can also be made with Revenue to pay tax liabilities where all with Revenue to pay tax liabilities where all other methods of obtaining finance have been exhausted including the disposal of assets or mortgaging property. This is a matter of agreement with Revenue.

#### **Summary**

It is essential that a taxpayer and agent are familiar with the code of practice and review the information in advance to allow them to prepare for a Revenue Audit and decide whether to make a qualifying disclosure or not.

Paul will be speaking at the 2014 Industry Matters Conferences in Dublin and Cork in October, book your place today [www.cpaireland.ie/cpe](http://www.cpaireland.ie/cpe).