



Comptroller and Auditor General

Report on Value for Money Examination

Office of the Revenue Commissioners

Use of Sheriffs and Solicitors in the Collection of Taxes

December 1998

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ISBN 0-7076-6712-7

The report was prepared on the basis of information, documentation and explanations obtained from the bodies referred to in the report


The draft report was sent to the Accounting Officer of the Office of the Revenue Commissioners and his comments were requested. Where appropriate, these comments were incorporated in the final version of the report

Report of the Comptroller and Auditor General

Use of Sheriffs and Solicitors in the Collection of Taxes

I have, in accordance with the provisions of Section 9 of the Comptroller and Auditor General (Amendment) Act, 1993, carried out a value for money examination on the use of sheriffs and solicitors in the collection of taxes by the Office of the Revenue Commissioners

I hereby submit my report of the above examination for presentation to Dáil Éireann pursuant to Section 11 of the said Act.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke.

John Purcell
Comptroller and Auditor General

21 December 1998

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Glossary

AIM	Active Intervention Management
ASC	Assessing and Collection tax system, incorporating Income Tax, Corporation Tax and Capital Gains Tax
Attachment	The power of attachment is available to Revenue, under the Finance Act 1988, to attach amounts owing by third parties to satisfy outstanding tax liabilities of defaulting taxpayers
PREM	Pay-Related Employer tax system
VAT	Value Added Tax

Summary

The systems employed to follow-up the collection of overdue taxes within the Office of the Revenue Commissioners (Revenue) and through referral to Sheriffs and Solicitors have changed significantly in the past five years. The new systems seek to improve the efficiency in the use of resources available to Revenue for tax collection. The overall effectiveness of the systems is dependent on a balance being achieved between the efficiency gained from early intervention by Revenue staff and the impact of delays in referral for enforcement. The purpose of the examination was to review the efficiency of the procedures for referral of outstanding taxes to Sheriffs and Solicitors and the efforts of these Agencies to recover the amounts due. The examination was concerned with value added tax (VAT), employers PAYE/PRSI liability (PREM) and the Assessing and Collection tax system (ASC).

Referral to Enforcement Agents

The new approach, referred to as Active Intervention Management (AIM), uses information systems to consolidate outstanding taxes across tax heads and for multiple tax periods. This facilitates an earlier intervention by Revenue, through caseworking, to pursue tax debt. The enhanced analytical capability is intended to improve the accuracy and appropriateness of cases referred and to reduce the time required to assemble information for referrals.

Although the AIM system was first introduced in 1995, a considerable amount of outstanding taxes remained subject to the older process driven systems at the end of 1997. The reporting facilities of the AIM system are still under development and it is not currently possible to compare the results of caseworking with the results of enforcement or to review the relationship between the timing of referral to enforcement agents and the subsequent outcome of enforcement actions on a case by case basis. Such comparisons should form part of a performance measurement system within Revenue.

The overall level of tax debt has been falling in recent years and at the end of 1997 was £1,587 million. The level of debt which is less than one year old has remained in excess of £500 million for each of the past five years. Some 26% of the overall debt was subject to a stop marker which interrupts and delays the referral process. The amount of debt under stop has fallen in 1997 partly due to a special review by Revenue. In view of the potential delay which can be caused by the stop procedure, there should be a regular review of the continuing validity of the stop markers.

A review of the classification of outstanding tax cases by case size revealed that 34% of VAT cases and 46% of PREM cases have not been allocated a case size principally because Revenue have not received a payment within the past three years which would enable their classification. Although many of these cases may be dormant or have a nil liability there is a possibility that they may include some defaulting

taxpayers and Revenue have indicated that they propose to review these cases as resources permit. Cases designated as no case size are not included in the scanning procedures for referral. This improves efficiency but there is a risk that some defaulting taxpayers may avoid timely detection.

Sheriff Enforcement

In 1997, over 63,000 certificates were issued to sheriffs for enforcement and some £58 million was collected directly by sheriffs. A further equivalent amount was settled directly with Revenue on foot of sheriff enforcement action. The volume of referrals to sheriffs has declined in recent years but the quality of cases referred has improved and this is reflected in a higher percentage of certificates returned paid.

Almost 50% of referred taxpayers accounting for 77% of the value of certificates referred to sheriffs in 1996 and 1997, had been referred on more than one occasion. Taxpayers accounting for 31% of the value of certificates had been referred on five or more occasions. This incidence of persistent non-compliance suggests that there is room for strengthening the deterrent effect of sheriff action. While the revised arrangements for sheriffs' remuneration, recently introduced, may help by making it significantly more expensive for the taxpayer to deal with the sheriff rather than with Revenue, it is clear that these cases need to be specifically targeted.

A large number of cases identified as suitable for referral to sheriffs are withdrawn as a result of screening procedures. There is incomplete information on the reasons why cases are withdrawn and this can hinder effective follow-up. The system for tracking certificates issued to sheriffs is unsatisfactory as the current status of individual certificates cannot be ascertained. This is being addressed as part of the revised monitoring arrangements. The routine six-monthly exercise scheduled for September 1997 to review expired certificates was not carried out. The next review which took place in March 1998 resulted in 5,849 cases being reactivated, some of which related to certificates originally issued in late 1995.

Solicitor Enforcement

The value of cases referred in 1997 to external solicitor firms was £28.7 million and to the Revenue Solicitor was £20.7 million. The yield from external solicitor firms and from the Revenue Solicitor up to March 1998, in respect of such cases, was £7.5 million and £0.8 million respectively. Many cases referred are settled directly with Revenue and these are not included in the yield statistics.

The information available within Revenue to manage and evaluate the results of solicitor enforcement is very limited and does not include a tracking system for cases.

New systems are under development to improve the level of management information

The trends in the value of cases referred and the subsequent yield obtained are affected by the impact of the 1993 amnesty on referrals and by the introduction of the AIM system. For 1996 and 1997, the level of referrals declined compared to earlier years due to the introduction of caseworking and to the diversion of staff in the Solicitor Liaison Unit to work on the arrears reduction programme

Some £61 million, in respect of cases referred between 1993 and 1997, remained uncleared at March 1998. A large proportion of these cases have not been acted on for some time partly due to a failure to process cases beyond the judgment stage

Use of Sheriffs and Solicitors in the Collection of Taxes

1 Introduction

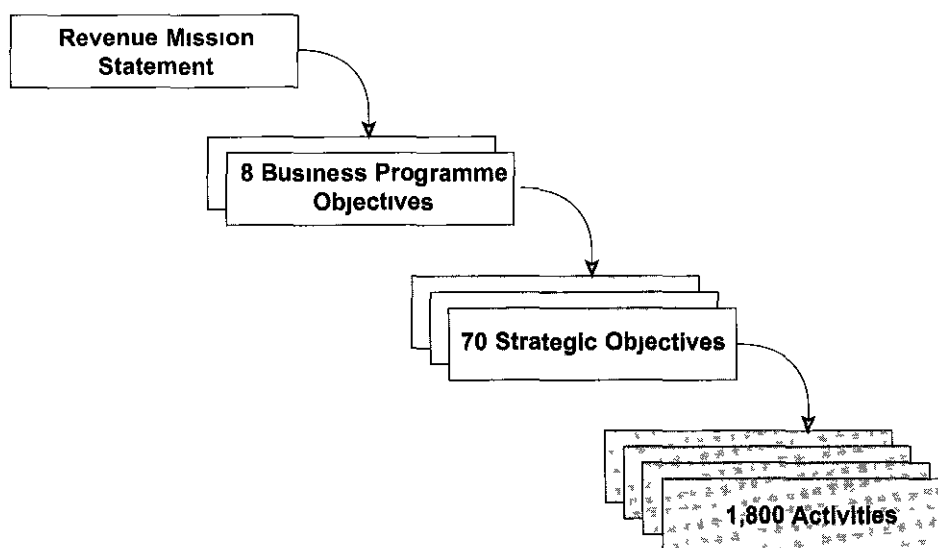
The tax collection system

- 1 1 The Office of the Revenue Commissioners (Revenue) administers and collects virtually all taxes and duties in Ireland which in 1997 amounted to almost £14 billion. The system of tax collection includes a significant element of self-assessment, the effectiveness of which depends on high levels of voluntary compliance by taxpayers.
- 1 2 Each individual and corporate taxpayer is obliged to prepare and submit returns by specified dates. These returns are used to determine the amounts of tax payable. If returns are not submitted on or before the due date Revenue may estimate the liability and pursue the taxpayer for payment of the estimated amount as if it were a tax liability. Revenue may also prosecute taxpayers for failing to submit returns.
- 1 3 An automated process driven system has been used for many years to issue tax return forms, to administer the completed forms when received, to issue estimates and demands to taxpayers, and to produce lists of cases of outstanding taxes for enforcement action, usually through referral to sheriffs or to solicitors.
- 1 4 The amnesties of 1993, under the Waiver of Certain Tax, Interest and Penalties Act, 1993, had a severe effect on the timeliness and efficiency of the automated enforcement system by interrupting the enforcement process in relation to some older liabilities and by placing a considerable additional strain on the resources available to deal with ongoing enforcement in the years 1994 to 1997.
- 1 5 Since 1995, Revenue has been moving away from the process driven system to a new approach of early intervention in tackling non-compliance. This programme of case-working uses a computer system known as Active Intervention Management (the AIM system) to identify and target cases based on "a tax at risk" concept. If case-working is not successful the case is then referred to the appropriate enforcement agent for further action.

The Value for Money Context of Tax Collection and Enforcement

- 1 6 The Value for Money context for all Revenue operations is established in a mission statement which requires that Revenue should serve the community by fairly and efficiently collecting taxes and duties and implementing import and export controls. The requirement to balance fairness to the taxpayer with the efficiency of its operations is a fundamental principle to be achieved by the systems employed for all Revenue activities.
- 1 7 Since 1994, Revenue has addressed the achievement of its mission through a strategic management approach which is reflected in published statements of strategy. The

Figure 1.1 Revenue's strategic framework



current strategic statement which covers the three years from 1997 to 1999 reorganised the four business objectives of the earlier strategic statement into eight business programmes. The full extent of the strategic framework is summarised in Figure 1.1

- 1.8 Tax collection and enforcement activities are covered by the business programme concerned with collection compliance. This aims to achieve a cost efficient collection system which promptly collects all taxes and duties due and addresses the debt on record, through support and endorsement for the compliant taxpayer, by getting the taxpayer to pay on time, and by consistent pursuit of defaulters. The programme has seven strategic objectives one of which requires an enhancement of enforcement performance on a consolidated basis across all tax heads with a targeted approach. This is to be achieved through the consistent pursuit of interest, effective use of enforcement including sheriff, solicitor, attachment of assets and other methods as appropriate to the particular cases, and the development of policy in relation to smaller cases.

Scope of the Examination

- 1.9 Revenue have a wide range of powers to pursue defaulting taxpayers. The examination was concerned with the recent performance of the principal enforcement methods of sheriff and solicitor action.

- 1 10 Sheriffs are used where Revenue believe that there are business assets which may be seized to recover the debt. A certificate is issued instructing the sheriff to collect amounts outstanding or seize goods to satisfy the debt. The sheriff is the most frequently used enforcement agent and in 1997 a total of 63,057 items were referred. The yield from sheriff activity in 1997 amounted to £58 million paid through the sheriffs and Revenue estimate that at least an equal amount was paid directly to them as a result of sheriff action.
- 1 11 If cases are deemed unsuitable for sheriff enforcement, Revenue may refer cases to solicitors where an action to recover the debt can be taken through the courts. In 1997, 4,179 items were referred to solicitors and the yield in the year was £9.9 million.
- 1 12 Enforcement procedures also include the power of attachment and, ultimately, the initiation of liquidation or bankruptcy proceedings. Revenue also pursue a prosecution policy in cases involving serious tax evasion. These aspects of enforcement were not examined.

Objectives of the Examination

- 1 13 The examination was concerned with procedures for referring outstanding taxes to the enforcement agents, the recent performance of the two principal methods of enforcement i.e. sheriffs and solicitors, and the adequacy of systems in place to measure that performance. It focused on whether Revenue have devised and implemented strategies and targets which adequately take account of the overriding objectives of maximising the efficiency of enforcement procedures while at the same time ensuring fairness for all taxpayers.
- 1 14 The examination addressed the following specific issues:
- the efficiency of procedures to promptly pass outstanding tax cases to the most suitable enforcement agent
 - the efficiency and effectiveness of the enforcement procedures used by sheriffs and solicitors

Examination Approach

- 1 15 The historic tax arrears are under review for the purpose of confirming the validity and collectibility of amounts outstanding and eliminating unrealistic estimates from the records. The systems of referral to sheriffs and solicitors and the information systems to monitor progress are also being upgraded. This development work distorts interpretation of trends in the level of tax arrears as an indicator of performance and,

accordingly, an analytical approach to examining efficiency was not used in the examination

- 1 16 As an alternative, the examination considered the efficiency of enforcement processes in terms of the trade off between the prospects of early recovery through pre-enforcement activity and the degradation of enforceability caused by the delay in referral to enforcement agents. The enforceability and appropriateness of cases selected for enforcement and the quality of information available about the behaviour of taxpayers who are persistently in arrears were also considered. The AIM system and other pre-enforcement activities in the collection phase were examined only to the extent of their present impact on sheriff and solicitor enforcement.
- 1 17 The examination was carried out by staff of the Office of the Comptroller and Auditor General. Detailed discussions were held with officials from the Collector-General's Office, the Chief Inspector's Office, three Revenue Sheriffs, the external solicitors and the Office of the Revenue Solicitor.
- 1 18 Revenue provided access to their databases on enforcement activities which were analysed. Access was also secured to the databases of the solicitors, which provided for analysis of post referral activity.

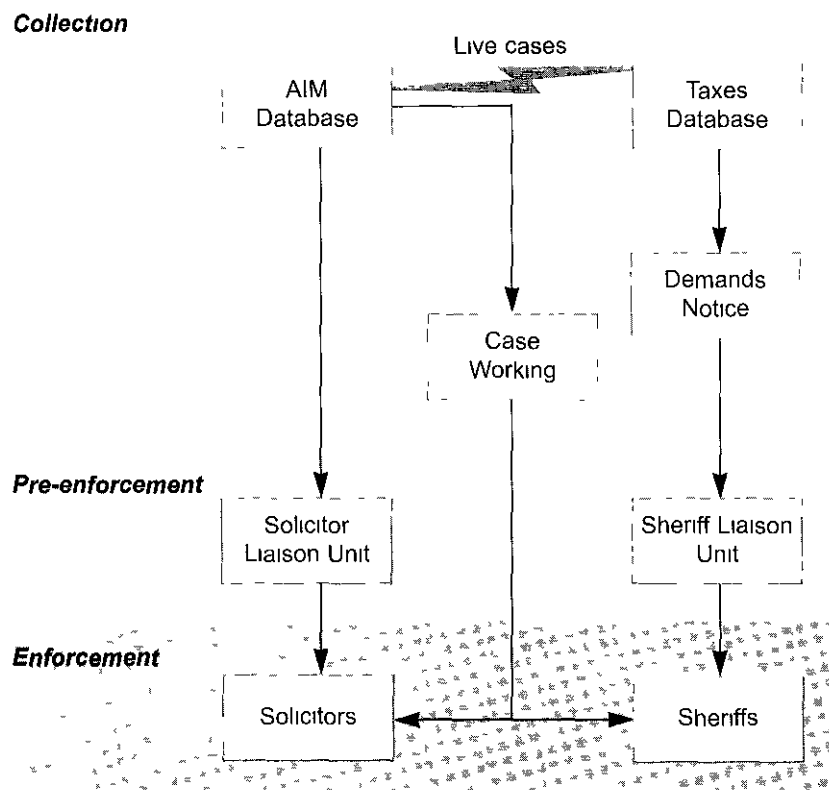
2 Referral to Enforcement Agents

- 2 1 The effective management of unpaid taxes requires that the failure to pay on time should be identified promptly, that cost effective procedures should be applied by Revenue in an effort to secure payment as quickly as possible and that where these procedures are unsuccessful, the cases are referred to enforcement agencies in an efficient manner
- 2 2 The efficiency of the referral process is affected by the time allowed for collection and pre-enforcement screening activities (timeliness), by Revenue's knowledge of the taxpayer (accuracy and appropriateness), and by the quality of the debts referred (enforceability) This chapter considers referral activities in the context of these factors

Revenue's Collection Activities

- 2 3 There are good reasons for Revenue itself to attempt to collect overdue taxes as many non-compliant taxpayers respond to these early interventions and the information gained from implementing the procedures is useful for preparing cases for enforcement To secure value for money, a balance must be achieved between the benefits of earlier and more cost effective collection of outstanding taxes and the risk that the collection procedures may delay the referral of cases to the enforcement agencies which in turn may reduce the collectibility of the debt
- 2 4 Revenue's procedures for processing unpaid taxes can be divided into collection procedures by which attempts are made to secure payment and pre-enforcement procedures where cases are screened and prepared for referral to the enforcement agencies An overview of collection and pre-enforcement procedures is presented in Figure 2 1
- 2 5 The traditional collection procedures are automatic computer driven processes to issue reminders to non-compliant taxpayers, followed as required by estimates of the taxes due and demands for payment These procedures are time consuming and fail to discriminate between cases where payment is late and those where there is a pattern of non-payment It is not possible without manual intervention to consolidate liabilities across taxheads or to make a reasoned decision based on an evaluation of the case Some efforts have been made to improve this system by altering the timing and targeting of referrals but the potential of such improvements is quite limited Revenue have been gradually moving away from this process since 1995 but a considerable amount of tax still remained subject to traditional procedures at the end of 1997

Figure 2 1 Collection, pre-enforcement and enforcement activities



Active Intervention Management (AIM)

- 2 6 The introduction of the AIM system is expected to increase the efficiency of the collection process by improving the targeting of cases suitable for follow-up by Inspectors or by staff of the Collector General's Office. The new system also provides for earlier identification of arrears problems and for the consolidation of the liabilities of taxpayers across all taxheads using improved information technology. The intention is that the timeliness of collection and the yield should improve.
- 2 7 From a value for money perspective, the AIM system also offers the opportunity to construct a performance measurement system for collection activities through the establishment of yield and timeliness targets and the monitoring of actual results. However, so far, the performance of AIM and its impact on the referral of cases for enforcement cannot be fully evaluated as the reporting facility of the system is still being developed and the targets which have been set relate to overall compliance and not specifically to enforcement. A system to regularly assess the performance of caseworking is in place but has not been developed to the point where the results of caseworking can be directly compared with the results of enforcement. This

comparison will be an essential requirement for the effective management of caseworking in the future and it is recommended that the existing system be developed without delay to include this feature

- 2 8 The AIM approach, which was developed as a collection system, was first used in the Collector-General's Office and was subsequently introduced into other areas within Revenue. The Collector-General's Office retains responsibility for overall debt management for the larger cases and for those more suited to a centralised collection area. Customs staff, redeployed on the introduction of the single market across the European Union in 1992, were transferred to local collection which is intended to provide additional collection facilities and ongoing local monitoring of suitable cases. Where it is not clear whether, or to what extent, a taxpayer has a true liability, the Chief Inspector's Office, through its regional Tax Districts, takes over cases for the period required to establish and collect the actual liability.
- 2 9 Revenue have stated that these additional collection procedures have been effective in reducing the level of cases referred to sheriffs or solicitors and in the collection of outstanding amounts at an earlier stage. Traditional enforcement often resulted in a succession of individual liabilities being separately referred for enforcement. Caseworking has enabled such cases to be consolidated and dealt with as single entities, thus reducing the overall enforcement effort. Where enforcement is required it is now more often in the form of a single referral covering all relevant liabilities.

Factors affecting Timeliness of Referral

- 2 10 While global information is available to show the timeliness of selection of categories of liability for each taxhead, there is no automated system in place to regularly review the relationship between timeliness of referral and the subsequent outcome of enforcement action. A database is under development to provide such information but, at present, information is not available to enable measurement of timeliness on a case by case basis.

Stops

- 2 11 The collection procedures include facilities to interrupt the processes by placing markers, referred to as stops, against the taxpayers' records. The intervention may take place at any time between the due date for a tax and the selection of cases for referral to enforcement. Stops classified as general have the effect of stopping all activity on the taxpayer's record within a tax head while specific markers may stop activity in respect of a specific tax period. The purpose of stops is to alert other sections seeking to work on the case of its current status or to indicate that the case is already in hand.

Table 2 1 Significance of stops 1994 - 1997

End of year	Total outstanding taxes £ million	Total stops £ million	Specific stops £ million	Total stops as % of total outstanding taxes	Specific stops as % of total stops
1994	2,411	812	242	34%	30%
1995	2,183	733	222	34%	30%
1996	2,067	710	284	34%	40%
1997	1,587	419	243	26%	58%

Note Figures are for 31 December in each year and are not directly comparable with those published in my Annual Report

Source Revenue Arrears Overview 1993 to 1997 (unpublished)

- 2 12 Between 1994 and 1997 the amount under stop has reduced from 34% to 26% of total outstanding taxes. The percentage of specific to general stops has also changed in favour of specific stops. The improvements reflect progress in dealing with the accumulation of stops which has kept pace with general progress in the reduction of the level of outstanding taxes. The reduction in 1997 is primarily due to a special review of stops which commenced in that year to remove markers which were no longer appropriate and to process the cases by alternative methods, principally through write-off or referral for enforcement.
- 2 13 The practice of placing stops on cases provides for an orderly handling of cases but does not guarantee the efficient processing of the case. The clearance of many long standing cases under stop in the 1997 review is an indicator of the absence of regular procedures to monitor the continuing validity of stops. This review is important as the imposition of a stop delays the transfer of a case to enforcement. In all cases, the reason for placing the stop must provide a better chance than the enforcement procedures of collecting the amount due and as long as the practice of using stops remains as part of collection procedures, there should be a regular review to ensure their continuing validity.

AIM Customer Control Markers

- 2 14 Under the AIM system, a customer control marker (CCM) is assigned to the taxpayer's record when caseworking begins. A CCM is different to a stop. Stops act to prevent the computer from including the case in some or all collection activity. A CCM does not affect the routine computer driven activity, but signals that a caseworker is active on the case. Enforcement referrals, generated by computer scan, are withdrawn prior to issue where a CCM indicates current caseworking activity. At July 1998, some £463 million of outstanding taxes were subject to open CCMs.

Assignment of Case Size

- 2 15 The efficient allocation of resources for enforcement requires that a risk based selection method should be used to prioritise the workload. The potential tax liability (case size) is a prominent factor in the risk based approach as it is more efficient if higher individual cases are followed up. A feature of the information systems being developed to support the organisation of the collection of arrears is the ability to amalgamate outstanding taxes for a single taxpayer across taxheads and tax periods. This is intended to improve the overall efficiency of the collection process.
- 2 16 The case sizes for the Employers' PAYE/PRSI tax system (PREM), (26 case sizes) and VAT (22 case sizes) are summarised in Table 2.2 into small, medium and large case sizes. The table shows that a small percentage of cases under the two taxes account for the greater part of the value of tax collected.
- 2 17 Some 34% of VAT cases representing some 53,000 cases and 46% of PREM cases representing 66,000 cases did not have a case size assigned to them. These cases have not made a payment within the previous three years which would enable classification and, therefore, knowledge of their actual or potential liabilities is minimal. While many of these cases may be dormant or inactive and have a nil liability, there is also the possibility that they may include some defaulting taxpayers. An examination of these cases has been commenced by the Office of the Chief Inspector of Taxes to establish the extent of potential risk of loss of tax revenue or to eliminate them from the active database. Revenue have stated that other priority work has delayed the making of significant inroads to date.
- 2 18 The improved information systems, which are being developed to support the follow-up of outstanding tax debt, provide an opportunity to set targets for the procedures followed and to define performance measures by which the level of efficiency achieved can be reported. The existence of a large number of cases without a case size could distort the validity of analysis of the database.

Table 2.2 Case size analysis for VAT and PREM - 1998

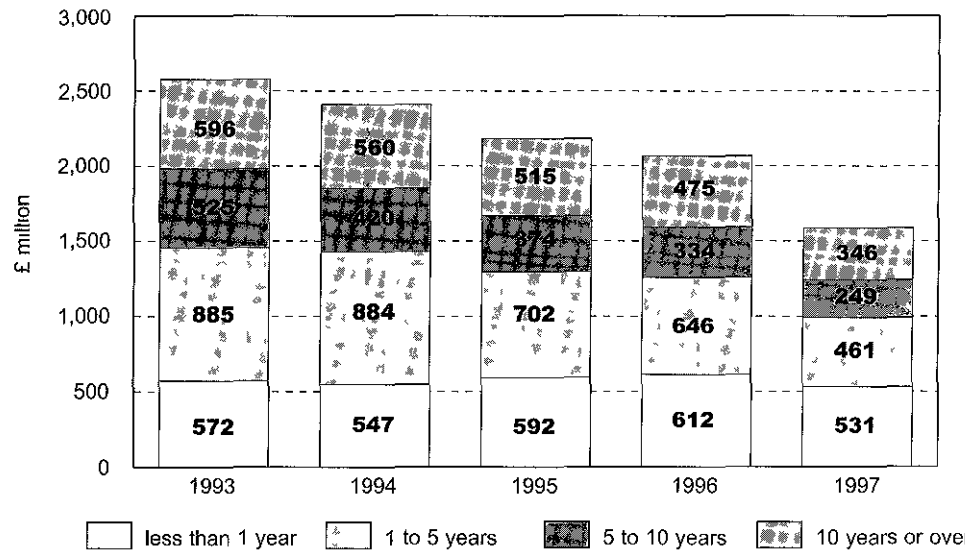
Case size		VAT		PREM	
		Number	Value	Number	Value
No case size	n/a	34 2%	0 0%	45 7%	0 0%
Small	under £3,000	40 2%	4 0%	39 7%	3 4%
Medium	£3,000- £50,000	23 0%	21 2%	13 1%	20 0%
Large	over £50,000	2 6%	74 8%	1 5%	76 6%
Total		100 0%	100 0%	100 0%	100 0%
Number of cases		155,348		144,610	

Note Data relating to PREM is at 1 September while data relating to VAT is at 1 May
Source Office of the Revenue Commissioners

- 2 19 The effectiveness of enforcement depends on all available cases (stopped cases are not available) being capable for selection. The scans of cases for enforcement made during 1997 were examined to establish if all such cases were included for selection. It was noted that PREM cases and VAT cases which were categorised as no case size (See Table 2.2) were not scanned. Estimates are not raised in these cases, as there is no recent pattern of payment which would help in the estimation of current liability. The raising of estimates without such information has been judged by Revenue to be counter productive. In the absence of estimates, there is no liability to refer to enforcement. The post-collection action taken in these cases was limited to the issuing of warning notices in respect of the VAT cases and the review in the Office of the Chief Inspector of Taxes referred to in paragraph 2.18.

Age profile of outstanding tax cases

- 2 20 As the prospects for recovery reduce with the passage of time, the age of the debt is another factor which affects the likelihood of collection. As shown in Figure 2.2, over the five year period from 1993 to 1997 the age structure of outstanding taxes has altered significantly due to actions to deal with the historical arrears. Revenue's strategy is to eliminate from the record older nominal debt which is based on unrealistic estimates and which has little prospect of recovery, in order to concentrate resources on current collection. The reduction in debt over the period is in respect of cases which are more than one year old and, as a result, the average age of tax debt is falling. Although the amount of tax debt less than one year old is falling in absolute terms, the incidence of this debt remains in excess of £500 million in each year, which reinforces the need for efficient and effective collection and enforcement procedures.

Figure 2 2 Age structure of outstanding taxes 1993 to 1997

Note Figures are for 31 December in each year and are not directly comparable with those published in my Annual Report

Source Revenue Arrears Overviews, 1993 to 1997 (unpublished)

Revised Procedures for Identifying Cases for Enforcement

- 2 21 At the time of the examination the procedures for identifying cases for referral were in the process of change. The system described earlier identified cases and processed them systematically. The revised procedures will enable cases to be identified by the use of more flexible parameters which allow for more focused targeting of cases by, for example, sector, location or size.
- 2 22 Under the new procedures cases identified will be subjected to a desk review. The review will not involve case working and the taxpayer will not be contacted at this stage. The purpose of the desk review will be to enable an assessment of the case to be made, taking account of compliance patterns and notes as to the circumstances of the taxpayer. It will provide for the identification of a defaulting taxpayer's total liability across all taxes and for the pursuit of the taxpayer for payment of all his liabilities at the same time.
- 2 23 The revised procedures were, under Revenue's 1997 action plan, to be in place by September 1997. While the revised arrangements have been introduced in respect of referral of cases to solicitors with effect from September 1997, the application of the system to sheriffs did not begin until 1 November 1998, on commencement of the Enforcement of Court Orders (Fees) Order, 1998.

Conclusions

2 24 The conclusions are

- Although major changes for following up outstanding taxes and for scheduling cases for referral have been in progress since 1995, a significant amount of outstanding taxes is still subject to the old process driven procedures which are less efficient than the new case-working approach
- The reporting facilities of the AIM system have not yet been fully developed Targets for yield and timeliness of collection should be extended to the enforcement activities as soon as possible and, as part of a comprehensive reporting system, a regular comparative evaluation of different approaches to collection should be made
- Since 1994 the value of cases subject to stops has reduced in line with the reduction in the level of outstanding taxes and further improvements were made as a result of a special review of stops in 1997 The level of general stops has fallen significantly The results of the special review in 1997 reinforces the need for a procedure to review on a regular basis the continuing validity of stops
- Cases with no case size make up 34% of VAT cases and 46% of PREM cases These cases are not included in the scans for referral for enforcement While this improves the efficiency of the referral process, the number of 'no size' cases is such that efforts should be made to accelerate the examination of the real status of these cases
- The level of current tax debt remains in excess of £500 million per year which reinforces the need for efficient and effective collection and enforcement procedures

3 Sheriff Enforcement

- 3 1 The efficiency of sheriff enforcement is a product of the validity and appropriateness of the items identified and selected for enforcement and of both the timeliness of the preparatory work and the enforcement actions of the sheriffs. It is also affected by the depth of knowledge which Revenue maintains on defaulting taxpayers. This chapter examines the efficiency of sheriff enforcement from the perspective of the adequacy of the processes employed, the extent to which the objectives of enforcement are achieved and the scope for improvement.

Statutory Background

- 3 2 Sheriffs are officers of the courts, appointed under Section 12 of the Court Officers Act, 1945 and are subject to guidelines issued by Revenue. Until 1986 four sheriffs¹ and twelve County Registrars, who had other duties under the 1945 Act carried out the enforcement of certificates issued under Section 485 of the Income Tax Act, 1967. In 1986 the Minister for Justice with the consent of the Minister for Finance transferred the Section 485 duties from the county registrars to twelve newly appointed sheriffs.

Identification and Selection of Items for Referral

- 3 3 Outstanding tax cases assigned for sheriff enforcement are identified by an automated scanning process which produces lists for checking by the sheriff liaison unit as to their suitability for referral to sheriffs. The checking process involves confirming the validity, accuracy and appropriateness of the items for referral. Daily listings of transactions are also checked to ensure that certificates are not issued where payments or claims for repayment or offset have been received since the production of the listing.
- 3 4 In 1997, 87,514 items were identified for referral and, on checking, the number subsequently issued to sheriffs was reduced to 63,057. Thus, 28% of all cases identified for referral in 1997 were not actually referred. Although the throughput rate is a useful efficiency measure, a full examination of the efficiency of the selection process would require consideration of the reasons why cases are withdrawn.
- 3 5 In 1996, Revenue's Internal Audit² expressed concern at the level of withdrawal of certificates prior to issue to the sheriff during the first half of 1995. At that time the

¹ *Dublin City, Dublin County, Cork City and Cork County*

² *Office of the Revenue Commissioners, Internal Audit Report on Enforcement through the Sheriff Operation in the Office of the Collector-General Follow up Audit, 31 January 1996 (unpublished)*

rate of withdrawal stood at 32%. This level of withdrawals was stated to be abnormally high due to a change in the pattern of issues at the time. A more normal rate was stated to be less than 20% which was closer to the rate for the latter half of 1995 at 21%.

- 3.6 Revenue apply a strict seven day limit to the screening of cases prior to issue for sheriff action. Because of this, summary data is not collated and statistics are not maintained of the reasons why certificates are not issued to the sheriffs. According to the procedures, the reasons for not issuing items to sheriffs should be recorded on the face of the certificates. However, this does not facilitate an understanding of the general reasons for the withdrawal of certificates and does not provide a full explanation of the efficiency of the selection process.
- 3.7 As part of the examination, an analysis was undertaken of a sample of 2,566 VAT cases with a value of £7.6 million identified for referral on 9 February 1998, to establish reasons for non-referral and to ascertain the efficiency of the scanning procedure. When the sample was screened by the Sheriff Liaison Unit, 524 (20.4%) cases with a value of £3.2 million (41.8%) were not subsequently referred. An analysis of the reasons for non-referral of these cases is set out in Table 3.1.
- 3.8 While this exercise cannot be taken as representative of all non-referred cases it gives some indication of the reasons why cases are not being referred. The incidence of items where the warrant was defective or where the case was under consideration by a different section reflect relative inefficiencies in the identification procedures. Revenue have stated that the majority of those cases for which no reason for withdrawal was shown on the face of the certificate consist of big cases (cases whose

Table 3.1 Non-referral of cases to sheriff

Reason for non-referral	% of number of cases withdrawn	% of value of cases withdrawn
Paid, offset by claim for refund or nil liability VAT3 return received	59.0	36.7
Defective warrant - e.g. incorrect address	18.7	9.8
Case being dealt with by another section within Revenue	12.6	6.3
No reason given	9.7	47.2
	100.0%	100.0%
	524 cases	£3.2 million

Source: Analysis by Office of the Comptroller and Auditor General of 2,566 VAT cases identified for referral to sheriffs on 9 February 1998.

periodic liability is greater than £50,000). For these cases, selection for enforcement is more frequent and occurs within a short time after the due date for payment, leading to a high withdrawal rate due to payment of the tax prior to referral to sheriffs

Reversal of Case Markers

- 3 9 When cases are identified for sheriff enforcement through the scan, a marker is placed on the computer record to show that the period in question is at a pre-enforcement or enforcement stage. The ultimate effectiveness of enforcement and the timeliness of action depends on the removal of the marker in situations where cases are not subsequently referred or where sheriff enforcement is not successful. It is also desirable that a periodical review of the status of marked cases should be made to ensure that no defaulting cases escape appropriate action.
- 3 10 The validity of the certificates issued to the sheriffs expire after twelve months. In order that the liabilities included on expired certificates may be further pursued the case markers should be removed. Normally, an exercise is carried out twice yearly to remove all markers which are more than fifteen months old. However, during the examination it was established that the routine exercise scheduled for Autumn 1997 had not been completed. This was attributed to a problem with the relevant computer program, followed by a change in staffing in the section responsible. Revenue were requested to carry out the reversion exercise in March 1998. As a result, 3,484 VAT/PREM cases and 2,365 ASC cases which had been issued to the sheriffs more than fifteen months previously but had not resulted in the collection of the tax liability were reactivated and became available again to be further processed as appropriate.

Sheriff Enforcement Activity

- 3 11 The efficiency and effectiveness of sheriff enforcement is a reflection of the outcome of the certificates referred to sheriffs. The examination of efficiency is concerned with the success rate of the sheriffs and with the causes for unsuccessful actions.
- 3 12 Table 3.2 shows the figures for the issue and return of certificates over the five-year period 1993 to 1997. The overall caseload of sheriffs, as measured by the volume of certificates handled has decreased by 52% and the number of certificates outstanding at the end of the year decreased by 57% over the period. Between 1993 and 1997 the average value per certificate has decreased from £5,239 to £3,278.

Table 3.2 Certificates issued to and returned by sheriffs 1993 to 1997

	1993	1994	1995	1996	1997
Certificates on hand 1 January	61,654	49,247	38,423	40,293	35,097
Referred during year	131,410	109,927	76,672	82,234	63,057
	193,064	159,174	115,095	122,527	98,154
Certificates returned					
paid	)	31,161	21,633	20,664	21,265
withdrawn - alternative	)	)	20,211	16,895	22,164
arrangements with Revenue	)	) 89,590 ^b			
unpaid	)	)	32,958	49,871	32,153
	143,817	120,751	74,802	87,430	75,582
Certificates on hand 31 December	49,247	38,423	40,293	35,097	22,572
Value of Certificates with sheriffs at 31 December	£258m	£200m	£192m	£149m	£74m

Note ^a The 1993 figures were revised in the 1994 Appropriation Account. A breakdown of the revised figure was not published.

^b A withdrawn figure for 1994 is not available.

Source Annual Reports of the Comptroller and Auditor General 1993 to 1997

- 3 13 Several factors have contributed to the decline in the number of cases being referred to sheriffs over this period. These include the introduction of case working under the AIM system in the Collector-General's Office. More recently, the introduction of multi-period referrals and a cross-taxhead approach to enforcement has contributed to a reduction in the number of cases requiring sheriff enforcement. The fall in average value of certificates is mainly due the introduction of revised procedures for calculating VAT estimates. Instead of the estimate equalling the largest payment received in the preceding fifteen periods it is now based on the average of the preceding six periods. The resulting drop in the face value of referrals is estimated at £200 million. A further contributory factor is the concentration of caseworking on larger cases leading to a reduction in the frequency and volume of enforcement of high value cases.

Efficiency of Sheriff Enforcement Activity

- 3 14 A database is maintained of the certificates issued to sheriffs. Although the database does not record what subsequently happens as a result of sheriff action, an analysis of the records can provide some useful information about the efficiency and effectiveness of sheriff enforcement. The database was introduced in 1995 and so holds only two

complete years of data on the certificates issued. Some discrepancies exist between the database, which includes details of 142,044 certificates issued in 1996 and 1997, and the figures shown in Table 3.2 which can be largely accounted for by difficulties with the operation of the database. Notwithstanding the discrepancies, the database represents 98% of certificates issued over the two years and provides the only available data for analysis. A copy of the database was obtained during the examination and analysed.

- 3.15 The 142,044 certificates issued to sheriffs in 1996 and 1997 were in respect of 63,531 taxpayers representing unpaid tax liabilities for 269,619 tax periods with a total value of £575 million. Table 3.3 shows the number of taxpayers in respect of whom overdue tax amounts were referred to sheriffs in 1996 and 1997 in respect of the taxes covered by this examination.
- 3.16 The table confirms that, generally, the number of taxpayers and the average value per referral declined between 1996 and 1997. The most significant decline was in respect of VAT. The fall in average value referred is not necessarily a negative performance trend. As the pursuit of outstanding VAT is organised on a case size basis³ the trend indicates that smaller cases represent a growing proportion of referrals to sheriffs. The larger VAT cases are subjected to case-working which Revenue maintain results in more timely collection. To further evaluate the efficiency of this trend, a comparison of the relative cost of collection and the timeliness of the recovery of outstanding taxes between sheriff enforcement and case-working would be required.

Table 3.3 Referral of taxpayers to sheriffs in 1996 and 1997

Tax	1996			1997		
	Tax-payers ^a	£000	Average £	Tax-payers ^a	£000	Average £
PREM	13,407	104,318	7,781	12,932	100,004	7,733
VAT	23,122	164,592	7,118	20,195	98,615	4,883
ASC	11,731	58,624	4,997	12,227	49,234	4,027
	48,260	£327,534	£6,787	45,354	£247,853	£5,465

Note ^a Some taxpayers had liabilities under more than one taxhead referred in each year and, therefore, the sum of the 1996 and 1997 totals shown here will exceed the figure of 63,531 shown in paragraph 3.15 for the number of taxpayers referred to sheriffs in both years.

Source Analysis by Office of the Comptroller and Auditor General

³ See Comptroller and Auditor General Report on Value for Money Examination number 21, Value Added Tax Collection and Control, PN4955, December 1997.

Recurring Referrals

- 3 17 The database was analysed to identify taxpayers who are referred to sheriffs on a recurring basis. The incidence of repeated referrals of the same recalcitrant taxpayers is an indicator of the relative effectiveness of enforcement actions as a deterrent against future default.
- 3 18 Table 3 4 shows the number of times individual taxpayers were referred to sheriffs in 1996 and 1997. Over the two year period almost half of the taxpayers, accounting for over three-quarters of the value of certificates were referred more than once and almost 10% of taxpayers representing 31% of the value were referred five or more times.
- 3 19 The continuous referral of the same taxpayers was confirmed by the sheriffs contacted⁺ during the examination who expressed the view that the enforcement process was seen by some defaulting taxpayers as a normal part of business operations.
- 3 20 It is important to the promotion of voluntary compliance that the taxpayer should always find it more expensive to deal with his tax liabilities through the sheriff than through the Collector-General. Table 3 4 indicates that the desired deterrent effect

Table 3 4 Recurring referrals of taxpayers in 1996 and 1997

Number of times referred	Number of taxpayers	% of total referred	Value of certificates £m	% of total value referred
1	32,973	51.9%	131.2	22.8%
2	13,129	20.7%	105.9	18.4%
3	7,138	11.2%	87.0	15.1%
4	4,116	6.5%	70.6	12.3%
5	2,373	3.7%	51.9	9.0%
6 to 10	3,538	5.6%	111.4	19.4%
11 to 15	252	0.4%	16.0	2.8%
over 15	12	0.0%	1.3	0.2%
Total	63,531	100.0%	£575.3m	100.0%

Source: Analysis by Office of the Comptroller and Auditor General

⁺ Revenue Sheriff for Dublin City, Revenue Sheriff for Wicklow and Wexford, Revenue Sheriff for Louth, Meath and Westmeath

of sheriff enforcement is not achieved in many cases. The significant number of taxpayers involved in repeat referrals and the high proportion of the total amount of all referrals involved suggest that this matter should be considered by Revenue in their assessment of the effectiveness of penalties in the current enforcement process. There appears to be good grounds for stricter penalties against persistent defaulters.

- 3 21 Revenue have stated that the new scale of remuneration for sheriffs which came into force on 1 November 1998 will result in significant changes. The charges for sheriff action, some of which were last updated as far back as 1926, have now been brought up to date. The full cost of enforcement must now be borne by the defaulting taxpayer, where previously the Exchequer had borne part of the cost by allowing sheriffs to retain interest earned on the money they collected. The new charges may help to deter repeated default.

Age Analysis of Tax Liabilities Referred to Sheriffs

- 3 22 The age of a tax liability, being the time interval between the due date for payment and the date the case is identified for enforcement, affects the likelihood of recovery and can be viewed as an efficiency measure. The tax periods referred in 1996 and 1997 were analysed to establish the age profile of cases at the time of referral. The results are shown in Table 3 5.

Table 3 5 Age of tax liabilities when referred to the sheriffs

Age	1996			1997		
	Number of Periods	£m	% of total value	Number of Periods	£m	% of total value
less than 6 months	75,968	174.3	53.2%	79,800	159.9	64.5%
6 months to 1 year	28,201	48.2	14.7%	8,527	19.4	7.8%
1 to 5 years	47,509	101.7	31.1%	24,733	63.2	25.5%
6 to 10 years	1,633	3.2	1.0%	2,939	5.1	2.1%
over 10 years	157	0.1	0.0%	152	0.2	0.1%
Total	153,468	£327.5	100.0%	116,151	£247.8	100.0%

Source: Analysis by Office of the Comptroller and Auditor General

- 3 23 Some of the delay in identifying and referring unpaid taxes can be attributed to the various processes applied prior to enforcement, as described in Chapter 2 and Revenue view the age of the outstanding tax balances as an indirect indicator of the resources consumed in pursuing the debt. The extent to which each process impinges on the speedy referral of outstanding debts needs to be established and closely monitored so that unnecessary delays are avoided.
- 3 24 While the changes in the age profile of cases identified for referral between 1996 and 1997, as illustrated in Table 3 5, show an improvement in the timeliness of referral of tax periods to the sheriff some 24% of tax periods referred in 1997, representing 27 7% of the value of referrals, are not referred to the sheriff within one year of becoming overdue. The proportion of cases in excess of five years old when referred while still relatively small has almost doubled from 1996 to 1997, probably due to the removal of stops placed on cases during the 1993 amnesties.
- 3 25 In respect of the quality of items referred, the sheriffs acknowledged that there has been some improvement in recent years with certificates generally now representing more up-to-date liabilities.

The Results of Sheriff Enforcement

- 3 26 Certificates issued to the sheriffs are valid for twelve months only and must be enforced within that time. There are four possible results from sheriff enforcement. The certificates may be withdrawn by Revenue before the sheriff takes action or may be returned either with or without payment. In extreme cases, goods may be seized. The certificates returned within a period will not necessarily match those issued in the same period as some may be held until the following accounting period. As a result, performance figures can be influenced from the carryover of certificates from one period to the next.

Certificates withdrawn

- 3 27 Revenue's figures show that 29 4% of certificates returned by Sheriffs in 1997 had been withdrawn⁵. A limited survey of 500 cases withdrawn is performed each year from which the overall analysis of withdrawn cases is derived. The survey has shown fairly stable results over a number of years and Revenue have stated its confidence in those results. A full analysis of cases withdrawn would be useful in monitoring the efficiency and effectiveness of enforcement processes and in highlighting changing trends at an early stage.

⁵ *Certificates are withdrawn where payment or a claim for repayment or set off of liabilities has been received, where cases are cancelled, estimates have been discharged, an appeal has been lodged or where instalment payment arrangements have been agreed to.*

- 3 28 The communication of the withdrawal of certificates to sheriffs has recently been reviewed. Whereas sheriffs previously received separate written notification of each certificate withdrawn, in agreeing to reduce the volume of paperwork involved they now view electronically the Revenue record of the tax periods covered by each certificate. There are potential deficiencies with these arrangements as the sheriffs' access to Revenue data is restricted to the periods referred to him. Revenue have stated that the existing arrangements were designed to provide appropriate protection of taxpayer confidentiality, but that, in the context of the new arrangements with the sheriffs, the need for existing restrictions is being examined with a view to providing the sheriff with immediate access to the most up to date information. As transactions may occur in other periods and other taxheads which impact on a certificate arrangements should be put in place to ensure that such information is speedily notified to the sheriff.

Certificates returned paid

- 3 29 Revenue report on the performance of sheriff enforcement through the number of certificates referred per year and the payments obtained. The yield from sheriff enforcement in 1997 was £58 million representing 82% of the total yield from enforcement in that year.
- 3 30 The effectiveness of sheriffs is monitored by reference to the number and value of certificates paid either directly or indirectly arising from the enforcement action. Indirect returns arise when defaulting taxpayers remit payments directly to the Collector General's Office following initial contact by the sheriff. In 1997, a total of 21,265 certificates were returned paid by sheriffs representing 28.1% of all certificates returned. When the certificates withdrawn by Revenue are excluded the percentage of certificates returned paid increases to 39.8%.

Certificates unaccompanied by payment

- 3 31 As shown in Table 3.2, some 32,153 certificates representing 42.5% of certificates returned in 1997 were returned without payment. Of these, the twelve month validity period had expired in respect of 5,700 certificates. Some of these would include cases where there are no goods available to seize in which case solicitor action may be appropriate. Other reasons include situations where the taxpayer had ceased trading or had moved address.
- 3 32 The size of the unpaid category taken in conjunction with the propensity to issue certificates in respect of the same person several times indicates that there is inadequate response to failure of enforcement. The need to react rapidly to failure by one enforcement method is reflected in the design of the new enforcement referral system, which incorporates a tracking system for individual referrals for taxpayers.

Seizure of goods

- 3 33 The final option available to the sheriff is to seize goods of the defaulting taxpayer, sell them and use the proceeds to meet the liability. Although the sheriff has legal authority to carry out a seizure at any time after a certificate is received, in practice every sheriff seeks prior clearance from Revenue to carry out the seizure which is valid for 48 hours only. Each application for seizure is examined individually to ensure the liability is still outstanding and the detail of the certificate are in order.
- 3 34 Table 3 6 gives details of the number of seizures for which clearance was sought, and the number of applications refused, granted, subsequently mounted and carried out.

Table 3 6 Applications to seize goods of defaulting taxpayers 1996 and 1997

	1996	1997
Requested by sheriffs	5,335	3,799
Applications refused	(1,642)	(1,879)
Applications granted	3,693	1,920
Seizures mounted	2,449	1,154
Seizures carried out	26	26

Source: Office of the Revenue Commissioners

- 3 35 The seizure of goods is only carried out in a small number of cases as the majority of defaulting taxpayers make payment on notification that the application for seizure has been granted or when the sheriff arrives to carry out the seizure.

Monitoring of sheriffs

- 3 36 An internal audit in Revenue in 1991⁶ established that no framework existed for communicating with sheriffs about their performance. The auditors recommended that procedures be established to improve communications between the sheriffs and Revenue on all matters concerning the effectiveness of the sheriffs. Since 1993, each sheriff is regularly informed of his effectiveness as compared with the average for all sheriffs. In addition, visits by Revenue staff to each sheriff's office took place in 1994. Since then a number of sheriffs are visited each year to discuss issues specific to that sheriff's performance. By 1996, in a follow-up audit, it was noted that some

⁶ *Office of the Revenue Commissioners, Internal Audit Report on Enforcement through the Sheriff Operation in the Office of the Collector General, 28 March 1991 (unpublished)*

improvements had been made but that considerable scope for further improvement in the operational effectiveness of a number of sheriffs remained⁷

- 3 37 In February 1997 Revenue reached agreement with the sheriffs on a new set of procedures and guidelines to govern the relationship between them. This agreement came into force on 1 November 1998 to coincide with the Enforcement of Court Orders (Fees) Order 1998. While it does not provide specific performance targets to be met by sheriffs, it provides that targets may be set and that penalties for failure to perform satisfactorily may be imposed by a Joint Standing Committee representing Revenue, the sheriffs, and the Department of Justice. It is desirable that review procedures for monitoring performance against agreed output targets be devised and put in place as soon as possible under the aegis of this Committee.
- 3 38 The new agreement and revised procedures are considered by sheriffs to be an improvement on the existing arrangements. The move to multi-period and cross tax certificates is seen as a positive development and should make contact with taxpayers more businesslike rather than the existing practice of returning to the same taxpayer a number of times in close succession.

Conclusions

- 3 39 The conclusions are
- A large volume of cases identified as suitable for sheriff enforcement and issued to the sheriff liaison unit are withdrawn as a result of screening. There is a lack of adequate information on the reasons why cases are withdrawn. A new system of identifying suitable cases is being introduced to streamline this procedure.
 - The marker which is placed on records when cases are referred for enforcement action should be withdrawn if sheriff action is unsuccessful to enable the cases to proceed to other enforcement action. The examination noted that this exercise was not carried out at the normal time in Autumn 1997. An exercise was carried out by Revenue in March 1998 as a result of the examination which resulted in the reversion of almost 6,000 cases which had markers in excess of fifteen months old.
 - There has been a decline in the number of certificates being referred for sheriff enforcement over the five year period to 1997 arising mainly from the implementation of case working. The quality of the certificates being referred has

⁷ *Office of the Revenue Commissioners, Internal Audit Report on Enforcement through the Sheriff Operation in the Office of the Collector General, Follow-up Audit, 31 January 1996 (unpublished)*

improved. This may have contributed to a higher percentage of certificates being returned as paid.

- Almost 50% of taxpayers accounting for 77% of the value of certificates who were subject to sheriff enforcement in 1996 and 1997 were referred to the sheriff on more than one occasion. Over 6% of such taxpayers with over 22% of the value of certificates were referred on six or more occasions. This would indicate that sheriff enforcement under the old scheme of remuneration did not have the desired deterrent effect in many cases. It remains to be seen whether the new scale of charges effective since 1 November 1998 will lead to significant alteration of the pattern.
- The current system of tracking certificates issued to sheriffs is unsatisfactory as the current status of individual certificates cannot be ascertained. A system of tracking each certificate is essential for the efficient and effective management of sheriff enforcement. Revenue propose to introduce a new system shortly as part of revised arrangements agreed with the sheriffs which will improve the monitoring system.

4 Solicitor Enforcement

- 4 1 Two firms of solicitors and the Revenue solicitor are involved in the pursuit of defaulting taxpayers in cases which are deemed unsuitable for sheriff enforcement. Solicitor enforcement is applied in respect of a small percentage⁸ of defaulting taxpayers. The efficiency of solicitor enforcement is affected to some extent by judicial processes which are beyond the control of Revenue or the solicitors. The value for money issues considered in this chapter are concerned with the activities undertaken in relation to solicitor enforcement within Revenue, and by the Revenue Solicitor and the two external firms of solicitors.
- 4 2 Total payments by Revenue to the two solicitor firms amounted to £860,000 in 1997. The total cost to Revenue of the solicitor firms has generally been about 10% of the yield from solicitor enforcement in recent years, most of which is not recovered from the defaulting taxpayers. Some 61% of these payments to the solicitors represented commission on tax collected. Commission cannot be recovered from the taxpayer. The fee and outlay components of solicitor costs can be recovered, but it is frequently the case that, if the taxpayer pays the full amount of tax due, it is deemed impractical to institute legal proceedings solely for the recovery of relatively small costs. This situation contrasts with the sheriff option where the commission (or poundage) due to the sheriff is provided for by statutory instrument and is fully collectible.
- 4 3 Arising from its review of solicitor enforcement procedures, Revenue propose to introduce a number of fundamental changes in the role of solicitors, including a proposal to put the requirement for external solicitor support out to tender⁹. Under the new arrangements it is proposed that some activities, previously performed within Revenue, will be contracted out to external solicitors. These will include allowing the solicitors to proceed to judgment registration without the requirement to seek instructions from Revenue at each intervening stage. Currently the solicitors are remunerated on the basis of a fee for each activity carried out and a commission on any tax collected. The revised arrangements propose that the fee component of solicitor costs will increase, although commission will be retained as an incentive to effective action. After judgment has been obtained, the solicitor will be asked to assess the likelihood of collection before proceeding further, and may be asked to proceed on the basis of commission only. The Revenue Solicitor will advise on the conduct of cases and may take over the conduct of any cases which are of strategic significance to Revenue.

⁸ *In 1997, 6% of defaulting cases were referred to solicitors for enforcement action.*

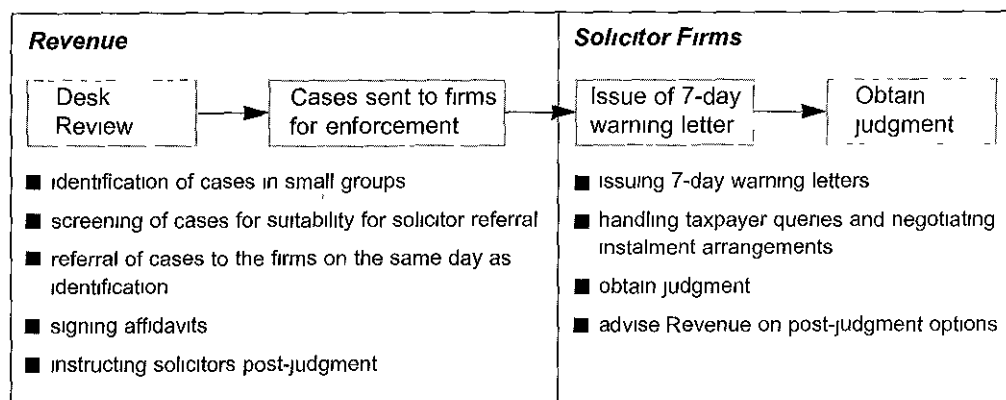
⁹ *The two firms currently employed were originally appointed in 1973.*

Management Information on Cases Referred for Solicitor Enforcement

- 4 4 Up to 1997, while basic information was recorded on the computer system of cases referred to solicitors, information on subsequent activity was kept only on paper files. The outcome of enforcement action, such as the receipt of payments or closure of cases was not collated into a single database which would permit analysis on the success of enforcement action. In the absence of a proper tracking system Revenue has not been in a position to fully evaluate the efficiency and effectiveness of solicitor enforcement. It is envisaged that, when the revised arrangements are fully operational, management information will be available to better support the management of solicitor enforcement and to monitor the results of enforcement activity.
- 4 5 The limitations of management information restrict the extent to which an evaluation of solicitor enforcement can be carried out. However, a temporary database, which was created by Revenue and used during the first half of 1997 to record details of cases referred for solicitor enforcement and subsequent activity, was available for analysis purposes. The solicitor firms and the Revenue solicitor maintain databases of cases referred to them by Revenue and copies of these databases were also made available during the examination.

Procedures for Solicitor Enforcement

- 4 6 Since September 1997, in order to improve efficiency, Revenue have implemented a new system of targeting cases for solicitor enforcement. The new process includes a cross-taxhead approach which has increased the average value of cases referred. Under the new system one unit deals with identification and referral of cases to sheriff and solicitors. The more accurate estimation of debt and the more timely referral of cases has improved the quality of cases being referred. The effectiveness of the solicitor enforcement action depends on the completeness and appropriateness of cases selected for referral and on the timeliness of referral. Figure 4.1 shows the steps involved in the new procedures.
- 4 7 Prior to the implementation of the revised arrangements the solicitor liaison unit acted as the interface between Revenue, the taxpayer and the solicitors for the duration of enforcement. The procedures performed by the unit were similar to those of the sheriff liaison unit but a key additional procedure was the issue by the unit of the seven-day warning letter which serves as a final notice to defaulting taxpayers of the intention to initiate court proceedings unless payment is received within seven days.

Figure 4 1 Revised procedures for solicitor enforcement

Timeliness of selection of cases for referral

4 8 Table 4 1 presents an aged summary of the number and value of cases referred to the solicitor liaison unit in the first half of 1997 for the tax heads covered by the examination. The majority of cases are over one year old prior to referral. For Income Tax (which accounts for the bulk of ASC) enforcement cannot commence until after the due date for submission of the final return, which is always more than one year after the year of account. In relation to PREM, solicitor enforcement is concerned with liabilities arising on the annual P35 due in April. Account must also be taken of the fact that liabilities relating to several years ago may only be established and enforceable in the recent past, for example, as a result of audit.

Table 4 1 Age of outstanding taxes at referral to solicitor liaison unit

Age	VAT		ASC		PREM	
	% of cases		% of cases		% of cases	
	number	value	number	value	number	value
less than 6 months	53	51	0	0	0	0
6 months to 1 year	14	13	1	1	0	0
1 to 2 years	10	11	42	49	100	100
2 to 3 years	8	9	24	25	0	0
3 to 4 years	6	6	18	13	0	0
4 to 5 years	6	8	15	12	0	0
over 5 years	3	2	0	0	0	0
Total	100	100	100	100	100	100
	3,153	£18 0m	2,344	£9 6m	592	£2 8m

Source: Analysis by Office of the Comptroller and Auditor General of a Revenue database of cases referred during the first half of 1997.

- 4 9 Nevertheless, there is still evidence of delay in referral which may be caused by the placing of stops on cases, unsuccessful caseworking and the transfer of staff from solicitor enforcement unit to arrears work which impacted upon normal solicitor enforcement. A survey of 100 cases by one of the external solicitors indicated a prospect of recovery in only 4% of old cases. As the effectiveness of enforcement fades rapidly with the lapse of time from the creation of the liability Revenue should, as part of the introduction of the new management information system, actively monitor the age of liabilities being referred and identify causes of delay.

Efficiency of the Seven Day Warning Letter Procedure

- 4 10 The seven day letter is issued as a final warning to taxpayers of impending referral of the case for enforcement. According to the database, seven day warning letters were issued in respect of 2,140 of the VAT cases, 444 of the PREM cases and 1,833 of the ASC cases which were originally referred to the Liaison Unit. The analysis showed that it took an average of 31 days for VAT cases, 63 days for PREM cases and 208 days for ASC cases, to issue the seven day warning letters.
- 4 11 A pilot scheme was introduced in August/September 1997 in which the external solicitors were permitted to issue the letters themselves. The purpose of this scheme was to assess the effect of this approach in the context of the new arrangements described in Paragraph 4 3. The pilot scheme has freed up resources which have been redeployed to the examination of cases where solicitor enforcement has failed to achieve positive results in the past. A detailed cost benefit analysis is necessary to confirm that the revised seven day letter procedures are more cost effective than the previous procedures within Revenue.

Timeliness of referral

- 4 12 The issue of seven day warning letters had the benefit of bringing the taxpayer into direct contact with Revenue officials and saving solicitors fees. However, the procedure often gave rise to protracted negotiations between Revenue and the taxpayer. In cases where negotiation was unsuccessful the liabilities accumulated and the taxpayer obtained a *de facto* extension of time which made solicitor action more difficult. At the time of the examination (March 1998) the analysis of cases showed that 949 VAT cases, 149 PREM cases and 977 ASC cases had been referred to the solicitor firms for enforcement action. The average time taken to refer these cases for solicitor action was 23 days for VAT cases, 50 days for PREM cases and 108 days for ASC cases from the date of issue of the seven day letter.
- 4 13 A detailed analysis of the 2,204 VAT cases not referred for solicitor enforcement showed that almost 1,000 of these cases had balances outstanding. An examination of these latter cases showed that 54% of the cases had not been referred because they had

not yet been subject to review in the unit. Of the remainder, 31% of the cases had not been referred for positive reasons such as promises to pay or returns having been received while 15% had not been referred for negative reasons such as the company having ceased trading or the taxpayer being outside the jurisdiction. The proposed new system should address these delays through the use of AIM for selection of cases for review and issue to solicitors on the day of selection.

- 4 14 From a value for money perspective, a balance needs to be achieved between the time allowed for the pursuit of the outstanding tax directly by Revenue officials and prompt referral of the case for enforcement. While these delays may no longer be a feature of the referral process, AIM caseworking, stops and other factors can still delay the decision to enforce to a significant extent. As timeliness has a direct impact on enforceability, there should be a standard time allowed for the completion of collection procedures and the efficiency of the collection process should be assessed, in part, by the time taken to reach an enforcement decision in each case.

Efficiency and Effectiveness of Solicitor Enforcement

Value of cases referred and the yield

- 4 15 Table 4.2 shows the trend in the value of cases referred in each of the five years 1993 to 1997 and the yield on those cases up to March 1998. The yield figures represent cash received and, while satisfying the liability referred to the solicitors, in the cases of estimated liabilities may be substantially less than the amount referred.
- 4 16 In the period under review the trend in referrals was affected by a number of factors. Cases which were at enforcement at the time of the 1993 amnesties were frozen and complications arising out of the need for rigorous checking of forms of evidence prevented an early resumption of proceedings. This resulted in a fall-off in referrals in 1994. The level of referrals in 1995 represent a peak when Revenue made an effort to sweep back to pick up liability accrued during the amnesty freeze. The level of cases referred to solicitors in 1996 was low due to a greater number of defaulting cases being dealt with through the AIM system, a lack of resources in the solicitor liaison unit at that time and the introduction of revised estimation procedures.
- 4 17 In comparing performance between the Revenue Solicitor and the solicitor firms a number of factors need to be taken into account. The Revenue Solicitor processes larger¹⁰ and more complex cases which are heard in the High Court. Additional

¹⁰ *In 1997, the threshold for referral of cases to the Revenue Solicitor was reduced from £100,000 to £30,000.*

difficulties may arise from the method of service of the summons on individuals in High Court cases where the summons must be served to the defendant in person

- 4.18 The yield figures shown in Table 4.2 for the solicitor firms include both payments received directly by the solicitors and payments received directly by the Collector General arising from the solicitors' action. The yield figures for the Revenue Solicitor do not take account of amounts received directly by the Collector General arising from Revenue Solicitor action as these are not available. For the purposes of the examination an exercise was carried out on cases referred in 1996 which indicated that total payments of £1.9 million were received either directly by the Revenue Solicitor or by the Collector General in respect of cases referred to the Revenue Solicitor in that year, representing a yield of 19.5%.
- 4.19 A more meaningful measure of solicitor performance is to compare the yield to the level of referrals, adjusted for cases subsequently withdrawn where the solicitors have been instructed not to proceed. This is shown as the adjusted percentage yield in Table 4.2. This adjusted yield figure is not available for the Revenue solicitor.

Table 4.2 Value of referrals and yield 1993 to 1997

	1993	1994	1995	1996	1997 ^d
Solicitor Firms					
Referred ^a	£51.8m	£30.1m	£50.1m	£22.1m	£28.7m
Adjusted referrals ^b	£27.7m	£13.2m	£26.0m	£11.4m	£24.4m
Yield ^c	£9.1m	£7.8m	£11.5m	£5.3m	£7.5m
% yield	17.5%	25.9%	23.0%	24.1%	26.1%
Adjusted % yield ^b	32.7%	59.3%	44.2%	47.2%	31.0%
Revenue Solicitor					
Referred ^a	£10.1m	£2.4m	£9.0m	£9.7m	£20.7m
Yield ^c	£0.4m	£0.2m	£1.2m	£0.3m	£0.8m
% yield	3.9%	8.3%	13.3%	3.1%	3.9%

Source: Analysis of Solicitor Firms' and Revenue Solicitors' databases by Office of the Comptroller and Auditor General

Note: ^a The figures for referrals in the table are greater than figures included in Revenue's statistics which exclude certain categories of cases referred

^b See paragraph 4.17

^c The yield figures represent amounts collected up to March 1998 in respect of the year in which the cases were referred

^d The yield for 1997 may be adversely affected in comparison with earlier years as the figures are based on cumulative receipts to March 1998

Timeliness of enforcement

- 4 20 Over the five year period 1993 to 1997 the average times taken by solicitor firms to issue proceedings and to obtain judgment were 31 days and 175 days, respectively. The corresponding figures in respect of the Revenue Solicitor were 55 days to serve proceedings and 246 days to obtain judgment. While the issue of proceedings against the taxpayer was reasonably prompt, the time taken to obtain judgment is dependent on the workings of the judicial process.
- 4 21 The solicitor firms have stated that a number of factors affected the timely issuing of proceedings. In some of the years under review, large numbers of cases were referred to them in December and their ability to make a prompt and valid service of the proceedings was affected by the holiday period. Frequently, proceedings are addressed to taxpayers who no longer reside at the given address, thereby necessitating revised instructions from Revenue. During the years 1993-1996 limits were imposed on the number of summons which could be issued through the Dublin Metropolitan District Court.

Outturn

- 4 22 Overall, judgments were obtained in 30% of the cases referred to the solicitor firms, representing 31% of the value. In the case of the Revenue Solicitor, judgments were obtained in 25% of the cases referred, representing 28% of the value. According to one of the solicitor firms, approximately 80% of cases which go to court are not defended and judgment is obtained in default. Of the 20% of cases which are defended, approximately half are settled before the court date.
- 4 23 At the time of the examination some £61 million in respect of cases referred to the solicitor firms in the period 1993-97 had not yet been finalised. The status of this balance is summarised in Table 4.3.

Table 4 3 Cases on hands of solicitor firms at March 1998

	Firm A £ million	Firm B £ million	Total £ million
Pre Judgement stage	5.7	6.4	12.1
Judgment obtained/registered	13.7	6.0	19.7
Defence entered	1.9	1.9	3.8
Awaiting instruction from Revenue	9.6	5.5	15.1
Instalment arrangement	2.7	7	3.4
Other	4.3	2.9	7.2
Total	37.9	23.4	61.3

Source: Analysis of External solicitors' databases by Office of the Comptroller and Auditor General

4.24 An analysis of these cases at the time of the examination, by reference to the date recorded of the last action on the case, is shown in Table 4.4. For cases referred prior to December 1994, Revenue is in the process of carrying out an examination of each case, as the likelihood of recovery is now significantly diminished due to the lapse of time, and it is now clear that routine solicitor action has been ineffective. These cases are included in the categories "Awaiting instruction from Revenue" in Table 4.3 and in the older categories of Table 4.4.

4.25 The general practice within Revenue, in respect of cases which are taken to the courts, has been to process the case to a certain stage and not to proceed further. Generally, a case is pursued to the point of obtaining and registering a judgment and, where a property could be identified, obtaining a judgment mortgage. As shown in Table 4.3, £19.7 million of the amount on hands represented cases which had reached this stage. As pointed out in paragraph 16 of my 1996 Annual Report, a range of additional

Table 4 4 Last action on open cases

Year in which case was last acted on	Firm A £ million	Firm B £ million	Total £ million
1993	3.8	3.3	7.1
1994	5.4	2.3	7.7
1995	6.6	2.6	9.2
1996	6.4	4.3	10.7
1997	9.7	5.2	14.9
1998	6.0	5.7	11.7
Total	£37.9	£23.4	£61.3

Source: Analysis of External solicitors' databases by Office of the Comptroller and Auditor General

powers are available to Revenue to finalise this type of case including execution of a judgment mortgage, bankruptcy proceedings, winding-up of companies and criminal prosecutions

- 4 26 Revenue have pointed out that the cost and the formalities of bankruptcy proceedings make it unlikely that they will be considered in large numbers of cases. Judgment mortgages are sought where the tax liability is significant and there is suitable property registered in the name of the taxpayer. They are also more active in winding up companies. The new policy aimed at criminal prosecution of cases of serious tax evasion is now underway. In respect of cases which have been on hands of the solicitors for a considerable period, a more regular and systematic review than is currently made should be carried out to establish whether further action can be taken, as appropriate, to finalise the cases.

Conclusions

- Recovery of costs from the defaulting taxpayer arising from solicitor action is minimal. Possible ways of ensuring that the defaulting taxpayer carries the cost of solicitor action should be explored.
- The level of information within Revenue to support the management and evaluation of solicitor enforcement is very limited. In the absence of a proper tracking system Revenue have not been in a position to comprehensively evaluate the effectiveness of solicitor enforcement. New systems are in the process of being developed which should improve the level of management information available.
- Delays in processing cases for solicitor enforcement should be addressed, as the age of the debt can have a significant adverse impact on the subsequent collectibility of the debt. While corrective action has been taken by the Enforcement Section, continued vigilance is necessary to ensure that stops, caseworking or other factors do not have the effect of delaying decisions to enforce.
- The issue of the seven day warning letter can be an effective means of securing payment. However, where negotiations are unsuccessful the resulting delay can make subsequent enforcement more difficult. The revised procedures should incorporate measures to ensure that there is a balance between the effectiveness of the seven day letter and the potential adverse impact of delays.
- There was a reduction in the number and value of cases referred to solicitors in 1996 and 1997. This was mainly due to the introduction of AIM caseworking and the diversion of staff in the Solicitors Liaison Unit to work on the arrears reduction programme.

- Some 22% of the value of cases referred to the solicitor firms for enforcement between 1993 and 1997 was subsequently recovered. When cases withdrawn by Revenue are excluded the rate of recovery is approximately 40%. The rate of recovery by the Revenue Solicitor is lower but this may be due to the requirement to handle the more complex cases.
- Some £61 million in respect of outstanding cases referred to the solicitor firms between 1993 and 1997 remained uncleared at March 1998. A large proportion of these cases had not been subject to action for a number of years. In some cases this may be due to failure to process the cases beyond the judgment stage. Revenue should periodically review such cases to establish whether further action such as execution of judgment mortgages, bankruptcy proceedings, company liquidation or criminal prosecution is appropriate.