Chapter 3 Office of the Revenue Commissioners

3.1 Revenue Account

Basis for Audit

An account showing all revenue received and paid over to the Exchequer by the Revenue Commissioners is furnished to me annually. I am required under Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993 to carry out such examinations of this account as I consider appropriate in order to satisfy myself as to its completeness and accuracy and to report to Dáil Éireann on the results of my examinations. The results of my examinations have been generally satisfactory.

I am also required under Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993 to carry out such examinations as I consider appropriate in order to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenue of the State and to satisfy myself that the manner in which they are being employed and applied is adequate. Sections 3.5 to 3.8 refer to matters arising from this examination.

Revenue Collected

Revenue collected under its main headings in 2003 is shown in Table 4.

Table 4 Revenue Collected*

	Gross Receipts	Repayments	Net Receipts	2002 Net Receipts
	€m	€m	€m	€m
Income Tax	11,471	2,315	9,156	8,979
Value Added Tax	12,321	2,605	9,716	8,844
Excise	4,928	192	4,736	4,595
Corporation Tax	5,537	382	5,155	4,804
Stamps	1,696	32	1,664	1,139
Customs	148	11	137	134
Capital Acquisitions Tax	222	9	213	150
Capital Gains Tax	1,449	13	1,436	619
Residential Property Tax	1	—	1	1
Total	**37,773**	**5,559**	**32,214**	**29,265**

* Total gross collection amounted to €43.9 billion as levies and fees such as PRSI (€6 billion), Health Levy (€125m) and Environmental Levy (€13m) are collected for other Departments.

Of the net receipts of €32,214m, a total of €168m was paid during 2003 under Section 3 of the Appropriation Act, 1999 from the proceeds of tobacco excise to the Vote for Health and Children. €32,098m was paid into the Exchequer which represented a prepayment of €368m. The amount prepaid at the end of 2002 was €316m. Most of the prepayment is due to the transfer into the Exchequer of moneys received from taxpayers as deposits and payments on account pending final settlement of tax liability. Such amounts are rarely repaid to the taxpayer and will subsequently be included in the relevant tax receipts figures as and when liability is finalised. An enhancement to Revenue's systems during 2004, introduced procedures which will allow most payments on account to be allocated and processed as tax receipts.

3.2 Tax Written Off

The Revenue Commissioners have furnished me with details of the €119m of taxes written off during the year ended 31 December 2003. Details of the total amount written off and the distribution according to the grounds of write-off are shown in Table 5 and Table 6.

Table 5 Taxes Written Off

Tax	2003 €'000	2002 €'000
Value Added Tax	41,792	80,197
PAYE	17,505	42,657
Corporation Tax	5,895	6,094
Income Tax	34,683	23,707
Capital Gains Tax	977	—
Other Taxes	1,986	2,600
PRSI	16,607	22,843
Total	**119,445**	**178,098**

Table 6 Grounds of Write Off

Grounds of write-off	2003 No. of Cases	2003 €'000	2002 No. of Cases	2002 €'000
Liquidation/Receivership/Bankruptcy	337	29,442	360	31,137
Ceased trading – no assets	2,277	32,390	2,236	42,765
Deceased and Estate Insolvent	200	2,022	251	2,813
Uneconomic to pursue	38,844	39,322	152,543	75,047
Unfounded Liability	151	1,688	167	2,547
Cannot be traced / Outside Jurisdiction	331	5,978	510	7,427
Compassionate Grounds	81	926	234	2,185
Uncollectable due to financial circumstances of taxpayer	520	7,677	954	14,177
Totals	**42,741**	**119,445**	**157,255**	**178,098**

The write off in 2003 included the write off on an automated basis of 30,600 cases totalling €11.8m in respect of VAT, PAYE, PRSI, Income Tax, Corporation Tax and Capital Gains Tax. All cases related to periods between 1991 and 1998 and no amount exceeded €1,000. Cases under general investigation, potential Ansbacher cases, and cases under the control of the Criminal Assets Bureau are excluded from all write off procedures.

The Internal Audit Branch in Revenue undertakes an annual examination of tax write offs. The 2003 audit examined file papers and computer records for a sample of 109 cases, representing approximately 17% of the value of non-automated write offs. In addition, the computer files relating to each of the twelve automated write off runs were examined to confirm that the authorised selection criteria were applied. The Internal Audit found no instance where tax was improperly written off under the current instructions, procedures and guidelines. The main finding of the Internal Audit related to commonality checks which are designed to establish, prior to tax being written off, whether related entities had outstanding tax liabilities. These checks were introduced in 2002 following my in-depth examination of write offs. The Internal Audit found that commonality checks were not recorded as having been carried out in 13 of the 41 cases that met the criteria for such checks. As a result of the Internal Audit finding,

instructions were issued to all staff in June 2004 as a reminder that the guidelines in relation to these checks should be strictly adhered to.

3.3 Revenue Audit Programme

Overall Audit Programme

In a self-assessment system returns filed by compliant taxpayers are accepted as the basis for calculating tax liabilities. The validity of returns is established by the auditing of a selection of cases either through reviewing and seeking further verification of particular details or by the examination of documents and records at a taxpayer's premises. While the total number of audits completed has fallen by 408 since 2002, there has been an increase of almost €160m in the total yield, mainly due to audit settlements of €139m in 3,910 bogus non-resident account cases.

The outcome of the 2003 programme of Revenue audits is summarised in Table 7, which also includes 4 audits arising from investigation and anti-avoidance activity.

Table 7 Revenue Audit Programme

	2003		2002	
Audit Type	**No. of audits completed**	**Yield €m**	**No. of audits completed**	**Yield €m**
Comprehensive	4,359	226.3	2,424	88.6
Value Added Tax	3,951	76.4	4,300	61.1
PAYE Employers	874	18.1	862	6.3
Relevant Contracts Tax (RCT)	231	1.6	169	1.7
Combined Fiduciary (VAT, PAYE and RCT)	544	13.2	582	9.9
Capital Acquisitions Tax	112	5.6	225	3.1
Verification Audits and Desk Reviews	5,695	86.8	7,594	88.5
Investigation Branch	1	0.4	8	5.0
Anti-Avoidance	3	0.3	12	4.4
DIRT	8	0.8	10	1.0
Total	**15,778**	**429.5**	**16,186**	**269.6**

Comprehensive Audits

The selection of cases for comprehensive audit is made on the basis of such factors as screening of annual returns, re-audit of cases with previous undercharges, other information available to Revenue and random selection. For 2003, selection was also based on information relating to bogus non-resident accounts obtained from financial institutions under High Court orders — 2,460 comprehensive audits were completed in bogus non-resident account cases in 2003. Generally, a settlement is agreed following completion of the audit and any outstanding amount is paid. A number of settlements involve the restriction of losses which may be carried forward against future years' profits. Where an Inspector is unsuccessful in collecting the additional amount of tax and interest arising on audit adjustments, the amounts are referred to the Collector General for collection.

The outcome of the 4,359 comprehensive audits completed in 2003 is detailed in Table 8. The highest individual settlements were €3.9m for Income Tax and €13.2m for Corporation Tax. The overall yield of €226.3m includes interest charges of €68.1m and penalties of €32.2m.

Table 8 Yield from Comprehensive Audits

	Income Tax		Corporation Tax	
	Number	Yield	Number	Yield
Agreed Settlements:				
€1 to €12,700	1,981	€4.3m	105	€0.4m
€12,701 to €100,000	947	€36m	100	€2.6m
€100,001 to €500,000	259	€52.6m	51	€6.6m
€500,001 to €1m	25	€17.2m	10	€6.8m
Over €1m	15	€28.2m	16	€52.3m
Other Settlement Activity:				
Returns accepted – no additional tax payable	609	—	197	—
Settled by restriction of losses carried forward to future years	4	€0.4m	12	€17.7m
Referred to Collector General for enforcement action	23	€1.1m	5	€0.1m
Totals	**3,863**	**€139.8m**	**496**	**€86.5m**

Random Audits

Under the random audit programme 274 audits were completed in 2003 with a total yield of €3,434,791 including interest and penalties of €1,043,180. In 152 of the 274 audits, the taxpayer's returns were accepted as originally submitted. Table 9 compares the 2003 results with the outcomes for recent years which were set out in my 2002 report on this subject.

Table 9 Random Audit Results 1999 to 2003

	All Random Audits					Yielding Audits	
	Total Audits	Returns Accepted	Total Yield	Average Yield inc. Int.& Pen.	Average Yield Tax Only	Yielding Audits	Average Total Yield
1999	192	151 (79%)	€0.1m	€771	€577	41	€3,609
2000	437	342 (78%)	€0.6m	€1,434	€1,127	95	€6,595
2001	740	510 (69%)	€3.4m	€4,570	€3,174	230	€14,704
2002	720	491 (68%)	€2.9m	€3,999	€2,879	229	€12,573
2003	274	152 (55%)	€3.4m	€12,536	€8,729	122	€28,154

The table highlights the main trends for 2003:

- A reduction of over 60% in the number of random audits;
- An increase in the number of 'yielding' audits from 32% to 45%; and
- An increase of over €555,000 or 19% in the total yield.

These results are reflected in an increase from €3,999 to €12,536 in the overall average yield per random audit. When interest and penalties are excluded, the average amount of tax collected per audit increased three-fold to almost €9,000.

Revenue has indicated that the target for random audits for 2003 was 500 but due to the resources required to audit bogus non-resident account cases it was not possible to achieve the target. For 2003, cases were not selected purely at random with districts selecting cases representing the greatest risk from an initial random selection. This resulted in the increase in the percentage of yielding audits and in the average yield.

Revenue have completed a review of the random audit programme and it is proposed that selection for future random audit programmes will be on a purely random basis. Revenue has indicated that provisional proposals for the 2004 programme are that

- A random selection should be carried out for each of the four geographical regions.
- The selection should be based on taxpayers that have a live registration for the calendar year 2002.
- The audits should test compliance across all of the taxes for which the taxpayers are registered.
- The programme should commence in the latter half of 2004 and should be largely finalised in the first half of 2005.

3.4 Revenue Prosecution Activity

Prosecutions for Serious Tax Evasion

Under Revenue prosecution strategy, Regions and Divisions forward cases to Investigation and Prosecutions Division for investigation with a view to criminal prosecution where there is prima facie evidence of serious revenue offences having been committed. These cases are further evaluated within the Division before commencement of the resource intensive criminal investigation work which can take several years before reaching the Courts. In 2003, 46 cases were referred to the Division for consideration and 27 were accepted for investigation with a view to prosecution. Convictions were obtained in all 6 of the cases decided in Court in 2003 as set out in Table 10.

Of a total of 41 cases on hands at the end of 2003, 32 are still under investigation, 6 have been submitted to the DPP, bench warrants have been issued in 2 cases and one case is before the court.

Prosecution of Non-Filers

Taxpayers failing to submit returns of Income Tax and Corporation Tax normally receive a warning letter from the Revenue Solicitor. In the event that returns are still not submitted, legal proceedings are instituted. During 2003, 13,647 warning letters were issued, follow-up legal proceedings were initiated in 1,931 of these cases and convictions were obtained in 627 cases (575 Income Tax and 52 Corporation Tax) with fines totalling €702,511. Court orders requiring the convicted person to submit the outstanding returns were obtained in 47 of these cases.

In 2003, penalties were imposed by Revenue on 455 employers who failed to make P35 employer returns on time. The total amount of penalties paid in 2003 was €439,348.

Table 10 Convictions during 2003 for Serious Tax Evasion

Occupation/Activity	Offence	Sentence
Accountant	27 charges of false VAT and Income Tax returns	Fined €1,260 on each count mitigated to €320 for each
Market Gardener	2 charges of incorrect Income Tax returns	Fined €3,000 on each count
Director	2 charges of incorrect Income Tax returns	Fined €1,750
Farmer	7 charges of incorrect Income Tax returns	2 year suspended sentence on each charge (concurrent). Bond of €5,000 to remain tax compliant for 5 years
Car Dealer	1 charge of an incorrect VAT return	Fined €1,900 mitigated to €475
Warehousing Company and Director	6 charges of false returns	Company fined €6,250 Director fined €6,250

3.5 Special Investigations

Table 11 sets out the payments made to July 2004 in relation to cases being examined as part of the Revenue Special Investigations. A short summary of progress to date in the investigations follows.

Table 11 Payments arising from Special Investigations

Investigation	Cases Involved	Payments to Date
DIRT — Look Back Audits (financial institutions)	37	€225m
DIRT — Underlying Tax		
Voluntary Disclosure Scheme	3,754	€232m
Court Order Cases	c. 8,000	€305m
NIB	452	€51m
Ansbacher	289	€43m
Pick Me Up Schemes	71	€0.7m
Mahon Tribunal	27	€19m
Moriarty Tribunal	18	€6.3m
Offshore Assets	c. 14,000	€677m
Total		**€1,559m**

Re-audit of DIRT in Financial Institution

In September 2001 I expressed my concern to Revenue about the nature and extent of the Revenue audit carried out in a particular financial institution. In reply, the then Accounting Officer outlined the justification for the type of audit undertaken and affirmed that Revenue staff were fully satisfied that the 400 non-resident accounts examined were authentic and belonged to genuine non-residents. He stated that the financial institution in question had produced evidence in relation to the genuine non-resident status of the sampled cases to the Revenue team, including those accounts where there were declaration difficulties. As a result of that Revenue audit, the Revenue report on the DIRT Look-Back audits to the Committee of Public Accounts had concluded that no amount of tax was due from the financial institution in question.

In Section 2.5 of my 2002 Report I recorded that following an analysis by Revenue auditors of the information submitted during the 15 November 2001 disclosure scheme, it was noted that a number of those who made voluntary disclosures held non-resident deposit accounts with the financial institution in question. As a result of this new information, Revenue decided that it was necessary to further investigate the operation of DIRT in the financial institution in the periods of assessment 1986/87 to 2003.

The Accounting Officer stated that, in considering the approach to be adopted for the original DIRT look back audit of the financial institution in 1999/2000, the judgment made was that on the basis of the available information it did not represent a significant risk from the point of view of DIRT. As a result the full DIRT audit programme, which was successfully used in high-risk retail financial institutions, was not applied to the financial institution.

The Accounting Officer also stated that the new DIRT audit of the financial institution commenced on 10 November 2003. The audit programme that was used in this new audit was similar to the full DIRT audit programme that was used in the other look back audits in 1999/2000. This full audit programme included a complete review of the DIRT systems and procedures of the financial institution and a detailed examination of samples of accounts for three sample dates (31 March in 1990, 1995 and 1999). Only one date was used in the original audit. This new DIRT audit detected that the financial institution did have DIRT liabilities for the years of assessment 1986/87 to 2003.

He said that the new DIRT audit of the financial institution was finalised on 22 July 2004. The amount of the settlement was €3,162,136, which includes DIRT (€1,091,524), statutory interest (€1,881,557) and penalties (€189,055).

Underlying Tax on Bogus Non-Resident Accounts

I referred in my 2002 Report to the Voluntary Disclose and Pay Scheme under which taxpayers were encouraged to declare and pay, by 15 November 2001, tax liabilities, i.e. the underlying tax, relating to funds which had been deposited in bogus non-resident accounts, and which had come to notice as a result of the DIRT investigations. I completed my examination of the operation and control of the scheme with generally satisfactory results. An overall report of the eligibility and liability assessment programme has not yet been prepared by Revenue as 46 of the 268 planned liability reviews have still to be completed.

I have been assured by Revenue that the remaining 46 liability reviews still under investigation will be completed and that a report will be compiled when all the necessary information is available. However, Revenue was satisfied on the basis of the work completed to date that the overall receipts of €232m from the 3,754 taxpayers that had availed of the scheme represented the full amount of liabilities due in respect of all taxes, together with the 'capped' interest and penalties. Revenue considered that, because of the significantly targeted nature of the checking process (nearly 50% of liability reviews were targeted by Districts), all cases which were likely to have had material additional liabilities had been identified. A total of 40 cases had now been settled with an additional €2m paid. The eligibility review had found only 30 cases (less than 1%) to be ineligible under the terms of the scheme. The 30 cases, which had paid €6.8m, had been advised that they were ineligible. They have been requested to pay the full amount of interest and penalties due. The matter is ongoing.

Investigations into those account holders who did not avail of the voluntary scheme commenced in November 2001. The main source used to identify holders of bogus non-resident accounts is information supplied by financial institutions on foot of High Court orders obtained under Section 908 of the Taxes Consolidation Act, 1997. 18 applications for such orders were made and granted and the information sought has been delivered by the financial institutions. Enquiry letters were issued to account holders identified in batches between October 2002 and January 2004 with a total of 177,000 enquiry letters issued. At July 2004, €305m has been received in respect of this stage of the investigation.

Offshore Investments via National Irish Bank

The investigation into individuals who invested in an offshore investment scheme operated by National Irish Bank is continuing. 292 cases settled with total liabilities of €46m and 113 cases had no liability. 405 of the 452 cases have now been settled and payments on account of €5m have been received in 20 of the outstanding cases.

Ansbacher (Cayman) Limited

A special project team is investigating the Ansbacher accounts. The team is investigating cases directly involving Ansbacher type arrangements as well as other cases involving offshore funds and deposits. There are 289 cases comprising 179 cases on the High Court Inspectors' Report and 110 similar cases discovered by Revenue or listed in the Authorised Officer's Report.

Revenue's application to the High Court to obtain unpublished documents gathered by the Inspectors was heard in November 2002. In May 2004, the High Court decided that Revenue could obtain access to certain documents and information gathered by the Inspectors. The documents must relate only to Ansbacher clients or to persons who failed to co-operate with the Inspectors. The judgment stated that Revenue could make an application at a later date to obtain information and documents relating to any

other company or individual. In June 2004, the High Court granted orders to give Revenue access to documents relating to Ansbacher clients and those who failed to co-operate with the inquiry.

84 cases have been settled, 46 of which had total liabilities of €27m. The other 38 cases settled had no liability and include

- 25 non-resident cases covered by the provisions of Double Taxation Agreements
- 2 cases covered by the 1993 Amnesty provisions.

Payments on account of €16m have been received in 41 of the 205 on-going cases.

Pick-Me-Up Schemes

Pick-Me-Up Schemes involved expenses for goods or services incurred by a political party being invoiced by the supplier to another trader who paid the supplier as a means of supporting the party. Such payments were not deductible for tax purposes, the VAT was not reclaimable and the invoices issued were not in accordance with legal requirements. The investigation found a total of 71 cases that apparently avoided tax by engaging in 'picking up' expenses which were proper to political parties. 42 cases have been settled for a total of €470,724 including interest and penalties. Revenue has decided not to settle 15 cases that have been mentioned at the Mahon and Moriarty Tribunals until those bodies have reported. €158,157 has been received on account from 6 of those cases. 14 cases are still under investigation some of which relate to payments in the 1980s or early 1990s and for which records are no longer available. As a result it is proving difficult to confirm liability. Payments on account of €90,340 have been received in 5 of these cases.

Tribunals

Matters disclosed at the Moriarty and Mahon Tribunals that suggest that tax evasion may have occurred are being investigated as they come to notice. Currently, 16 cases are being investigated as a result of the Moriarty Tribunal while 2 have been settled for a total of €6.3m. 27 cases are being investigated as a result of the Mahon Tribunal. None of these cases have been settled but payments on account of €19m have been received in 14 cases.

Offshore Assets

In 2001 Revenue established an Offshore Assets Group to examine the tax status of assets held offshore by Irish residents. Following inquiries into taxpayers who invested funds in offshore subsidiaries of two Irish financial institutions, Revenue announced in February 2004 the commencement of an investigation into unpaid tax on funds in offshore accounts and investments. Account holders were encouraged to give Revenue notice of their intention to make a qualifying disclosure by 29 March 2004. They were then required to submit a statement of disclosure and any payment due by 28 May 2004 (subsequently extended to 10 June). The benefits to account holders of meeting these deadlines were:

- Mitigation of penalties
- Settlement details would not be published
- No investigation with a view to prosecution.

In advance of this announcement, the Revenue Chairman met with the Chief Executives of ten financial institutions. As a result of these meetings, the offshore subsidiaries of these institutions issued letters to their Irish resident customers informing them of the Revenue investigation. Revenue also publicised the

investigation and associated deadlines in the media. Some 15,000 notices of intention to make disclosures were received by the March deadline.

To date, payments relating to the voluntary disclosure phase of the offshore investigation total €677m. This investigation has included two earlier phases where just over 1,500 individuals came forward and made voluntary disclosures. In the latest phase 12,500 individuals have now made payments and a number of factors account for the shortfall from the 15,000 notices of intention received. These include

- Cases where a liability has been recognised but borrowings must be secured or assets disposed of in order to meet the liability
- Cases where an extension has been sought in order to compute the liability where records have only recently been made available
- Cases where it has been determined there was no liability notwithstanding that a notice of intention had been submitted.

Revenue intends to seek High Court orders to identify those who have not made a voluntary disclosure.

3.6 Outstanding Tax and its Collectability

Each year, I include in my Report a table of outstanding taxes and PRSI based on information furnished by the Revenue Commissioners. In previous years, the information has reflected the activities and transactions in the twelve-month period to the end of May of the current year - the latest date for which data was available at the time of finalising my Report. However, in order to facilitate an earlier publication date for the Revenue Annual Report and to maintain consistency between the reports, the data reported will in future reflect the situation at 31 March. In this transitional year, the data set out in Table 12 below covers a ten-month period. An aged analysis of the balance outstanding at 31 March 2004 is set out in Table 13.

Table 12 Outstanding Taxes and Levies[1]

Balance at 31 May 2003	Tax or Levy	Charges/ Estimates Raised	Paid	Balance at 31 March 2004	Estimate of amount likely to be collected
€m		€m	€m	€m	€m
126	VAT (Declared Liabilities Net of Repayments)	8,773	8,798	101	81
206	VAT (Estimates)	80	41	245	196
146	PAYE (Declared Liabilities)	7,371	7,343	174	140
15	PAYE (Estimates)	456	459	12	10
165	PRSI (Declared Liabilities)	5,235	5,210	190	152
11	PRSI (Estimates)	354	357	8	7
327	Income Tax (Excluding PAYE)	2,020	2,041	306	245
—	DIRT	158	158	—	—
147	Corporation Tax	4,366	4,356	157	125
152	Capital Gains Tax	1,727	1,729	150	120
19	Capital Acquisitions Tax	150	157	12	10
8	Abolished Taxes	1	1	8	-
1,322	**Total**	**30,691**	**30,650**	**1,363**	**1,086**

[1] Tax is recognised as outstanding from the date the liability is put on the taxpayer's record as a result of the receipt of a return, when an estimate is raised or following the outcome of an audit.

The balance outstanding at 31 March 2004 of €1,363m is €41m greater than at 31 May 2003. Revenue has indicated that the increase is due to the change to a 31 March reporting date. It is estimated by Revenue that €1,086m or 80% of the total outstanding is likely to be eventually collected. The estimated collection ratio at May 2003 was also 80%.

Table 13 Aged Analysis of Debt at 31 March 2004

Tax	Total tax outstanding at 31 March 2004	Amounts outstanding for 2003	Amounts outstanding for 2002	Due for periods 1990/91 to 2001	Due for earlier periods
	€m	€m	€m	€m	€m
VAT	346	98	79	169	—
PAYE	186	97	25	62	2
PRSI	198	102	32	62	2
Income Tax	306	2	78	216	10
Corporation Tax	157	52	12	89	4
Capital Gains Tax	150	4	26	119	1
Capital Acquisitions Tax	12	1	1	10	—
Abolished Taxes	8	—	—	8	—
Total	**1,363**	**356**	**253**	**735**	**19**

As the information given in Table 12 is a key indicator of the performance of Revenue in maximising the timely collection of taxes and duties, and of the effectiveness of actions taken against late or non-payment of tax, I have examined:

- the basis on which the figures supplied by Revenue were prepared
- the basis of the estimated collection rate calculation
- the extent of collection activity in cases where the tax outstanding has not been collected.

The results of the examination are presented below.

Compilation and Presentation of Debt Figures

In recent years, Revenue has introduced a fully integrated computerised tax system —Integrated Taxation Services. The central component of the system is Integrated Taxation Processing (ITP) which issues returns, processes returns and payments, and carries out the main collection activities for all the major taxes. The other main system components are the Common Registration System (CRS) which brings together registration details for each tax type into a single customer and tax agent register, and Active Intervention Management (AIM) which provides composite payment and compliance details for all taxpayers. AIM is used extensively by the Collector General for ongoing case-working to secure payment of outstanding tax, returns compliance and the management of tax debt. The details on AIM in relation to each taxpayer represent a snapshot of each customer's transactions on ITP at a point in time. Generally, ITP details are transferred to AIM on a weekly basis.

While details of the status of each taxpayers "account" with Revenue are readily accessible on ITP and AIM, neither system records total details of tax outstanding by the normal commercial business method of maintaining a debtors control account. Such a control account is not required by Revenue for financial reporting purposes, as the annual account prepared by Revenue and audited by me is a cash account

which records cash actually received and either repaid or paid over to the Exchequer. The outstanding taxes details prepared by Revenue and published in my Annual Report are obtained through an enquiry and extraction process. Detailed tables of amounts outstanding are prepared for each tax, and these are summarised to produce the published figures.

Reports for each taxhead are obtained from the ITP system giving summary information for each tax year at the month end. The data produced varies from taxhead to taxhead but would typically include total amounts in respect of the charge to date, payments to date, overpayments to date and balance outstanding. In addition, information held on ITP in relation to the status of the balance outstanding is aggregated annually to show, for each tax year, the amount of the balance written off, under appeal, demanded, with enforcement etc. These detailed reports allow for the preparation of the outstanding taxes tables for each taxhead by means of a series of interlinked spreadsheets. This examination reviewed the process by which the data produced from ITP was used for the preparation of the outstanding taxes tables. The computer programs which are run to produce that data were not reviewed.

The examination found that there is a reduction of control as the outstanding taxes details are produced by the aggregation of summaries which are extracted by enquiry from the ITP system. That extraction process differs as between the various taxes. The system does not maintain an ongoing control total of the amount outstanding for each taxhead, or of payments received or written off etc., for reconciliation with other Revenue records. It is not possible to 'drill down' to the individual case balances that make up the overall totals for each taxhead.

The compilation process used is also quite complicated, and uses a series of interlinked spreadsheets and formulae. However, a procedures manual was not available. Revenue has indicated that work had commenced in preparing a manual to replace the current guidelines.

Certain figures used in the process are allowed stand as "balancing figures", i.e. not reconciled with other sources of the figure, even though source data for these figures is available from ITP. Specifically:

- In the case of VAT, PAYE and PRSI, the 'paid' figure for each tax year is the net charge less the balance outstanding. The payments figures extracted from ITP for each year are not used to verify the 'paid' figure. Reconciliations between the 'paid' figures used for each of these taxheads and the underlying ITP data revealed differences (PAYE €74m, PRSI €34m, VAT €3m). Revenue is continuing to examine these differences.
- The 'charge' figure for each tax is reduced by a "discharge"[2] figure. For VAT this discharged figure is taken directly from the data produced from ITP showing assessments discharged. However, for Income Tax and Corporation Tax the figure is essentially a balancing figure representing the amount by which the balance decreased by other than payment. Reconciliations prepared by my staff showed that the discharge figure for Income Tax and Corporation Tax did agree with the underlying ITP data. While the use of balancing figures in the calculation ensures that the figures produced are consistent with each other i.e. that the charge less the discharge less the amount paid equals the balance outstanding, the assurance value of the process is devalued.

Revenue should reconcile all figures with the underlying ITP data.

Calculation of the Estimated Collection Rate

In addition to providing details annually of the amount of outstanding taxes, Revenue also gives an annual estimate of how much of the outstanding tax it expects to ultimately collect. In respect of the total of

[2] Discharge is the amount of the write off plus the reduction in charges less any increase in charges

€1,322m outstanding at 31 May 2003, Revenue estimated that €1,054m or 80% of the total tax outstanding would be collected.

The estimation process is a simple one. The estimate quoted in respect of May 2003 was obtained by comparing the total outstanding for all taxes (excluding CAT) at 31 May 1998 with the amount still outstanding in respect of that total at 31 May 2003, five years later. The exercise indicated a reduction of 80% in that portion of the debt. That rate was adopted as the expected collection rate for the May 2003 debt and, when applied to the amounts outstanding for each taxhead, gave the estimate of €1,054m.

Issues which arise in relation to this estimate are:

- The estimate is based on the total reduction in debt rather than purely the amount of that debt which was collected. As well as being reduced by payment, the debt can be reduced by discharge which includes write off. It may be more informative to estimate the rate of reduction while identifying the contribution of each of the different components – payment, discharge and write off;
- The estimate is based on the reduction in total debt and doesn't take account of different reduction ratios between different tax types;
- The value of the estimation process is diminished by the fact that actual performance is not subsequently compared with what was estimated. Such an exercise would also provide useful information to feed into future estimates.

Outstanding Debt as a Measure of Performance

Actual performance in the collection of outstanding debt is considered an important measure of the overall performance of Revenue. The Steering Group on the Review of Revenue recommended that a set of benchmarking measures, indicators and collection and debt performance targets be formally developed and introduced, using existing internal information in Revenue. The Final Report of the Committee of Public Accounts Sub Committee inquiry into certain Revenue matters expanded on this issue and recommended that Revenue should develop and publish annually:

- For each taxhead
  - measures of the tax base
  - the amount of tax charged
  - the budget forecast, the tax collected, and variances and explanations
  - underlying tax debt
  - changes achieved in the level and age structure of tax debt
- In respect of tax debt, measures of risk, and policy on the containment of risk within acceptable limits
- Measures of performance against independently derived and externally approved and audited performance benchmarks, which reflect the medium term strategic management objectives of Revenue.

Information on tax collected, budget forecasts and variances and explanations as well as total tax debt have been provided in Revenue Annual Reports for a number of years. Work on implementing the

remaining recommendations is being carried out in conjunction with the ongoing development of a Revenue performance scorecard.

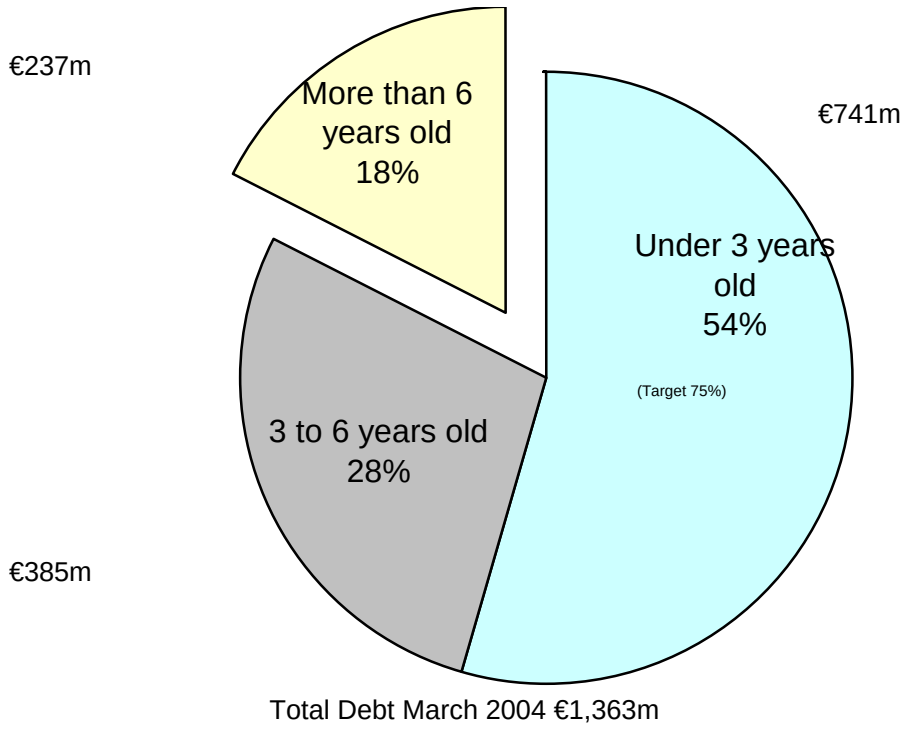
Revenue's Strategy Statement for the period 2003 to 2005 set specific targets in relation to the level of debt:

- Achieve an overall reduction in the level of debt;
- All debt on record to be less than six years old or be the subject of active enforcement or Court proceedings;
- No more than 25% of debt to be greater than three years old.

An analysis of debt levels at 31 March 2004 shows that €622m or 46% of the overall debt of €1,363m related to 2000/01 and earlier, i.e. greater than three years old, including €237m (18%) in excess of six years old - 1997/98 and earlier years (see Figure 1). This underlines the extent of the challenge facing Revenue in achieving the Strategy Statement targets.

In a previous initiative in 1997, Revenue moved to address the amount of old uncollectable debt on record by revising its write off procedures. The changes included the automatic write off of small amounts, enhanced efforts to review doubtful debt and the write off of cases involving company liquidations at the beginning rather than the end of the liquidation process. This resulted in a near 300% increase in write offs for 1997 and 1998 before returning to earlier levels of write off in subsequent years. That action was intended to bring about a significant reduction in the level of old book arrears and a greater focus on the collection of current taxes and current arrears. There is no provision for an increased level of write offs in the current strategy, where the stated focus is on timely and robust action against late payment or non-payment of tax.

Figure 1 Analysis of March 2004 Debt Levels in terms of Statement of Strategy 2005 Targets



Extent of Collection Activity

During this segment of the examination, files of cases with Income Tax outstanding at July 2003 and at March 2004 were compared, and cases were extracted where the amount outstanding for any tax year had not changed between the two dates. The database of over 310,000[3] records representing 201,000 taxpayer cases with Income Tax outstanding for one or more years is summarised in Table 14 on a taxpayer case basis. For more than 90% of the cases the balance outstanding was less than €1,000, and the sum of those balances represented only 5% of the total balance outstanding of €163m. Over 200,000 or 99.5% of cases fell into the sub €20,000 category amounting to €64m or 39% of the total. 20 cases, each with tax outstanding of more than €1m, accounted for over 24% of the total value.

Table 14 Analysis of Database by Taxpayer Case

Value Range	Number of Cases	% of Cases	Income Tax Value	% Tax Value
€0 to 1,000	185,952	92.28%	€8m	5%
€1,000 to €20,000	14,624	7.26%	€56m	34%
€20,000 to €100,000	773	0.38%	€29m	18%
€100,000 to €1m	141	0.07%	€31m	19%
Cases greater than €1m	20	0.01%	€39m	24%
Total	**201,510**	**100%**	**€163m**	**100%**

A sample of 74 records with annual balances outstanding in excess of €999 was selected from the full database of 310,000 records as follows

- A random selection of 5 records for each of the six tax years from 1996/97 to 2001 where the balance outstanding was between €1,000 and €100,000
- A random selection of 5 records for each of the six tax years from 1996/97 to 2001 where the balance outstanding was between €100,000 and €1,000,000
- 14 records where the balance outstanding for the period was greater than €1m.

The 74 records selected referred to 68 different taxpayer cases as some of those selected had tax outstanding for more than one period. The cases were selected on the basis of Income Tax outstanding for a single tax period. Many of the cases had Income Tax outstanding for other periods and some also had other taxes outstanding. Revenue caseworkers seek to collect all tax outstanding when working a case. A profile of the cases selected for examination is set out in Table 15.

Table 16 shows the number of tax years for which amounts were outstanding for the cases examined.

Table 15 Tax Arrears Profile of Cases Selected

	Number of Cases	Income Tax Outstanding for Year Selected €m	Total Income Tax Outstanding €m	Total Tax Outstanding €m
Cases €1,000 to €100,000	30	0.09	0.19	0.26
Cases €100,000 to €1m	24	5.73	9.35	9.60
Cases greater than €1m	14	31.20	31.44	92.83
Total	**68**	**37.02**	**40.98**	**102.69**

[3] A separate record is maintained for each taxpayer for each period in arrears

Table 16 Number of Years Outstanding for Cases Selected

Number of Tax Years Outstanding	Number of Cases	Income Tax Outstanding for Year Selected €m	Total Tax Outstanding €m
One Year	28	19.38	20.65
Two Years	22	14.50	75.49
Three to Four Years	10	1.06	1.63
Five Years and More	8	2.08	4.92
Total	**68**	**37.02**	**102.69**

The computer records on ITP and AIM were examined for each case to establish the level of collection activity in relation to the case. The criteria set for the examination of the sample was that a case would be considered to be the subject of collection activity if:

- There was evidence on the AIM system notes of active collection interventions since the sample date of July 2003, or
- There was a record of a factor which prevented the case being worked (e.g. under appeal, address not known), or
- The case had been referred to enforcement (solicitor or sheriff).

Findings

The collection status of the cases examined is set out in Table 17. 12 cases were at enforcement stage (sent for enforcement between June 2001 and March 2004), and of these cases, payment has been received in one case and, in another, settlement has been accepted and payment is due.

23 of the 38 cases at demand or warning stage were open to AIM collection action. There was no indication of collection action in 9 of these cases. In relation to one of these 9 cases with tax outstanding of €51,000, Revenue has stated that the case is on the arrears list for AIM caseworking and that caseworking has now commenced. In another, the tax outstanding has since been written off. Revenue has stated in relation to the remaining 7 cases with tax outstanding of less than €8,000, that business plans for 2004 set a target of caseworking all cases with arrears greater than €20,000. For cases with arrears below this threshold, the Enforcement Referrals Unit will carry out enforcement where appropriate, prioritising cases based on the amount of the arrears. These 7 cases have not been selected for enforcement yet due to the amount of the arrears involved.

Table 17 Collection Stage of Cases Selected

Collection Stage	*Number of Cases*	*Income Tax Outstanding for Year Selected €m*	*Total Tax Outstanding €m*
Awaiting Demand	3	5.80	5.80
Demand*	2	—	0.02
Repeat Demand	17	8.46	9.76
Warning	16	2.37	2.52
Sheriff	4	0.43	0.44
External Solicitor	8	1.30	1.45
Under Appeal	17	18.66	82.70
No Stage on Record**	1	—	—
Total	**68**	**37.02**	**102.69**

** The two cases in this category had Income Tax outstanding for the period selected of less than €4,000.*

*** In this case, the taxpayer had paid the outstanding amount of €2,500 at the time of review.*

Table 18 shows how the liabilities arose in the cases examined. In almost half of the cases, the liability resulted from the normal process of receipt of return and issue of assessments. In 17 of the cases examined, a Revenue audit had been carried out for at least one period where tax was outstanding but the outstanding amount had not been paid. 9 of these cases that had been audited are under appeal and three have been sent for enforcement.

Table 18 Source of Liability for Cases Sampled

Source of Liability	*Number of Cases*	*Income Tax Outstanding for Year Selected €m*	*Total Tax Outstanding €m*
Notice of Assessment	33	2.60	3.12
Audit	17	6.74	11.09
Share Options	18	27.68	88.48
Total	**68**	**37.02**	**102.69**

In two cases, Income Tax liabilities of over €300,000 arising from audit in each case had been sent for enforcement by the caseworker in the Collector General 's Office. Subsequently, the taxpayers (who are related) both submitted returns which only showed PAYE income with no reference to the audit issues or amounts outstanding. The returns were processed by the tax district without reference to the auditor or the case notes, and assessments were raised for the lower amounts. The enforcement proceedings were withdrawn. Revenue has confirmed that the original assessments from audit have been re-instated and that enforcement would be initiated again at the earliest opportunity.

18 of the cases examined had liabilities arising from the exercise of share options, and the total outstanding tax in these cases was €88.5m (which includes a very large single case). A particular difficulty arises in many of these cases due to the individuals concerned having left the country. 7 of the 18 cannot be located and are understood to be abroad. In the remaining 11 cases examined where the individual had been located, whether in Ireland or abroad, none of the outstanding liabilities have been collected to date. However, 5 cases are under appeal.

An updated statement of the current position of the cases examined has been provided by Revenue, and is shown in Table 19.

Table 19 Revenue Update on Cases Examined

Stage	*Amount of Tax*	*Number of Cases*	*Revenue Comment*
Under Appeal	€82.52m	17	Not open for collection
Share Option	€17.26m	12	At various stages of collection. Some gone abroad
Other Large Liabilities	€3.29m	6	All being pursued
Smaller Liabilities	€0.13m	33	At various stages of collection/enforcement
Total	**€103.20m**	**68**	

Inconsistencies were noted in the quality and maintenance of the AIM notes. Revenue has stated in this regard that additional information on cases is often available in paper records in the relevant Debt Management Unit of the Collector General's Office, and that there may also be activity occurring in the relevant tax district. However, Revenue recognises that the quality and consistency of AIM notes is a problem and has indicated that it is continually addressed at AIM training courses.

Conclusions

The Table of Outstanding Taxes is prepared from data extracted from the computer taxpayer database in summary form, and aggregated through a number of spreadsheets to allow the overall position to be presented. From a review of detailed listings of taxpayer balances, which are prepared at a date close to the summary extraction date, I have no reason to doubt that the Table gives a good indication of the debt owing to Revenue. The summaries of outstanding taxes are prepared for management information, and the detailed listings for collection activity. Measures to improve the assurance in respect of the outstanding taxes figures to financial statement standard would require that the summary extractions and detailed annual listings be prepared at the same time and reconciled, that no 'balancing figures' are allowed stand without subsequent reconciliation, and that the process is governed by a procedures manual and is subject to supervisory checking.

The calculation of the Estimated Collection Rate is somewhat rudimentary in that the percentage reduction over the past five years in the total of all debt outstanding is established for the latest year available, and that percentage is applied to the overall total amount currently outstanding for each taxhead. That simple approach relates to a general reduction in debt as against a collection rate. It would be more appropriate to separate the contribution of the different components of the overall reduction i.e. payments received, discharges, and write off. The current approach also does not take account of the likelihood of different reduction rates as between the various taxheads. It would also be worthwhile to subsequently compare actual performance for each component and each taxhead with the annual estimated figures.

Revenue has set challenging targets in regard to debt levels in its Statement of Strategy 2003-2005 and, in particular, that all debt on record be less than six years old (or subject to active enforcement or Court proceedings). This is to be achieved by timely and robust action against late payment or non-payment of tax. However the focus on caseworking all cases over €20,000, coupled with the lack of collection activity noted in eight sampled cases with arrears under €8,000, raises the question as to how the large number of cases under €20,000 will be cleared within the six year deadline. Of the database of 201,000 Income Tax arrears cases totalling €163m created for this examination, over 200,000 or 99.5% fell into the sub €20,000 category amounting to €64m or 39% of the total.

The extent of share options arrears cases indicates that a particular problem arose in this area. Following a programme of verification audits in this area during 2001 and 2002, changes were introduced in the Finance Act 2003 which require payment of Income Tax due within 30 days of exercising the option to purchase the shares.

Other points of concern were:

- there had been no collection activity during the targeted period on one of the sampled cases with arrears of €51,000; caseworking has now commenced;
- enforcement proceedings in two cases, each of €300,000, in relation to Income Tax arrears as a result of audit were withdrawn following the issue of assessments for much smaller amounts by the local district on receipt of returns of PAYE income; the local district had not referred to the auditor or to the case notes on the computer system; audit assessments are now re-instated
- inconsistencies were noted in the quality and maintenance of the notes on the AIM computer system.

Accounting Officer's Response

The Accounting Officer confirmed the importance of the outstanding taxes figure as a performance indicator, which was reported on both in my Annual Report and in Revenue's Annual Report. As the figure measured the absolute size of the outstanding tax debt and was used to compare year-to-year performance in tackling it, it was important that there was confidence that it gave a reasonably accurate measure of the debt and that there was consistency in how it was calculated from year to year. He was satisfied, in that regard, on both counts, and noted that the audit conclusion was supportive of that view.

Revenue accepted that the reconciliation of certain figures used in the compilation process with other sources of those figures would give additional assurance value to the process, but noted that every additional layer of assurance came at a cost. Nevertheless, it was intended to carry out a study to examine the feasibility and the opportunity cost of aligning the ITP State of File Report with the AIM extract which would allow drill down to case level and cross checking of figures.

The Accounting Officer noted that there were factors in the present system which gave rise to both overestimation and underestimation of the collectability of arrears. On the one hand there was overestimation because the five-year look back on which the calculation was based included all debt reduction (collection, discharge and write off). On the other hand there was underestimation because some of the outstanding tax against which the five-year performance was measured may also be collected in the future. An underestimation bias was also built into the methodology because future collection rates were based on past performance and did not therefore fully reflect improvements in the collection process. The fact was that the collection rate was an estimate and had always been represented as such.

Revenue was currently looking at ways to improve the forecasting methodology in this area. One approach being considered was to focus on total debt reduction instead of just the collection rate. In that regard Revenue would also be looking at the possibility, though that may be difficult to achieve in the short to medium term, of splitting debt reduction estimates into collection, discharge and write off. A particular difficulty arose because pre-1991 Income Tax and Corporation Tax cases were not carried forward into ITP when that segment went live in 2001. There should be no difficulty in identifying the components of debt reduction for the years 2001 on. It was also intended to refine that analysis in the future by, inter alia, taking a look-back at the performance of individual taxes rather than the present method of collectively examining the macro performance of all taxes.

The Accounting Officer considered that it was a fair reflection of the success of the caseworking approach to tax collection that the bulk of arrears cases were for relatively small amounts. Revenue business plans included the target that collection caseworking would pursue any case that had accumulated arrears of over €20,000. Arrangements were in place for the debt management units to identify and act on all such cases identified. That approach would limit the risk to the Exchequer and had been a very effective tool in managing the overall debt in recent years. At the same time it was the intention to continually reduce the caseworking threshold, as resources permitted.

However the Accounting Officer stated that it must be recognised that it was not possible to casework each and every case that had a tax debt. The smaller debts called for somewhat different strategies. The numbers involved meant that individual caseworking was not a realistic option at this point in time. Cases with debts under the €20,000 threshold were instead subject to collection compliance and enforcement through the Enforcement Referrals Unit. This Unit reviewed cases with amounts outstanding below the caseworking threshold. Referral for enforcement was again prioritised based on accumulated tax at risk. Alternative computer enhancements, which would allow the unit to process greater numbers, were being considered.

He also stated that Revenue was working towards a position where all collection and compliance activity would be recorded in AIM, but that full migration to an electronic system of recording all caseworking notes takes time.

3.7 Direct Debit Payments

In 1992 Revenue introduced a method of payment of current taxes by means of Direct Debit. Under the arrangement, the taxpayer estimates the annual tax liability for PAYE/PRSI, VAT or Income Tax and makes payment to Revenue through bank account debits for agreed monthly amounts. The taxpayer is required to make only a single return, annually, for each taxhead, and to pay any balance between the total annual amount due under the return and the total of the monthly payments already made.

Eligibility for the Scheme

Taxpayers with a history of non-payment are specifically excluded from the direct debit facility. These are typically cases where Revenue has instigated enforcement procedures for recovery of taxes due. Direct debit is a concession by Revenue, and the facility is not granted where the proposed amount is too low or the taxpayer has a poor payment history.

The basic requirement for taxpayers paying VAT or PAYE/PRSI is that they must be up to date with their returns and payments. Taxpayers who have a pattern of late payments (as opposed to non-payment) are encouraged to avail of the facility. Taxpayers with a high VAT liability are not normally placed on direct debit.

For Income Tax, there is no restriction on who can avail of the Direct Debit facility. The taxpayer is also free to decide the amount of the direct debit payments. However a payment schedule requires the taxpayer to commence payment not later than October in the first year or by May in subsequent years.

Numbers Availing of Direct Debit Arrangements

The amount collected through direct debit, and the number of taxpayers availing of the facility under each tax head for the three years 2001 to 2003 is shown below for each of PAYE, VAT and Income Tax. The total amount collected in 2003 exceeded €2.9bn.

31,500 cases availed of the arrangement for PAYE/PRSI, and almost 24,000 for VAT or 17% and 10% respectively of total PAYE and VAT registrations. The take up for Income Tax is still relatively small at less than 4,500. However this figure includes almost 1,700 new cases in 2003, which may be in response to changes introduced in 2001 that allow greater flexibility in payment frequency.

Table 20 PAYE/PRSI Direct Debit Cases 2001 - 2003

	2001	***2002***	***2003***
No. of cases	27,615	29,520	31,548
Total Amount	€1,306,280,861	€1,362,447,290	€1,432,909,628

Table 21 VAT Direct Debit Cases 2001 - 2003

	2001	***2002***	***2003***
No. of cases	21,983	23,168	23,946
Total Amount	€1,172,378,225	€1,287,864,693	€1,420,604,259

Table 22 Income Tax Direct Debit Cases 2001 - 2003

	2001	*2002*	*2003*
No. of cases	N/a	N/a	4,485
Total Amount	€36,953,490	€44,413,381	€57,193,855

Benefits and Risks

Under the standard return and payment procedure an employer is required to make standard monthly returns and payments for PAYE/PRSI, and a VAT-registered taxpayer is obliged to lodge returns and make payment of tax due bi-monthly. Under the monthly Direct Debit arrangement, the taxpayer is only required to make a single return at business year-end along with any balancing payment due.

In addition, taxpayers can vary the amount of each direct debit payment to match their business cycle e.g. to reflect seasonal changes. A monthly payment may even be cancelled if advance notice is given. Once payments are being made the taxpayer is considered by Revenue to be compliant.

Direct debit is also of considerable benefit to Revenue. Payments are received regularly on a monthly basis. Interaction with the taxpayer is minimised. The processing of returns and payments is greatly reduced as payments are electronically received, and paper returns are not submitted during the year.

However there are risks from the Revenue viewpoint. As the taxpayer is only obliged to make one annual return, it will be in excess of 14 months before Revenue can determine if correct payments have been made under direct debit. An insufficient level of monthly payment may cause a large underpayment to develop and possibly lead to the inability of taxpayers to pay the balancing amount.

Direct Debit will continue even if a return is not made. Contact only takes place with the taxpayer if the return is not made in time, the final or balancing payment is late, or any payment fails.

Taxpayers can take advantage of understated monthly payments to increase cash flow. On the taxpayer record, monthly liabilities are automatically estimated at the same amount as the direct debit payment. The true liability is not known until the annual return is made.

Controls

Taxpayers may set different amounts for various months when setting up the direct debit mandate, or may change the amount of individual payments during the course of the year. Revenue also allows taxpayers to cancel individual monthly direct debit payments in advance. All changes are made through Revenue. However, taxpayers on direct debit are obliged to ensure within the tolerances allowed that the total of the monthly payments is sufficient to cover the annual tax liability, and to make the annual return and balancing payment within the time allowed. Failure to lodge a return may attract the standard penalties or surcharges on late returns. Where the return and final payment are late, or the deficit is outside prescribed limits, interest charges are also applicable.

Where the taxpayer fails to lodge the annual return and balancing payment by the due date, interest is chargeable at a rate of 0.0322% per day (approximately 1% per month) on the balance outstanding from the due date to the date of receipt. Additional interest is also chargeable where the total of the monthly payments is less than 80% (VAT) or 90% (PAYE) of the yearly liability on the annual return. In such cases, interest is chargeable at a rate of 0.0322% per day on the total amount of the shortfall from a date six months before the due date of the annual return up to the due date.

In the case of Income Tax, taxpayers may set their own level of monthly direct debit payment. However, to meet their preliminary tax obligations, the total amount of direct debit payments in the tax year must be not less than the lesser of (i) 90% of the Income Tax liability for the year in question, (ii) 100% of the Income Tax liability for the previous tax year, and (iii) 105% of the Income Tax liability for the tax year preceding that previous year.

Audit Approach and Findings

The audit review objective was to establish the extent of any abuse of the direct debit tax payment facility together with any related Revenue response. Samples of PAYE/PRSI cases and VAT cases were selected and examined. A sample was also selected of cases under both tax heads which still operate under an outdated fixed mandate scheme. The primary focus was on the degree to which payments were maintained at the required levels, and whether significant shortfalls attracted the interest sanction.

PAYE/PRSI

The sample selection for PAYE/PRSI was made in two stages. Initially, a database of cases where the balancing amount was in excess of 10% of the annual total return was created from a listing of all PAYE/PRSI direct debit cases. The results are summarised in Table 23 below.

Table 23 PAYE/PRSI Direct Debit Cases with Balancing Payments Exceeding 10%

	Y/End Balancing Payments Total	*No. of Cases*	*Total of P35 Returns*
2003	€198,905,249	12,149	€675,317,798
2002	€216,099,295	13,551	€651,899,260

Two samples were then randomly selected from that database as follows:

- Balancing amounts recorded at end of December 2002 (20 cases)
- Balancing amounts recorded at end of December 2003 (20 cases).

PAYE/PRSI Sample No. 1

The results of the examination of the 20 cases where a balancing payment due at year-end 2002 was greater than 10%, and greater in amount than €10,000, are summarised below:

- In all cases the balancing payment was paid;
- Interest was charged in one case only;
- Only 7 of the cases had increased direct debit payments to cover their liability in 2003, the remaining 13 cases continued paying the same amount;
- Of the combined annual return (€2,556,234) in the 20 cases, 39% (€1,004,869) was in the form of balancing payments;
- Balancing payments ranged from €11,566 (23% of total annual liability) to €369,425 (65% of total annual liability).

PAYE/PRSI Sample No. 2

The results of the examination of the 20 cases where a balancing payment due at year-end 2003 was greater than 10%, and greater in amount than €10,000, are summarised below:

- In all cases, the balancing payment was paid;
- Interest was charged in one case only;
- 15 cases also had balancing payments in excess of 10% in 2002;
- Of these 15 cases only 4 had increased the monthly payments in 2003;
- Of the combined annual return (€1,552,490) in the 20 cases, 33% (€512,479) was in the form of balancing payments;
- Balancing payments ranged from €10,946 (67% of total annual liability) to €92,105 (78% of total annual liability).

VAT

A full annual detailed listing could not readily be provided by Revenue for VAT due to the existence of multiple year-endings for that tax. Figures supplied were only in respect of cases with year ending in December. Table 24 shows cases from that database where the balancing amount was in excess of the 20% of total annual liability as permitted by the scheme.

Table 24 VAT December Direct Debit Cases with Balancing Payments Exceeding 20%

	Y/End Balancing Payments Total	*No. of Cases*	*Total of Annual Returns*
2003	€5,978,253	209	€14,498,774
2002	€2,669,042	194	€6,354,146

Two sample selections were then made as follows:

- Balancing amounts recorded at end December 2003 (20 cases)
- Balancing amounts recorded at end December 2002 (10 cases)

VAT Sample No.1

One case in the random sample selection did not start direct debit until April 2004 and was excluded, together with two further cases which, though selected, were within the limits. Of the remaining 17 cases:

- Three cases had, in fact, set direct debit amounts by December at a level which would have been sufficient to cover their annual liability. However, arrears arose in one case because two payments were cancelled during the year; in both other cases the amounts were varied upwards later in the year;
- No interest was charged in any case;
- 8 cases had also incurred arrears in 2002;
- One case had the direct debit amount reduced during the year, and subsequently underpaid by 36%;
- Of the combined returns of the 17 cases (€2,060,537) the underpayment amounted to €910,275 or 44%; €459,951 of this amount remains outstanding in 13 cases;
- Balancing payments ranged from €10,241 (77% of total annual liability) to €292,412 (53% of total annual liability).

VAT Sample No.2

Of the 10 cases from 2002 in the second VAT sample

- No interest was charged in any case;
- One case had the direct debit amount reduced during 2002, and subsequently underpaid by 46%;
- Of the combined returns of the 10 cases (€690,837), the underpayment amounted to €384,096 or 56%; €114,764 is still due in respect of 6 cases;
- Balancing payments ranged from €12,189 (46% of total annual liability) to €134,477 (69% of total annual liability).

Fixed Mandate Cases

These are cases, for both PAYE/PRSI and VAT, where the amount of each direct debit mandate remains at the level set at the time when it was put in place. This type of mandate did not allow any flexibility. In order to vary the payment amount, the original mandate had to be cancelled and a new mandate set up. While there are 4,311 active fixed mandates dating back to 1992 for payment of VAT or PAYE/PRSI as indicated below, Revenue have not accepted new fixed mandate arrangements since 2001.

Table 25 Fixed Mandate Cases for PAYE/PRSI and VAT

Commenced	1992	1993	1994	1995	1996	1997	1998	1999	2000
No. of Cases	63	106	175	453	964	1,038	1,361	114	37

The results of an examination of a random sample of 20 fixed mandate cases, to include 2 from each year, are summarised below:

- While the sample ranged from 1992 to 2000, only in 2 cases had the direct debit mandate been amended at any stage.
- No annual return for 2003 had been received in 8 cases. Therefore the estimated liability recorded remains equal to the payments made. In the absence of a return it cannot be determined if overpayments or underpayments arose in these cases. Enforcement in relation to non-filing of returns has commenced in one case.
- There were 10 cases where the total payments made were less than the annual liability returned. 6 of these were in excess of the relevant 10% or 20% limit, but interest was not charged.
- 2 cases have arrears outstanding, and enforcement procedures have started in one case.
- There is one case where the company has ceased trading (March 1999) but has remained on Direct Debit. There is a substantial overpayment on file (€62,026).

Audit Concerns

The direct debit payment schemes provide advantages to Revenue through the promotion of compliance and the reduction of administration costs. The scheme also offers advantages to the taxpayer. However there is a risk to Revenue of underpayment of tax through the year where direct debit amounts are set below the level required under the schemes. Any abuse of the scheme is reflected in the extent to which the final balancing payments exceed the limits allowed.

The findings of the review indicate that over 31,500 customers availed of the direct debit scheme in respect of PAYE/PRSI in 2003 and declared an overall liability of €1.4 billion. However in over 12,000 cases with a P35 liability of €675m, the year-end balancing payment was in excess of the 10% allowed by the scheme. Balancing payments in such cases totalled €198m as against an expected maximum of €68m. Monthly underpayments at that level could indicate an annual cost to Revenue of the order of €3m-€4m. On the basis of the samples examined, the imposition of an interest charge was very much the exception rather than the rule. Balancing payments for 2003 in the restricted VAT sample totalled approximately €6m as against the €2.9m indicated by the 20% limit.

I sought the observations of the Accounting Officer as to

- whether payment patterns and the size of year-end balancing payments were monitored in order to ensure compliance with the terms of each direct debit scheme,
- whether consideration was given to withdrawal of the schemes from those who did not abide by its terms, and
- why interest was not automatically demanded in all cases where balancing payments exceeded the limits allowed.

Accounting Officer's Response

The Accounting Officer stated that payment by direct debit was an important part of the collection process. In the absence of a significant number of taxpayers using the direct debit payment option, there would be an additional burden placed on normal payment processing systems and a likely increase in the workload of Debt Management Units in terms of the number of cases requiring referral to the enforcement agencies for collection of unpaid tax. In the context of VAT, direct debit had the advantage of securing payment on a monthly basis, as compared to bi-monthly payments under the normal payments method. Direct debit, of course, also had important benefits for the taxpayer by reducing the number of returns to a single annual return, and allowing better cashflow management throughout the year.

He also stated that, by definition, the amounts paid by direct debit throughout the year could not equate to the actual tax liability for the year. The real liability became apparent only on receipt of the annual return. However, the advantages of direct debit outweighed the downside of some potential underpayment of the tax liability throughout the year, provided any balance due was paid with the annual return and, where necessary, future direct debit amounts were increased. Where a business was growing, taxpayers could sometimes neglect to keep direct debit payments in line with tax liabilities. Unfortunately, there were also some taxpayers with cash flow and other problems who deliberately exploited the direct debit process by paying insufficient amounts throughout the year, leaving a significant balance due on the annual return. The return itself was often deliberately submitted late and, in some instances, by the time the return was received (as a result of Revenue pressure) recovery of the debt from the taxpayer could be extremely difficult.

The Accounting Officer indicated that the Collector-General's Division of Revenue had been aware of the direct debit problem for some time and that the monitoring process in relation to direct debit had been systematically increased over recent years. There were now more vigorous procedures in place to ensure compliance with the direct debit schemes. Examples of measures taken included the exclusion of taxpayers with arrears in 2000, the setting in the Finance Act 2001 of a minimum amount to be paid throughout the year as a percentage of annual liability, and programmes agreed by each Revenue Region in 2003/04 to systematically target outstanding returns in VAT direct debit cases. In February 2004 a revised Caseworking Guideline on direct debit was issued which emphasised that customers with tax payment problems should not be put on the direct debit system for current taxes. The guidelines also provided for withdrawal of the schemes from those who did not abide by their terms. However, it had to be borne in

mind that a person on direct debit was at least making payment towards his/her tax liabilities and that withdrawal of the facility could be something of an "own goal" if it resulted in the taxpayer ceasing to pay altogether. For that reason, the preferred approach, if possible, was to try and bring the taxpayer into full compliance while remaining within the direct debit system. He considered that the measures already taken would help to reduce the debt management problem in relation to direct debit, but that it was undoubtedly an issue that needed to be kept under careful review. Further initiatives (such as automation of the estimate process where an annual return was not received and the development of AIM queries to identify annual non-filers) were currently under consideration to see if further safeguards could be put in place.

With regard to the charging of interest in direct debit cases, the Accounting Officer informed me that in the initial period after the 2001 Finance Act legislation the question arose as to whether taxpayers on direct debit should be formally warned in advance of the possibility of interest being charged particularly in the light of published caseworking guidelines that stated that for VAT and PAYE/PRSI cases the taxpayer should be warned in advance of that possibility. In November 2002 all VAT direct debit cases were issued with a letter outlining the details of the Finance Act 2001 legislation. On the PAYE/PRSI side, the 2002 P35 bulk issue in September 2002 included a reference to that legislation too. Thus, the raising of interest charges in direct debit cases on any systematic basis could only begin in earnest after those "warnings" had issued. Revenue's approach was to raise interest charges where it was considered productive to commit the resources necessary to ensure effective pursuit and collection of the charge. The effectiveness of that approach was supported by indications that the amount due on annual returns was now declining. For example, the number of direct debit cases with an annual PAYE / PRSI balancing payment exceeding the allowable balance declined by 8% between 2002 and 2003.

He pointed out that the Finance Act 2001 also gave taxpayers the right to a recalculation of the interest charge on balancing payments to ensure that the charge did not exceed that chargeable according to the rules applicable to non direct debit taxpayers, if such a recalculation is in the taxpayer's favour. That feature of the legislation meant that the interest charges were not as cut and dried as the raise, demand and enforce approach of other interest charges. In addition, in PAYE/PRSI cases directors' fees were often paid after year-end and could compound the interest-charging situation, resulting in further investigation and often re-negotiation of interest charges. The fact that directors' fees may give rise to a balancing payment did not necessarily mean that direct debit was abused.

The Accounting Officer noted that the final consideration in deciding on the level of resources to commit to the pursuit of interest was a decision as to the higher risk – the taxpayer who had actually paid the tax liability (albeit late) or the taxpayer who had not paid the tax liability at all. He indicated that the Collector-General's Division was currently engaged in a comprehensive Synergy Review of its entire operations. The purpose of the review was to ensure that the Division was making the best use of resources, both human and technical with the intention that resource savings identified would be devoted to debt management and compliance work. In that context, the Division was conscious of the necessity of monitoring compliance with the terms of the direct debit schemes and of taking the appropriate action in cases of abuse of the schemes.

3.8 Disclosure of Incentive Amnesty Cases

Section 2 of the Waiver of Certain Tax, Interest and Penalties Act, 1993, provided for an incentive amnesty to be availed of by all individuals who owed tax on declared or undeclared income or gains, and levies. Under the terms of the Incentive Amnesty, it was mandatory for taxpayers to make a self-assessed, full and true declaration of all income/chargeable gains in respect of which tax was unpaid, and to pay tax on the total amount at a concessionary rate of 15%. In addition to providing that incentive, the Act also made it mandatory for each individual who had been in receipt of untaxed income or gains to avail of the

opportunity to settle their tax affairs. A total of some 38,400 individuals availed of the Incentive Amnesty and paid €235m.

The purpose of the 1993 amnesty was to provide a final opportunity to individuals to put their tax affairs in order having regard to the penalties that were introduced by the Act, and to secure payment in respect of pre-April 1991 liabilities. The Act provides a scale of penalties for failure to make the full and complete returns required by the Act. The penalties on conviction range from a fine of between 25% and 200% of the tax underpaid and up to eight years imprisonment. The Act also directs that where the declaration by the taxpayer did not contain a full and true statement of income, or where a person did not subsequently deliver a full and complete return of income in respect of the year of assessment 1992-93, the benefits of the amnesty are to be set aside. In that situation payments made at the 15% amnesty rate are then treated only as payments on account of the full tax assessed at normal marginal rates, with interest and penalties to be added.

A key feature of the Incentive Amnesty was the statutory guarantee of confidentiality to those who availed of it. This was achieved through setting up a statutorily independent Office of the Chief Special Collector to receive payment and administer the amnesty. Those who availed of the Incentive Amnesty received a two-part certificate. The first part (the Certificate) recorded name and address, the income or gains declared and the amount paid. The second part (the Form of Evidence) only showed name and address. Revenue could not become aware that the Incentive Amnesty had been availed of unless that was revealed by a taxpayer's decision to invoke the form of evidence against a demand from the Collector General for pre April 1991 arrears, or the certificate in dealing with an Inspector of Taxes enquiry. Under the Act such enquiries could only continue in cases where the Revenue official satisfied the Appeal Commissioners that there were reasonable grounds which indicated that the declaration made to the Chief Special Collector did not contain a full and true statement of total income from all sources. The application to the Appeal Commissioners for a ruling must be made within 30 days of the receipt of the certificate.

The stringent penalty provisions applying to non-compliance with the terms of the Incentive Amnesty would appear to indicate a firm resolve that the benefits granted under the Incentive Amnesty were on particular terms, and that contravention of those terms either by understatement of liabilities in the original declaration or in the 1992/93 return was a serious matter attracting strong sanctions including reversal and penalties. Nevertheless, due to the effectiveness of the confidentiality guarantee, and as the provisions of the amnesty legislation related to periods in the early 1990s, it is unlikely that the scheme would in the normal course have much relevance ten years later beyond the very occasional exceptional instance where it was decided to sanction the major extension of a Revenue audit.

However events in more recent years have resulted in the extensive disclosure of significant undeclared income that reached back to the amnesty periods. These events have come to be categorised under the collective titles of Special Investigations and Tribunals, Bogus Non-resident Accounts and, most recently, Offshore Assets. Much of the tax liabilities arising in relation to these undeclared funds have or are being resolved through various settlement schemes. But under the 1993 legislation there may be a further retrospective impact arising from the discovery of undeclared funds that predated 1993 in cases where the taxpayer had previously availed of the Incentive Amnesty.

During a review of Bogus Non-Resident Account holders (BNR) voluntary returns it was noted that, of the 3,754 cases that submitted a voluntary BNR1 return, approximately 208 had availed of the 1993 Incentive Amnesty. However, only 4 of such 'amnesty cases' had been included in the total of 268 cases selected by Revenue for liability review.

I enquired of the Accounting Officer as to the extent to which Revenue had systematically examined the declared 208 amnesty cases in order to establish whether the terms of the Incentive Amnesty provisions had been met. I asked whether Revenue considered that the provisions of the 1993 Act required that such an assessment be applied to all instances availing of the BNR1 scheme and which declared themselves to have previously availed of the amnesty. I also asked for details of the number of cases in which the amnesty settlement was set aside, and subsequently treated as a 'payment on account' against total liabilities due.

In order to establish the overall position, information was also sought as to:

- the number of cases which had declared themselves to have availed of the 1993 Incentive Amnesty during the course of Revenue activity in the areas of:
  - Revenue Audits
  - The various Special Investigations and Tribunals
  - Non-voluntary BNRs
  - Offshore Assets
- The extent to which Revenue examined, in each case, the issue of whether the 1993 Incentive Amnesty provisions had been breached,
- The number of cases in each area in which the benefits of the 1993 Incentive Amnesty had been set aside, and amnesty payments treated only as a payment on account of total liabilities due.

Information was further requested as to the number of cases which had been (i) considered for prosecution and (ii) prosecuted under the terms of the 1993 Waiver of Certain Tax, Interest and Penalties Act, the number of convictions, and the penalties imposed.

Accounting Officer's Response

The Accounting Officer emphasised that the whole Revenue approach to examining the BNR1 cases (including the "amnesty" cases) was very much risk-driven – in the interests of completing the checking of these cases as quickly as possible. The primary target group was those bogus non-resident account holders who had chosen not to come forward by the November 2001 deadline. A further 8,000 bogus non-resident account holders were subsequently identified from that group and an additional €305 million collected. He considered that the pursuit of those cases had a major knock-on effect in attaining high levels of voluntary disclosure from subsequent offshore campaigns.

In the context of the approach adopted to examining and checking the 3,754 BNR1 voluntary disclosures Revenue saw no reason to single out the 208 amnesty cases as a high risk category per se that warranted special treatment – either in carrying out the basic eligibility checks or in the selection processes for the more detailed liability reviews. If a person had properly availed of the 1993 amnesty there was no real incentive for them to send in a BNR1; they were entitled to wait until audited or challenged by Revenue. Such "volunteers" presented less of a risk than the "wait and see" amnesty cases.

He indicated that all of the BNR1 disclosures were examined as part of the eligibility review. One factor considered was whether the amnesty was an issue and, if it was, what action was required to be taken. Consequently each of the 208 individuals who indicated that the amnesty had been availed of were the subject of basic review. Statistics were not readily available on the number of cases where amnesty certificates were forwarded to, or sought by, Revenue. The probability was that most claims were

accepted at face value, unless the basic review indicated a particular risk, having regard to the available information or materiality considerations. He pointed out that face value acceptance of amnesty claims at the BNR1 stage did not rule out further scrutiny at a later stage.

It was the understanding of Revenue that the 1993 Amnesty Act did not require, or even suggest, that it should carry out an assessment of, and check the underlying validity of, each amnesty claim it became aware of. If anything, given the confidentiality safeguards (Section 7) and the "burden of proof" obstacles (Section 5) in the Act, it was fairly clear that Revenue should not challenge an amnesty declaration unless there were reasonable grounds (from post-April 1991 enquiries or otherwise) to convince an Appeal Commissioner that an amnesty declaration was likely to be untrue or incomplete. None of the BNR1 amnesty claimant cases were submitted to the Appeal Commissioners under the section 5 procedure.

With regard to instances where an amnesty settlement was set aside, the Accounting Officer stated that taxpayers had been advised in the lead up to the 15 November 2001 deadline for BNR1 disclosures that if they had not properly availed of the 1993 amnesty, they would lose the benefits of the amnesty. They were of course entitled to a 'payment on account' credit for their amnesty payments. 62 individuals made disclosures under the BNR1 disclosure scheme where amnesty settlements were set aside and which resulted in total payments of over €3 million. The remaining 146 amnesty cases who came forward under the BNR1 scheme did not have to make any additional payments in excess of those arising from their BNR1 disclosures, as the amnesty declaration had disclosed their full liability.

Statistical information relating to the number of amnesty cases that declared themselves arising from Revenue activity in other areas was provided as follows:

Table 26

Area of Activity	*Amnesty Cases**	*Revenue Comment*
Revenue Audits	320	Probably on the low side
Special Investigations/Tribunals	14	Nos. may change as inquiries ongoing
Non-Voluntary BNRs	550	Best estimate
Offshore Assets	7	Very early stage

*With the exception of Investigations/Tribunals, the numbers are estimated.

In relation to the extent to which Revenue examined in each case whether the amnesty provisions had been breached, the Accounting Officer said that in every case where the 1993 amnesty arose, a judgment call had to be made by the official handling the case. Where it was considered that investigations were warranted, and taxpayers were seeking to prevent this from happening, applications were made to the Appeal Commissioners. In the majority of cases identified to date, Revenue had accepted that no further action was warranted. He added that while there were no detailed statistics on instances where the amnesty had been set aside, the reality was that the numbers involved would be small. Because of the confidentiality and "burden of proof" constraints, Revenue officials would generally only seek to withdraw the benefits of the amnesty where they had reasonable and solid grounds, based on fact rather than mere suspicion, to indicate that the amnesty had not been properly availed of.

The Accounting Officer informed me that no case had, as yet, been the subject of a prosecution under the terms of the 1993 amnesty legislation. However, in the case of a number of investigations carried out by Revenue Prosecution Units, consideration had been given to the inclusion of offences under section 9 of the Amnesty Act[4]. To date, Revenue had not been able to assemble sufficient admissible evidence to sustain a conviction in this area. He pointed out that Revenue had taken independent legal advice, and

[4] Section 9 of the Waiver of Certain Tax, Interest and Penalties Act, 1993 provides for penalties in relation to the failure to comply with the return and declaration requirements of the Act, and in particular S. 2 (3) (a) and S. 3 (6) (b) i.e. failure to provide the declaration required, or giving a false declaration.

had also consulted with the DPP, on the elements of the section 9 offences and the standard of proof required to sustain a conviction. The prosecution must prove all of the matters set out in section 9(1), including 9(1)(b). Part of the difficulty in that regard related to the fact that the confidentiality provisions in section 7 were very tightly drawn. But, notwithstanding the significant evidential and burden of proof difficulties, he stated that prosecutions for section 9 offences were at present being actively considered in a number of cases.