

17 Tax compliance interventions

- 17.1** Self-assessment of tax liabilities by individuals and companies is an essential part of the operation of tax and duties administration in Ireland. Taxpayers are required to file complete and accurate returns and to make associated tax payments in accordance with statutory deadlines. Taxpayers may also claim tax repayments on a self-assessed basis.
- 17.2** A previous examination of tax settlements following compliance interventions identified some weaknesses in Revenue's procedures around recording of intervention outcomes and consistent application of interest and penalties.¹ A number of recommendations were made designed to address those findings. Revenue has provided a statement of how it has responded to the recommendations made in the 2012 report (see Annex 17A).
- 17.3** This examination was carried out to review the progress made by Revenue in tightening up its controls around compliance interventions and the agreement and collection of tax settlements.

Overview of compliance interventions






- 17.4** An effective compliance regime is essential to protect the integrity of the tax system based on the principle of 'trust but test'. For Revenue, the self-assessment compliance regime includes
- **audit interventions** — audits or investigations conducted mainly on the basis of risk and in the majority of cases, involving a full examination of an entity's books and records
 - **non-audit interventions** — less intrusive interventions mainly on the basis of risk where Revenue conduct checks, by correspondence, phone or in a short visit to the taxpayer in relation to a particular aspect of their tax and duty compliance.

The nature of each kind of intervention is summarised in Figure 17.1.

- 17.5** Interventions are carried out in accordance with the requirements of legislation, principally the Taxes Consolidation Act 1997 (TCA) and the Revenue *Code of Practice for Revenue Audit and other Compliance Interventions* (code of practice).
- 17.6** In general, cases are selected for an intervention based on the presence of various risk indicators. A small number of cases are selected randomly for audit.
- 17.7** Revenue's risk-based approach to case selection is based on cross checking and interrogation of all the data Revenue has available on individual taxpayers and businesses. This allows Revenue to rank the taxpayer population in terms of risk, automatically highlighting particular issues that need to be examined.

¹ Chapter 27, Tax Audit Settlements, *Report on the Accounts of the Public Services 2012*.

Figure 17.1 Revenue intervention types

Non-audit intervention	 Assurance check	<ul style="list-style-type: none"> ▪ Compliance interventions that may involve checks and challenges with direct contact with taxpayers to test a compliance issue and/or checks at mail centres and airports. They are frequently based on some apparent discrepancy in data held by Revenue on taxpayers' records or may be due to Revenue guidelines on checking claims for repayments or reliefs. This includes <ul style="list-style-type: none"> ○ excise checks including VRT ○ refund claims relating to stamp duty, and ○ checks on packages which originate from outside of Ireland which are examined at mail centres and goods imported from outside the EU which are inspected at airports and ports.
	 Aspect query	<ul style="list-style-type: none"> ▪ This is a short targeted intervention for the purpose of checking a specific risk, usually identified by one of Revenue's risk analysis tools. ▪ The taxpayer (and/or agent) will generally be told why the query is being made and it may include a request for supporting documentation.
	 Profile interview	<ul style="list-style-type: none"> ▪ As part of the profile interview process, Revenue will issue a letter to the taxpayer identifying the risk areas that will be discussed. Revenue may examine all documentation and records provided by the taxpayer to clarify the risk.
Audit intervention	 Audit	<ul style="list-style-type: none"> ▪ This is an examination of an individual's or a company's books, records and compliance with tax obligations in order to establish the correct level of liability.
	 Revenue investigation	<ul style="list-style-type: none"> ▪ An investigation is an examination of a taxpayer's affairs where Revenue believes, from an examination of available information, that serious tax or duty evasion may have occurred or a Revenue offence may have been committed.

Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

Engagement with the taxpayer

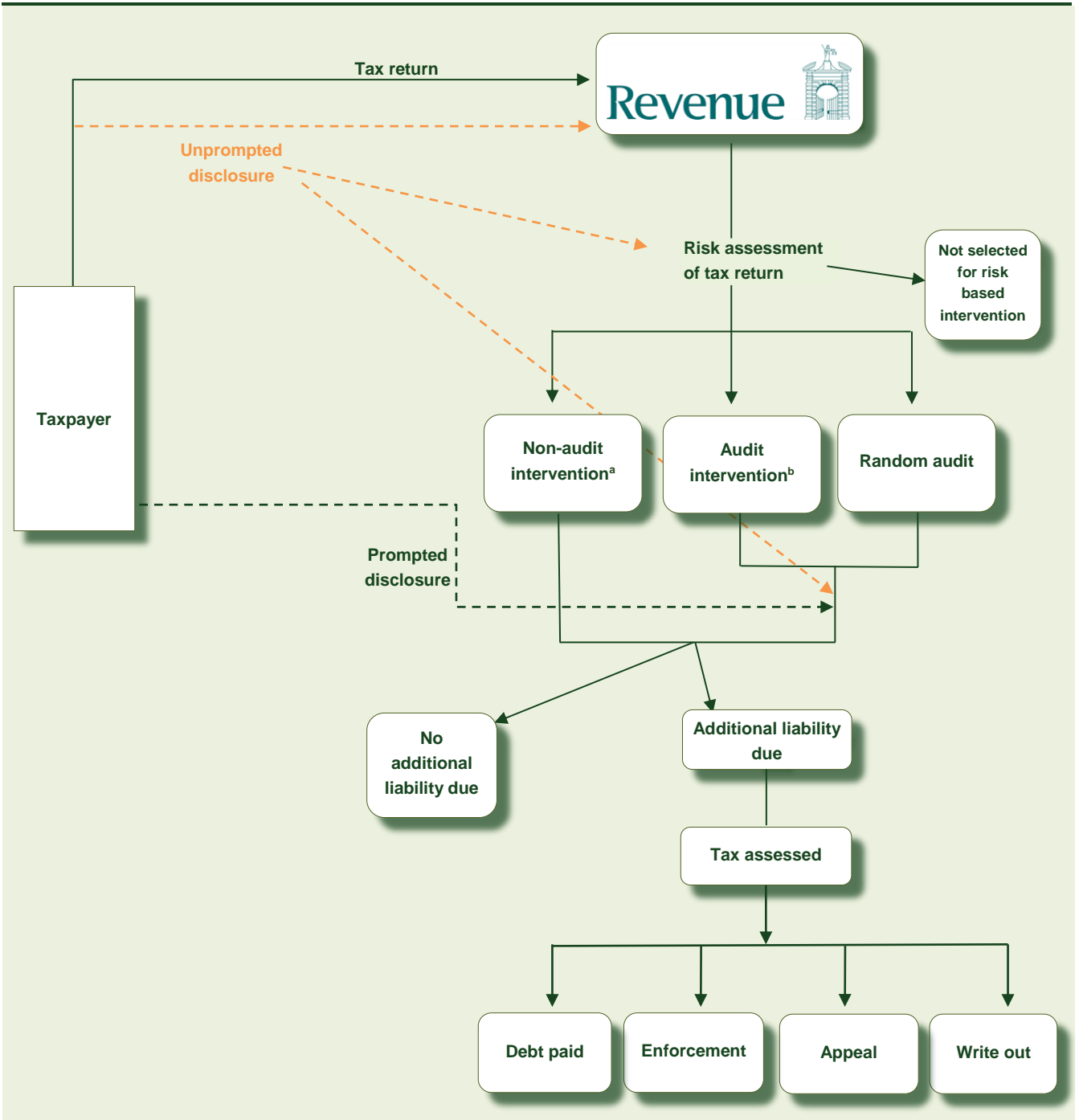
- 17.8** The potential process of engagement between taxpayers and Revenue is summarised in Figure 17.2.
- 17.9** Once a case is selected and assigned to a Revenue caseworker, it is appraised to establish if any type of intervention should occur and if so, what type of intervention is most appropriate. During 2018, caseworkers completed 220,154 appraisals, of which 123,450 (56%) were deemed to require further intervention.
- 17.10** When deciding on the type of intervention for a particular case, the Revenue caseworker assesses the risk involved and decides which intervention would be the most efficient in terms of the time and resources available, while also addressing the perceived risk.
- 17.11** In 2015, Revenue introduced a Revenue Case Management (RCM) system for the recording of all compliance interventions which allows for appropriate categorisation into different intervention types (i.e. aspect query, profile interview, audits and investigations) and projects/risks. RCM is a case working system that records compliance intervention activities. Any assessment raised during the intervention is recorded on a separate system, the Integrated Taxation Processing (ITP) system. The RCM does not interface with ITP and therefore, the assessments are entered separately on ITP.¹

Qualifying disclosures

- 17.12** At any stage before the commencement of an audit or investigation, a taxpayer may make a 'qualifying disclosure' that can mitigate penalties to which they may be liable. In such cases, the taxpayer provides details of any taxes due and interest. The qualifying disclosure must be accompanied by payment of the amounts due or an agreed payment plan. This is considered to be
- **an unprompted voluntary disclosure** — if it is made any time before notification by Revenue of an audit or the instigation of an investigation
 - **a prompted voluntary disclosure** — if it is made after receiving notification that an audit is about to commence, but before the commencement of the audit.
- 17.13** Taxpayers cannot avail of the opportunity to make a qualifying disclosure where a Revenue investigation has been initiated or where a Revenue audit has actually commenced.

¹ The Integrated Taxation Processing system is Revenue's core integrated tax and customs administration system. It maintains the case base, processes tax returns, payments, refunds, repayments and manages compliance for Revenue.

Figure 17.2 Revenue audit and compliance intervention process



Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

- Notes:
- a Non-audit intervention includes assurance check, aspect query or profile interview.
 - b Audit intervention includes audit and investigation.

---> In cases not involving deliberate default, where Revenue commences an audit or investigation of a particular period or tax head, the taxpayer retains the right to make an unprompted disclosure regarding periods or tax heads not within the scope of the intervention.

Interventions completed and associated yields

- 17.14** Revenue completed 461,044 interventions in 2018. Interventions are classified as completed when
- the settlement is agreed and the liability arising has been paid or is in an agreed phased payment arrangement
 - the case is passed to the Collector General for collection or
 - it is not possible to collect the additional liabilities identified e.g. a company has gone out of business.
- 17.15** 123,919 (27%) interventions completed in 2018, yielded €572.1 million (See Figure 17.3).
- 17.16** Non-audit interventions account for yield of €316 million, over half of the total yield from compliance activity. About one in four of these interventions resulted in additional tax, interest and in some cases penalties being assessed as due. By contrast, almost two thirds of audit interventions resulted in additional liabilities, averaging €84,500 per yielding audit case.

Figure 17.3 Compliance activity and yield, 2018

Type of intervention	Number of interventions			Yield €m	Average/ yielding case €
	Completed	Additional tax arising	%		
Assurance checks	356,813	96,254	27%	7.2	75
Aspect query	94,393	23,464	25%	289.7	12,347
Profile interview	5,095	1,171	23%	19.2	16,396
Non-audit interventions	456,301	120,889		316.1	
Total audit interventions	4,743	3,030	64%	256	84,488
Total interventions	461,044	123,919		572.1	

Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

Interest and penalties

- 17.17** The Taxes Consolidation Act 1997 *inter alia* provides for the application of interest on late payment of tax, and for penalties for not submitting tax returns or for the submission of incorrect returns.
- 17.18** The interest rate on overdue tax varies between two broad groups of tax headings.
- The interest rate in respect of direct taxes such as income tax, corporation tax, capital gains tax, gift and inheritance tax is currently 0.0219% per day or 8% per annum.
 - The interest rate in respect of fiduciary taxes, such as value added tax and pay as you earn is currently 0.0274% per day or 10% per annum.

There is no provision for the mitigation of interest due.

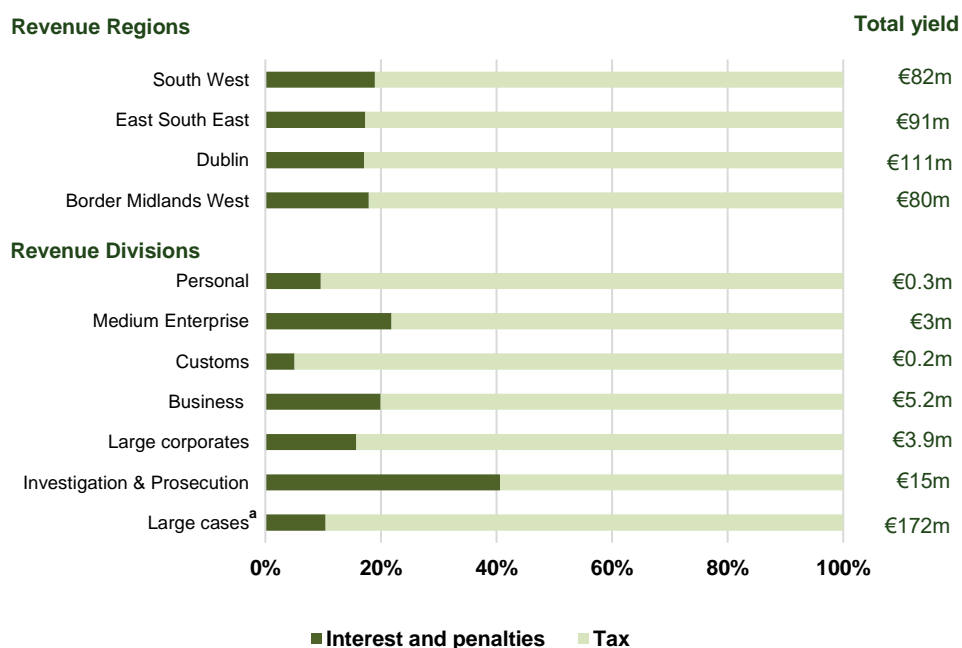
17.19 Penalties are not applied in certain circumstances.

- Where the aggregate tax due is less than €6,000 and the default did not arise because of deliberate behaviour.
- Where a taxpayer self-corrects a return and pays the tax and related interest. There is generally a 12-month time limit from the due date of filing returns in place but exceptions to this limit apply to certain types of taxes.
- Where Revenue is satisfied that the default arose due to innocent error.
- Where the additional liability arises from a technical adjustment and Revenue is satisfied that due care has been taken by the taxpayer and the treatment concerned was based on a mistaken interpretation of the law or practice, and did not involve deliberate behaviour.

17.20 The penalty rates applied for a tax default range from 3% of the tax due to 100% (see Annex 17B). In addition to the details of the taxpayer, the nature of the default and the settlement amount and details may be published by Revenue. Making a qualifying disclosure results in lower penalties being applied and details of the settlement are not published. Unprompted qualifying disclosures attract lower rates of penalty than prompted disclosures.

17.21 The examination reviewed the extent to which interest and penalties were applied in respect of all interventions finalised in 2018. The rate of application of penalties and interest (relative to tax due) as a result of intervention activity varies between Revenue divisions and regions (See Figure 17.4).

Figure 17.4 Proportion of yielding cases in 2018 where interest and penalties were applied, by unit and region



Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

Note: a Revenue defines large cases as companies with Irish turnover of €190 million or more on a group basis or tax payments greater than €18 million on a group basis annually. Large Cases Division also manages individual taxpayer cases with net assets greater than €50 million (reduced to €20 million in May 2019), and non-residents with substantial interests in Ireland.

17.22 Overall, interest and penalties accounted for 16% of the compliance activity yield in 2018.

- Revenue's Investigation and Prosecution Division applied the highest rates, with interest and penalties accounting for over 40% of the yield in 2018.
- The level of interest and penalties applied to cases was significantly lower in the Personal Division than for almost all other divisions. The average yield in these cases was about €2,000. Where the aggregate amount of a taxpayer's liability is less than €6,000 and default is not deliberate, no penalty is applied.
- The level of interest and penalties applied to cases across all four Revenue regions was under 20%.

Revenue has stated that the reported yield may understate the level of interest applied as in some cases the Revenue caseworker may have only recorded a formal assessment for the tax liability and related penalties on RCM. After a case is forwarded to the Collector General for collection, any (additional) interest that may apply will then be calculated.¹

Review of sampled interventions

17.23 The examination reviewed a sample of 50 settlements in 2018 that arose on foot of compliance interventions. This includes five assurance checks and 45 other interventions including aspect queries, profile interviews, audits and investigations.

Assurance checks

17.24 In 2018, Revenue conducted just over 356,800 assurance checks. Over one quarter of the checks resulted in the levying of additional tax and duties. The total amount levied was €7.2 million.

17.25 Assurance checks include checks on

- packages which originate from outside of Ireland (where VAT,² excise duty or customs duty³ might apply) which are examined at four mail centres in Dublin, Cork, Portlaoise and Athlone
- vehicles which are imported into Ireland from abroad which are subject to VRT⁴
- goods imported from outside the EU which are inspected at airports and ports
- refund claims relating to stamp duty.

17.26 In most cases, assurance checks are not associated with a tax number e.g. (Personal Public Service Number (PPSN) or registered employer's number). For example, parcels examined in mail centres would not include a taxpayer's reference number. As a result, in most cases information on assurance checks and the associated yield is not recorded on the RCM.

17.27 For the sample of five assurance cases examined, the basis for the tax/duty amount assessed by Revenue was clear in all cases.

¹ The data provided to the examination team is sourced solely from the RCM system and does not include Collector General data. This data is held on a different, non-integrated system, the Active Intervention Management (AIM) system. In March 2019, the Collector General introduced a new debt management system which interfaces with the RCM system.

² Declared customs value of €22 or less is exempt from payment of Value Added Tax (VAT).

³ Importation of consignments with a value of €150 or less is exempt from payment of customs duty.

⁴ Importation of a vehicle into Ireland is subject to Vehicle Registration Tax (VRT) which is payable within 30 days of entry into the State. Failure to register is subject to a penalty.

Other compliance interventions

- 17.28** 45 cases were selected from the remaining intervention types from the population of cases where there was an additional yield due to the intervention. This population included aspect queries, profile interviews, audits and investigations.
- 17.29** The cases selected comprised five cases with the highest yield in 2018 and 40 cases selected at random while ensuring that all divisions and regions within Revenue were represented. The 45 cases selected had a combined yield of €92.7 million, or 16.2% of the total reported intervention yield in 2018.

Calculating the tax liability

- 17.30** During an intervention, the Revenue caseworker quantifies the liability due. In circumstances where a tax liability has been quantified by the taxpayer in a disclosure, the Revenue caseworker examines the taxpayer's calculation.
- In cases where there is agreement on the liability, the taxpayer generally submits an amended return and pays the additional tax, interest and penalties.
 - In cases where Revenue does not accept the disclosure made and the taxpayer does not agree with Revenue's assessed liability, the Revenue caseworker will raise an assessment for the tax liability through Revenue's tax collection system ITP.¹ Details of this action are recorded on the intervention report on RCM.
- 17.31** Revenue may reduce an assessment of tax liability on foot of additional information from the taxpayer or a determination by the Tax Appeals Commission. In these cases, the original assessment on ITP is amended and a revised assessment is issued.
- 17.32** In reviewing the sample cases for the examination, it was found in one case (case study A) that Revenue had made an estimate of the amount of additional tax potentially due. This estimate was calculated based on the information available to Revenue at the time. The estimated liability was notified to the taxpayer without a formal assessment of the tax due being raised. A substantially lower amount was later agreed in a settlement agreement in advance of an appeal. The Revenue report on the settlement reconciled the final settlement amount with the original Inspector's estimate and recorded reasons for the difference which appear reasonable.
- 17.33** Revenue was not obliged to publish details of the settlement for Case A (€58.5 million) as under the code of practice, publication does not apply when the penalty does not exceed 15% of the amount of the tax.

¹ This assessment does not include interest and penalties as the taxpayer has a right of appeal. It is not possible to raise a penalty charge until the penalty amount is agreed with the taxpayer or determined by a court, or finalise the interest charge until the liability has been paid.

Case study A — Reconciliation of estimated tax and settled amount

February 2009 — Revenue received a letter from a company advising them of an intention to make an unprompted voluntary disclosure related to a specific PAYE area.

April 2009 — Revenue issued a notification of a PAYE/PRSI audit to the company covering a specific two-year period. The audit commenced on 9 June 2009.

June 2009 — January 2013 — Three unprompted voluntary disclosures were made in this period accompanied by payments totalling €5.7 million, comprising €4.2 million tax due and the balance in interest and penalties.

January 2013 — The Revenue audit team focused on four particular PAYE areas. Additional amounts due of €3.8 million were subsequently assessed by Revenue in relation to three of the four areas investigated.

June 2015 — A Revenue Inspector raised and issued a *PAYE/PRSI notice of estimation of amounts due* in the amount of €205 million, based on the information available to Revenue at the time in relation to the remaining area, which was being investigated over the period 2004 – 2014.

July 2015 — The €205 million PAYE estimate was appealed to the Tax Appeals Commission.

August 2018 — A settlement offer of €29.1 million was accepted by Revenue in respect of the PAYE area appealed. The total settlement in Case A amounted to €58.5 million. This comprised

- €5.7 million on foot of voluntary disclosures (including €1.5 million in interest and penalties)
- additional assessments of tax totalling €3.8 million relating to three of the categories under investigation (PAYE/PRSI)
- €29.1 million tax in relation to the fourth area under investigation and
- interest and penalties totalling €19.9 million.

The file for the case set out the basis for the revised assessment of €29.1 million in relation to the fourth area under investigation and provides a reconciliation of this settlement to the original €205 million estimated. The reasons for the difference between the estimate and the settlement are set out and appear reasonable.

17.34 Two of the 45 cases examined were appealed by the taxpayer.

- In one case, the appeal was disallowed by the Tax Appeals Commission as the taxpayer failed to provide tax returns for the period under review.
- In the second case, a settlement was accepted by Revenue just days before the case was to be heard by the Tax Appeals Commission (see case study B). In this case, Revenue had assessed tax due at €113 million but accepted an offer of €10 million on foot of legal advice from senior counsel to accept the settlement due *inter alia* to the passage of time.

17.35 The review found that

- Taxpayers made unprompted or prompted disclosures to the value of €72 million in 17 or 38% of the 45 cases examined.
- In 44 cases, Revenue had assessed liabilities or had considered and accepted qualifying disclosures. The tax liabilities determined in each case were based on the evidence retained on file.
- In one case, an unprompted disclosure was made to the value of €2,747. Revenue did not calculate a liability. The amount submitted by the taxpayer was recorded as the total liability identified during the intervention.
- In another case, a claim of inability to pay part of the liability was accepted by Revenue and collection of €22,285 was deferred.

17.36 The Quality Intervention Standards of the *Revenue Tax and Duty Manual* sets out the quality of documentation required to be retained on electronic or paper file for intervention cases. In all cases, required documentation was on file.

Case study B — Delay in case due to complex issue

2009 — A distribution was received by a parent company (taxpayer) from a foreign subsidiary.

2010 — A corporation tax return for the year 2009 was submitted with an accompanying 'expression of doubt' in relation to the tax treatment of a distribution from a share premium account.¹ The distribution was treated in the parent company's tax return as a part disposal resulting in a loss for capital gains tax purposes.

2011 — Case transferred to the Large Cases Division. Revenue has stated that a number of meetings with the tax agent were held, but was unable to provide notes or minutes of the meetings.

February 2012 — Revenue wrote to the company confirming the distribution received was not paid from retained earnings and therefore was of a capital nature.

April 2012 — Revenue wrote to the company seeking more information.

October 2012 — An internal Revenue recommendation was made stating that counsel's opinion should be sought.

June 2014 — Revenue emailed the agent attaching an extract from a note from senior counsel and requesting sight of legal advice received by the agent in 2009 together with the instructions and request for advice etc.

September 2014 — Change in Revenue caseworker.

December 2014 — The tax agent declined to release the legal advice for reasons of legal privilege but outlined the relevant issues from their legal counsel's opinion.

September 2015 — The tax agent advised Revenue that, in their opinion, 2009 is now beyond the time scope for any intervention.

February 2016 — A letter was issued to the company outlining the reasons why an amended assessment would be made.

June 2016 — A notice of amended assessment was issued to the company outlining the balance payable of €113 million.

July 2016 — The taxpayer appealed the assessment on two grounds

- Revenue was not entitled to make the assessment in excess of four years after the end of the chargeable period
- the taxpayer had originally treated the receipt correctly in its Irish corporation tax return by including an expression of doubt.

February 2017 — Preliminary hearing scheduled before Tax Appeals Commission but the case was adjourned to allow for discussion between counsel.

March 2017 — Case settled for €10 million and liability discharged by taxpayer, before scheduled hearing of Tax Appeals Commission in April 2017.

January 2018 — €10 million recorded as paid on Revenue's RCM system forming part of the reported yield for 2018.

¹ Where a taxpayer has a genuine doubt about the correct tax treatment of a particular issue the taxpayer may make an 'expression of doubt' in accordance with section 959P of the Taxes Consolidation Act 1997. Expressions of doubt are not treated as genuine where there is no ambiguity in the legislation or where Revenue has clarified the matter in its published material.

Interest and penalties in sample cases

- 17.37** The examination also reviewed the application of interest and penalties in the sample of cases. Interest was applied in 32 out of 45 cases amounting to a total of €22.3 million. However, interest was incorrectly levied in seven of the cases examined.
- In one case, (case study C), interest was incorrectly calculated by a Revenue caseworker resulting in an undercharge of €3,371.
 - Minor errors were noted in six other cases, amounting to a total shortfall in interest applied of €1,502.
- 17.38** The examination found that non-application of interest was appropriate in the remaining 13 cases as can be seen in case study D.
- 17.39** Penalties were applied in 17 of the 45 cases (38%) and yielded €600,000.
- In 16 of 17 cases where penalties were applied, the penalties were appropriate. A minor error in the penalty was noted in one case, resulting in a shortfall of €248.
 - In 11 of 17 cases, the taxpayers incurred reduced penalties because they had made qualifying disclosures.
 - In three cases, the taxpayers had not made qualifying disclosures but penalties were mitigated due to full co-operation.
 - In two cases, the full penalty was applied.
- 17.40** The examination reviewed the 28 cases where no penalty was applied and found that the non-application of penalties was appropriate in 27 of these cases. In one case, a penalty of 30% should have applied as the disclosure and return had been submitted after the audit had started and the amount disclosed had exceeded €6,000. Penalties were not applied in this case resulting in a short fall of €4,796 as can be seen in case study C.

Case study C — Incorrect calculation of interest and penalties

A new business was registered in 2014 but VAT and employer PAYE/PRSI (PREM) returns were not filed. A VAT audit case was opened in 2016 and was open for a total of 891 days with multiple Revenue caseworkers assigned to the case. Revenue noted that other factors contributed to the delay such as requests to reschedule the audit, delays from the taxpayer in supplying data requested, tensions between the taxpayer and a supplier in providing information requested by Revenue and multiple inaccuracies in that data when provided.

Errors noted in this case included

- Incorrect calculation of interest due on VAT liabilities, PREM and Corporation Tax (CT). The interest shortfall total was €3,371.
- A formal letter notifying the taxpayer of the liability was issued with the incorrect interest amount included.
- No penalty was applied by the Revenue caseworker as the liability uplift was less than €6,000 and the behaviour was considered not to be in the 'deliberate behaviour' category. In fact, the aggregate default exceeded €6,000. Accordingly, a penalty rate of 30% should have applied to the full liability. This resulted in a shortfall of €4,796.

The overall loss to the Exchequer due to incorrect calculation of interest and penalties in this case amounted to €8,167.

Case study D — Appropriate non-application of interest and/or penalties

A taxpayer incorrectly claimed a married tax credit for the period 1998 – 2014 amounting to €36,308.

No penalties were applied in this case as Revenue stated there was no evidence the credit was claimed other than through an innocent error. No interest was applied, as under section 960 TCA, in cases other than self-assessment, if the liability raised is paid within one month of notification, no interest will apply. The underpayment of €36,308 was paid within one month.

Following PAYE redesign in 2005, a relationship must be created so that married tax credits/rate bands can be applied on the Revenue system. Revenue confirmed that prior to PAYE modernisation in 2019, a review of cases where married credits were being claimed was undertaken. This consisted of cases where

- the spouse's PPSN was not known
- where the spouse's PPSN was changed on marriage ('W numbers' — where women who married in the period up to the early 1990s were assigned the PPSN of their husbands with the letter W attached at the end).

Over 100,000 cases were identified in 2018, following a separate project. These cases are currently being appraised to establish the next steps.

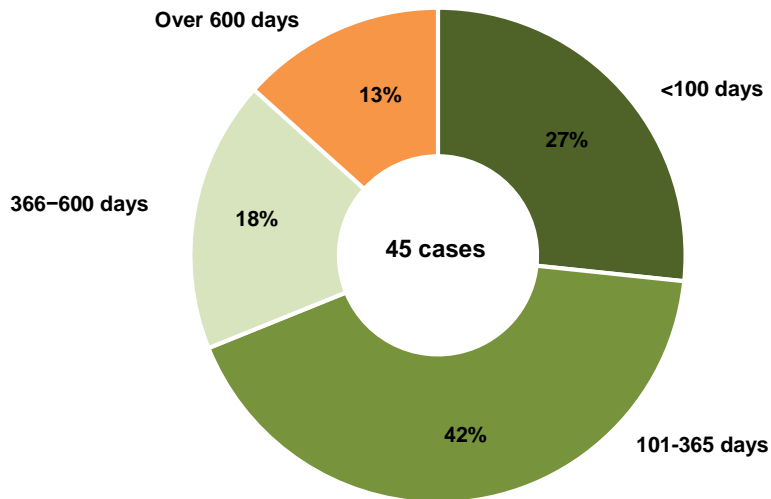
Authorisation and approval of settlement amounts

- 17.41 Tax settlement offers are subject to varying levels of approval. The code of practice states that the Revenue caseworker’s report on an intervention should contain a clear recommendation on whether the settlement amount proposed should be approved.
- 17.42 Revenue’s formal approval levels for settlements are as follows
 - up to €50,000 — District Manager (equivalent to Principal Officer (PO) level)
 - €50,001– €249,999 — Assistant Secretary
 - €250,000 and over — Revenue Commissioner.
- 17.43 The same thresholds apply to PAYE cases except for cases where specific pre-authorisation has been granted and the amount is less than €4,000. In these cases the caseworker may close the case without further approval.
- 17.44 The review found that all settlements had been approved in accordance with Revenue approval thresholds and as per settlement proposed.

Timeliness

- 17.45 Revenue aims to carry out compliance interventions in a thorough and efficient manner, so as to minimise the burden on the compliant taxpayer and to maximise recovery of unpaid tax and duties. The examination reviewed the length of time that interventions completed in 2018 had been open, from initial contact with the taxpayer or agent to the date of closure, as shown in Figure 17.5.

Figure 17.5 Length of time (number of days) intervention cases were open



Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

- 17.46** Of the 45 cases selected for review, cases were open for an average of 285 days. The length of time taken on an intervention can jeopardise the strength of a Revenue case where taxes are due following the intervention process. This is largely because a tax assessment must be raised within a specific timeframe, unless there is negligence or fraud on the part of the taxpayer.
- 17.47** Long delays are evident in three of the four case studies outlined in the examination. Revenue noted that two of the cases in question included highly technical and complex issues that required legal consultation and in-depth engagement with the taxpayer, the timing of which was often outside of caseworker control. These delays contributed, in case study B, to a significant difference in the liability originally assessed and the amount settled for. Revenue also noted that in case study A, Revenue's interventions succeeded in increasing the tax liability declared by the taxpayer in spite of very difficult technical issues.
- 17.48** Revenue noted that it does not set time limits for the conclusion of cases. Its rationale is that it is committed to completing interventions as soon as is practically possible but it is also important that interventions are concluded on a sustainable and justifiable basis. Revenue stated that there are many reasons for delays in closing interventions including delays in dealing with correspondence both on the part of taxpayer/agent and on the part of Revenue, and appeals being dealt with by the Tax Appeals Commission. It noted that a time limit focus, while relevant, cannot be the key determinant for the close of a risk-based intervention.
- 17.49** Revenue noted that it has implemented a number of initiatives to ensure cases are finalised in a timely way.
- Revenue monitors how long cases are open, and this has been a consistent priority for the senior management teams in the relevant Revenue Operational Divisions over many years. For 2019, divisions are focusing on interventions that were opened prior to 2016. Between 28 February 2019 and 19 June 2019, excluding cases under appeal, 37% of these cases have been closed.
 - Information on open interventions can be extracted and analysed using the RCM dashboard. The dashboard allows for the extraction of data using standard reports and charts as well as supporting interactive reports where the user can adjust the reporting format as required. These are important tools to assist audit managers in the identification of compliance interventions that are open for a long period.

Classification of interventions

- 17.50** Review of the files for 45 cases examined as part of this examination noted the following.
- One of the cases with a settlement of €10 million arose following an 'expression of doubt' notified to Revenue by the taxpayer in relation to a Corporation Tax return. This has been outlined in case study B.
 - In a further six cases, the resulting yield originated from a process initiated by the taxpayer or agent, either by way of an unprompted voluntary disclosure (where no other Revenue intervention was underway), a formal expression of doubt or a request from the taxpayer to Revenue for clarification on a particular matter.
- 17.51** Of the cases examined, 69% of the reported yield arose in instances where the taxpayer had contacted Revenue.¹ Revenue noted that its continuous engagement with the taxpayer base is designed to encourage self-review, self-correction and disclosure and to make taxpayers aware of the risks of failure to do so. This is particularly true in larger cases, where the co-operative compliance framework, involving significant liaison between Revenue and businesses, works to promote self-review of tax liabilities.

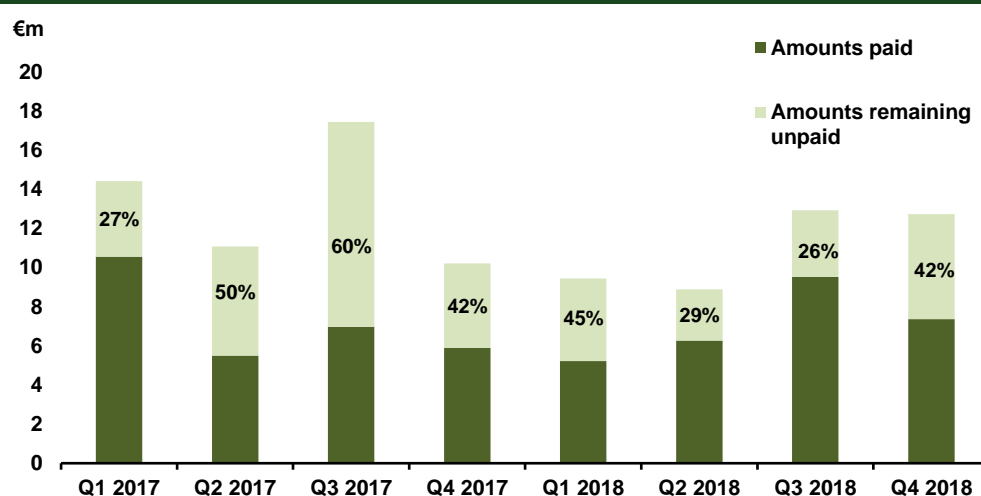
Collection of settlements

- 17.52** Taxpayers do not always immediately pay the amount due when settlement agreements are reached.
- 17.53** Excluding 96,254 yielding assurance checks,² there were 27,665 yielding interventions closed in 2018 (aspect query, profile interview and audit), of which 1,610 had a yield under €100. Revenue does not pursue yields from interventions which it deem uneconomic to pursue, but has not set a threshold for this. The collectability of each yield is judged on a case-by-case basis.
- 17.54** Section 1086 of the Taxes Consolidation Act 1997 imposes an obligation on Revenue to publish on a quarterly basis a list of agreed settlements reached with taxpayers, and Court determined penalties and fines made in the previous quarter. The list is published in two parts.
- Part 1 — persons on whom a fine or other penalty was imposed by a court.
 - Part 2 — persons where Revenue has accepted a settlement of the kind mentioned in section 1086 of the Taxes Consolidation Act 1997.
- 17.55** All cases for publication must be approved, at least, at Assistant Secretary level. The following are excluded from publication
- a taxpayer who has made a qualifying disclosure
 - where the liability does not exceed €35,000³
 - where the penalties do not exceed 15% of the tax due.
- 17.56** In the period quarter 1 2017 to quarter 4 2018, under part 2, 554 cases were published in respect of settlements made. These involved agreed settlements of €97 million. By May 2019, 59% had been collected as shown in Figure 17.6.

¹ The conclusion of case study A in the amount of €58.5 million skews the data and this has been excluded in calculating the proportion of yield that arises following contact from the taxpayer. If this case was included, the proportion would be 89%.

² The average yield on assurance checks is €75.

³ Increased from €33,000 which applied from 2010 to 2016.

Figure 17.6 Published tax defaulters Q1 2017 to Q4 2018 — payment rates as at end May 2019

Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

17.57 Two of the 45 cases reviewed as part of this examination were published and both liabilities were paid in full by the time of examination. The remaining 43 cases met one or more of the publication exemption criteria as follows

- 19 cases were as a result of a qualifying disclosure
- 12 cases did not exceed the settlement threshold
- 12 cases incurred no penalty or the penalty did not exceed 15% of tax due.

Conclusions and recommendations

17.58 Revenue seeks to secure compliance in a cost effective manner and it encourages taxpayers to correct errors and mistakes as quickly as possible.

17.59 Revenue reports on the yield from its compliance activity by type of intervention. Analysis of a sample of cases as part of this examination indicated that a significant proportion of the reported yield on compliance activity arose in cases where the taxpayer had contacted Revenue to make a voluntary disclosure or to record an 'expression of doubt' in relation to a particular tax matter.

17.60 Analysis of reported yield as between interventions initiated by the taxpayer and those initiated solely by Revenue would provide useful information in relation to the result of compliance activity arising from Revenue's risk analysis of tax returns submitted and other third party information.

Recommendation 17.1

Revenue should analyse and report yield on compliance activity distinguishing between those interventions which are prompted by contact from the taxpayer and interventions commenced by Revenue based solely on its analysis of tax returns and third party information.

17.61 Following compliance activity, a number of values may be associated with a case

- assessed liability to tax, interest and penalties
- a settlement amount which is counted as the compliance yield amount
- the amount subsequently collected in relation to compliance yield.

There can be differences between these values. Revenue does not report the aggregate amount of the assessed values or the amount subsequently collected in relation to compliance yield.

Recommendation 17.2

Revenue should consider reporting the differences between tax assessed and the tax settled for and collected and the reasons for those variances.

Accounting Officer's response

Agreed.

Revenue currently reports the results of its compliance activity by type of intervention in terms of the yield that is either collected or deemed collectible. Revenue will investigate opportunities to enhance its reporting on compliance activity having regard to recommendation 17.1 and 17.2 above.

Annex 17A

Figure 17A.1 Actions by Revenue Commissioners to address previous recommendations (2012)

2012 Recommendation	Revenue response to recommendation at September 2019
<p>Revenue should review the manner in which its interventions with taxpayers are recorded in order to ensure that the nature of an intervention is accurately recorded and that the yields from the different intervention types are appropriately classified in order to ensure more accurate targeting of scarce audit and investigation resources.</p>	<p>In 2015, Revenue introduced Revenue Case Management system (RCM) for the recording of all compliance interventions which allows for the appropriate categorisation into different intervention types (i.e. aspect query, profile interview, audits and investigations) and projects/risks.</p>
<p>Revenue should review the mechanisms it has in place to ensure that interest and penalties are quantified in accordance with legislation and its code of practice. It should consider putting in place a quality assurance system whereby a sample of files are reviewed and shortcomings that are identified are addressed. This could help to ensure consistency of interpretation and application of the legislation and the code of practice and provide assurance to Revenue that taxpayers are treated equitably.</p>	<p>In July 2013, a new process of referral of a percentage of settlements to top management, on a random basis was introduced. A total of 217 cases were referred in the period 2015 – 2018.</p> <p>In 2013, quality standards for compliance interventions was launched. These standards are an additional tool to support auditors in exercising their judgement on individual cases and to ensure a consistent approach to interventions throughout Revenue.</p> <p>A national quality assurance programme was introduced in 2016. 680 cases were examined under this programme. The findings are discussed at divisional management level and at the compliance networks. A further centrally managed quality assurance review is undertaken on 25% of the cases. A report on the findings of this review is discussed at a business management executive group, which consists of assistant secretaries and is chaired by a Revenue Commissioner.</p>
<p>Revenue should review its approval process and consider setting up a settlement approvals committee for specified types of cases e.g. cases of high value, cases of technical complexity and cases with a high degree of risk where there is a difference between the estimate of liability and the settlement amount proposed, consider requiring approval at the level of the original Revenue assessment (including appropriate interest and penalties) in order to ensure the potential tax forgone is reviewed at the appropriate level.</p>	<p>The existing approval process, enhanced by the random referral of cases to senior management, is working well. As a matter of routine, the results of high-value audit or publication cases are approved at assistant secretary and/or board level.</p>

2012 Recommendation**Revenue response to recommendation at September 2019**

Where cases may be settled for materially less than the Revenue estimate of a taxpayer's liability, Revenue should consider (and document) the alternative outcomes that might be expected from litigation where this is the alternative course of action. It is acknowledged that significant judgment may be required and settlements may be complex. Matters to be considered include uncertainties about the possible outcome as well as the time, costs and risks involved in litigation. Decisions, and the rationale for them, should be fully and clearly documented before the file is submitted for approval.

The option to litigate can only take place in certain circumstances. Where a taxpayer does not agree with the audit findings or there is no engagement (by the taxpayer), a tax assessment is raised for the amount due. The assessment can be appealed by the taxpayer to the independent Tax Appeals Commission. Section 949AP of the Taxes Consolidation Act 1997 allows for an opinion of the High Court to be sought where a party is dissatisfied with the determination of the Tax Appeals Commission and considers it to be erroneous on a point of law.

Where cases involve technical complexity, specialist staff within Revenue (and externally where this is considered necessary) should be consulted and their opinions documented and recorded on the file.

Revenue stated that it has a range of internal networks to support complex and/or technical case working and to also help with capability building. The Revenue solicitor's division provides a wide range of legal services to the organisation. External consultants are engaged for complex and/or technical cases where the issues in dispute require such support. This includes experts on Research and Development (R&D) issues, valuation skills, industry experts, experts with specialised financial services knowledge, experts on US Corporate Law and experts on accountancy policies and practice.

In regard to the negotiation of audit settlements, Revenue should consider putting in place detailed guidance and procedures for the conduct of settlement negotiations requiring those negotiating the settlements to put forward Revenue's highest estimate of the taxpayer's liability including the appropriate interest and penalties setting up an experienced negotiating team which would be available to all units in circumstances where significant sums are at stake.

Revenue stated that it has an extensive range of material on its website and internal network on compliance matters. Tax and duty manuals are regularly reviewed to ensure that they are up to date and still relevant. Revenue provides a tailored one-day training courses on negotiating to staff.

Annex 17B

Figure 17B.1 Penalty rates for defaults^a

Qualifying disclosure and taxpayers co-operation	Category of default	Prompted disclosure^b	Unprompted disclosure^b
All qualifying disclosures in this category	Careless behaviour without significant consequences	10%	3%
First qualifying disclosure in these categories	Careless behaviour with significant consequences	20%	5%
	Deliberate behaviour	50%	10%
Second qualifying disclosure in these categories	Careless behaviour with significant consequences	30%	20%
	Deliberate behaviour	75%	55%
Third or subsequent qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	40%
	Deliberate behaviour	100%	100%
No qualifying disclosure	Category of default	No co-operation	Co-operation only
All defaults where there is no qualifying disclosure	Careless behaviour without significant consequences	20%	15%
	Careless behaviour with significant consequences	40%	30%
	Deliberate behaviour	100%	75%

Source: Revenue Commissioners

Notes: a This table refers to defaults that occurred on or after 24 December 2008 (Finance (No. 2) Act 2008).

b The penalty rate is a percentage of the tax underpaid.

