

Chapter 14

Revenue

Revenue Compliance Interventions

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14.1 This chapter examines

- the extent and outcome of Revenue compliance checking including audits
- the extent of deterrence actions arising out of non-compliance
- the extent of publication of defaulter details
- the outcome of special investigations.

Compliance Checks

14.2 Revenue conducts a range of checks to ensure that taxpayers are compliant. These fall into two main categories – audits and assurance checks. The main audit classifications are

- A comprehensive audit is normally a response to an Income Tax or Corporation Tax issue. However, significant risks associated with other taxes are also considered.
- Multi taxhead and single taxhead audits address compliance with one or more tax or duty types and relate in the main to taxes other than Income Tax or Corporation Tax.
- Single issue or transaction audits focus on more specific tax matters including compliance work in relation to a particular tax relief or regime.

14.3 The outcome of the 2009 programme of Revenue audits is summarised in Figure 67.

Figure 67 Revenue Audit Activity

Category	2008		2009	
	Number	Yield ^a	Number	Yield ^a
	Completed	€m	Completed	€m
Comprehensive Audits ^b	3,904	253	4,353	280
Single Tax/Duty Audits	6,082	183	5,053	163
Multi Tax/Duty Audits	2,065	64	1,735	63
Single Issue/Transaction Audits	1,363	58	1,278	97
Total Audits	13,414	558	12,419	603

Notes:

- a Yield in 2008 has been re-stated to exclude the estimated yield of €11 million expected in future years as a result of the restriction of losses carried forward and reliefs overclaimed. The corresponding amount for 2009 was €295 million and has not been included in the yield for that year.
- b Includes the yield from random audits completed in the year. Also includes the yield from audits of special investigation cases of approximately €69 million (€90 million in 2008).

14.4 Although the total number of audits completed fell by 995, there was an increase in the total yield of €45 million. There were 449 more comprehensive audits completed in 2009 than 2008 and the increase in yield was €27 million. While 85 less single issue/transaction audits were completed, the yield increased by €39 million. The largest reduction in audit numbers was in the Single Tax/Duty category where 1,029 less audits were completed compared to 2008.

14.5 Included in the audits completed in Figure 67 are the results of Revenue's examinations of whether employers are operating PAYE/PRSI correctly. The Department of Social Protection also undertakes a programme of employer inspections to ensure the correct operation of PRSI. This programme identified a non-compliance rate of 20% in 2009 (14% in 2008) and these cases are reported to Revenue for follow up action. In the light of the implications for both PAYE and PRSI of this non-compliance rate I sought details of the follow-up action taken by Revenue. The Accounting Officer stated that Revenue does not collate details of the action taken as a result of information reported by the Department of Social Protection. The results of all employer audits are reflected in the general audit statistics.

14.6 The trend in the percentage of yielding audits for 2007, 2008 and 2009 for each audit category is set out in Figure 68.

Figure 68 Percentage of Yielding Audits 2007 to 2009

Audit Category	Percentage of Yielding Audits ^a		
	2007	2008	2009
Comprehensive Audit	67%	63%	68%
Single Tax/Duty Audit	54%	61%	70%
Multi Tax/Duty Audit	57%	64%	67%
Single Issue/Transaction Audits	49%	71%	86%

Note:

- a Figures are based on audit results recorded on Revenue's Audit Case Management System. Not all audits are recorded on that system.

14.7 An analysis of the 2009 audit yield for each audit category is set out in Figure 69. The total audit yield of €603 million is comprised of 76% tax, 17% interest and 7% penalties. The composition of the yield varies between the different categories of audit with tax accounting for 64% of the yield from comprehensive audits rising to 95% for single issue/transaction audits.

Figure 69 Analysis of Audit Yield 2009

Audit Category	Tax	Interest	Penalties	Total
	€m	€m	€m	€m
Comprehensive Audits	180	69	31	280
Single Tax/Duty Audits	135	20	8	163
Multi Tax/Duty Audits	51	7	5	63
Single Issue/Transaction Audits	92	4	1	97
Total	458	100	45	603

14.8 The tax element of the 2009 audit yield (€458 million) is analysed by taxhead and type of audit in Figure 70. VAT accounts for the largest proportion of the total audit yield and the largest proportion for most of the audit categories. The exception is the comprehensive audit category which results in more Income Tax and Corporation Tax being collected.

Figure 70 Analysis of Tax Yield by Taxhead and Type of Audit 2009

Taxhead	Type of Audit					Total €m
	Comprehensive	Single Tax/Duty	Multi Tax/Duty	Single Issue/Transaction		
	€m	€m	€m	€m	€m	
Income Tax	48	2	2	6	58	
Corporation Tax	52	8	2	27	89	
Relevant Contracts Tax	4	8	12	2	26	
VAT	33	76	17	46	172	
Employer's PAYE/PRSI	16	10	8	2	36	
Other including CGT	17	20	2	8	47	
CAT and Stamp Duty	–	4	–	–	4	
Miscellaneous ^a	10	7	8	1	26	
Total	180	135	51	92	458	

Note:

a This element of the yield is referred for enforcement and includes a number of different taxheads.

14.9 The Accounting Officer stated that the increase in total yield despite the reduced number of audits indicates that Revenue's efforts to target the riskiest cases are bearing fruit. The significant reduction in the number of Single Tax/Duty audits is due to a reduction in the number of Stamp Duty and Capital Acquisitions Tax audits which reflects the changed economic circumstances. The decline in Revenue staff from 6,575 to 6,100 over the course of 2009 also had an impact on audit activity. In relation to the percentage of yielding audits, the Accounting Officer stated that the increase in all audit categories showed that Revenue was continuing to lessen the impact of audits on compliant taxpayers.

Comprehensive Audits

14.10 The outcome of the 4,353 comprehensive audits completed in 2009 is further analysed in Figure 71. The yield of €280 million includes interest charges of €69 million and penalties of €31 million. The highest settlements were €4.1 million for Income Tax and €35.43 million for Corporation Tax. Comprehensive audits were completed in 23 bogus non-resident account cases with settlements totalling €1 million, in 191 offshore assets cases with settlements totalling €30 million and in 194 life assurance product cases with settlements of €28 million¹¹⁰.

¹¹⁰

Some of the yield in these special investigation cases was collected in earlier years.

Figure 71 Yield from Comprehensive Audits

Agreed Settlements	2008		2009	
	Number	Yield	Number	Yield
		€m		€m
€1 to €30,000	1,480	14	1,842	18
€30,001 to €100,000	516	29	593	33
€100,001 to €500,000	368	80	417	86
€500,001 to €1m	55	36	49	34
Over €1m	36	94	33	109
No additional tax payable	1,449	–	1,419	–
Totals	3,904	253	4,353	280

Risk Evaluation

14.11 Revenue uses a risk evaluation and profiling system (REAP) to help select cases for audit. 71% of the audits actually completed in 2009 which were recorded in Revenue's Audit Case Management (ACM) System¹¹¹ and which were risk ranked¹¹² were in the top 20% of risk. Figure 72 outlines the extent to which each type of audit fell into the higher risk classification.

Figure 72 Percentage of Settled Audits 2009 in Top 20% of Risk

Type of Audit	Number Completed	Number Recorded in ACM	Number Risk Rated	Number in Top 20%	% in Top 20%
Comprehensive Audits	4,353	4,330	3,805	2,444	64%
Single Tax/Duty Audits	5,053	4,297	3,899	2,894	74%
Multi Tax/Duty Audits	1,735	1,734	1,689	1,417	84%
Single Issue/Transaction Audits	1,278	1,278	1,163	744	64%
Total Audits	12,419	11,639	10,556	7,499	71%

14.12 Work has begun on extending the scope of REAP to include risk assessment of PAYE taxpayers. A risk assessment of PAYE taxpayers was carried out in 2009 and units were established in two regions to analyse the results.

14.13 Work is continuing on the development of a model to enable the risk scores from REAP to be used to predict the audit yield. The model has been piloted in one region and a draft of the preliminary results has yet to be considered by senior management in Revenue.

14.14 The Accounting Officer stated that because of quality issues with the classification of audits as REAP or non-REAP selected on Revenue systems, a comparison of the results of audits sourced from REAP with those sourced by other means was not possible. Changes to the ACM

¹¹¹ Not all audits are recorded on the Audit Case Management System.

¹¹² Not all cases are risk ranked, for example, cases that are no longer 'live' are excluded.

System are being introduced to record the risk rules which cause a case to be chosen for audit and track the progress of the audit, identifying the extent to which those risks have been examined on audit.

Assurance Checks

14.15 Assurance checks are initiated with the intention of assuring Revenue, without recourse to a resource intensive audit or enforcement activity, that the customer is broadly compliant in the areas that are the subject of the check. Assurance checks include

- verification of documentation and requests for additional information in relation to Income Tax, Corporation Tax, VAT and capital taxes
- checks of customs documentation
- excise checks including VRT
- checks arising from suspicious transactions reports¹¹³
- eligibility checks arising from special investigation voluntary disclosure schemes
- queries which examine a single aspect of a case for the purpose of testing an apparent risk highlighted by REAP.

14.16 The number of assurance checks reported has grown significantly, from 98,981 in 2005 to 361,480 in 2009. Part of this increase may be due to previous non-recording and an increased awareness in districts of the need to log such checks. An internal Revenue group is examining the current system of assurance checking and reporting, including the definition of what constitutes an assurance check, the overall approach to such checks and the system for recording and reporting assurance checks.

14.17 An analysis of assurance checks in 2009 by type is set out in Figure 73.

¹¹³ Under the Criminal Justice Act 1994 (as amended) designated bodies are required to report to An Garda Síochána and Revenue where they have a suspicion that a money laundering offence may have been committed. These reports are known as Suspicious Transaction Reports.

Figure 73 Assurance Checks 2009

Type of Check	Total Number	Number Compliant	Number Non-Compliant	Number with yield	Yield €m
Document Verification/Requests for Additional Information	176,344	164,641	11,703	7,156	48.8
Customs	97,437	81,029	16,408	10,308	2.3
Excise	53,222	47,844	5,378	4,253	5.3
Suspicious Transaction Reports	9,679	9,243	436	14	0.3
Special Investigations – Eligibility Checks	772	714	58	13	0.8
Specific Risk Inquiries ^a	24,026	22,297	1,729	925	11.0
Total	361,480	325,768	35,712	22,669	68.5

Note:

a These checks examine one of the risks highlighted by REAP in each case.

Random Audits

14.18 Around 400 random audits are selected for completion annually. The results as at 31 March 2010 of the random audit programmes for 2006 to 2009 are shown in Figure 74.

Figure 74 Random Audit Programmes 2006 to 2009

Number of Cases	2006	2007	2008	2009
Sample Selected	402	401	403	400
Completed Cases	387	390	383	276
Dropped Cases	4	2	1	-
Incorrect Period Audited ^a	11	1	-	-
Cases on hand at 31/03/2010	-	8	19	124
Yield	€	€	€	€
Yield for Base Year	1,502,106	793,775	1,145,241	379,659
Yield from other Years	768,020	1,154,803	1,330,128	269,548
Total Yield	2,270,126	1,948,578	2,475,369	649,207
Average Yield for Base Year	3,881	2,035	2,990	1,376
Total Average Yield	5,866	4,996	6,463	2,352
Yielding cases as % of completed cases	31%	33%	30%	29%

Note:

a The yield from the incorrect period audited cases in 2006 amounted to €114,191 and is not included in the total yield figure for 2006.

14.19 The number of yielding cases continues to be around 30% and while there was a fall in the average yield for 2007 cases, this has increased again for the 2008 programme. The average yield for the base year for the 2009 programme is currently €1,376 based on completion of 276 of the scheduled 400 audits. Experience in previous years has shown that this average is likely to increase as more audits are completed.

14.20 The Accounting Officer stated that the results of the random audit programmes in recent years have been reasonably consistent. She noted that the average yield is small and reflects a number of outliers. Over the last four years about 70% of random audits resulted in no yield and a large majority were only marginally yielding.

Non-Compliance – Deterrence Actions

14.21 Revenue's deterrence provisions fall into two main categories – civil penalties and criminal proceedings. In certain cases, it publishes details of persons who have defaulted on their Revenue obligations.

Civil Penalties

14.22 Where incorrect returns are made fraudulently or negligently, penalties are generally imposed. These mainly arise out of Revenue audits. Civil penalties imposed as a result of 2009 audits amounted to €45.3 million (€42.2 million in 2008).

14.23 Revenue can also impose civil penalties for failing to submit returns on time. In 2009, Revenue imposed penalties totalling €1.7 million in 519 cases which did not submit P35 returns on time. Due to a change in legislation which required the issue of an additional letter in all cases, no civil proceedings for non-payment of these fines were taken in 2009.

Criminal Proceedings

14.24 Criminal proceedings arise in relation to the non-filing of returns, summary prosecutions for various other tax and customs and excise offences and prosecutions for serious evasion.

Non-Filing of Returns

14.25 Criminal prosecutions of cases that failed to file VAT returns resulted in 82 cases being heard in Court in 2009 and fines of €702,335 being imposed. There were 1,147 convictions for failure to file Income Tax and Corporation Tax returns with €2.3 million in fines imposed. Failure to pay P35 fines led to criminal prosecutions in 183 cases. In addition, one case was convicted for failing to file Relevant Contract Tax returns and a fine of €1,300 was imposed.

Summary Prosecutions for Customs and Excise Offences

14.26 There were 535 successful summary prosecutions for customs and excise offences in 2009 resulting in fines of €826,894. These included cases of cigarette smuggling, marked oil, excise licence and VRT offences.

Summary Prosecutions for Tax Offences

14.27 There were nine convictions for tax offences other than non-filing of returns, with fines totalling €14,115 imposed. Seven of these cases were for failure to submit a statement of affairs, one for failure to furnish books and records and one for providing a false name to a Revenue Officer.

Prosecutions for Serious Tax Evasion

14.28 107 cases of serious tax evasion were at various stages of the investigation and prosecution process at the end of 2008. In 2009, a further 23 cases were determined to be suitable for investigation with a view to prosecution (36 in 2008). Convictions were obtained in six cases decided in Court in 2009 and details of the six cases are set out in Figure 75. Five of these cases were originally identified as being suitable for investigation with a view to prosecution as a result of Revenue audits and checks. In one of the cases, an individual was released on appeal after serving four months of a 20-month custodial sentence, the remaining 16 months of the sentence being suspended.

Figure 75 Convictions in 2009 for Serious Tax Evasion

Occupation/Activity	Fine	Estimated Tax at Risk	Offence
Property Developer	€2,250	€21,000	Submitting an incorrect CGT return
Builder ^a	-	€500,000	Failure to furnish VAT returns; failing to remit VAT; failure to deliver Income Tax returns; issuing incorrect invoices; failure to keep records
Courier ^b	-	€200,000	Submitting incorrect Income Tax returns; issuing incorrect invoices; falsely claiming VAT repayments
Builder	€3,500	€50,000	Submitting an incorrect Income Tax return; failure to keep records
Construction Sub-Contractor	€500,000	€100,000	Failure to submit VAT returns; failure to remit VAT
Security Guard	€3,700	€150,000	Submitting incorrect Income Tax returns

Notes:

a A 20-month custodial sentence was imposed, 16 months of which was suspended on appeal after serving four months.

b A three year suspended sentence was imposed.

14.29 13 cases were closed during 2009 and therefore 111 cases were at various stages of the investigation and prosecution process at the end of 2009. The status of those cases at the end of April 2010 is shown in Figure 76.

Figure 76 Status of Serious Tax Evasion Cases at April 2010

Status	Number of Cases
Under investigation	50
With the Revenue Solicitor's Office	13
Submitted to the DPP	9
Directions issued by DPP to prosecute	21
Before the court	13
Closed	4
Convictions obtained	1
Total	111

14.30 63% of these cases were identified as being suitable for investigation as a result of Revenue audits and checks, 17% arose from Revenue investigations, 12% were identified from Suspicious Transaction Reports and 8% are based on information provided by other agencies and individuals.

Prosecutions for Serious Customs and Excise Offences

14.31 There were seven convictions for serious Customs and Excise offences in 2009. The offences in six of these cases related to excise duty on tobacco products and the other involved excise duty on alcohol. Fines of €300 and €250 were imposed in two cases. Custodial sentences were imposed in five cases ranging from two years (suspended) to four months.

Publication of Defaulters

14.32 To further deter evasion the details of audit settlements may, in certain circumstances, be published. Cases are not published where

- a 'qualifying disclosure' is accepted
- the settlement is less than €30,000
- the penalty does not exceed 15% of the tax ultimately due.

14.33 In 2009, details of 356 cases of non-compliance were published. The total amount of tax, interest and penalties in published cases settled in 2009 was €96.8 million.

Special Investigations

14.34 A number of special investigations have been carried out by Revenue in the past number of years. The total amount collected on foot of investigations in 2009 was €14 million. Of the €2.6 billion collected to date from all investigations, some €1.4 billion or 54% was collected from the voluntary disclosure schemes which formed part of five of the investigations¹¹⁴.

14.35 Figure 77 sets out the cumulative amounts received to the end of April 2010 as a result of each investigation. Two investigations – Life Assurance Products and Undisclosed Funds in Irish Bank Accounts – were extended in 2009. An investigation into trusts and other offshore structures began in 2009.

Figure 77 Special Investigations – Revenue Collected to 30 April 2010

Investigation	Year Commenced	Number of Cases Involved	Receipts 2009	Receipts to April 2010
			€m	€m
DIRT - Look Back Audits (financial institutions)	1999	37	-	225
DIRT Underlying Tax				
<i>Voluntary Disclosure Scheme</i>	2001	3,675	-	227
<i>Post Voluntary Disclosure Investigations</i>	2001	8,500 ^a	7.7	420
NIB – Offshore Investment Schemes	1998	465	0.2	60
Ansbacher-type Schemes	1999	289	3.2	107
Pick Me Up Schemes	1998	71	-	1
Tribunal-related reviews	1998	49	-	41
Offshore Assets	2004	14,867	18.3	957
Undisclosed Funds – Life Assurance Products	2005	5,500	12.0	479
Undisclosed Funds in Irish Bank Accounts	2008	1,232	55.3	77
Trusts and Offshore Structures	2009	103	17.6	21
Total			114.3	2,615

Note:

a This is an estimated figure.

Undisclosed Funds – Life Assurance Products

14.36 This investigation began in 2005 with a voluntary disclosure scheme for persons who invested €20,000 or more of untaxed funds in life assurance investment products. Subsequent to the voluntary disclosure phase, in 2006 Revenue obtained High Court orders requiring policy providers to furnish details of those who invested €50,000 or more in single premium policies between 1990 and 2003.

¹¹⁴ Voluntary disclosure schemes were available for the investigations into DIRT Underlying Tax, Offshore Assets, Life Assurance Products, Undisclosed Funds in Irish Bank Accounts and Trusts and Offshore Structures.

14.37 In 2009, Revenue sought, and was granted, High Court orders in respect of the balance of policies where the sum invested was between €20,000 and €50,000. As most policyholders will have fully met their tax liabilities in relation to these funds, Revenue requested the insurance companies to send a declaration form to the policyholders which would allow a policyholder to declare that they had no outstanding tax obligations. For those with untaxed funds in these policies, Revenue would accept a full and complete disclosure in lieu of initiating a criminal prosecution, provided full declaration and payment was made by 30 November 2009.

Offshore Assets

14.38 The scope of this investigation was broadened in 2009. Revenue obtained four High Court orders requiring Irish clearing banks to disclose the identity of persons who transferred funds to or from financial institutions in the Isle of Man, Jersey, Guernsey, Switzerland and Lichtenstein. Previously in this investigation, details of transfers to and from the Isle of Man, Jersey and Guernsey were obtained but only involving the offshore entities of Irish banks. The latest orders require details of all transfers of more than €5,000.

Trusts and Offshore Structures

14.39 In 2009, Revenue commenced an investigation into the use of trusts and offshore structures. The investigation is concerned with those who have undeclared tax liabilities in relation to trusts and offshore structures. The focus of the investigation is on those who have transferred or settled property, assets or funds to/on trusts or offshore structures. Such persons had until 1 September 2009 to provide a notice of intention to make a disclosure. Full disclosure and payment was required by 31 October 2009. The benefits of making a disclosure were

- details of payments would not be published
- a prosecution would not be initiated
- penalties would be mitigated in accordance with the Code of Practice for Revenue Auditors.

14.40 Persons who were already the subject of a Revenue audit or investigation or who came within the scope of one of the other special investigations were not eligible for the voluntary disclosure scheme. 99 notices of intention to make a disclosure were received and disclosures were received from 94 of these cases who paid a total of €17.6 million. Revenue is examining the disclosures made as well as the cases that submitted notices of intention but did not make a disclosure.

14.41 Reporting requirements introduced in Finance (No. 2) Act 2008 require returns to be made to Revenue by third parties in relation to settlements involving non-resident trustees. The deadline set for returns in respect of settlements between December 2003 and April 2009 was 1 September 2009. Third parties required to make returns include solicitors, accountants, financial institutions, financial intermediaries, financial advisors, tax practitioners, trust service providers and companies. These returns are being examined in the context of this investigation. The investigation includes an examination of the tax returns of the individual transferors and settlors. It is focused on the tax treatment of the underlying funds and the income and gains arising as well as any disbursements made from the trusts and offshore structures. Revenue has the power to issue a notice requiring any person it believes has information relating to a settlement on a trust, to provide that information. Automatic reporting of information under the EU Taxation of Savings Directive and exchange of information under Tax Information Exchange Agreements will also be used in this investigation.

Conclusion

The yield from targeted audits increased in 2009 despite a reduced number of audits. The results of the random audit programmes in recent years indicate that the underlying level of non-compliance is around 30%. However, Revenue does not assess the overall financial impact of that non-compliance by extrapolation of the results.

Now that a critical mass of random audit work had been completed it should be possible to fully realise the potential of that work. This would involve

- using the identified underdeclaration in the course of recent random audit programmes to estimate the gap in tax collection
- identifying the sectors where non-compliance has a material monetary effect
- isolating the trends in taxpayer behaviour that lead to non-compliance.