

Chapter 3

Revenue

3.1 Revenue Collection

Under the Comptroller and Auditor General (Amendment) Act, 1993 I am required 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.
- Examine the account of revenue received and paid over to the Exchequer by the Revenue Commissioners in order to satisfy myself as to its completeness and accuracy and to report to Dáil Éireann on the results of my examination.

On a cyclical basis I examine Revenue's systems for the assessment and collection of tax. Sections 3.2 to 3.12 refer to matters arising from this examination. Section 3.13 deals with a matter arising out of my audit of the Vote for the Revenue Commissioners.

I form an opinion on the completeness and accuracy of the Revenue Account on the basis of the examination and testing carried out by my Office on the various receipting, repayment and accounting systems within Revenue. I also take assurance from the systems work referred to above. The Revenue Account together with my opinion thereon is set out in the Appendix to this Report.

Revenue Collected

The gross amount collected by Revenue in 2007 totalled €66.1 billion. The composition of the gross collection is outlined in Table 6. When the amounts collected on behalf of other Departments and agencies are excluded, €56.6 billion was attributable to the core revenue of the State.

Table 6 Total Gross Collection

	2007 €m	2007 €m	2006 €m	2006 €m
Gross Collection		66,148		62,330
<i>Less attributable to other Departments and Agencies</i>				
PRSI	(9,292)		(8,348)	
Health Levy	(188)		(168)	
Environmental Levy	(22)		(19)	
Other	(7)	(9,509)	(7)	(8,542)
Taxes and Duties Collected		56,639		53,788

€9.1 billion was repaid to taxpayers in 2007. These repayments represented 16% of gross receipts. Repayments occur mainly on two taxheads. In the case of VAT they arise where the VAT on a trader's purchases exceeds that on his sales. Some traders can be permanently in a VAT repayment situation in cases where their sales are zero rated but they are being charged VAT on some or all of their purchases - for example some food businesses. It can also occur when a trader increases stock or purchases an expensive item of equipment in a period. The other heading where there is a high level of repayments is Income Tax. In this case as well as repayments under the different components of Income Tax, the repayment figure includes payments of tax relief at source for mortgage interest and medical insurance and

payments in respect of SSIA's and the Pensions Incentive Tax Credit³. Table 7 sets out the net collection by taxhead after taking account of repayments.

Table 7 Tax Collected and Repaid

	2007 Gross Receipts €m	2007 Repayments €m	2007 Net Receipts €m	2006 Net Receipts €m
Income Tax	16,788	3,206	13,582	12,375
Value Added Tax	19,248	4,729	14,519	13,451
Excise	6,127	124	6,003	5,696
Corporation Tax	7,329	936	6,393	6,685
Stamp Duties	3,309	65	3,244	3,632
Custom Duties	280	7	273	255
Capital Acquisitions Tax	397	6	391	343
Capital Gains Tax	<u>3,161</u>	<u>64</u>	<u>3,097</u>	<u>3,099</u>
Total	56,639	9,137	47,502	45,536
Amounts paid to HSE for Tobacco Excise ^(a)	–	–	(168)	(168)
Total Payable to Exchequer			47,334	45,368

^(a) Section 3 of the Appropriation Act, 1999, as amended.

The net revenue from taxes and duties for the year was €47,334m. €47,247m was paid to the Exchequer⁴.

The 2007 Budget day Exchequer target for tax revenues was €49,074m. Accordingly, a tax revenue deficit of €1,827m was experienced in the year. A breakdown of the shortfall by individual taxhead is provided in Table 8.

³ The Pensions Incentive Tax Credit is given to a qualifying SSIA holder who invests some or all of the matured funds, subject to a maximum amount, in an approved pension scheme.

⁴ The amount paid to the Exchequer over time takes account of suspense balances in cases where a taxpayer has paid taxes but they are not allocated. The amount prepaid at 31 December 2007 was €329m (€416m at 31 December 2006).

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Table 8 2007 Tax Revenue Paid to Exchequer compared to Forecast

Tax	Forecast	Payments to Exchequer	Excess/(Shortfall)	
	€m	€m	€m	%
Income Tax	13,555	13,572	17	0.1
Value Added Tax	14,870	14,497	(373)	(2.5)
Excise	6,069	5,838	(231)	(3.8)
Corporation Tax	6,650	6,391	(259)	(3.9)
Stamp Duties	3,925	3,186	(739)	(18.8)
Custom Duties	285	266	(19)	(6.7)
Capital Acquisitions Tax	375	392	17	4.5
Capital Gains Tax	3,345	3,105	(240)	(7.2)
Total	49,074	47,247	(1,827)	(3.7)

Revenue attributes the shortfall against forecast⁵ which occurred in most taxheads mainly to a slowdown in the property market and a lower than expected level of consumer spending. However, Income Tax receipts exceeded forecast due to ongoing growth in employment and greater than expected DIRT receipts due to increases in interest rates and moneys in SSIA accounts continuing to be held as deposits after maturity. These were partially offset by lower than expected self-assessed Income Tax receipts due to lower than anticipated underlying profit levels.

⁵ The forecasting methodology employed by the Department of Finance is examined in the Report of the Tax Forecasting Methodology Review Group, February 2008.

3.2 Tax Written Off

€118m of taxes and PRSI was written off during the year ended 31 December 2007. €2.5m, relating to 7,641 cases with balances of less than €1,000 which were considered uneconomic to pursue, was written off on an automated basis in 2007. The balance was assessed for write off on a case-by-case basis. A breakdown by taxhead of the total amount written off is shown in Table 9. Once approved, a write off marker is placed on the computer record of the case which has the effect of halting further collection activity. Lists of all cases proposed for write off are formally submitted to the Revenue Chairman for approval.

Table 9 Taxes Written Off

Tax	2007 €000	2006 €000
Value Added Tax	46,195	45,253
PAYE	24,009	21,623
PRSI	21,899	23,799
Relevant Contracts Tax	14,796	9,492
Income Tax	6,219	14,181
Corporation Tax	1,496	3,505
Capital Gains Tax	479	799
Automatic Write Offs	2,544	994
Total	117,637	119,646

Revenue records the reason for write off in each case and Table 10 gives details of the number of cases and the amount written off for each category. Over €96m of the amount written off arose in cases where businesses had ceased or encountered difficulties. The balance of €22m relates to cases where the amount outstanding was not collected due to factors such as an inability to locate the taxpayer, a decision by Revenue that the amount outstanding did not warrant committing resources to collecting it and compassionate grounds.

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Table 10 Reasons for Write Off

Reason	2007	2007	2006	2006
	Number of Cases	€000	Number of Cases	€000
Business Cessation/Difficulty				
Liquidation/Receivership/Bankruptcy	704	41,798	592	46,313
Ceased trading – no assets	1,196	46,423	2,106	44,438
Uncollectable due to financial circumstances of taxpayer	191	4,678	306	3,177
Examinership	10	2,275	6	185
Deceased and Estate Insolvent	80	834	162	1,762
Other Reasons				
Cannot be traced/Outside Jurisdiction	325	9,763	644	12,391
Uneconomic to pursue ^(a)	8,498	9,735	4,644	8,829
Compassionate Grounds	122	1,827	179	1,865
Unfounded Liability	53	304	120	686
Total	11,179	117,637	8,759	119,646

^(a) Includes 7,641 cases written off automatically.

The largest single amount written off in 2007 was €2.9m in respect of Employer's PAYE/PRSI and VAT owed by a group of companies in the recruitment industry which had gone into receivership. There were eleven other cases where the amount written off was greater than €1m.

The Internal Audit Branch in Revenue undertakes an annual examination of tax write offs. Its 2007 audit examined a sample of 207 cases representing 44% (€50m) of the value of non-automated write offs (€115m). Internal Audit was satisfied that all amounts were written off in accordance with the criteria prescribed with one exception. In this case, involving the write off of €87,275 in respect of VAT and PAYE/PRSI, there was evidence that two property transactions had taken place at the time of write off in which the taxpayer appeared to have made a profit of some €1m. The write off has since been reversed and the outstanding tax is being pursued. Internal Audit also examined the results of automated write off runs in the year and confirmed the correct application of the authorised selection criteria for each run.

I examined the 20 highest value write off PAYE/PRSI cases in 2007. Chapter 3.3 details this examination and the results.

3.3 Analysis of Major Write Off Cases

Chapter 3.2 sets out details of tax outstanding which was written off in 2007. In that year €118m was written off of which €46m related to PAYE/PRSI. The write off pattern over the past five years is set out in Table 11.

Table 11 Total Tax Written Off 2003 to 2007

Year	Number of Cases	Total Write Off €m	PAYE/PRSI Write Off €m	% of Total
2003	42,741	119	34	29%
2004	26,141	173	73	42%
2005	65,762	143	49	34%
2006	8,759	120	45	37%
2007	11,179	118	46	39%
Total	154,582	673	247	37%

As part of the audit, 20 of the highest write off cases were selected for review - the size of the PAYE/PRSI write off in each case determined selection. €11.4m of the €17m written off in these cases related to PAYE/PRSI of which €6.5m was based on returns submitted and €4.9m was based on estimates raised by Revenue.

Overall Audit Concern

There is a risk that a high proportion of tax liabilities written off consist of tax deducted from employees but not remitted to Revenue. I sought, using these write offs as case studies, to examine the factors which were at play leading up to the write off with a view to isolating any implications for Revenue's management of the system. Generally, the cases following classification had the following features

- Considerable tax had been written off in cases where compliance problems arose soon after registration (30% of the sample cases).
- Despite monitoring of identified problematic cases, write offs occurred in eight of the 20 cases.
- No revenue was recovered although 25% of the cases were connected with other enterprises involving the same persons.
- Specific sectoral risks in the security industry included untaxed payments to employees.
- Sheriff enforcement did not appear to be fully effective in one case.
- There was no recovery to date of taxes in that part of the sample that arose out of liquidations.

Accounting Officer's General Observations

The Accounting Officer stated that, since the mid 1990s, Revenue has adopted a caseworking approach to debt and compliance management whereby dedicated debt management units focused on gaining an understanding of the features of each case with a debt or compliance problem and deployed the most effective collection and enforcement approach based on that individual case knowledge and information.

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The continuing focus on improving and refining the caseworking approach to compliance and debt management is demonstrated by

- the 16 dedicated units in the Collector General's Division targeting compliance and debt management activities in a structured way
- the debt reduction units used to maximise coverage of the large number of cases where debt levels are low
- the specialised units which target particular risks such as phoenix⁶ cases and cases of significant aggregate debt linked by common directors
- an ongoing focus on the relevance and adequacy of Revenue guidelines and procedures to maximise learning from the working of cases.

Quality assurance of the caseworking approach is ensured by

- Independent selection of cases for quality assurance review by the relevant caseworking management team. Procedural, process or training needs identified are the subject of follow up action at individual and team level as appropriate.
- A report on a review of a selection of write off cases is submitted monthly to the Collector General to identify any particular suggestions to improve caseworking.

New Registrations

Five of the cases in the sample examined had compliance problems soon after registering for tax and, ultimately, significant amounts of tax were written off. A further case contacted Revenue regarding registration in 2002 but only became registered in November 2004 with an effective date of October 2002. Over €1m in PAYE/PRSI and VAT was written off in this case.

Audit Concern

As a number of cases in the sample demonstrated compliance problems soon after registration, I sought the Accounting Officer's views on the Revenue practice for managing new cases.

The Accounting Officer informed me that newly registered taxpayers that fail to file returns are separately classified (under Revenue's NCS⁷ programme). Since 2004, Revenue has revised procedures for the management of these cases. These procedures involve correspondence with the taxpayer followed by referral to the relevant tax district for follow up in the event of continued non-compliance. The Revenue District then examines the case to establish if the taxpayer is trading and, if not, arranges cancellation where appropriate. Otherwise, the District will seek returns and payments and, if necessary, raise estimates that will subsequently be enforced, as appropriate.

In relation to the case that registered late, the Accounting Officer stated that while it appeared that there was some contact with Revenue in 2002 regarding possible registration, the company did not register at that time. The company subsequently registered in November 2004 with an effective date of October 2002. It was non-compliant from the start and was identified as such by Revenue leading to intervention

⁶ Phoenix cases are a particular area of tax evasion where directors attempt to use the protection of limited liability for the deliberate avoidance of tax liabilities, essentially by ceasing activity under the guise of one company and transferring the assets and business to a "new" company with a clean tax record.

⁷ The NCS (No Case Size) programme picks up taxpayers who register but fail to file returns.

in July 2005. Late registration was the key contributor to the delayed intervention by Revenue. It is normal Revenue case registration practice to ensure that all cases are actively managed to ensure that the customer provides full registration details in a timely manner.

Audit Conclusion

The effectiveness of this approach to newly registered cases that fail to file returns should become apparent on the completion of a review, currently underway, of the overall NCS programme which is designed to evaluate its contribution in supporting timely compliance.

Monitoring of Cases with Ongoing Problems

The audit review indicated that

- In six cases there had been ongoing problems with compliance and payment which were being acted on by Revenue caseworkers.
- A post receivership Revenue audit of a case with ongoing problems detected significant liabilities.
- In one case Revenue was unaware, despite ongoing monitoring, that the company had ceased trading.
- Another case went into liquidation without ever making a tax payment.

Audit Concern

The accumulation of arrears despite ongoing review raised the question of how and when Revenue utilised its powers to address the build up of tax debt, whether alternative approaches to dealing with cases where the caseworking approach was not successful had been explored and, generally, what lessons had been drawn from Revenue's experience in such cases.

The Accounting Officer stated that a significant feature contributing to the debt in the six cases was under-declaration of tax. This came to light either on foot of audit interventions undertaken by Revenue or due to underpayment during the course of the tax year that came to light with the filing of the P35 return. Deliberate underpayment and under-declaration of debt during the course of the tax year is difficult for Revenue to immediately detect. However, there is specific legal provision that discourages such action in that the interest rules allow for the application of interest from the middle of the tax year where large balancing payments are made with the annual return. In addition, Revenue has now in place closer monitoring and review procedures to minimise exposure to such actions by, for example in the case of direct debits, moving quickly to secure filing of the annual return so that deliberate underpayment during the year cannot be further concealed by delay in submitting the annual return. In general, Revenue was satisfied that the range of measures available to it, combined with the sophistication of the REAP⁸ system, is assisting in the timely targeting of cases of greatest risk. The range of collection and enforcement measures available to Revenue including the charging of interest, referral to sheriff, court proceedings, attachment orders, court instalment orders, forced sale of assets, bankruptcy and liquidation proceedings is a significant element in Revenue's overall response to late or non-compliance and underpayment.

⁸ Risk Evaluation and Analysis Profiling.

She further indicated that an earlier audit intervention in the receivership case was unlikely to have yielded better results given that the company was already struggling to meet its payment obligations based on the debts declared in returns filed and that Revenue's experience in relation to the company that had ceased trading was quite unusual. In relation to the company that never made any payment to Revenue, she informed me that this company went into liquidation ten years ago and learning from this case is reflected in current practices and procedures for NCS cases.

Audit Conclusion

Deliberate underpayment and under-declaration is difficult for Revenue to detect in a timely manner. However, Revenue should continuously evaluate how monitoring can be enhanced based on the learning from those cases where major defaults occur.

Commonality Checks

Commonality checks, which were introduced by Revenue following the examination of write offs outlined in the 2001 Annual Report⁹, seek to establish whether the taxpayer is or has been involved in other trading entities that have outstanding tax. Where the check identifies related entities with payment problems, a concerted caseworking approach is adopted to all outstanding liabilities. Commonality issues were identified by Revenue in relation to five of the cases in the sample.

Audit Concern

I asked the Accounting Officer what action Revenue takes where defaulters are involved in other trading and whether the effectiveness of commonality checks had been reviewed.

The Accounting Officer stated that a commonality check is carried out on a case at registration, at caseworking stage when debt exceeds €50,000 and at write off where the debt is greater than €50,000. When commonality features are identified by Revenue, the cases are referred either to a Commonality Unit or the relevant Debt Management Unit in the Collector General's Division. In each instance, the cases concerned are subjected to close monitoring, early intervention and enforcement action, as required. The Commonality Unit received 110 referrals in 2004, 156 in 2005, 73 in 2006, 54 in 2007 and 28 by the end of May 2008 and currently monitors 1,200 cases overall. The Accounting Officer informed me that the primary focus of commonality checks is to ensure related entities are managed with a focus on the overall risk into the future.

A review was carried out on the effectiveness of the overall phoenix and commonality programmes in July 2006. The monitoring arrangements were generally assessed as working very effectively and making a real impact in addressing non-compliance on a timely basis in these linked cases. The significant numbers of existing cases requiring monitoring coupled with the ongoing incidence of new cases arising means that there must be a focus on the cases posing the greatest risk.

⁹ Chapter 4.7, Comptroller and Auditor General's Annual Report 2001.

Audit Conclusion

Debt was written off in five cases of trading by related parties. The Accounting Officer has assured me that, in general, commonality checks often result in related entities becoming compliant or being ceased and that the focus of interventions is on ongoing compliance by the related entities rather than debt recovery from the failed entity.

Sectoral Risks – Security Industry

Audit Concern

As six of the cases examined involved the write off of a significant amount of tax (€6.7m) in respect of companies involved in one sector – the security industry – there appeared to be a particular compliance problem in that industry. I sought the views of the Accounting Officer on this.

The Accounting Officer informed me that tax compliance in the security industry has been and continues to be a matter of concern to Revenue. This non-compliance is linked, in part at least, to the industry being predominantly a cash industry and the operators in the sector being, until recently, unregulated. In 2004, the Private Security Authority (PSA) was established. The PSA is now responsible for licensing and regulating the private security industry in Ireland. This work has had a positive impact on general tax compliance levels in the industry, as the licensing regime requires the production of a tax clearance certificate by licence applicants. Revenue has taken the opportunity to work in tandem with the PSA in improving tax compliance in the sector.

In addition to this close liaison with the PSA, Revenue has recently completed a three-year project on the “door and event” security sector in the greater Dublin area. The project indicated that non-compliance in the form of untaxed payments to employees is a feature of the industry. Four joint audits were conducted with the PSA and significant progress made in combating phoenix activity. Further initiatives arising from this project are under active consideration by Revenue. As a direct result of the project, files on two directors are with the Director of Public Prosecutions and other cases are under consideration for prosecution. There was an audit yield of €1.6m from this project in 2006 and €730,000 in 2007.

Audit Conclusion

It is acknowledged that in these cases compliance work is likely to have preceded the write off and consequently there is limited scope for further learning from this class of cases. However, based on its overall risk assessment, Revenue should continue its approach of focusing on sectors presenting particular risks.

Sheriff Enforcement

In a case where approximately €978,000 was eventually written off, the debt was referred to the sheriff for enforcement in October 2005. The case notes indicate that the sheriff called to the company in July 2006 and reported to Revenue that the company was no longer conducting business from the premises. However, Revenue had been in contact with the company up to the end of June 2006 and had information that the company was still trading from the premises the day after the sheriff called. The sheriff again called to the premises and reported that the company was still trading but would not pay on the warrant as it claimed the tax owing was under appeal. However there was no evidence of an appeal on

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the company's tax record. In August 2006, a director of the company informed the Inspector that the company had ceased trading at the end of June 2006.

Audit Concern

The events outlined raised a concern that sheriff enforcement was not always fully effective.

The Accounting Officer stated that Revenue uses the services of sheriffs in circumstances where routine caseworking approaches have been unsuccessful. However sheriffs are not directly answerable to Revenue for the execution of warrants for the collection of tax as they are officers of the Courts. The Accounting Officer stated that the referral of cases to sheriffs has proved very successful in recovering outstanding tax. In 2007, for example, there were 43,157 referrals to sheriffs and €249.2m was received in payment as a result of enforcement. Revenue monitors the service through ongoing engagement and dialogue with sheriffs. In the particular case instanced, there was a delay in following up on the initial referral. However, there was some doubt, both for the sheriff and Revenue, as to the exact trading status of the business and whether it had, in fact, diversified into two separate entities. The necessity for prompt follow up action on foot of referrals from Revenue is a matter that has been discussed with sheriffs collectively. However, the Accounting Officer emphasised that, overall, she was very satisfied with the service provided by sheriffs.

Audit Conclusion

Revenue should continue its ongoing discussions with sheriffs as a means of monitoring the service provided and jointly identify lessons to be learned from the outcome of individual cases.

Post-Liquidation Activity

Since the late 1990s, Revenue's policy in relation to liquidation cases is to write off all outstanding tax as soon as a liquidator has been appointed provided Revenue have no objection to the liquidation and a claim has been submitted to the liquidator outlining the company's full tax liability.

Audit Concern

I was concerned whether

- in the light of this policy Revenue was subsequently recovering any of the tax outstanding in liquidation cases
- Revenue had considered pursuing directors for tax debts owed by companies in liquidation.

The Accounting Officer informed me that there has been no recovery to date in the liquidation cases in the audit sample but there was a possibility that a dividend will be received in some of them before the liquidation is finalised. The majority of the cases were liquidated in the last eighteen months and Revenue would not anticipate receipt of a dividend yet.

While details of the amounts of tax written off for insolvency reasons, both corporate and personal, are available¹⁰, Revenue's database does not differentiate between the various types of insolvency write off. However, in a recent examination of a small sample of liquidation cases the following results were obtained

- Company voluntary liquidations - from a sample of 20 cases, where €2.2m was written off, a dividend of €266,000 (12%) was received.
- Court liquidations - from a sample of 21 cases, where €4.2m was written off, a dividend of €1m (24%) was received.

In relation to pursuing directors for a company's tax debts, the Accounting Officer stated that this option has been seriously considered in a number of liquidations. However, it is an option that is rarely undertaken. While Revenue can seek to influence liquidators to take such an action in appropriate cases, the final decision on whether to pursue the directors personally is a matter for the liquidator. There were a number of reasons why this option was difficult to pursue. The directors in question must have valuable assets, it is very difficult to prove reckless or fraudulent trading and the costs involved are very high. Revenue was currently supporting liquidators in a number of such cases where it was considered that the burden of proof could be met to the satisfaction of the Courts.

Audit Conclusion

Revenue should continue to review all available options for recovering outstanding tax in liquidation cases.

Other Write Offs

The following general matters were noted in a review of the sample of cases

- In one case examined, in which some €942,000 was written off, tax clearance certificates were issued to the company on three occasions, two of which were for a period of three months, at a time when returns and/or tax was outstanding.
- In some cases examined, PAYE/PRSI was written off where no employee details were available, as P35s had not been submitted.
- There did not seem to be a formal process for learning from write off cases.

The Accounting Officer informed me that Revenue regards the tax clearance certificate provisions as strongly supporting the voluntary compliance process. It exerts very useful pressure to encourage customers to pay outstanding tax debts. Revenue does not issue a tax clearance certificate in such cases until there is full and meaningful engagement by the customer with Revenue. The Accounting Officer stated that it was not now possible to ascertain why tax clearance certificates were granted in the sample case. She was, however, satisfied that sufficient use was being made by Revenue of the leverage provided by requests for tax clearance certificates.

In regard to cases where no employee details were available, the Accounting Officer stated that credit can be given to employees for PRSI amounts deducted where, despite the efforts of Revenue or a liquidator, no P35 has been submitted. In these circumstances, the Department of Social and Family Affairs can request written declarations from employees setting out the details of their employment and, once that

¹⁰ See Chapter 3.2 of this Report.

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Department is satisfied with the details in the declarations, it will treat the contributions as having being paid.

On the matter of lessons learned from write off cases, the Accounting Officer informed me that Revenue conducts a number of reviews of write off cases. Initially, when a balance is being written off there is a requirement on the caseworker to complete a write off decision report. In addition to providing general information on the case, this report records detailed information on the caseworking effort undertaken, including the impact of enforcement action on the case and the amount of debt outstanding at significant junctures in the caseworking cycle. Any extended periods of inactivity in caseworking or enforcement action must be explained. The caseworker is also required to identify any lessons learned and how those lessons will be applied in the future.

Each month, the top ten write offs from routine caseworking and liquidation cases are identified and the relevant casework management team reviews the cases and produces a report for the Collector General. Caseworking practice, procedures and training/mentoring are some of the issues that are the subject of appropriate follow up action in the light of issues identified from the various reviews.

Overall Conclusion

There appears to be scope for an in-depth evaluation by Revenue of the factors leading to write offs and the loss of revenue, particularly that element which has been deducted from employees and other taxpayers. Such an evaluation distinguishing between the factors intrinsic to the entity, the environmental factors and Revenue's own performance could yield valuable information on the causes of the loss of revenue and the opportunities for better management of debt.

3.4 Outstanding Taxes and PRSI

€1.3 billion was outstanding at 31 March 2008. Table 12 reflects activities and transactions in the twelve-month period to that date. This information was prepared on the basis of information furnished by the Revenue Commissioners.

Table 12 Outstanding Taxes and PRSI

Balance at 31 March 2007 €m	Tax or Levy	Net Charges Raised €m	Paid €m	Written Off €m	Balance at 31 March 2008 €m	Analysis of Balance at 31 March 2008	
						Under Appeal €m	Available for Collection €m
196	VAT	13,203	13,110	47	242	99	143
135	PAYE	11,652	11,644	13	130	10	120
160	PRSI	9,230	9,206	15	169	2	167
277	Income Tax (excluding PAYE)	3,281	3,241	4	313	89	224
–	DIRT	552	552	–	–	–	–
144	Corporation Tax	6,128	6,053	–	219	77	142
158	Capital Gains Tax	2,761	2,728	1	190	112	78
3	Capital Acquisitions Tax	391	391	–	3	–	3
8	Abolished Taxes	–	–	–	8	–	8
26	Relevant Contracts Tax	22	21	15	12	2	10
1,107	Total Debt	47,220	46,946	95	1,286	391	895
2.6%^(a)	Debt as a % of net charges raised^(b)				2.7%	0.8%	1.9%

^(a) Net charges raised in the year to March 2007 were €42,683m.

^(b) The debt has been expressed as a percentage of the net charges for the first time in this Report. The aim is to give a measure of Revenue's performance in collecting the foregoing taxes and levies.

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Table 13 sets out an aged analysis of the balance outstanding at 31 March 2008 prepared by the Revenue Commissioners. Some 57% of the amount outstanding relates to tax periods prior to 2006.

Table 13 Aged Analysis of Debt at 31 March 2008

Tax	Total Tax Outstanding at 31 March 2008 €m	Amounts Outstanding for 2007 €m	Amounts Outstanding for 2006 €m	Due for 2003 to 2005 €m	Due for earlier periods (i.e. > 5 years old) €m
VAT	242	77	25	105	35
PAYE	130	74	17	27	12
PRSI	169	110	22	25	12
Income Tax	313	3	81	69	160
Corporation Tax	219	49	43	80	47
Capital Gains Tax	190	6	40	25	119
Capital Acquisitions Tax	3	–	–	–	3
Abolished Taxes	8	–	–	–	8
Relevant Contracts Tax	12	12	–	–	–
Total	1,286	331	228	331	396

3.5 Developments in Managing Compliance Risk

Compliance is influenced by factors such as the level of audit and assurance work as well as the deterrent effect of interest charges and penalties. Cases for follow up and examination by Revenue are selected based on risk analysis and profiling. A Risk Evaluation Analysis and Profiling System (REAP) was introduced in all Districts in 2006. This has become a key element of Revenue's compliance programme. 2008 is the first year where there is a requirement that all Districts use REAP and from now on a development in Revenue's caseworking software will allow REAP cases to be statistically tracked. The system analyses information available on taxpayers by applying a set of rules to a database of taxpayer information, scoring the results and ranking cases according to those scores. The rules have been derived from the knowledge and experience of Revenue auditors and will continue to be refined to take account of new risks and data sources. Based on the system ranking, District officers further consider the risk in each case in order to select cases for examination and decide on the appropriate intervention.

The Accounting Officer informed me that as well as profiling and risk assessment, work has recently commenced to establish improved and more relevant outcome measures of taxpayers' compliance. In regard to the deterrent effect of interest and penalties, she said that she was satisfied that the current penalty regime was robust and provided a strong deterrent to tax evasion. The statutory penalty regime, including provision for publication, was onerous on taxpayers. Interest and penalties formed a significant part of the amount collected from the standard audit/special investigations programme. In 2007 interest and penalties represented 31% of all audit and investigation settlements. They represented 60% of the total yield on the defaulter list published in March 2008 or 1.5 times the tax yield.

3.6 Revenue Audit Programme

Overall Audit Programme

In the self-assessment system operated by Revenue, returns filed by compliant taxpayers are accepted as the basis for calculating tax liabilities. Revenue confirm the validity of returns through either audit or assurance work. The intervention chosen by Revenue in any particular case depends on whether the risk is perceived to relate to one or more tax or duty headings or to specific issues or transactions.

- A comprehensive audit arises where a case is selected primarily for an Income Tax or Corporation Tax audit and significant risks associated with other taxes are also considered.
- Multi taxhead and single taxhead audits arise where cases are selected primarily for reasons other than Income Tax or Corporation Tax and the audit covers compliance with one or more tax or duty types.
- Single issue or transaction audits focus on more specific risk issues or transactions (as opposed to covering an entire tax type). These include programmes of compliance work in relation to a particular tax relief or regime. The purpose of such programmes is to determine if there are compliance concerns relating to specific reliefs.
- Assurance checks may involve tests, verification checks, desk examinations, visits to premises, searches, site visits and telephone contacts seeking supporting documentation. Such 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 for the taxes and duties that are the subject of the check. Assurance checks constituted a very significant part of Revenue's efforts to ensure compliance with tax and customs responsibilities. The number of such interventions has grown significantly, from 98,981 in 2005 to 237,626 in 2007. These checks inject an element of repeat attention into compliance activities and can be used to signal a case for early audit as needed.

The outcome of the 2007 programme of Revenue audits and assurance activity is summarised in Table 14.

Table 14 Revenue Audit and Assurance Activity

Category	2007		2006	
	Number Completed	Yield €m	Number Completed	Yield €m
Comprehensive Audits ^(a)	3,875	344.5	4,127	436.2
Multi Tax/Duty Audits	2,206	71.2	1,757	56.2
Single Tax/Duty Audits	6,603	151.6	6,305	133.5
Single Issue/Transaction Audits	1,624	120.3	1,437	23.8
Total Audits	14,308	687.6	13,626	649.7
Assurance Checks	237,626	46.2	176,064	42.1
Total Interventions	251,934	733.8	189,690	691.8

^(a) Includes random audits.

The Accounting Officer informed me that by targeting specific sectors, *e.g.* construction, Revenue can evaluate if there are any sectors deviating from the norm and requiring remedial action. A significant feature of the 2007 programme was a national compliance project in the construction sector. A total of 3,807 audits with a yield of €130m and 40,161 assurance checks with a yield of €22m were completed as part of the project. 836 unregistered cases were identified, 247 sub-contractors were re-classified as employees and there were 1,884 additional VAT or employer registrations.

Comprehensive Audits

The outcome of the 3,875 comprehensive audits completed in 2007 is further analysed in Table 15. The yield of €344m includes interest charges of €117m and penalties of €50m. The highest settlements were €6.08m for Income Tax and €22.54m for Corporation Tax. Comprehensive audits were completed in 101 bogus non-resident account cases with settlements totalling €22m, in 303 offshore assets cases with settlements totalling €61m and in 473 life assurance product cases with settlements of €64m¹¹.

Table 15 Yield from Comprehensive Audits

Agreed Settlements	Number	Yield €m
€1 to €30,000	1,354	13.6
€30,001 to €100,000	612	35.2
€100,001 to €500,000	490	105.4
€500,001 to €1m	66	46.8
Over €1m	56	143.5
No additional tax payable	1,297	–
Totals	3,875	344.5

Random Audit Programme

The purpose of the random audit programme is to measure and track compliance with tax legislation and to ensure that all taxpayers have an equal risk of being selected for audit. The results to date of the programmes for 2005 to 2007 are shown in Table 16. One case remains to be finalised in the 2005 programme, while 26 are still outstanding under the 2006 programme. 118 of the 401 cases selected for audit in the 2007 programme are still outstanding. Another 400 cases are being examined under the 2008 programme.

Table 16 Random Audit Results 2005 to 2007

	2005	2006	2007
Number of Audits Finalised	347	376	283
Nil Yielding	232 (67%)	259 (69%)	204 (72%)
Yielding	115 (33%)	117 (31%)	79 (28%)
Total Yield	€1,567,345	€1,523,232	€468,310
Average Yield	€4,517	€4,051	€1,655

The Accounting Officer informed me that the annual random audit programme assisted in validating Revenue's risk-based approach. The new revised programme had been running since 2005. While trends need to be monitored over many years to form firm conclusions, the number of cases to date which produce no yield is consistently running between 67% and 72%. When the number of very low yielding audits was included the figure approached 80%. She said that this gave reason to be optimistic that the compliance programmes were effective.

¹¹ Some of the yield in these special investigation cases was collected in earlier years.

Conclusion

The results as shown in Table 16 suggest that there is a risk that up to 30% of taxpayers under declare the amount of tax due. To date, Revenue has not sought to use the results of the random audit programmes to assess the overall level of compliance among the taxpayer population generally.

Revenue should ensure that it employs a consistent selection methodology and formulate a programme for using the statistics within a defined period to

- estimate the level of compliance within the taxpaying population
- establish the potential monetary effect of non-compliance
- analyse the emerging categories of risk suggested by the results.

3.7 Re-Audit Programme

In a self-assessment system there is a risk that taxpayers who submit returns will not declare the full extent of their income and so avoid paying the correct amount of tax. This risk is addressed by Revenue selecting cases for review based on a risk assessment. In this regard Revenue has been moving to a computerised approach and has developed the risk analysis and profiling system outlined in Chapter 3.5.

In the case of taxpayers with a history of non-compliance there is the additional risk that they will not change their behaviour and continue to under-declare income. Up to 2002, Revenue operated a programme under which the affairs of a selection of taxpayers were re-audited in cases where a previous audit had yielded in excess of €6,349. This re-audit programme involved reviewing cases after four years and selecting 10% for re-audit. One of the advantages of the programme was that it positioned Revenue to assess whether, as a result of an audit, a taxpayer became compliant into the future.

Revenue has not carried out a programme of re-audits since 2002. The latest information in relation to the programmes for the period 1999 to 2002 suggests that

- some 60% of non-compliant taxpayers examined continued to be non-compliant four years later
- 20% of them were more non-compliant four years later in that there was a higher yield on the re-audit than on the original audit.

Audit Concerns

In the absence of a re-audit programme in recent years

- it would be difficult for Revenue to assess the impact of audits in encouraging compliance
- the rate of recidivism would not be identified and any necessary adjustments to Revenue's general procedures and practices for dealing with recalcitrant taxpayers would not be made
- valuable information on the behaviour of taxpayers following an audit would not be available to inform risk evaluation generally.

Results of Re-Audits

The Accounting Officer stated that a comprehensive review of the re-audit programme was carried out in 2003 and that the overall conclusion was that a re-audit programme, in association with other indicators, is useful in estimating general compliance levels provided there are clear objectives, central monitoring, an acceptable sample size that takes account of all previously audited cases and quality assurance. Development of these individual factors was deferred pending evaluation of REAP.

The Accounting Officer also informed me that the results of re-audits should be viewed as trends that warranted attention. She stated that, according to Revenue statistics, there had been a decrease in tax yield in the period in question across all but the highest settlement ranges. This, and an increase in nil recoveries, were positive indicators of improved compliance. She also pointed out that the yield from a re-audit could not be readily compared with that from the original audit in situations where the original audit covered several tax heads and the re-audit concentrated on a single tax head or vice versa. While these issues were not on such a scale as to invalidate the exercise, she felt that they did restrict the conclusions to be drawn.

She also informed me that, because any re-audits carried out by individual Revenue districts since 2002 in the absence of a national re-audit programme were not part of a centrally organised programme, records were not maintained in a manner which would enable the results of these audits to be provided.

Suspension of Programme

The Accounting Officer informed me that the main reason for not continuing with a centrally organised programme had been to allow time to determine the effectiveness of REAP. This was still a very new programme for the vast majority of districts and familiarisation work was still ongoing. Therefore, while Business Plans since 2002 occasionally referred to the intention to review the re-audit programme, formal reviews were deferred pending the full introduction of REAP. With REAP reaching maturity, it was now opportune to consider the future of the re-audit programme and consideration would be given later this year to re-audit as one of a suite of indicators to measure general compliance levels. It may be that in a sophisticated electronic risk-rating environment, a separate re-audit programme is no longer as useful as it once was. She also pointed out that during the period in question a large proportion of Revenue's audit and investigation resource has been applied to special investigations and to sectoral projects, such as a construction industry project which, given the yields, had proven to be a productive approach.

Recidivism and Ongoing Compliance

The Accounting Officer informed me that factors such as audit settlements greater than €2,000 are taken into account in the assessment process in such a manner as to ensure that settlements spanning a minimum period of three years and a maximum period of four years are included. In the most recent REAP run, the top 10% of cases, based on risk as assessed under the system's inbuilt rules, numbered 77,885 and the inclusion of the previous audit history rule was one factor in the identification of 6,686 of these. She stated that she was satisfied for the present with the score attaching to previous audit settlements in REAP but pointed out that rule change will be a regular feature of the system. In 2008 it was proposed to carry out 60% of audit interventions from the 20% of cases highlighted by REAP as having the most risk. District programmes would be monitored to gauge progress on this front. The early indications were that this target would be met.

Conclusion

Revenue should review how re-audit can best contribute to compliance work whether as a separate programme or by tracking the results of previously audited cases which should be feasible in the electronic environment pertaining in Revenue.

3.8 Criminal Prosecutions

Under Revenue's prosecution procedures, cases are forwarded to Investigation and Prosecutions Division (IPD) for investigation with a view to criminal prosecution where there is *prima facie* evidence of serious revenue offences having been committed. Within IPD, these cases are further evaluated by a Prosecutions Admissions Committee before commencement of resource intensive criminal investigation work which can take several years before a case is presented in Court. In 2007, 30 cases of serious tax evasion were referred to IPD for consideration and 21 were considered suitable for investigation with a view to prosecution. The comparable figures for 2006 were 33 referred and 16 accepted. Convictions were obtained in the nine cases decided in Court in 2007. Summary details of these cases are set out in Table 17.

Table 17 Convictions in 2007 for Serious Tax Evasion

Occupation/Activity	Fine	Custodial Sentence
Printer	€14,880	9 months prison sentence, suspended on payment of fine
Fencing Contractor	€5,000	12 months prison sentence suspended on condition that €7,026 tax be paid to Revenue within twelve months
Publican	€100	On appeal 6 months prison sentence rescinded and a €2,500 fine was reduced to €100
Builder	–	18 months prison sentence, suspended for 3 years on condition of becoming tax compliant
Publican	€12,000	None
PAYE Employee	€4,750	None
Property Developer	€2,317	None
Company Director	€2,000	None
Builder	€1,000	None

82 cases of serious tax evasion were under active consideration in the Investigations and Prosecutions Division at the end of 2007. The status of those cases at the end of June 2008, the latest date for which information is available, is shown in Table 18.

Table 18 Status of Serious Tax Evasion Cases

Status	Number of Cases 2007
Under investigation	37
With the Revenue Solicitor's Office	3
Submitted to the DPP	8
Directions issued by DPP to prosecute	12
Bench warrant issued	1
Cases before the court	13
Acquitted	1
Convictions obtained	7
Total	82

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In addition, there were five convictions for serious Customs and Excise evasion in 2007. There were no custodial sentences imposed in these cases but fines totalling €72,203 were imposed.

3.9 Special Investigations

Table 19 sets out the payments made to the end of June 2008 as a result of each of the Special Investigations being carried out by Revenue. A short summary of progress to date in the investigations follows.

Table 19 Payments arising from Special Investigations^(a)

Investigation	Number of Cases Involved	Payments to Date €m
DIRT - Look Back Audits (financial institutions)	37	225
DIRT - Underlying Tax		
Voluntary Disclosure Scheme	3,675	227
Post Voluntary Disclosure Investigations	8,500 ^(b)	408
NIB - Offshore Investment Schemes	465	60
Ansbacher-type Schemes	289	103
Pick Me Up Schemes	71	1
Tribunals	49	41
Offshore Assets	14,729	918
Undisclosed Funds – Life Assurance Products	5,341	455
Total		2,438

^(a) The nature of these investigations is outlined in Chapter 3.6 of the Comptroller and Auditor General's Annual Report for 2006.

^(b) This is an estimated figure.

Bogus Non-Resident Accounts

The total yield from the DIRT investigation is now €860m and Revenue has stated that the investigation is effectively complete and at most there may be a further yield of €10m. 74% of the yield to date has come from individual taxpayers with the balance being received from financial institutions.

Offshore Investments through National Irish Bank

Investigations into 442 of the 465 cases have been completed. A total of €55.6m has been paid to date as a result of the investigation of individual cases. A further €4.1m has been paid by National Irish Bank in respect of Capital Gains Tax on compensation it paid to certain investors. As court proceedings are pending in a number of the outstanding cases, it is not possible for Revenue to predict when the investigation will be completed or what the final yield might be.

Ansbacher Investigation

A total of 264 cases have been settled to date - 122 of which had total liabilities of €82m. This includes a settlement of €7.5m with a Cayman Islands based bank. Payments on account of €21.34m have been received in 12 of the 25 ongoing cases. As some of the cases are likely to proceed to the Courts, it is not possible for Revenue to predict either the potential yield or the time frame to completion.

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 the legal requirements. This investigation is now complete and all 71 existing cases have now been settled for a total of €978,453 including interest and penalties.

Tax Issues arising out of Tribunals

Twenty-one cases were originally the subject of enquiry as a result of the Moriarty Tribunal and one further case was taken on in 2007. Of these twenty-two cases, seventeen are currently under investigation and five have been settled for a total of €8.44m. Twenty-seven cases are being investigated as a result of the Mahon Tribunal and six of these have been settled for €26.6m; payments on account of €5.94m have also been received. The Moriarty Tribunal is nearing completion and it is not expected that further cases will arise. Revenue does not know if any additional cases will arise from the Mahon Tribunal or when that Tribunal will conclude. In relation to cases currently being investigated by Tribunals, a further yield of €3m over the next two years is expected.

Offshore Assets

This investigation is concerned with those who have not paid tax due on funds held in offshore accounts and investments. The voluntary phase of the investigation yielded €650m and follow up enquiries have to date yielded a further €267.8m. Revenue expects this investigation to continue to the end of 2009 and the final yield may approach €1 billion.

Life Assurance Products

This investigation examined the use of life assurance investment products to hide undisclosed income or gains. Some €430.8m was paid under the voluntary disclosure phase and Revenue's follow up investigations have yielded a further €24.2m. Revenue has stated that depending on responses to current enquiries, the investigation may be completed in late 2008 or early 2009 and the final yield may be €500m.

Undisclosed Funds in Irish Bank Accounts

Under the Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) Regulations 2008 (S.I. 136 of 2008) financial institutions are required to provide Revenue with details of account holders who were paid interest of more than €635 in a year. For the years 2005 and 2006 financial institutions are required to provide details of DIRT liable accounts by 15 September 2008 and for 2007 by 31 October 2008. In advance of these returns, Revenue has given taxpayers who had €100,000 or more (which included undeclared money) at any time between January 2005 and the end of 2007 in such accounts to make a voluntary disclosure. The benefits to those who do so will be mitigation of penalties, settlement details will not be published and Revenue will not investigate with a view to prosecution. The deadline for submission of a notice of intention to make such a disclosure is 15 September 2008.

3.10 Voluntary Disclosure Checks

Under voluntary schemes for the disclosure of income which was the subject of investigations into DIRT Underlying Tax, Offshore Assets and Life Assurance Products, Revenue invited defaulters to make a disclosure and pay tax due prior to the commencement of each investigation. The benefits of availing of these voluntary disclosure schemes were that there would be no prosecution and details of the settlement would not be published. Interest and penalties would be capped at 100% of the tax due in the case of the DIRT scheme and there would be mitigation of some of the penalties in the case of the other two schemes.

Persons who were already under investigation or coming within the scope of any of Revenue's special investigations were ineligible for these terms. It was also a requirement of each scheme that disclosure and payment should include all previously undeclared tax liabilities and not just those arising from the particular investigation. For instance, a voluntary disclosure under the DIRT Scheme had to include all undeclared tax liabilities including those relating to offshore assets or life assurance products. Failure to do so meant that the benefits of the scheme would be lost. Where persons who sought to avail of the voluntary disclosure schemes were found not to have fully complied with the terms of the 1993 Amnesty¹² they would lose the benefits of the Amnesty and the amount paid under the Amnesty would be treated as a payment on account of the full tax liability.

The total number of taxpayers availing of each voluntary disclosure scheme is set out in Table 20.

Table 20 Special Investigation Voluntary Disclosure Schemes

Investigation	Number of Cases	Payments €m
DIRT Underlying Tax	3,675	227
Offshore Assets	13,651	650 ^(a)
Life Assurance Products	5,150	431

^(a) Includes payments from two earlier offshore assets investigations.

Revenue Eligibility Checks

Revenue's approach to examining whether those seeking to avail of each voluntary disclosure scheme met the eligibility criteria was

- In the case of DIRT Underlying Tax all cases were examined for eligibility.
- In the investigation of Offshore Assets all cases with a declared liability of more than €10,000 were examined. A further 10% of cases with a declared liability of between €5,000 and €10,000 were examined. Cases with a liability of less than €5,000 were not examined. 190 cases that had already availed of the DIRT voluntary disclosure scheme were identified and the 111 of these with a declared offshore liability of more than €5,000 were examined to decide whether the benefits of the DIRT scheme should be withdrawn and/or the taxpayer prosecuted.
- In the case of Life Assurance Products all cases were checked for eligibility.

In addition to these checks to validate eligibility to avail of the terms accompanying early disclosure, Revenue carried out liability reviews on a sample of cases availing of each scheme.

¹² Waiver of Tax, Interest and Penalties Act, 1993.

Ineligibility for Schemes

There were 883 cases where taxpayers had been found ineligible for the schemes. Table 21 below sets out the number of cases applying for each scheme deemed ineligible and shows the reason for ineligibility. The rate of ineligibility was higher in the later schemes rising to 9.4% for the Life Assurance Products scheme. This rising trend is likely to be because the reason for ineligibility was availing of previous concessions without making full disclosure. However, as not all cases availing of the Offshore Assets scheme were checked for eligibility, the real rate in that case may be somewhat higher.

Table 21 Cases Deemed Ineligible Analysed by Reason

	Reason for Ineligibility							% Ineligible
	Under Investigation	Tribunals	NIB	DIRT	Offshore Assets	Other	Total	
DIRT	8	2	2	n/a	n/a	6	18	0.5
Offshore Assets	12	–	7	353 ^(a)	n/a	7	379	2.8
Life Assurance Products	–	–	–	194 ^(b)	110	182 ^(c)	486	9.4
Total	20	2	9	547	110	195	883	

^(a) 102 of these cases had availed of the DIRT voluntary disclosure scheme and the other 251 were found by Revenue during the post voluntary disclosure investigations to have held a bogus non-resident account.

^(b) 82 of these cases had availed of the DIRT voluntary disclosure scheme and 93 were found by Revenue during the post voluntary disclosure investigations to have held a bogus non-resident account. 18 cases were ineligible because of involvement in both the DIRT and Offshore Assets investigations and one case was ineligible because it was a DIRT and Amnesty case.

^(c) Included in this category are 173 cases found to be ineligible in the Dublin region. However an analysis by reason for ineligibility is not available.

A further €50.8m was generated following a review of these ineligible cases as shown in Table 22.

Table 22 Declared Liabilities and Additional Payments for Ineligible Cases

Investigation	Number of Ineligible Cases	Declared Liability €m	Additional Payments €m
DIRT	18	6.0	4.3
Offshore Assets	379	31.5	29.2
Life Assurance	486	52.8	17.3
Total	883	90.3	50.8

Audit Concerns

A previous examination on the operation of the DIRT scheme reported in 2003 produced generally satisfactory results. However, given the large number of cases applying for each scheme, there was a possibility that some taxpayers might take advantage of more than one scheme or submit nil declarations in circumstances where a liability existed. I sought assurance that the level of eligibility testing in the case of Offshore Assets and Life Assurance Products was adequate.

Views of the Accounting Officer

In regard to the process adopted, the Accounting Officer informed me that a targeted approach had been taken to cases where nil declarations¹³ were submitted and such cases were only examined where there was a likelihood of additional liabilities. This examination resulted in

- no additional payment from 620 nil declarations in DIRT cases
- payment of €5m from 88 nil declarations in Life Assurance Products cases
- payment of €778,357 from 11 nil declarations in Offshore Assets cases.

The Accounting Officer also informed me that a number of the ineligible cases from each voluntary disclosure scheme were considered with a view to prosecution. In the DIRT scheme one case was prosecuted and the taxpayer received a two year suspended sentence. Two cases from the Offshore Assets scheme were selected for prosecution but one was not proceeded with due to the death of the taxpayer. Seven Life Assurance scheme cases were examined with a view to prosecution but all were found to be unsuitable for prosecution.

Table 23 sets out the number of cases in each scheme where the 1993 Amnesty was claimed and the number of those cases where the benefits of the Amnesty were withdrawn.

Table 23 Amnesty Cases

	Number Claiming Amnesty	Number where Amnesty Benefits withdrawn
DIRT ^(a)	208	62
Offshore Assets	45	13
Life Assurance	33	1
Total	286	76

^(a) As previously reported in Chapter 3.8 of the 2003 Annual Report of the Comptroller and Auditor General.

After the voluntary disclosure phases of the Offshore Assets and Life Assurance Products investigations had been completed, 188 cases were identified where a settlement had already been made in relation to another special investigation but the existence of the tax liability in relation to the Offshore Asset or the Life Assurance Product was not disclosed to Revenue at the time of that settlement.

In regard to the approach of not carrying out eligibility checks on all cases availing of the Offshore Assets scheme, the Accounting Officer stated that the examination of a sample of 141 cases with declared liabilities of between €5,000 and €10,000 did not give rise to any significant additional liabilities that would have caused a review of the policy. Additional liabilities of €283,557 were secured from 14 of these cases. She also said that, ignoring nil cases, there were 5,084 cases where the liability was less than €5,000 and the total settlement for these cases was €7.8m. The average settlement for these cases was approximately €1,500. It was considered that examining such a large number of cases for eligibility would not produce significant additional liabilities and it was appropriate therefore that audit resources were directed towards larger cases where ineligibility would likely produce greater additional yield. However, she also informed me that some of the 79 cases with a declared liability of less than €5,000 that had availed of the DIRT scheme and then sought to avail of the Offshore Assets scheme were examined and, in general, no

¹³ Nil declarations arose where taxpayers informed Revenue, as part of the relevant voluntary disclosure, that they held an account or product of the type being investigated but that the account or product and the funds held in it had already been fully declared for tax purposes.

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additional liabilities arose. Seven of these cases were reopened and additional liabilities of €72,331 were assessed.

The Life Assurance Product investigation, which started in March 2005, was confined to cases where the sum invested exceeded €20,000. The Accounting Officer informed me that this approach was risk-driven as it was recognised that the greatest risk was likely to relate to policies where larger sums were invested. The results of the voluntary phase of the scheme bore out this approach. The average settlement for policies over €50,000 was approximately €122,000 while the average for policies under €50,000 was approximately €43,000. In addition, it was recognised that the vast majority of the policyholders did not have tax issues and extending the scheme to incorporate those with policies of less than €20,000 would impinge greatly on compliant taxpayers but would not result in the recovery of material amounts for the Exchequer. Revenue resources were better deployed in pursuit of non-compliance elsewhere. Accordingly, no action had been taken in relation to policies in that category.

In relation to the schemes generally, the Accounting Officer informed me that

- All cases were reviewed for eligibility where there was a material risk that significant additional liabilities would arise from a case being treated as ineligible. This approach had resulted in additional recoveries, which included sizeable penalties, being made.
- None of the three schemes has been fully completed yet, so no overall report on any of them has been prepared. As the projects have progressed some papers on certain aspects have been produced from time to time but they do not cover the overall outcomes.

In regard to the lessons learned by Revenue arising out of the investigations, she informed me that it had been anticipated that some taxpayers would attempt to make multiple disclosures and, consequently, instructions were issued to check eligibility. In general the numbers involved were a relatively small fraction of the total who made disclosures. Furthermore, Revenue would be carrying out a review of the disclosure patterns as part of a wider review of the Code of Practice for Revenue Auditors that is explicitly provided for in the recently published Statement of Strategy. Revenue would additionally be looking at the impact for the ongoing effectiveness of REAP.

Audit Conclusions

Revenue considered the risk that some taxpayers might attempt to abuse the terms of the voluntary disclosure schemes. Reasonable steps to counter this risk were adopted, and as a result additional revenue accrued and some Amnesty benefits were withdrawn leading to the imposition of penalties and the consideration of some cases for prosecution.

3.11 Special Savings Incentive Account Scheme

Special Savings Incentive Accounts (SSIAs) were introduced in 2001 to encourage individuals to save regularly. Under the scheme the Exchequer paid a tax-free bonus of 25% on amounts saved monthly by individuals over a five-year period as long as there was compliance with the terms and conditions of the scheme.

The onus was placed on the financial institutions to ensure compliance with the terms of the scheme. They were required to register with Revenue and 329¹⁴ did so. Monthly bonus payments were made by Revenue to the financial institutions based on claims from them for the net amount due *i.e.* tax-free bonus less any tax deducted. Annual returns giving details of all accounts were required from each financial institution by 28 February of the following year. Revenue was empowered to audit their compliance with the scheme.

Only where an account was kept, and the conditions met for the full five years, was it deemed to have matured. At that point tax at 23% was charged on the income or gain arising on the account. Prior to maturity, account holders were required to submit a declaration to their financial institution to the effect that they had complied with the terms of the scheme. These declarations, which were retained by the financial institutions, were required within a three-month period ending on the SSIA maturity date. An account was also treated as maturing if the account holder died. Where any of the conditions were broken, the account was treated as having ceased and tax at 23% was deductible from the full amount *i.e.* the amount saved, the tax-free bonus and any income or gain. Similarly, where there was a withdrawal during the five-year period, tax at 23% was deducted from the full amount of the withdrawal. Financial institutions were required to submit an electronic file on the status of each matured account to Revenue by 28 February 2008.

Outturn of Scheme

The average monthly subscription over the life of the scheme varied from €148 to €199 and ultimately subscriptions to the scheme amounted to €11.75 billion. The total tax-free bonus paid to savers was €2.94 billion. The tax which accrued to Revenue as a result of gains was €0.47 billion. Payments were made one month in arrears by Revenue and, by the end of 2007, the net amount paid was €2.47 billion. The number of accounts held under the scheme peaked at 1,180,358 in 2002.

Table 24 sets out the overall savings position by year.

¹⁴ 9 banks, 3 building societies, 302 credit unions, 14 insurance companies and the Post Office Savings Bank.

Revenue

Table 24 SSIA's 2001 to 2008

Year	Subscriptions €000	Tax Free Bonus Claimed €000	Total €000
2001	356,566	89,257	445,823
2002	1,859,322	464,975	2,324,297
2003	2,187,422	547,065	2,734,487
2004	2,264,832	566,342	2,831,174
2005	2,460,942	615,100	3,076,042
2006	2,255,935	564,157	2,820,092
2007	369,392	91,090	460,482
2008	(27)	(176)	(203)
Total	11,754,384	2,937,810	14,692,194

The net cost to the Exchequer was approximately €2.5 billion as indicated in Table 25.

Table 25 Net Cost to the Exchequer

Year	Tax Free Bonus Claimed €000	Tax on Gains €000	Net Amount Claimed €000
2001	89,257	(466)	88,791
2002	464,975	(5,310)	459,665
2003	547,065	(14,442)	532,623
2004	566,342	(16,098)	550,244
2005	615,100	(12,883)	602,217
2006	564,157	(158,191)	405,966
2007	91,090	(261,879)	(170,789)
2008	(176)	(67)	(243)
Total	2,937,810	(469,336)	2,468,474

Compliance Checks

Over the period 2002 to 2007 Revenue carried out 40 compliance visits to monitor the operation of the scheme. The visits were undertaken by reference to risk criteria which were, in turn, informed by engagement with the financial institutions throughout the duration of the scheme. Compliance visits involved a review of individual accounts and included examination of

- out of state addresses
- Personal Public Service Numbers (PPSNs)

- birth dates.

Reconciliation issues¹⁵ were also addressed in the course of these compliance visits, including the financial institutions' treatment of maturities, account transfers and monthly and annual return data. The pattern of visits undertaken is outlined in Table 26. Overall, the institutions reviewed administered around two thirds of the savings.

Table 26 Details of the 40 Compliance Visits 2002 to 2007

Year	Number of Visits	Average Number of Accounts held by Institution Visited	Total Number of Accounts	% of Total Accounts	% of Total Average Tax Free Bonus Paid
2002	5	764	1,180,358	0.06	0.05
2003	11	14,425	1,151,287	1.25	1.15
2004	2	215,961	1,121,604	19.25	17.53
2005	11	398,822	1,096,911	36.36	36.25
2006	9	48,446	1,088,022	4.45	4.77
2007	2	55,951	1,088,022 ^(a)	5.14	4.97

^(a) 2006 figure repeated pending completion of processing of 2007 annual returns.

One compliance visit carried out in 2007 led to a financial institution refunding Revenue approximately €390,000 paid in respect of claims for accounts which had already matured.

Audit Concern - Compliance

In view of the experience with the above institution there was a risk that financial institutions could have claimed bonus payments in respect of accounts that had already matured and I enquired whether penalties might have been warranted in this case.

The Accounting Officer informed me that, on the basis of the account reconciliation work completed to date, Revenue is satisfied that there was no evidence of any mal-intent on the part of the financial institution with regard to the operation of proper procedures around the maturity process. Therefore, Revenue does not consider that any circumstances had arisen which merited the imposition of penalties. She also pointed out that the possibility of innocent or unintentional error is specifically catered for in the 2001 Regulations¹⁶.

In regard to action taken to ensure that other financial institutions have not claimed credits for accounts after the maturity date she informed me that procedures to be operated around the maturity process were notified to each financial institution as part of the guidance and information process. No additional cases had been identified to date from the overall reconciliation process.

¹⁵ These included queries arising out of matching the total of the summary monthly returns seeking payment with more extensive detail contained in the end year electronic file.

¹⁶ The Special Savings Incentive Accounts Regulations, 2001 (S.I. No. 176 of 2001).

Audit Concern - Multiple Accounts

The scheme did not permit the holding of multiple accounts. I sought assurance regarding the checks carried out to identify those holding multiple accounts.

The Accounting Officer informed me that a cross-check of annual returns by Revenue identified 15,398 possible multiple accounts. A significant percentage of these accounts was found to be inactive and had no funding. In many cases where the accounts were with the same institution, the duplication was found to be a simple data error. From a risk assessment, 2,785 accounts were selected for individual case examination. This equated to 1,365 individual PPSNs. Of these, 227 related to valid accounts and both accounts were allowed to remain open. The accounts in respect of the remaining 1,138 PPSNs were ceased by the relevant financial institution on foot of Revenue instruction and €1.4m recovered.

Audit Concern - Reconciliations

Institutions were required to make monthly returns which formed the basis of Revenue payments and annual returns summarising the position in respect of each financial year. To date, reconciliation of the annual returns to the monthly payments made during the year have yet to be completed for 2006 and onwards.

I sought assurance as to the extent of the reconciliation work and its timeliness.

The Accounting Officer informed me that the reconciliation process undertaken by Revenue includes a direct reconciliation between the annual return and the monthly returns and also involves a check on subscriptions, tax and net payments. Revenue prioritised the evaluation of the monthly return as the primary source of data on the operation of the scheme by the financial institutions. The annual reconciliation process has been regarded as additional validation and confirmation of the reliability of the monthly data provided. In general, it was found that the monthly returns were completed correctly and that any apparent inconsistencies identified through the annual return reconciliation exercise were almost entirely reporting errors in the annual return or timing issues. In the very limited number of instances where specific high-risk issues were identified, these matters were followed through in all cases and the issues fully resolved to Revenue's satisfaction.

She expected that reconciliation of the annual returns for all years would be well advanced by end 2008 with any remainder to be completed in the early part of 2009. She explained that a key requirement for the reconciliation process is that the data from the financial institutions be successfully uploaded onto the Revenue database. Of the 276 annual returns received for 2007, 241 had been successfully loaded to date. In relation to outstanding returns, Revenue had been in contact with the financial institutions and was satisfied that the outstanding returns would be received shortly. The Accounting Officer informed me that all significant issues arising from the reconciliations to date had been satisfactorily resolved.

In regard to the extent of the delay in reconciling annual returns, the Accounting Officer stated that substantial effort and energy was devoted by Revenue at the start of the scheme in working with financial institutions to get appropriate and timely procedures and systems in place. From Revenue's perspective support and guidance for financial institutions and prospective account holders was crucial to the overall management of the scheme and to getting a high level of compliance from the start. Annual reconciliation for the years 2001 to 2004 had been especially challenging in the absence of the enhanced SSIA database that came on stream in 2004.

She stated that Revenue is satisfied that the responsibility placed on financial institutions to administer the SSIA scheme had been adequately fulfilled. While there had been some validation issues in relation to the annual returns, they were generally of a minor nature in the context of the extent of the scheme and the number of accounts managed.

Audit Concern - Maturity Checks

Institutions are required to submit electronic files at maturity. As of March 2008, 218 of the 329 financial institutions had submitted these. Revenue has yet to examine these files.

I sought assurance that checks and reconciliations would be carried out within a reasonable timeframe on the returns in order to ensure that the maturity outturn was consistent with the transactions reported.

The Accounting Officer informed me that a risk rated sample of maturity files will be checked in detail. Checks will examine

- whether the tax on gains reported on the maturity file equates to tax reported in the corresponding annual returns
- whether the total tax free bonus equals 25% of total subscriptions
- whether tax free bonuses in excess of €3,810 have been reported
- why cases were closed prematurely.

It is expected that this work will be substantially completed by the end of 2008.

Revenue does not intend to cross-check all end of maturity files to identify multiple accounts.

The Accounting Officer informed me that it was estimated that there were between 1,000 and 1,300 cases where the maturity declarations were not made by the account holder. These cases had been ceased on Revenue's instruction and the gross funds in each account taxed at 23%. It was noted on audit that by March 2008 there had been some 200 appeals arising out of the application of cessation tax. Appeals in 138 cases were accepted, 22 rejected and decisions by Revenue were outstanding in 40 cases.

In regard to work to confirm the validity of maturity declarations, she told me that these had been examined on all compliance visits carried out since April 2006, which coincided with the beginning of SSIA maturity. Once all end of maturity files have been received and processed, Revenue will undertake a detailed review of a sample of cases selected on a risk basis to satisfy itself as to the valid completion of the maturity declaration by the account holder. The outcome of that sampling exercise will determine what further work may be necessary by Revenue.

Conclusions

- The net cost to the Exchequer of the SSIA scheme has been €2.5 billion.
- Revenue has, over the years, carried out a reasonable level of compliance checking and identified cases of multiple account holding.
- Post maturity checks will be completed in 2009.

3.12 Interest on Late Payment of Tax

Late payment of tax causes a drain on the Exchequer and gives an unfair advantage to those who pay late over those taxpayers who are compliant. Charging of interest is the most effective tool available to encourage taxpayers to pay their taxes in full and on time. However, in practice, Revenue does not charge interest in all cases where tax is paid late and its focus is on cases where

- a pattern of late payment is identified
- the taxpayer has been contacted and warned that interest may be charged, and
- this has not resulted in any improvement in compliance.

Notwithstanding this, interest on late payment of tax is a statutory charge and the legislation governing the various taxes administered by Revenue sets out the rates of interest and the conditions under which interest is charged. The legislation provides for the mitigation by Revenue of fines and penalties imposed but there is no provision for the mitigation of interest.

The amount of interest recovered for each taxhead in 2005, 2006 and 2007 is set out in Table 27.

Table 27 Interest Paid

Taxhead	2005	2006	2007
	€m	€m	€m
PAYE/PRSI	20.1	14.6	11.7
VAT	31.6	29.2	30.1
Income Tax	18.9	15.9	18.2
Corporation Tax	6.8	5.1	9.0
Capital Gains Tax	3.7	6.6	5.0
Relevant Contracts Tax	2.2	2.9	3.3
Total	83.3	74.3	77.3

The interest that is levied can arise as a result of both debt collection activity and assessments as part of an audit settlement. The three main activities giving rise to late payment interest are

- the activities of a central debt management task force
- routine debt collection activity undertaken at either local District level or by the Collector General's Office
- settlements arising out of the Revenue audit programme.

As part of my audit I set out to examine the procedures in the central debt management task force. I focused on those cases which were processed in 2007.

Interest Charged

Part of the responsibilities of a debt management task force (DMTF) within the Collector General's Office is to carry out a programme of interest charging in cases of late payment of Income Tax,

Corporation Tax, Capital Gains Tax and VAT¹⁷. In the course of this work, cases of late payment, grouped by range of tax liability, are reviewed by the staff of the DMTF and a number of cases to be screened for each taxhead is chosen.

In the case of Income Tax, preliminary tax is payable by 31 October in the year of assessment¹⁸. Extensions to this date are available for those who pay and file through the Revenue Online Service. A threshold level is set for this preliminary payment. It must not be less than the lower of

- 90% of the ultimate liability for the year or
- 100% of the liability for the previous year or
- in the case of taxpayers paying Income Tax by means of direct debit, 105% of the liability of the tax year two years before.

99,667 cases failed the preliminary tax requirements for 2005. These fell into the bands shown in Table 28.

Table 28 Cases Failing Preliminary Tax Rules

Tax Liability Range	Number of Cases
Less than €10,000	85,198
€10,000 to €20,000	8,647
€20,000 to €40,000	4,026
Greater than €40,000	1,796

In 2007, the DMTF selected 3,544 cases from the 99,667 cases. This selection comprised the 1,796 cases that had a declared liability of €40,000 or more and the 1,748 cases that had a declared liability of between €20,000 and €40,000 but had failed the preliminary tax rules for both 2004 and 2005. As a result of further screening checks, 1,639 of the 3,544 cases were charged interest totalling €7,024,416.

In the course of audit, a sample of 28 of the 1,639 cases where interest was charged was examined as well as a sample of 13 cases where interest was not charged. It was noted that, in 8 of the 28 cases examined where interest was charged, interest had also been charged in other years with one of these cases having been charged interest for each of nine years between 1997 and 2006.

Two of the thirteen cases recorded a loss in 2004 and a liability in 2005 of €676,346 and €13.5m, respectively. Despite the existence of substantial current year liabilities since a nil payment of preliminary tax met the requirement of 100% of previous years liability, no preliminary tax was chargeable and consequently no interest was levied in these cases.

The 983 Corporation Tax cases that failed preliminary tax rules and had a declared liability of €100,000 or more for an accounting period ending in 2005 were selected for examination in 2007 with a view to charging interest. Ultimately, after further screening checks, 354 cases were charged interest of €4,020,239.

In the case of Capital Gains Tax (CGT) there is no preliminary tax payable. Instead, the tax arising on disposals between 1 January and 30 September is due by 31 October in the year of disposal. Tax on disposals between 1 October and 31 December is due by 31 January in the year following disposal. The

¹⁷ The DMTF examined cases where VAT is paid by means of direct debit.

¹⁸ *i.e.* by 31 October 2005 for the 2005 tax year.

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DMTF in 2007 selected for examination 1,200 cases where more than €100,000 of CGT in respect of 2005 was paid on or after 1 March 2006. After further screening checks 298 cases were charged interest of €3,934,964.

A similar campaign was carried out in 2007 in respect of VAT direct debit cases. In these cases interest is due where the total of the monthly payments is less than 80% of the liability for the year. Interest is charged on the amount of the shortfall from a date six months before the due date for the annual return. There were 1,120 such cases in 2005 and following screening checks 344 of these were charged interest of €3,000,667.

Late Payment Interest Collected

In relation to the cases where interest was charged as a result of the 2007 campaign by the DMTF, Table 29 sets out for each taxhead the number of cases where payment has been made, the number where the interest charge was waived and the number of cases where payment has not yet been made. In 210 cases the interest charged was reduced.

Table 29 Cases in which Interest was Levied by DMTF in 2007

Taxhead	Cases Charged	Cases Paid	Waived following Appeal	Number Unpaid
Income Tax	1,639	1,416	86	137
Corporation Tax	354	323	24	7
Capital Gains Tax	298	197	59	42
VAT	344	325	17	2
Totals	2,635	2,261	186	188

Table 30 shows details of the amounts of interest paid, waived/reduced and outstanding from the DMTF 2007 campaign. As can be seen from the table, as at May 2008, 72% of the €18m interest charged by the DMTF has been paid, 20% had been waived or reduced and 8% remained outstanding.

Table 30 Amount of Interest Charged in 2007 as at May 2008

Taxhead	Amount Charged €	Amount Paid €	Amount Waived €	Amount Reduced €	Amount Unpaid €
IT	7,024,416	5,540,512	427,686	382,865	673,353
CT	4,020,239	3,375,515	233,119	201,644	209,961
CGT	3,934,964	1,740,168	1,334,289	237,570	622,937
VAT	3,000,667	2,263,493	169,512	556,614	11,048
Total	17,980,286	12,919,688	2,164,606	1,378,693	1,517,299

Audit Concern

I sought the Accounting Officers views on why, in the light of the statutory provisions for charging interest on late payment of tax, interest is not charged in all cases of late payment

The Accounting Officer informed me that in the late eighties and early nineties, Revenue did automatically impose an interest charge on every outstanding tax liability - known as Interest on Balance Outstanding. The current procedures relating to imposition of interest on late payment charges have been developed largely based on learning from the experience of that failed programme. Essentially Revenue's debt management programmes became bogged down in attempting to collect tens of thousands of interest charges, in many instances where, if Revenue had known the case circumstances, it would have been clear that a charge was not appropriate. This brought the effectiveness of the entire interest regime into question and resulted in many taxpayers simply ignoring the charge. As a support for compliance, that approach was ineffective.

While Revenue is determined to deliver a sharp and focused response to those that fail to comply on a timely basis, nevertheless it is of the view that a one size fits all approach would neither be appropriate nor effective to debt and compliance management. The strategy is to have a clear and consistent focus on risk and to select the compliance intervention that is likely to be most effective by reference to the risk in each instance. Revenue assigned most of its compliance and debt management resources to those cases that pose the highest level of risk.

She informed me that an exercise to quantify the amount of interest foregone by not charging interest in all cases had not been undertaken and there were no plans to do so.

The Accounting Officer stated that Revenue's primary goal is to ensure that taxpayers meet their tax obligations in full and on time. The objective is to ensure that the Government's tax collection targets are achieved by having efficient payment, filing and debt collection systems, and by continuous improvement of compliance levels. Over the past ten years in particular, Revenue has had a particular focus, *inter alia*, on improving the timeliness of compliance - both as regards the payment of tax and the filing of returns.

In addition to the sanction of charging and collecting interest, she pointed out that Revenue has a range of collection enforcement options available to its debt and compliance management teams including referral of debts to sheriffs, external solicitors and attachment of debts owed by third parties.

Conclusion

When Revenue automatically charged interest in all cases, the liability was based on Revenue assessments of tax owed. This is fundamentally changed now that liability is self-assessed, and therefore, self-acknowledged by the taxpayer. In these circumstances, there should be less contention around the liability and the obligation to pay on time. Consequently, it might be opportune to review the potential of interest as a driver of prompt payment in a self-assessed regime.

3.13 Benefits-in-Kind

Travel expenses incurred in going to and coming from work are not allowable as offsets against an employee's taxable income. Where an employer pays or reimburses an employee for travelling to or from work, the amount paid or reimbursed is treated as part of the employee's remuneration and, as such, is liable to taxation.

Prior to 2004, the onus was on the employee to declare benefit-in-kind (BIK) received. With effect from 1 January 2004¹⁹ this was changed, and the onus was placed on the employer to tax employees at source in respect of BIK.

In order to inform employers about the change, Revenue undertook an extensive communications campaign. This included

- a nationwide series of workshops with employers and tax practitioners
- the issue of leaflets and the posting of answers to frequently asked questions on the Revenue website
- provision of a dedicated Lo-Call help line to answer queries.

In addition, Revenue issued operational guidance²⁰ to every employer in the country.

In the course of drafting a Statement of Practice²¹ during 2006 officials raised concerns in relation to the tax treatment of benefits received by Revenue's own staff in respect of travel to and from work. A working group comprising of representatives from various Revenue divisions was convened to consider the matter.

The group reviewed benefits which had accrued during the period January 2004 to June 2007. It identified three distinct types of payment that gave rise to BIK on which taxes had not been paid.

- the use by staff of official Revenue vehicles in respect of travel to and from work
- payments to staff in respect of the use of private vehicles for travel to and from work
- payments to staff for the hire of taxis for travel to and from work.

Extent of Benefits

Approximately €2m accrued by way of BIK during the period reviewed. This comprised

- €1.7m in respect of the use of official vehicles by officers for travel to and from work
- €0.3m paid under agreements made with staff whose work commenced or ended between the hours of 11pm and 8am in locations not served by public transport. €182,381 was paid to certain staff in respect of one return daily journey from home to their place of work and a further €120,297 was paid in respect of the cost of taxi services in the case of officers who did not have private transport and for whom taxi fares were paid for travel from home to and from work.

¹⁹ Section 6 of the Finance Act, 2003.

²⁰ *Employers Guide to Operating PAYE and PRSI on Certain Benefits* 2003 (updated 2008)

²¹ *Tax Treatment of the re-imbursment of Expenses of Travel and Subsistence to Office Holders and Employees* 2007

Voluntary Disclosure and Settlement

Based on the total benefit provided over the period January 2004 to June 2007 an overall liability was calculated at €1,387,099. A sum of €228,208 was charged in interest and, in addition penalties of €41,613 were also imposed. The total liability came to €1,656,920. The relevant Inspector of Taxes was informed of Revenue's intention to make a voluntary disclosure and arrangements were put in place to ensure full tax compliance going forward. A settlement was reached with the Inspector of Taxes and payment was made in November 2007 and charged to subhead A.1 of the Vote. Revenue also informed my Office at that time.

Audit Concerns

I was concerned at the delay in identifying Revenue's obligations to tax benefits paid to its own staff and that similar issues could arise in other State bodies and the private sector.

The Accounting Officer informed me that benefits giving rise to tax liabilities are not generally a feature of the remuneration arrangements of Civil Servants. She acknowledged that, when the onus of taxing BIK was placed on employers in 2004, Revenue, in its capacity as an employer, did not adequately consider the potential impact of the legislation on its own operations or properly examine whether there were payments to or on behalf of employees or benefits provided to employees which would give rise to a BIK liability. In fact, a small number of employees did enjoy such benefits but these payments and benefits escaped attention. Hence they were not taxed under PAYE as should have been the case. The mistake that occurred was the result of inadequate consideration of the impact of the new legislation and lack of recognition of the potential for the existence of taxable benefits by Revenue employees.

The Accounting Officer has assured me that proper procedures are now in place to ensure that all BIK provided by Revenue is properly taxed. Revenue has considered all payments made to staff, and all payments made on its behalf, in order to satisfy itself that no other situations exist where a BIK liability might arise. Arrangements to tax all benefits have been implemented with effect from 1 July 2007. Procedures have also been established to ensure that the Revenue payroll section is aware of all such taxable events and that tax in respect of BIK is deducted where appropriate.

Revenue's payroll system has been adapted to facilitate the correct tax treatment of payments and benefits. In addition revised arrangements were put in place from July 2007 to ensure that official Revenue vehicles are no longer used for any private or personal purpose that might give rise to a taxable benefit. Overall, governance has been strengthened and the Accountant General is now required to formally report on an annual basis to the Revenue Board in relation to tax compliance issues. The first such report was made to the Board in February 2008.

In regard to employee liabilities for periods prior to January 2004, no further action has been taken by the Inspector of Taxes. She informed me that this is the normal practice that would be applied in similar cases and in a situation where the individual liability, if it exists, is old, relatively small and not part of a continuing situation.

In regard to the settlement, the Accounting Officer has informed me that Revenue, as a taxpayer, was treated similarly to the general body of taxpayers and was subject to the normal penalties and interest charges that would have applied to any other taxpayer in the same circumstances.

In regard to whether similar problems had been identified in other State bodies she informed me that no significant problems had been identified. There had been a very small number of audit settlements with public sector organisations in 2007 in relation to employers PAYE. The total yield, including BIK charges, from these settlements was less than €1m. She informed me that, having reminded State bodies

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of their responsibilities during 2008, it is intended to undertake a programme of compliance checks in 2009 on their operation of PAYE and other relevant taxes.

In response to my query as to whether similar problems had been identified in the private sector and what action Revenue had taken to ensure compliance with the legislation, the Accounting Officer told me that Revenue had no evidence of any serious compliance problem with BIK legislation. She stated that the consistency of BIK with other income sources is taken into account in Revenue's risk profiling system²². This profiling is now a major component of Revenue's compliance programme. The steps taken were those considered most appropriate to the risk identified.

Conclusions

The failure by Revenue to identify its own BIK obligations demonstrates that changes in tax rules give rise to increased risks. It is acknowledged that, when the problems were identified, steps were taken to deal with them. It will only be after the completion of compliance checks in State agencies and with greater information of the predictive capacity of the REAP system based on audit outcomes that a judgment can be made of the adequacy of Revenue's systems to ensure that all revenue under this heading is being brought to account.

²² REAP