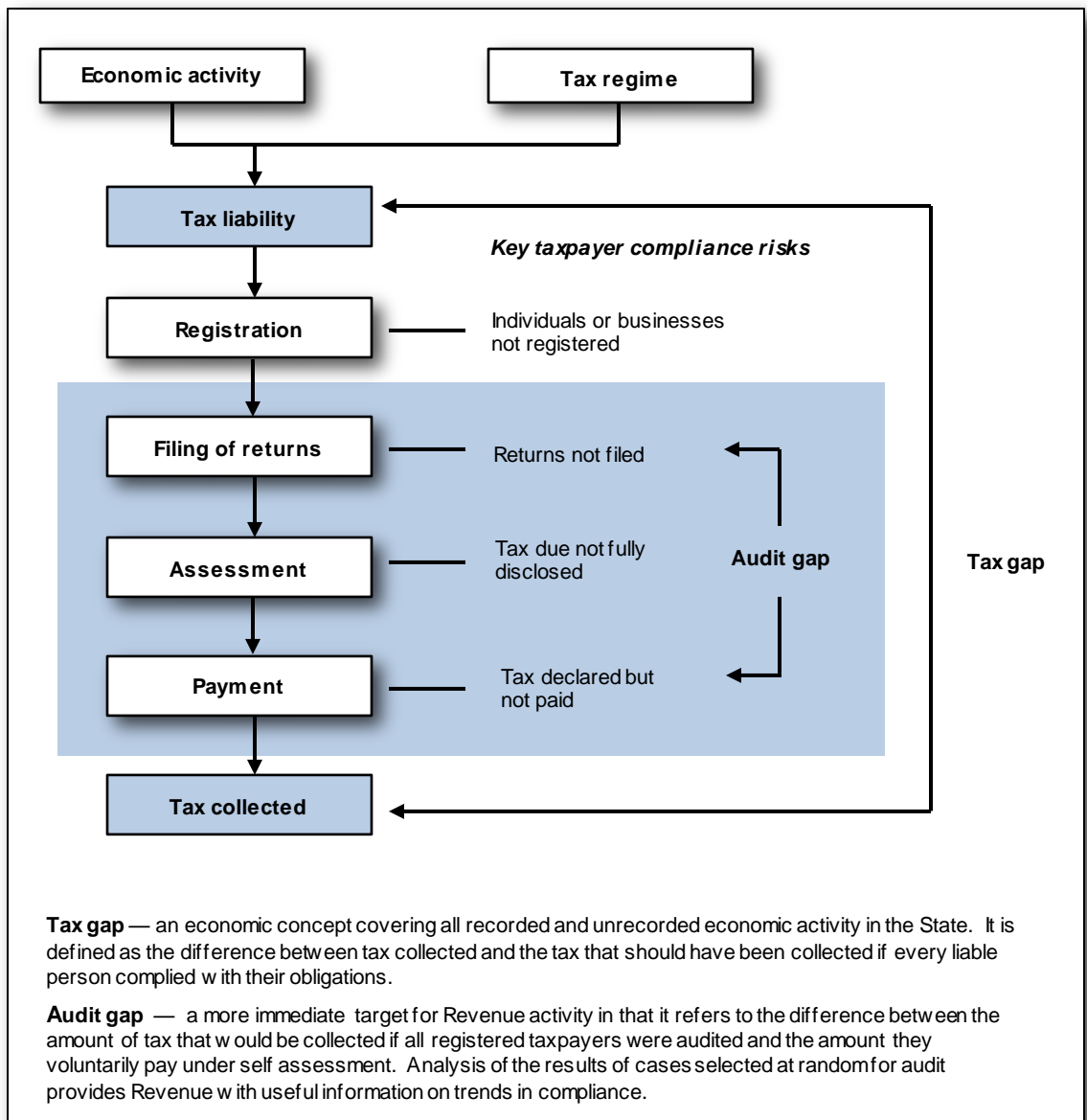


25 Taxpayer Compliance

25.1 Timely compliance by all taxpayers with their due taxation liabilities is important if the tax system is to be equitable and to avoid distortion of trade and business. In a tax system that is based on self-assessment, there are certain risks that tax may not be fully collected (see Figure 25.1). Those risks include

- registration risk — taxpayers do not register for tax when they are required to do so
- filing risk — taxpayers do not file required returns or submit returns late
- assessment risk — tax returns filed do not fully disclose income or taxes due
- payment risk — declared taxes are not subsequently paid.

Figure 25.1 Tax compliance framework – self assessment



Tax gap — an economic concept covering all recorded and unrecorded economic activity in the State. It is defined as the difference between tax collected and the tax that should have been collected if every liable person complied with their obligations.

Audit gap — a more immediate target for Revenue activity in that it refers to the difference between the amount of tax that would be collected if all registered taxpayers were audited and the amount they voluntarily pay under self assessment. Analysis of the results of cases selected at random for audit provides Revenue with useful information on trends in compliance.

- 25.2** In order to manage taxpayer compliance effectively, the Revenue Commissioners need to
- know the underlying extent of non-compliance among taxpayers
 - design and implement cost effective activities to detect non-compliance
 - ensure taxes due are collected and penalties imposed on those who are non-compliant, so that there is a clear deterrent effect.
- 25.3** This report reviews Revenue's approach to monitoring and managing taxpayer compliance in those key areas.
- 25.4** The examination included a review of Revenue's performance information in relation to its audit work and an analysis of the database used by it to record audit activity. Trends in the numbers of taxpayers prosecuted and the outcomes were also reviewed. Individual taxpayers' files were not examined.

Assessing Taxpayer Compliance

- 25.5** The primary measures of taxpayer compliance are the tax gap and the audit gap. Revenue does not currently estimate the tax gap due to issues around accurate estimation of the gap and concerns about its usefulness at an operational level. Revenue does some work in relation to the links between relevant economic indicators and tax collected but this does not provide reliable indications of tax non-compliance levels.
- 25.6** The Accounting Officer pointed out that Revenue economists undertake analysis of the economic environment and investigation of the potential effects of changes on tax collection. Recent examples include analysis of the links between indebtedness of businesses and their tax compliance. Twice yearly outlook reports are also produced for senior management. The research focuses on the links between relevant economic indicators and tax collected. It is aimed at understanding Revenue's operating environment and is not intended to generate indications of non-compliance levels.

Random Audit Yield

- 25.7** The audit gap relates to tax liabilities unpaid by persons who are duly registered for tax purposes. Revenue operates a random audit programme with around 400 audits of randomly selected individual taxpayers and businesses commenced annually.¹ Certain complex audits may take a number of years to complete.
- 25.8** The outcome of the random audit programmes for 2008 to 2012 is shown in Figure 25.2. Additional taxes were levied as a result of random audits in about one third of cases over the period under review. This rate has remained largely unchanged over that period.

¹ In general, pay as you earn (PAYE) taxpayers are excluded from selection for audit under the random audit programme.

Figure 25.2 Proportion of random audits resulting in additional yield, 2008 to 2012 (up to March 2013)

	2008	2009	2010	2011	2012
Number of audits completed	399	398	390	380	294
Number of audits that yielded additional tax	120	139	139	126	84
Yielding cases as % of completed cases	30%	35%	36%	33%	29%

Source: Office of the Revenue Commissioners

- 25.9** Random audits focus initially on a particular tax year termed the base year.¹ However, where non-compliance is discovered, Revenue may also review tax returns for earlier years and audit yield may also arise in respect of these. The reported results distinguish between audit yield in the base year and in other years (see Figure 25.3). The base year yield averaged at around 42% of the total yield for audits initiated in 2008 to 2011.

Figure 25.3 Audit yield^a from random audits, 2008 to 2012 (up to March 2013)

	2008	2009	2010	2011	2012
Base year yield (€000)	1,173	1,155	923	579	321
Yield for other years (€000)	1,451	1,461	1,443	845	225
Total yield (€000)	2,624	2,616	2,366	1,424	546
Average yield for all audits completed	€6,600	€6,600	€6,100	€3,700	€1,900
Average yield in yielding audits	€22,000	€18,800	€17,000	€11,300	€6,500

Source: Office of the Revenue Commissioners

Note: a Yield includes tax, interest, penalties and surcharges.

- 25.10** At end March 2013, the random audit programme for 2012 was just under 75% complete. The experience in previous years has shown that the average yield from random audits increases as more audits are completed, because higher value cases generally take longer to complete. The results of the 2008 to 2010 programme show that
- the average yield from all audits completed was between €6,100 and €6,600
 - when non-yielding cases are excluded, the average yield varied between €17,000 and €22,000.
- 25.11** Figure 25.3 compares the state of completion of audits for all years at March 2013. Figure 25.4 shows the outcome for the 2008 to 2011 random audit programmes at the same stage in the cycle i.e. 15 months after the end of the programme year.

¹ The audits completed as part of the 2011 programme focused on a review of 2009 tax returns.

Figure 25.4 Random audit programme, 2008 to 2011 (audit yield^a at 15 months after programme year)

	2008	2009	2010	2011
	At March 2010	At March 2011	At March 2012	At March 2013
Number of audits completed	383	361	370	380
Base year yield (€000)	1,145	868	818	579
Yield for other years (€000)	1,330	1,086	1,228	845
Total yield (€000)	2,475	1,954	2,046	1,424
Average yield for all audits completed	€6,500	€5,400	€5,500	€3,700
Average yield in yielding audits	€21,500	€16,200	€16,000	€11,300

Source: Office of the Revenue Commissioners

Note: a Yield includes tax, interest, penalties and surcharges.

25.12 Figure 25.4 shows that the average yield per case for the 2011 programme was around a third lower than the 2009 and 2010 programmes at the same point in the audit programme cycle and 43% lower than the 2008 programme. This suggests that the more recent programmes are lower yielding.

Estimating the Audit Gap

25.13 Analysis of the outcome of a well designed random audit programme can provide Revenue with a sound basis for valuation of the overall audit gap. In order to estimate the gap, the additional tax yield from random audits needs to be compared with the original liability declared by the taxpayer. However, this information was not collated by Revenue prior to July 2012. Since July 2012, the value of tax under-declared and the original liability is recorded in relation to all cases audited as part of the random audit programme.

25.14 In order to estimate the audit gap, the examination compared the original declared liability with the audit tax yield for the 380 completed audits from the 2011 random audit programme (see Figure 25.5). The main results of the analysis are that

- More than one third of taxpayers selected randomly had underpaid their taxes.
- The audit gap for the base year (2009) was an estimated 3.1% liability.

Figure 25.5 Taxpayer compliance rates based on 2011 random audit programme

	Total
Number of cases completed	380
Total liability in base year	€14,935,144
Of which tax in base year as a result of audit ^a	€464,819
Proportion of undeclared tax in 2009	3.1%

Source: Analysis of the Office of Comptroller and Auditor General

Note: a Additional tax in the base year excludes interest and penalties.

- 25.15** The audit gap has been estimated using the 380 cases where audits had been completed. This estimate may change upon completion of the audits in the remaining 20 cases in the programme, as experience in previous years has shown that those cases settled later tend to be more complex and often result in high yield amounts. Regular estimation of the audit gap would indicate whether the level of undeclared income is changing over time.

Detecting Non-Compliant Taxpayers

- 25.16** Revenue uses a number of procedures to identify registered taxpayers at risk of under-declaration of liability. These include
- screening of tax returns against sectoral and business norms
 - data matching of information held on Revenue's own records to identify apparent inconsistencies
 - use of third party data
 - use of local or sectoral knowledge
 - a suspicious transactions report.¹
- 25.17** Cases at higher risk of under-declaration are investigated either by way of non-audit checks, through to a more intensive audit of the taxpayers records by reference to the tax returns submitted or by way of a special investigation.² Any of these may result in additional tax and interest on late payment being levied and in some cases the imposition of civil or criminal sanctions.

Non-Audit Interventions

- 25.18** Rather than proceeding immediately to costly audit processes in all cases where it has identified a risk of undeclared liabilities, Revenue first seeks assurance that a customer is broadly compliant through the use of non-audit interventions. Non-audit interventions involve verifying documentation and requesting additional information in order to address a specific risk identified by Revenue. They can include
- the examination of customs declarations
 - verifying the accuracy of VAT repayment claims
 - following up on issues arising from suspicious transaction reports
 - verifying PAYE tax credit and repayment claims and checks on potential non-declaration of additional income sources
 - eligibility checks for disclosure schemes.
- 25.19** Non-audit interventions can result in the levying of additional tax as a result of enquiries, or in escalation of the case to a full audit. The numbers of non-audit interventions conducted in 2012 and the proportion of those resulting in additional yield is shown in Figure 25.6.

¹ Under the Criminal Justice Act 1994 (as amended) designated bodies are required to report to An Garda Síochána and Revenue where they have a suspicion that a money laundering offence may have been committed. These reports are known as suspicious transaction reports.

² DIRT and off-shore funds investigations are two examples of special investigations.

Figure 25.6 Revenue non-audit interventions and outcomes, 2012

	Total
Number of interventions carried out	528,755
Proportion of interventions with yield	7%
Total yield (€m)	133
Average yield per yield case	€3,585

Source: Office of the Revenue Commissioners

Risk-Based Audits

- 25.20** A Revenue audit involves examining tax returns, declarations of liability, repayment claims and the compliance of a taxpayer with tax legislation.
- 25.21** In addition to its random audit programme, Revenue targets cases for audit in a number of ways including the use of its Risk Evaluation Analysis Profiling system (REAP) which ranks taxpayers relative to one another, based on a number of specified risk factors.¹ Cases may also be selected for other reasons including, for example, information provided by third parties or when a particular sector or scheme has been targeted for examination.
- 25.22** Revenue carried out 8,573 risk-based audits in 2012 yielding a total of €355 million (see Figure 25.7).

Figure 25.7 Revenue audit activity and outturn, 2012

	Revenue districts	Large Cases Division	Special investigations^a	All audits
Audits carried out ^b	8,116	202	255	8,573
Proportion of audits with yield	69%	62%	95%	70%
Total yield (€m)	270	56	29	355
Average yield per yield case	€48,153	€446,328	€121,745	€59,440
Highest case yield (€m)	15.0	7.4	3.3	

Source: Office of the Revenue Commissioners

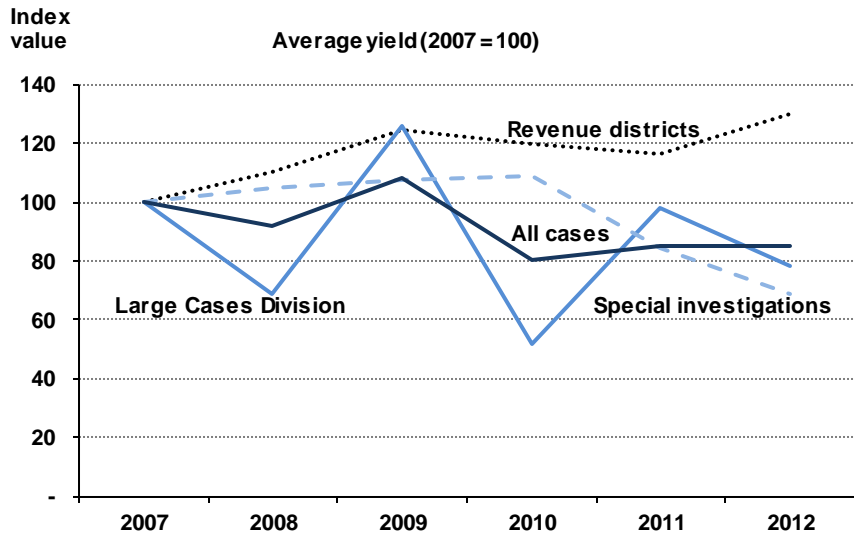
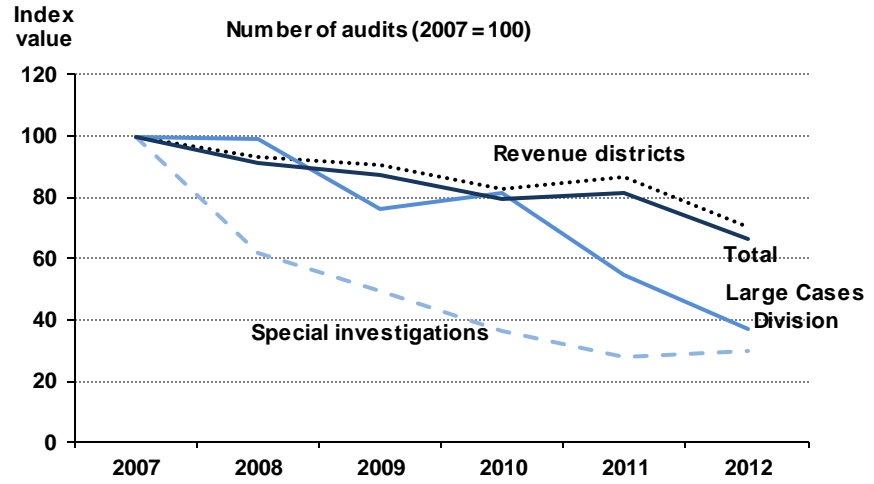
Notes: a Includes special investigations and audits completed by Revenue's Investigations and Prosecutions Division.

b Excludes Stamp Duty and Capital Acquisitions Tax audits and audits completed under Revenue's Random Audit Programme.

- 25.23** There has been a downward trend in the number of risk based audits carried out, which declined by 34% over the period 2007 to 2012 (see Figure 25.8). Average yield per case has declined by about 18% over that period. An increase in the average for Revenue districts has been offset by falls in the averages for special investigations and large cases in 2012.

¹ REAP is a computerised risk profiling system in use since 2008. It rates taxpayers, relative to one another, using information from Revenue's other systems as well as information from third parties such as the Health Service Executive, the Department of the Environment, Community and Local Government and the Taxi Regulator.

Figure 25.8 Risk-based audits, 2007 to 2012



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

Classification of Revenue Interventions

- 25.24** Chapter 27, Tax Audit Settlements, notes that 20% of a sample of cases reviewed had been incorrectly classified as audits when it appeared that the correct classification was a non-audit intervention. The reported audit yield for those cases was also around 20% of the total yield for the sample.
- 25.25** This indicates that the reported yield from interventions in 2012 of €492 million may be incorrectly classified between audit and non-audit interventions. The number of audits and the yield from them may be overstated with corresponding understatements in the non-audit intervention data.

- 25.26** The Accounting Officer stated that the current Revenue operational instructions state that unprompted disclosures submitted in the absence of a compliance intervention, and accepted as submitted should be recorded as non-audit interventions. As this instruction only issued in July 2012, there is a degree of inconsistency in the recording of various categories of compliance interventions but this will not have distorted overall yield from compliance interventions. Prior to the issue of this operating instruction, unprompted disclosures would have been classified as audits.

Deterring Non-Compliance

- 25.27** Those taxpayers who may consider delaying their tax returns or not paying their due taxes are likely to be deterred from doing so only if the perceived consequences outweigh the more immediate benefits. For a credible deterrent effect to exist, there needs to be a high risk of the non-compliance being detected by Revenue in a timely way, and prompt collection of any outstanding taxes plus an interest charge. In appropriate cases, penalties for breaches of obligations under the tax code, including criminal prosecution in more serious cases, may add to the overall deterrent effect. Publication of the names and addresses of tax defaulters is used as an additional deterrent.

Recovery of Detected Unpaid Taxes

- 25.28** The finalisation of a Revenue audit can result in the levying of additional amounts in respect of under-declared tax, interest on late payment and penalties in relation to various offences (for example undisclosed sales, receipts income or capital gains). The total amount collected or deemed to be collectible from the taxpayer is referred to as the audit yield or tax settlement amounts.

Audit settlements can be

- paid in full when the audit is concluded
 - paid over a phased basis where the taxpayer has limited access to liquid funds but continues to generate income
 - unpaid where the taxpayer claims inability to pay.
- 25.29** Chapter 27 reviews payment of tax audit settlements for audits completed in the period 2007 to 2012. It found, that of the yield of €512 million for the 167 cases reviewed, around 84% of the settlement amounts were paid by September 2013, around 1.6% had been written off while 3.5% was outstanding. The status of the remaining 11% is not evident from Revenue records and is currently under review by Revenue (September 2013).
- 25.30** The chapter also examines the negotiation of audit settlements and found that in most cases the settlement was the same as the Revenue calculated liability. However, in two cases there was a significant difference between the liability calculated by Revenue and the settlement amount. In both cases, the settlement was significantly lower than the original assessed liability.

Civil Penalties

- 25.31** Revenue can apply civil penalties for failure to file P35 or VAT returns or for various tax offences discovered on audit. The number and value of civil penalties imposed in 2011 and 2012 is shown in Figure 25.9. Penalties applied as a result of audit in 2012 represented 10% of the total tax audit yield. This proportion was consistent with the average for the years 2008 to 2011.
- 25.32** In 2012, penalties were imposed in almost 60% of the cases where audits resulted in yield liabilities being determined.

Figure 25.9 Civil penalties imposed in non-compliance cases, 2011 and 2012

			2012	2011
	Non-filing of P35 and VAT returns	Penalties applied as a result of audit	Total	Total
Number of cases	717	3,438	4,155	4,728
Value of civil penalties imposed (€m)	2.8	26.1	28.9	35.9
Average civil penalty imposed	€4,000	€7,590	€6,950	€7,590

Source: Office of the Revenue Commissioners

Publication of Defaulters' Details

- 25.33** Details of audit settlements are published where Revenue accept a specified sum in excess of €33,000 in settlement of any additional liability for tax, interest and penalties. Cases are not published where a disclosure either prompted or unprompted is accepted or the settlement is less than €33,000 or the penalty does not exceed 15% of the tax ultimately due.
- 25.34** As shown in Figure 25.10, there was a large increase (32%) in 2012 in the number of published cases, mirrored by an increase in the related yield.

Figure 25.10 Cases of non-compliance published, 2008 to 2012

	2008	2009	2010	2011	2012
Number of cases	401	356	305	366	483
Total yield (€m)	75	97	68	76	98

Source: Office of the Revenue Commissioners

Note: Yield amounts are based on settlements, and do not represent amounts collected.

Summary Criminal Proceedings

- 25.35** Summary criminal proceedings arise in relation to the non-filing of returns, and other tax, Excise and Customs offences. The total number of summary prosecutions finalised and the associated fines are shown in Figure 25.11.
- 25.36** In addition to the imposition of fines, custodial sentences are also imposed in some cases. For example, in 2012, custodial sentences were imposed in 25 of the 509 Excise and Customs cases where summary convictions were obtained. Seven (28%) of these sentences were suspended.

Figure 25.11 Summary prosecutions for tax offences, 2008 to 2011

	2008	2009	2010	2011	2012
Number of prosecution cases for:					
Failure to file returns	1,052	1,199	1,380	1,217	1,045
Excise and Customs offences	455	535	509	497	509
Tax offences	11	9	10	16	29
	1,518	1,743	1,899	1,730	1,583
Value of fines imposed in Court for:					
	€m				
Failure to file returns	2.3	3.0	4.0	2.8	3.1
Excise and Customs offences	0.6	0.8	1.1	1.1	1.0
Tax offences ^a	—	—	—	—	0.1
	2.9	3.8	5.1	3.9	4.2

Source: Office of the Revenue Commissioners

Note: a Aggregate value of fines imposed was less than €50,000 for each year 2008 to 2011.

Prosecutions for Tax Evasion

- 25.37** Cases are referred to Revenue's Investigation and Prosecution Division (IPD) for investigation with a view to criminal prosecution where there is prima facie evidence of serious offences having been committed. These cases are further evaluated by an Admissions Committee before commencement of resource-intensive investigation work.
- 25.38** It can take several years before a case is presented to Court. As a result, at any point in time, Revenue has a number of serious evasion cases at various stages of the investigation and prosecution process (see Figure 25.12).

Figure 25.12 Status of prosecution cases on hand, 2009 to 2013 (April each year)

Status of prosecution cases on hand:	2009	2010	2011	2012	2013
Under investigation	61	50	69	87	101
With the Revenue Solicitor's office	11	14	12	23	41
Submitted to DPP	10	9	3	1	2
Directions issued by DPP to prosecute	15	26	33	23	17
Before the court	13	17	34	48	39
Bench warrants/European arrest warrants	—	—	—	—	1
Total open cases	110	116	151	182	201

Source: Office of the Revenue Commissioners

- 25.39** The number of convictions obtained in cases found to be suitable for prosecution between 2008 and 2012 and the associated penalties are shown in Figure 25.13. The total number of convictions in 2012 rose sharply and the proportion of convictions where a custodial sentence was imposed (38%) was considerably higher than other years.

Figure 25.13 Prosecution for serious tax evasion, 2008 to 2012

	2008	2009	2010	2011	2012
Convictions obtained:					
Tax evasion cases	15	6	7	16	25
Customs and Excise evasion cases	5	9	6	14	25
Total convictions	20	15	13	30	50
Penalties:					
Value of fines (€m)	1.2	0.5	0.02	0.1	0.5
Suspended sentence	6 ^a	2	7	15	21
Imprisonment	1	4 ^b	1	8	19

Source: Office of the Revenue Commissioners

Notes: a Seven suspended sentences were imposed in 2008, but one of these was successfully appealed.

b Prison sentences were imposed in five cases in 2009. One of these was successfully appealed, with a €250 fine was imposed after a judicial review.

Conclusions

- 25.40** The Revenue random audit programme has consistently shown over the period 2008 to 2012 that around one third of the taxpayers examined had under-paid their tax.
- 25.41** The audit gap measures revenue losses in a tax year as a result of non-compliance by individuals and businesses that are registered with Revenue. Revenue does not produce estimates of the scale of the audit gap. However, the outcome of Revenue's random audit programmes indicates that the audit gap was around 3.1% in 2009.
- 25.42** The results of Revenue's targeted audits indicate that its detection work is well targeted. Over twice the proportion of risk-based audits result in audit yield compared with random audits while the average yield from risk-based audits is also considerably higher than for random audits. It was noted that the level of risk based audits undertaken by Revenue fell in 2012 by around 20% when compared to 2011.
- 25.43** Although the proportion of non-compliant taxpayers detected in 2012 was similar to recent years for both random and targeted interventions, Revenue reported a number of increases in sanctions arising from taxpayer non-compliance. These included an increase in number of cases published where audit settlements were made, an increase in the proportion of audit cases where penalties were applied and in the number of prosecutions undertaken for serious tax evasion.
- 25.44** Revenue's approach to the negotiation and collection of audit settlements also has an impact on the overall deterrent effect.
- 25.45** A significantly higher proportion of convictions for serious tax evasion in 2012 resulted in a custodial sentence compared to previous years. It is too early to say whether the effect of increased sanctions will be to reduce non-compliance.