Guideline for Auditors and Caseworkers

Role of Auditors in the Divisions and Caseworkers in the Collector-General's Division, on the Collection of Audit Debts

Document last updated April 2019

A more recent version of this manual is available

Table of Contents

1 Introduction 2
2 Purpose 2
3 Legislation 2
4 Role of the Division 2
5 Audit Settlements and DMS 3
8 Payment/Collection of Penalties 3
8.1 Penalty not agreed with taxpayer or penalty agreed but not paid 3
8.2 Claims of inability to pay 3
8.3 An 'agreed penalty' or a 'court determined penalty': 4
8.4 Collection of 'agreed penalties': 4
8.5 Collection of 'court determined' penalties. 5

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

1 Introduction

The following guideline is to assist with the referral of cases from the Divisions to the Collector-General's Debt Management Units, for the collection/enforcement of audit related debt.

2 Purpose

The purpose of this guideline is to clarify the respective roles of Audit and Case Management staff in the Divisions and Debt Management Units (DMU) in the Collector General's Division (CG's) in relation to the collection of audit related debts, including taxes, interest and penalties.

3 Legislation

Following the passing of Finance (No.2) Act 2008 on 24th December 2008, fixed or tax-geared penalties charged following a Revenue audit or intervention or following receipt of a qualifying disclosure may be agreed with the taxpayer and paid. If the penalty is not agreed and paid, the penalty will be determined by a relevant court[1].

4 Role of the Division

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

[1] The term relevant court means the District Court, Circuit Court or High Court.

A more recent version of this manual is available.

5 Audit Settlements and DMS

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

8 Payment/Collection of Penalties

Following the passing of Finance (No.2) Act 2008 on 24 December 2008, fixed or tax-geared penalties charged following a Revenue audit or intervention or following receipt of a qualifying disclosure may be agreed with the taxpayer and paid. If the penalty is not agreed and paid, the penalty will be determined by a relevant court[2].

8.1 Penalty not agreed with taxpayer or penalty agreed but not paid

Where there is no agreement with the taxpayer on the amount of the penalty or where an 'agreed' penalty is not paid, the Notice of Opinion and Court Application procedures apply. In such cases, it will be a matter for a judge in court to determine the amount of the penalty due. Where a court has made a determination that a taxpayer is liable to a penalty, the court may also make an order as to the recovery of that penalty and without prejudice, to any other means of recovery, that penalty may be collected and recovered in like manner as an amount of tax.

8.2 Claims of inability to pay

Auditors may encounter cases where taxpayers are finding it particularly difficult to meet their tax payment obligation and may claim inability to pay.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

A more recent version of this manual is available.

[2] The term relevant court means the District Court, Circuit Court or High Court.

8.3 An 'agreed penalty' or a 'court determined penalty':

A penalty can be either:

(i) An 'agreed penalty' - agreed with taxpayer and payment obtained, or
(ii) A 'court determined penalty' - determined by a judge in the relevant court.

8.4 Collection of 'agreed penalties':

Penalties agreed with the taxpayer may be collected as follows:

(1) **Full payment of the 'agreed penalty' received from the taxpayer.**
The majority of cases will be settled by obtaining a cheque in payment of the full amount of the penalty from the taxpayer on completion of the audit or intervention.

(2) **Payment of the 'agreed penalty' accepted as part of a Phased Payment Arrangement (PPA).**
The 'agreed penalty' can be included as part of a PPA.

Phased Payment Arrangements (PPA) Procedures - 'Agreed Penalties'

(1) Where payment of an agreed penalty is accepted as part of a PPA, no interest is charged on the penalty element of the arrangement. There is no provision in the Tax Acts for the charging of interest on penalties.

(2) Where a down payment for the outstanding debt is received from a taxpayer, the down payment must be set against tax arrears first, then against interest arrears and finally against the agreed penalty.

(3) Where payment of an agreed penalty is accepted as part of a PPA, the payments will be first set against the tax and duty arrears, then against the interest arrears and finally against the agreed penalty.

(4) Where a PPA breaks down and the agreed penalty is not fully paid, the taxpayer may pay the outstanding amount of the agreed penalty to the Revenue auditor. Where the full agreed penalty is paid, the C-G's DMU will collect the tax and interest element of the debt.

(5) Where a PPA breaks down and the agreed penalty is not fully paid, the Notice of Opinion and Court Application procedures apply. The C-G's DMU will notify the Revenue auditor that the agreed penalty has not been paid and it will be the responsibility of the Revenue auditor (the officer that agreed the penalty with the taxpayer) to initiate the Notice of Opinion procedures.

(6) Following the breakdown of the PPA, the C-G's DMU will pursue the tax and interest arrears due **while** the Revenue auditor deals with the Notice of Opinion and Court Application procedure.

A more recent version of this manual is available.

8.5 Collection of 'court determined' penalties.

In all cases where a penalty is determined by the court, an application will be made to the court for an order for the recovery of that penalty. Fixed or tax-geared penalties determined by the court may be collected as follows:

(i) **Full payment of the 'court determined penalty' accepted from the taxpayer:** The majority of cases will be settled by obtaining a cheque in payment of the full amount of the penalty from the taxpayer on completion of the court process.

(ii) **Payment of the 'court determined penalty' accepted as part of a Phased Payment/Instalment Arrangement:** The 'court determined penalty' can be included as part of a Phased Payment-Instalment Arrangement.

Phased Payment/Instalment Arrangements Procedures - 'Court Determined Penalties'

(i) Where payment of a 'court determined penalty' is accepted as part of a PPA, no interest is charged on the penalty element of the arrangement. There is no provision in the Tax Acts for the charging of interest on penalties.

(ii) Where a down payment is received from a taxpayer, the down payment must be set against tax and duty arrears first, then against interest arrears and finally against the court determined penalty.

(iii) Where payment of a court determined penalty is accepted as part of a PPA, the instalments will be first set against the tax/duty arrears, then against the interest arrears and finally against the court determined penalty.

(iv) Where a PPA that includes a court determined penalty breaks down and the 'court determined penalty' is not fully paid, the taxpayer may pay the outstanding amount of the court determined penalty to the Collector-General. Where the full court determined penalty is paid, the C-G's DMU will collect the tax and interest element of the debt.

(v) Where a PPA that includes a court determined penalty breaks down, the C-G's DMU will enforce the outstanding tax and duty and interest arrears and the court determined penalty.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

A more recent version of this manual is available.

A more recent version of this manual is available.