

## Guideline for Auditors and Caseworkers

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

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**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.

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## 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 and/or 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 national Divisions and Debt Management Units (DMU) in the Collector- General's (CG's) Division in relation to the collection of audit related debts, including taxes, interest and penalties.

## 3 Legislation

In accordance with the Finance (No.2) Act 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<sup>1</sup>.

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<sup>1</sup> The term relevant court means the District Court, Circuit Court or High Court.

## 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.

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## 5 Phased Payment Arrangements for Audit Settlements

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[...]

## 6 Audit Templates for Phased Payment Arrangements

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[...]

## 7 Assessments and Collection or Recovery where PPA not an option

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[...]

## 8 Payment and Collection of Penalties

### 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 the Court to determine the amount of the penalty due. Where the 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.

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### 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 Penalties

Agreed and Court determined penalties may be collected as follows:

- (1) The majority of cases will be settled by obtaining payment of the full amount of the penalty from the taxpayer on completion of the audit intervention, or on completion of the Court process.
- (2) Payment of the penalty can be included as part of a Phased Payment Arrangement (PPA).

### 8.5 Phased Payment Arrangements (PPA) Procedures relating to Penalties

- Where payment of an agreed or 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.
- Where a down-payment for the outstanding debt is received from a customer, the down-payment must be set against tax arrears first, then against interest arrears and finally against any penalty.
- Where payment of a 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 any penalty.
- Where a PPA breaks down and the penalty is not fully paid, the following may occur:

#### **Agreed Penalties**

- Customer may pay the outstanding amount of the agreed penalty to the Auditor. Where the agreed penalty is paid in full, the DMU will collect the tax and interest element of the debt.
- Where an agreed penalty is not fully paid, the Notice of Opinion and Court Application procedures apply. The DMU will notify the Auditor that the agreed penalty has not been paid and it will be the responsibility of the Auditor (the officer that agreed the penalty with the taxpayer) to initiate the Notice of Opinion procedures. The DMU will pursue the tax and interest

arrears due **while** the Auditor deals with the Notice of Opinion and Court Application procedure.

#### **Court Determined Penalties**

- The DMU will enforce the outstanding tax and interest arrears along with the Court determined penalty.

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