

## Collection Manual

# Non-Filing of Returns - Prosecution and Penalty Programmes Collector-General's Division

This document was last reviewed July 2022

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## Prosecution & Penalty Programmes

### Introduction

The Dedicated Enforcement Unit/Penalties and VAT Prosecutions Unit in the Collector- General's Division, Limerick, pursues Prosecution and Penalty programmes to deal with the non-filing of VAT 3 and P35 (including LPT) returns. The relevant units and legislation are as follows:

**C-G's DEU/Penalties and VAT Prosecutions Unit - VAT Prosecution:**

- Criminal Prosecutions - S.1078 TCA 1997

**C-G's DEU/ Penalties and VAT Prosecutions Unit - P35 (incl. LPT)/VAT Compliance:**

- Civil Penalties – S. 987 TCA 1997
- S 115 Value-Added Tax Consolidation Act 2010
- S 987(1A) TCA 1997
- S 145 (2) Finance (Local Property Tax) Act 2012 as amended

Instructions and guidelines for referral of cases are set out below as follows:

Part 1 - Criminal Prosecution Proceedings

Part 2 – Collector-General's Penalty Programme

## Part 1 – Collector-General’s Prosecution Programme

### 1. VAT - Criminal Prosecution Programme

- 1.1 Prosecution is contingent on evidence that there is serious non-compliance and/or a definite expectation that a substantial liability will be quantified on receipt of the relevant return(s).

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

[...]

## Part 2 – Collector-General’s Penalty Programme

### 1. Referral of Non-Compliant Cases to DEU/Penalties and VAT Prosecutions Unit - P35/VAT Compliance

- 1.1 DEU/Penalties and VAT Prosecutions Unit also manages the civil penalty process for late or non-filing of P35 or VAT3 returns. A civil penalty can also be imposed on an Employer who fails to make a return as provided for in Section 79 of the Finance (Local Property Tax) Act 2012 as amended where a direction under Section 65 of the Finance (Local Property Tax) Act 2012 as amended had been received.

Cases suitable for the imposition of such penalties can be referred to DEU/Penalties and VAT Prosecutions Unit. When a penalty is imposed on a customer, the Prosecutions Unit issues a **Penalty Notice** initially, i.e. a final request for payment of the penalty. Copies of the Penalty Notices for Employer PAYE/PRSI/USC/LPT, VAT and LPT are at [Appendices 5, 6 and 7](#)

In the absence of any agreement that the taxpayer is liable to the penalty or following failure by a taxpayer to pay an ‘agreed’ penalty, DEU/Penalties and VAT Prosecutions Unit, if still of the opinion that the taxpayer is liable to a penalty, will issue a written notice of that opinion to the taxpayer in the form of a Notice of Opinion. Before the notice of Opinion issues, written approval must be obtained from the Principal Officer.

**The Notice of Opinion will include details of;**

- (a) the provisions under which the penalty arises**
- (b) the circumstances in which that person is liable to the penalty**
- (c) the amount of the penalty to which that person is liable**
- (d) any other details DEU/Penalties and VAT Prosecutions Unit considers necessary**

There is an agreement phase for both notices, 21 days for the Penalty Notice and a statutory 30 days for the Notice of Opinion, to allow for agreement and payment of the penalty or an appeal against the penalty.

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

[...]

## Appendix 1 - Integrated Case Management (ICM) Version 3.0

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

[...]

## Appendix 2 - Viewing VAT/PREM Non-filer Work-Items in Activity History

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

[...]

## Appendix 3 - Non-filer Referral Form

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

[...]



## Appendix 4 – Direct Debit / Letter to Taxpayer re Non-Filing of Returns

**Phone 01 738 3663**

**Demand Date:**

**Our Ref: «Registration\_Number»**

**Name**

**Address 1**

**Address 2**

**Address 3**

**Address 4**

### **Annual VAT return**

Dear Sir/Madam,

According to Revenue records you have failed to submit your annual VAT return for the year ended xxxxxxx

It is a condition of your participation in the Direct Debit Scheme that returns, together with any balancing payment which may be due, are received by the due date, i.e. the 19th of the month following the end of your accounting period.

Unless your returns and balancing payment, if applicable, are forwarded directly to me within fourteen days, your authorisation to participate in the Direct Debit Scheme will be reviewed and may be terminated. An estimate of the tax due may be raised by the Revenue Commissioners in accordance with Section 110 of the Value Added Tax Act 2010 as amended.

I wish to advise you that, if you fail to file the outstanding VAT3 returns within the timeframe allowed, you may be prosecuted for non-submission of these returns. On conviction, you will be liable to a fine up to a maximum of €5,000 on each summons, to a term of imprisonment, or both the fine and imprisonment at the discretion of the Judge.

**Therefore I strongly recommend that you give this matter your urgent attention.**

Yours faithfully,

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**Joseph Howley**

**Collector-General**

## Appendix 5 – Penalty Notice for Employer PAYE/PRSI/USC/LPT

Phone 01 738 3663

**Demand Date:**

**Our Ref:** «Registration\_Number»

**Name**

**Address 1**

**Address 2**

**Address 3**

**Address 4**

### Penalty Notice for Employer PAYE/PRSI/USC/LPT

Dear Sir/Madam,

It appears from Revenue records that you have failed in your statutory duty as an employer to file a P35 return on or before 15th February 20xx, in accordance with Regulation 31 of the Income Tax (Employments)(Consolidated) Regulations, 2001. The return in question refers to the tax year 01/01/20xx – 31/12/20xx.

As a consequence of this failure, you may be liable to a penalty of «Penalty\_Amount\_Demanded»

If you agree that this penalty is due, you should make a payment of this amount to the Revenue Commissioners by sending the payment with a copy of this letter within **21 days** of the date of this letter to Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

If you fail to agree that the penalty is due and/or and do not pay the penalty amount, then 21 days after the date of this letter, a Notice of Opinion will be issued to you pursuant to Section 1077B - Taxes Consolidation Act, 1997 with a view to an application being made to the Court for that Court to determine whether a liability to a penalty arises.

This means that Revenue will ask the Courts to decide if you are liable for a penalty.

Yours faithfully,

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**Joseph Howley**

**Collector-General**

## Appendix 6 - Penalty Notice for VAT

Phone 01 738 3663

**Demand Date:**

**Our Ref: «Registration\_Number»**

**Name**

**Address 1**

**Address 2**

**Address 3**

**Address 4**

### Penalty Notice for VAT

Dear Sir/Madam,

It appears from Revenue records that you have failed in your statutory duty as an accountable person to file a VAT 3 Return Form **on or before the 19th day of the month immediately following the accounting period**, in accordance with Part 9 Chapter 3 of the Value-Added Tax Consolidation Act, 2010 and Regulation 24 of the Value-Added Tax Regulations, 2010. The return in question refers to the taxable period «Taxable Period».

As a consequence of this failure, you may be liable to a penalty of «Penalty\_Amount\_Demanded» pursuant to Section 115 of the Value Added Tax Consolidation Act, 2010.

If you agree that this penalty is due, you should make a payment of this amount to the Revenue Commissioners by sending the payment with a copy of this letter within **21 days** of the date of this letter to Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

If you fail to agree that the penalty is due and/or do not pay the penalty amount, then 21 days after the date of this letter, a Notice of Opinion will be issued to you pursuant to Section 1077B of the Taxes Consolidation Act, 1997 with a view to an application being made to the Court for that Court to determine whether a liability to a penalty arises.

This means that Revenue will ask the Courts to decide if you are liable to a penalty.

Yours faithfully,

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**Joseph Howley**

**Collector-General**

## Appendix 7 - Penalty Notice for LPT

Phone 01 738 3663

«Demand\_Date»

Our Ref: «Registration\_Number»

Name

Address 1

Address 2

Address 3

Address 4

**Penalty Notice for failure of employer to make a return to the Collector General as provided for in Section 79 Finance (Local Property Tax) Act 2012 as amended**

Dear Sir/Madam,

It appears from Revenue records that you have failed in your statutory duty as an employer to deduct and pay over LPT having been instructed to do so under Section 65 of the Finance (Local Property Tax) Act 2012 as amended. As provided for in Section 79 of the Finance (Local Property Tax) Act 2012 as amended an Employer is obliged to make a return showing details of LPT deducted from an employee where a direction under Section 65 of the Finance (Local Property Tax) Act 2012 as amended has been received. The return in question refers to the tax year <01/01/20xx to 31/12/20xx>.

As per Section 145 (2) of the Finance (Local Property Tax) Act 2012 as amended, you may be liable to a penalty of €500 for each month or part of a month during which the said statement remains outstanding, subject to a maximum penalty of €3,000.

**«Penalty\_Amount\_Demanded»**

If you agree that this penalty is due, you should make a payment of this amount to the Revenue Commissioners by sending the payment with a copy of this letter within **21** days of the date of this letter to: xxxxx, Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

If you fail to agree that the penalty is due and /or do not pay the penalty amount, then 21 days after the date of this letter, a Notice of Opinion will be issued to you pursuant to Section 1077B of the Taxes Consolidation Act, 1997 with a view to an application being made to the Court for that Court to determine whether a liability to a penalty arises.

This means that Revenue will ask the Courts to decide if you are liable for a penalty.

Yours faithfully,

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**Joseph Howley**

**Collector-General**

## Appendix 8 – Notice of Opinion for Employer PAYE/PRSI/USC/LPT

**Demand Date:**

**Phone 01 738 3663**

**Our Ref: Registration Number**

**Name**

**Address 1**

**Address 2**

**Address 3**

**Address 4**

### Notice of Opinion for Employer PAYE/PRSI/USC/LPT

I, xxxxx, of the Office of the Collector-General, Bishop Street, Newcastlewest, Co. Limerick. hereby give notice in writing, pursuant to Section 1077B of the Taxes Consolidation Act, 1997, that I am of the opinion that **Insert Name** is liable to a penalty pursuant to Section 987(1A), Taxes Consolidation Act, 1997.

The reason that you are liable to the penalty is because you have failed in your statutory duty as an employer to file a P35 return **on or before 15th February 20xx** in accordance with Regulation 31 of the Income Tax (Employments)(Consolidated) Regulations, 2001. The return in question refers to the tax year **1st January 20xx – 31st December 20xx**.

I am of the opinion that the amount of the penalty to which you are liable is «Penalty\_Amount\_Demanded»

You may within **30 days** of the date of this notice:

- (a)** agree in writing with the opinion in this notice, **and**
- (b)** make a payment to the Revenue Commissioners of the amount of the penalty specified in this notice.

The agreement in writing and the payment of the amount of the penalty should be sent within 30 days of the date of this notice to:

xxxxx, Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

**If you do not agree in writing with the opinion and/or do not make a payment of the amount of the penalty within 30 days of the date of this notice, an application to a relevant Court may be made for that Court to determine whether a liability to a penalty arises. A copy of any such application to a relevant Court for a determination shall be issued to you.**

**Dated:** «Demand\_Date»

**Signed:** \_\_\_\_\_

XXXXXX

**Revenue Officer**

## Appendix 9 - Notice of Opinion for VAT

**Demand Date:**

**Phone 01 738 3663**

**Our Ref: «Registration\_Number»**

**Name**

**Address 1**

**Address 2**

**Address 3**

**Address 4**

### Notice of Opinion for VAT

I, xxxxx, of the Office of the Collector-General, Bishop Street, Newcastlewest, Co. Limerick.

hereby give notice in writing, pursuant to Section 1077B of the Taxes Consolidation Act, 1997, that I am of the opinion that **Insert Name** is liable to a penalty pursuant to Section 115 of the Value-Added Tax Consolidation Act, 2010.

The reason that you are liable to the penalty is because you have failed in your statutory duty as an accountable person to file a VAT 3 Return Form **on or before the 19th day of the month immediately following the accounting period** in accordance with Part 9 Chapter 3 of the Value-Added Tax Consolidation Act, 2010 and Regulation 24 of the Value-Added Tax Regulations, 2010. The return in question refers to the taxable period «Taxable Period».

I am of the opinion that the amount of the penalty to which you are liable is «insert Penalty Amount Demanded».

You may within **30 days** of the date of this notice:

- (a) agree in writing with the opinion in this notice, **and**
- (b) make a payment to the Revenue Commissioners of the amount of the penalty specified in this notice.

The agreement in writing and the payment of the amount of the penalty should be sent within 30 days of the date of this notice to: xxxxx, Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

**If you do not agree in writing with the opinion and do not make a payment of the amount of the penalty within 30 days of the date of this notice, an application to a relevant Court may be made for that Court to determine whether a liability to a penalty arises. A copy of any such application to a relevant Court for a determination shall be issued to you.**

**Dated: «Demand\_Date»**

Signed: \_\_\_\_\_

**XXXXX**

**Revenue Officer**

## Appendix 10 - Notice of Opinion for LPT

Phone 01 738 3663

**Demand Date:**

**Our Ref: «Registration\_Number»**

**Name**

**Address 1**

**Address 2**

**Address 3**

### Notice of Opinion for LPT

I, xxxxx, of Office of the Collector General, Bishop Street, Newcastlewest, Limerick hereby give notice in writing, pursuant to Section 1077B of the Taxes Consolidation Act, 1997, that I am of the opinion that **Name of Employer** is liable to a penalty pursuant to Section 145(2) of the Finance (Local Property Tax) Act 2012 as amended.

The circumstances in which **Name of Employer** is liable to the penalty are that, according to my records, you/the company have failed in your statutory duty as an employer to make a return as provided for in Section 79 of the Finance (Local Property Tax) Act 2012 as amended which shows details of LPT deducted from an Employee where a direction under Section 65 of the Finance (Local Property Tax) Act 2012 as amended had been received.

I am of the opinion that the amount of the penalty to which **Employer's Name** is liable is €3,000.

You may within **30 days** of the date of this notice:

- (a) agree in writing with the opinion in this notice, **and**
- (b) make a payment to the Revenue Commissioners of the amount of the penalty specified in this notice.

The agreement in writing and the payment of the amount of the penalty should be sent within 30 days of the date of this notice to: xxxxx, Penalty Payments, Office of the Collector-General, Sarsfield House, Francis Street, Limerick.

**If you do not agree in writing with the opinion and/or do not make a payment of the amount of the penalty within 30 days of the date of this notice an application to a relevant Court under Section 1077(B) of the Taxes Consolidation Act 1997 may be made by the Revenue Officer for that Court to determine whether a liability to a penalty arises. A copy of any such application to a relevant Court for a determination shall be issued to you.**

**Dated: «Demand\_Date»**

Signed: \_\_\_\_\_

**XXXXX**

**Revenue Officer**

## Appendix 11- Settlement Letter

Name

Address

PPSN:

Date

Dear Sir/Madam,

I note from Revenue records that the **<outstanding return>** has now been filed, thank you.

As the return was not filed by the due date you are liable to pay the penalty. However, following a review of your case the Revenue Commissioners are prepared to accept **<€ amount>** in settlement of the liability to this penalty.

If you agree in writing with this settlement offer please forward your payment to the Revenue Commissioners not later than **<date 14 days after date of letter>**.

Payment can be made by the following options:

1. Pay on ROS (Revenue on Line service) and make a **penalty** payment for the **<Insert Tax>** period **1st January 20xx – 31st December 20xx**. In addition, send a \*MyEnquiry to the contact person listed below to advise of same.
2. Call the Card Payment Line on 01-7383665.
3. Sending a cheque payment (with tax registration number on the back) with a copy of this letter within 14 days of the date of this letter to: DEUPRU, Office of the Revenue Commissioners, Collector-General's Division, Sarsfield House, Francis Street, Limerick

If you do not agree and pay this settlement offer an application will be made to a relevant court for that court to determine whether a liability to the original penalty of €4,000 arises.

Yours sincerely,

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**Name**