

Guidelines for Attachment

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1 Overview

Attachment is an exemplary enforcement option and should be used by caseworkers where conventional enforcement (i.e. Sheriff or Solicitor) has failed. Attachment should not be deployed where the taxpayer is proactively engaging with the caseworker to agree a mutually acceptable Phased Payment Arrangement.

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[...]

The following is a summary of the main points covered in these guidelines to assist staff in the use of attachment and in identifying cases suitable for this form of enforcement:

- Attachment can be used only in this jurisdiction, i.e. within the 26 counties.
- Notices of Attachment can only be issued against 'debtors to' or 'employer(s) of' the taxpayer (attachee).
- A **Final Demand** must have issued to the taxpayer prior to issuing a Notice of Attachment. There is a specific Final Demand where **attachment of wages or salary** is contemplated, and this demand must be accompanied by a blank **Financial Statement**.
- A debt made up of tax, interest and/or penalties due to Revenue may be the subject of a Notice of Attachment. The minimum debt for the use of a general attachment is €1,000 and in the case of an attachment of wages and salary, it is €10,000.
- Attachment of **wages or salary** should only be considered where:
 - Total tax, interest & penalties due exceed €10,000
 - The amount due is in default for a period of at least 6 months
 - The defaulting taxpayer is currently earning in excess of €50,000 gross annually, and
 - There is no other attachment option available, e.g. attachment of bank accounts.
- Notices of Attachment cannot issue until the time specified in the Final Demand has elapsed – minimum of **14 days in cases of attachment of wages or salary** and minimum of **7 days for all other cases**.
- Caseworkers should always verify the names and addresses and other relevant details of taxpayers and attachees before issuing Notices of Attachment.

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[...]

2 Introduction

Revenue's power of attachment originated in the Finance Act, 1988 and is now covered by Section (S) 1002 of the Taxes Consolidation Act, (TCA) 1997. This legislation authorises Revenue to attach a third party, or an employer, where there is a debt due to the taxpayer from the attachee, for tax outstanding to Revenue.

Attachment is a very effective enforcement method of collecting unpaid tax debts where conventional enforcement, i.e. Sheriff/Solicitor has failed. The main advantages of attachment are:

- **Speed:**
 - The attachee must submit a statutory return/payment within 10 days. The outcome is known in 10 – 14 days.
 - No judgment or legal proceedings required, i.e. no court delays.
 - Several Notices of Attachment can be issued to different attachees simultaneously to cover different portions of the liability.
- **Cost:**
 - Attachment is very cost effective. There are no legal fees incurred by Revenue or the taxpayer.
- **Results:**
 - Attachment remains active until the debt on the Notice of Attachment is either paid or the Notice of Attachment is revoked by Revenue
 - In cases where the taxpayer, who is currently an employee, refuses to address a tax debt it can ensure that the outstanding debt is recovered, in whole or in part.
 - Attachment can be helpful in getting a taxpayer to engage meaningfully with Revenue because of the implications that ongoing attachment can have for a taxpayer's standing with clients and financial institutions.

3 Purpose

The purpose of these guidelines is to assist caseworkers in understanding attachment as a method of enforcement and to highlight the benefits of using attachment to enforce payment of outstanding debt owed to Revenue.

4 Scope

These guidelines are for all Revenue staff engaged in debt collection caseworking and may be supplemented by local instructions in the Collector-General's Division or in a Tax Division, as necessary, to reflect concerns in individual areas.

5 Terms of Reference - Definitions: S.1002 (1) (a) TCA, 1997

Debt

A debt may be described as the aggregate amount of money due by the debtor (attachee), to the taxpayer from the time of receipt of the Notice of Attachment until the debt is fully paid or the Notice of Attachment is revoked.

S.74 Finance Act, 2011, amended Section 1002(1)(c) TCA 1997, removing the exclusion in the original legislation in relation to the attachment of any amount due by a third party to the taxpayer as emoluments, under a contract of service – i.e. wage/salary payments assessable to Income Tax under Schedule E.

The amended S.1002 (1) (c) provides for Revenue to issue Notices of Attachment to employers in respect of wages/salaries where the employee has a tax debt.

Relevant Person/Attachee

A relevant person (attachee) for the purposes of attachment is a person that Revenue has reason to believe owes a debt to the taxpayer. Suitable attachees include:

- Financial Institutions (Banks, Building Societies, Insurance Companies, Credit Unions, Merchant Acquirers) and State Agencies (Government Departments, Health Boards, An Post, the Legal Aid Board, OPW)
- Other Debtors e.g. Regular customers
- Employers
- Other entities from which the taxpayer is due to receive once-off payments, e.g. Court settlements, Compulsory Purchases Orders

Please note that in this guideline the **Relevant Person** is mostly commonly called the **Attachee**. The definition above applies to both.

Specified Amount

The specified amount is the amount, or portion of the amount of the outstanding tax, interest and penalties included in the Notice of Attachment. It covers all taxes, duties, levies or charges placed under the care and management of the Revenue Commissioners. This includes debts in respect of the following taxes, duties and levies:

- Income tax (including Employer's PAYE/PRSI/USC/LPT)
- Corporation Tax
- Capital Gains Tax / Capital Acquisitions Tax
- Stamp Duties / Customs Duties / Excise Duties
- Value Added Tax
- PRSI
- Self-employed PRSI Contributions
- Universal Social Charge

- Environmental Levy
- Local Property Tax

Relevant Period

The relevant period is the period starting at the time of receipt by the relevant person (e.g. the bank) of the Notice of Attachment and ending on the earliest of:

- Payment of the specified amount to Revenue by the relevant person, or
- Receipt of a Notice of Revocation by the relevant person, or
- The relevant person or the taxpayer (an individual), being declared bankrupt, or, if the relevant person or taxpayer is a company, being wound up.

6 Conditions & Instructions for Attachment

The following conditions apply to the use of Attachment:

- A final demand must have issued. There is a specific Final Demand Notice that outlines our intention to attach wages/salary and includes a Financial Statement. This gives the taxpayer the opportunity to bring particular financial pressures to our attention. These financial pressures will be taken into account when deciding on the period over which collection through the Notice of Attachment may be spread.
- In the case of a general attachment the following criteria apply –
 - The total debt [tax, interest and penalties] must be greater than **€1,000**
 - The debt must be in default for **at least one month**
 - The final demand period of **7 days** has elapsed.
- In cases of attachment of wages/salary the following criteria apply –
 - The total debt [tax, interest and penalties] must be a minimum of **€10,000 and**
 - The taxpayer must be in default for a period of **at least 6 months, and**
 - The final demand period of **14 days** has elapsed.
 - **Gross earnings** must be in excess of **€50,000** per annum (this can encompass multiple employments) and be based on the most recent year for which payroll information is available – this data should be less than 2 years old.
 - [Examples of suitability for attachment of wages and salaries](#)
- The debt may be spread over a number of attachments. But each portion of the debt must be included in only one Notice of Attachment. If good attachment information is obtained while other forms of enforcement are ongoing, the caseworker may decide, in consultation with the solicitor/sheriff, to **withdraw** proceedings or recovery action and issue a Notice of Attachment.
- If a VAT repayment claim has been made by a taxpayer and it is the subject of an open work item - then BEFORE enforcing any outstanding tax the Caseworker

should contact the relevant Division to confirm whether the claim is available for offset -

- If the claim is available for offset and will be set against the outstanding tax, then only the remaining debt should be enforced.
- If the claim is not available for offset, then the Caseworker should contact the taxpayer stating that the claim is not available to offset against outstanding taxes prior to sending the tax to enforcement.

In some cases, the VAT repayment claim is being held pending receipt of additional information. The Caseworker should make it clear to the taxpayer that if the information requested is not provided within a defined deadline (1-2 weeks) then the outstanding tax will be enforced.

- Notices of Attachment / Revocation Orders are signed at PO level or upwards – in their absence a nominated AP may sign.
- Notices of Attachment must be sent by registered post or hand delivered.
- The following **may not be attached** as they are not regarded as debt due to the taxpayer:
 - Deposits (e.g. down-payments on property) held by Solicitors in 'Client Accounts'.
 - Any amount owed to the taxpayer that is in dispute or subject to litigation.
 - A grant to which the taxpayer has no legal entitlement, i.e. it is payable at the discretion of the awarding body.
 - The amount remaining in an overdraft facility.
 - Amounts that are subject to a court order e.g. court mandated maintenance payments may be made from an account that is attached.

- **Suitability for Attachment (Wages/Salary)**

- Where the taxpayer cannot pay the debt included in the final demand in full or does not make acceptable arrangements to pay the debt due to Revenue, they should complete and return the Financial Statement. Once the Financial Statement has been received, the caseworker will then examine the Financial Statement and if necessary, consult with their manager to determine:

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[...]

- If the taxpayer has the capacity to pay some or all of the debt. By taking cognisance of the information provided in the Financial Statement, a decision can be made as to whether it is appropriate to proceed with the attachment of wages/salary. The Financial Statement will allow for avoidance of a situation whereby the Notice of Attachment would result in the defaulting taxpayer (employee) requiring financial assistance for basic living expenses from another Government department or agency.
- If the taxpayer does not submit a completed Financial Statement and the caseworker is proceeding with a notice of Attachment to an employer, then the thresholds set **out in the Department of Social Protection's Working Family Payment (WFP) scheme should form the basis for the living expenses allowed.**

The Caseworker should therefore be familiar with criteria and thresholds for Working Family Payment (WFP) as set out in [Department of Employment Affairs & Social Protection](#) (access Working Family Payment through the Search facility).

If appropriate, the caseworker can insert an instruction on the Notice of Attachment to the employer specifying the amount and duration of payments to be paid to Revenue. The caseworker should ensure that any instructions sent to an employer are of a reasonable duration.

The following examples will assist caseworkers in using the information on the Financial Statement to determine suitability for Notice of Attachment (Wages / Salary):

Case 1

- (i) T/P owes Revenue €15,000
- (ii) T/P is married with two dependant children
- (iii) Prior to the issue of the final demand, there isn't up to date information on t/p's annual income
- (iv) T/P income for month per the financial statement is €2,200 (less than €50k pa)

As income for the year is less than €50k, Notice of Attachment (Wages/Salary) is not appropriate.

Case 2

- (i) T/P owes Revenue €15,000
- (ii) T/P is married with two dependant children
- (iii) Total T/P income for month per the Financial Statement is €6,000 (greater than €50k per annum)
- (iv) Monthly outlay per Financial Statement is €2,500
- (v) Balance suitable for attachment = €1,092 (i.e. €6,000-€2,500 - €2,408 (Working Family Payment (WFP) threshold))
- (vi) €15,000 divided by €1,092 = 13.74 months.
- (vii) The Notice of Attachment will specify that the employer will pay Revenue **€1,092** for **13 months** followed by a **final payment of €804** to cover the full specified amount of €15,000.

- **Collection** of Liabilities relating to Business Partnerships (Wages/Salary)
 - To assist the employer in identifying the relevant employee, the Notice of Attachment documentation issued in relation to attachment of wages/salary will contain the **current** tax reference number for the employee.
 - To ensure the correct allocation of payments received under **Notices of Attachment (Wages / Salary)** where the employee's earnings are attached to cover liabilities relating to a Partnership, Caseworkers must insert the letter **'P'** after **'Our Ref.'**, e.g. **G124456'P'** on the **Return under Notice of Attachment** and **Further Return under Notice of Attachment (wages/salary)** documents in **advance of issuing them to the attachee (employer)**.

7 Legal Issues / Precedents

The following circumstances in relation to attachment have previously arisen and were researched. Additional scenarios can be found in the Attachment FAQ's.

Joint Bank A/Cs

Joint accounts with financial institutions may be attached. Unless evidence to the contrary is produced within 10 days of the Notice of Attachment, a joint account will be deemed to be held equally for the benefit of each party to the account. Where contrary evidence is produced within the time limit, the amount shown to be held by the taxpayer is regarded as a debt due to him/her and is covered by the attachment provisions once the Notice of Attachment has issued.

Credit Unions

Where a Credit Union 'standard' loan agreement required the taxpayer to genuinely pledge his existing account balance as security, the attachment provisions do not cover such account balance. Any doubts may be resolved by requesting a copy of the loan agreement.

Proceeds of Property Sales

These are not suitable for attachment. Due to the nature of conveyancing transactions, a debt normally only arises on the closing date of a sale. This debt is normally paid on that same day. After the closing date, there is no debt, as the sum has been discharged.

Revenue cannot attach a solicitor holding undistributed funds from an estate either.

Banks 'Off-Setting' Accounts

Banks may exercise a right of 'off-set' if there is an 'immediately recoverable' debt due to the bank by the customer. The contract between the bank and the customer will determine if a debt is 'immediately recoverable'.

Example 1

A taxpayer operates two current accounts:

Account No. 1 is €10,000 overdrawn; Account No. 2 is €4,000 in credit.

The Bank can 'off-set' in this case and is not obliged to pay over the €4,000 from the No. 2 Account under a Notice of Attachment. The taxpayer cannot sue the Bank for any debt due, as he or she is still indebted to the Bank for the sum of €6,000, (€10,000 minus €4,000).

Example 2

A taxpayer operates two accounts with the financial institution:

Account No. 1 is a Loan account for €3,000; Account No. 2 is €1,000 in credit.

The bank cannot use 'off-set' in this case. An 'off-set' must be in respect of an active, 'immediately recoverable' debt due to the bank, whereas loan repayments are governed by a contract.

Post-Dated Arrangements

Amounts covered by post-dated arrangements are not subject to attachment. A debt does not exist between the parties unless the Bank fails to honour a post-dated arrangement.

Example:

- A Ltd owes €10,000 to B Ltd and begins a post-dated arrangement with B Ltd for €10,000.
- B Ltd owes Revenue €10,000.
- If a Notice of Attachment is issued to A Ltd, they do not have to pay Revenue, as the debt was paid when the post-dated arrangement for €10,000 was agreed.
- If the arrangement is not honoured when presented to the bank, then the original debt becomes due.

Attachment of pension funds and/or payments

Pension funds may be the subject of an attachment as a debt due to the taxpayer. In order for a debt to be due the funds have to be 'paying out' to the taxpayer. A fund due to pay a taxpayer at a future date is not suitable for attachment. Any attachment placed on a pension should be revoked if the caseworker becomes aware that the pension is not due to 'pay out' until a future date.

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[...]

Attachment of Individual Partner's Account for Debt of Partnership

Individuals within an ordinary partnership are jointly and severally liable for the debts of the partnership. 'Ordinary' partnership is defined as the relationship which subsists between persons carrying on a business in common with a view of profit (Section 1(1) of the Partnership Act, 1890). The provisions of the Partnership Act govern an ordinary partnership where no partnership agreement is in place.

Individual partners can be pursued for the full debts of the partnership provided the debt arose during a period when they were members of a partnership.

Where individual partners' bank accounts are held in personal names as opposed to under the name of the partnership, the contents of same can be attached.

A Final Demand must issue to the partnership and each individual partner

Where Revenue issues a Notice of Attachment to a financial institution for the debts of a partnership, Revenue can also request that it is applied to each individual partner's bank account. Caseworkers can issue the Notice of Attachment under the Partnership details i.e. name/address of partnership and also list the names and addresses of the partners.

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[...]

8 Attachment – Obligations

The obligations on the Relevant Person, Taxpayer and Revenue are:

Relevant Person (Attachee):

Within 10 days of receiving the Notice of Attachment from Revenue, the attachee must deliver to Revenue, a return in writing, indicating whether or not any debt is due to the taxpayer specified in the notice. If a return is not received within 10 working days then under S1002 (7) of TCA, 97 a liability to a penalty arises under Section 1052(1) on the attachee and if the attachee is a company then also under Section 1054 on the company secretary.

- **Wages/Salary**
 - Where the attachee employs the taxpayer under a contract of service, s/he is required to provide details of all wages/salary payable to the taxpayer.
 - The attachee (employer) must pay Revenue the specified amount over the specified period of time in the Notice of Attachment out of the wages/salary payable to the taxpayer.
- **Non-Wages/Salary**
 - Where a debt is due to the taxpayer, the debt due must be paid to Revenue up to the value of the [specified amount](#).
 - Where the specified amount on the Notice of Attachment has not been fully satisfied and a further debt becomes due to the taxpayer during the [relevant period](#), the attachee must make another return and payment to Revenue within 10 days of the date the debt is due to be paid. This process continues until the amount specified has been paid.
 - If there is no debt outstanding by the attachee to the taxpayer, a 'Nil' return must be submitted to Revenue by the attachee.
 - The attachee in non-wages/salary cases may not make any disbursement out of the debt/additional debt due to the taxpayer during the relevant period except to the extent that:
 - (i) it will not reduce the debt below the amount of debt shown in the Notice of Attachment, or
 - (ii) the disbursement is made pursuant to a Court Order
 - The attachee must advise the taxpayer that payment has been made to Revenue under a Notice of Attachment.
 - The attachee is liable for prosecution under Section 1002(5) TCA, 1997, for the provision of an incorrect return.

The Taxpayer:

- The taxpayer may pay Revenue on foot of the final demand or at any time before the attachee pays Revenue.
- If the taxpayer pays Revenue in full, the Notice of Attachment is satisfied and should be revoked promptly.
- Where the attachee pays money to Revenue, the taxpayer must treat the payment as if he or she received it directly.

Revenue:

- Copies of Notices of Attachment and Notices of Revocation should be given promptly by Revenue to the taxpayer.
- Revenue will issue receipts to both taxpayer and the attachee for all payments received on foot of a Notice of Attachment.

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[...]

9 Revenue Officers authorised under S904K TCA, 1997

Section 904K TCA, 1997 as introduced under S.74 of the FA 2011 allows an authorised Revenue Officer to enter a premises or place of business of a relevant person at all reasonable times for the purposes of auditing a return received from a third party (attachee), under a Notice of Attachment.

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[...]

10 When is attachment used?

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

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- Attachment may be used to secure payment of all or part of the debt in a case.
- Multiple Notices of Attachment may be issued to one attachee by Revenue in respect of different taxpayers.
- Multiple Notices of Attachment may be issued to multiple debtors of one taxpayer at the same time provided the debt is divided among the debtors.
- Where only part of the debt is paid on foot of the Notice of Attachment, i.e. when the debt owed to the taxpayer by the attachee is less than that owed to Revenue the Notice of Attachment must be revoked in advance of pursuing alternative enforcement methods to address the balance of the debt.

Example: Mr. Bronach supplies Circles to the Square Diamond Co. Mr. Bronach owes €20k in VAT for the taxable period July/Aug, due on 19th Sept. Mr Bronach has been referred twice to sheriff in the last six months and while the tax has been paid his compliance has not improved. Revenue has reason to believe that the Square Diamond Co. owes a substantial debt to Mr. Bronach.

- **10th Oct:** A Final Demand for the €20k tax is issued.
- **24th Oct:** There has been no response from Mr. Bronach and the VAT remains outstanding. As it is a Friday, the attachment doesn't issue until Monday the 27th October after checking to ensure the VAT remains unpaid.
- **27th Oct:** The pre-conditions for issuing a Notice of Attachment have been satisfied, i.e. 30 days have passed since the date of default and 7 days have passed since a Final Demand notice has been served on the taxpayer. A Notice of Attachment issues to the Square Diamond Co., for €20,232.26 tax and interest due to Revenue by Mr. Bronach. A copy of the Notice of Attachment is sent to Mr. Bronach.
- **29th Oct:** A very irate Mr. Bronach phones and accuses Revenue of breaching his right to confidentiality for disclosing his tax affairs to the Square Diamond Co. and insists that the Notice of Attachment is revoked immediately.

Mr. Bronach is advised that under S. 1002 (15) TCA 1997, the secrecy obligations imposed on Revenue do not apply in relation to information contained in a Notice of Attachment. He apologises and offers to pay the tax immediately.

Later that afternoon, Mr. Bronach hand delivers a bank draft for €20,232.26. He requests that the Notice of Attachment be revoked immediately. On the same afternoon, the debtor is notified that Revenue is revoking the attachment and a Notice of Revocation is issued to the Square Diamond Co., which they receive on 31st Oct.

For the purposes of Attachment in the above example:

Relevant Person/Attachee:	Square Diamond Co
Specified Amount:	€20,232.26 VAT plus interest owed by Mr. Bronach to Revenue
Debt:	€30,000 owed by the Square Diamond Co to Mr Bronach
Relevant Period:	The period starting on the date the Square Diamond Co. receives the Notice of Attachment (26 th Oct.) and ending on the date on which they receive the Notice of Revocation (31 st Oct.)

11 The Notice of Attachment

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

[...]

12 Notice of Revocation

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

[...]

13 Follow Up on Notice of Attachment

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

[...]

14 S. 1002 of Taxes Consolidation Act, 1997

This Legislation is available on Revenue’s website.

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15 On-Line Payment of Attachment Amounts

Revenue On-Line Service (ROS)

ROS customers can make attachment payments online through ROS. To access ROS or to register for ROS, click on the [ROS](#) link on the Revenue home page at www.revenue.ie

myAccount

myAccount customers can make attachment payments online by clicking on the myAccount link on the Revenue home page. You can register for myAccount on the “[Register for myAccount](#)” link on www.revenue.ie

On the payment screen on ROS or myAccount click “Attachment”.

You will be asked to provide the following details in order to make a payment:

- Customer name: insert the business or entity named on the attachment order

- Customer tax reference: insert the business or entity named on the attachment order
- Attachment reference number: this is provided on the notice of attachment
- Amount: Insert the amount that you are paying on foot of the attachment

Payment can be made online using:

- debit card or credit card
- once off debit – a ‘Single Debit Instruction’ – using a bank account capable of accepting a direct debit. For further details please see [Appendix 1](#)

Appendix 1 – Online Payments

ROS

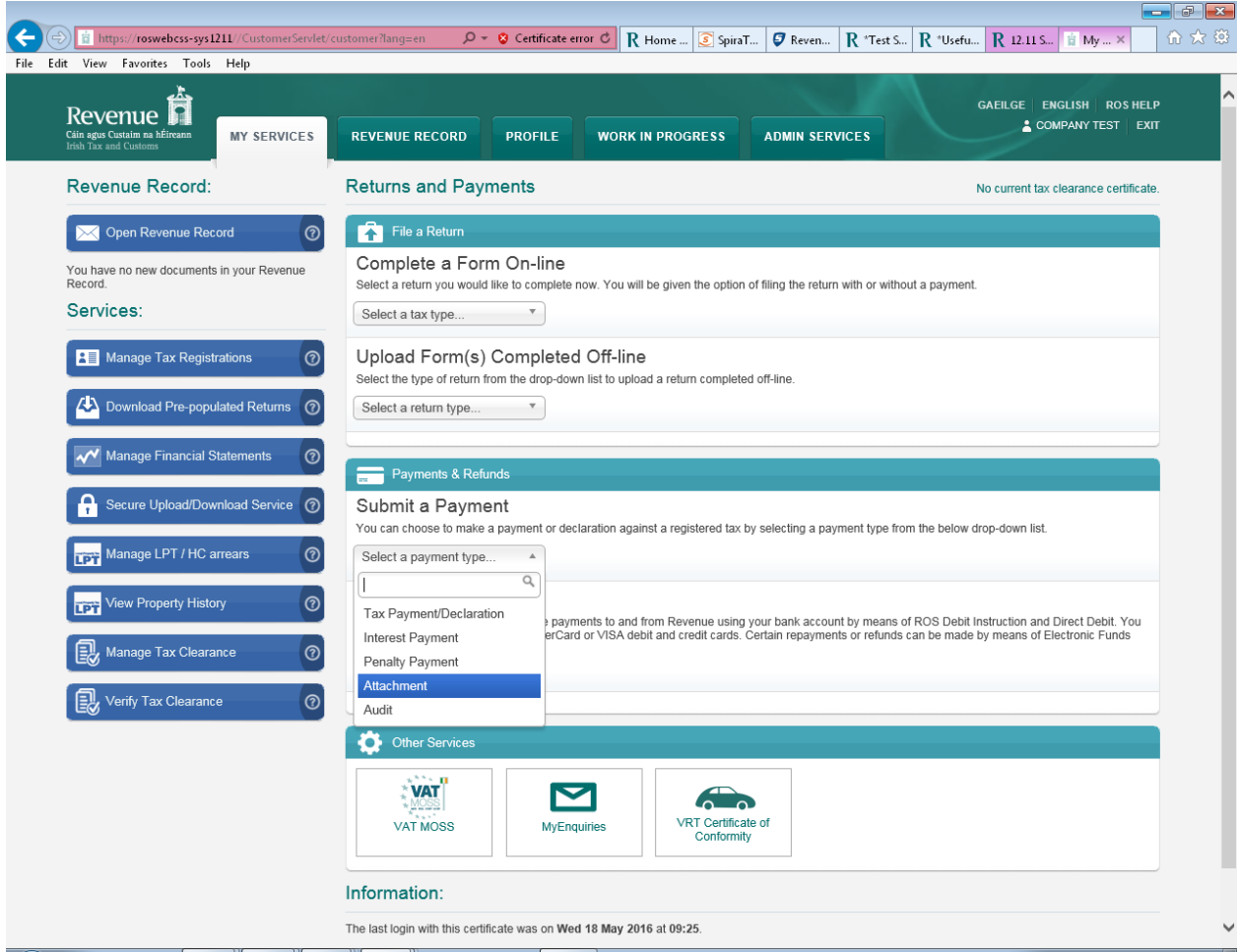


Figure 1: Screenshot showing how to submit a payment through ROS

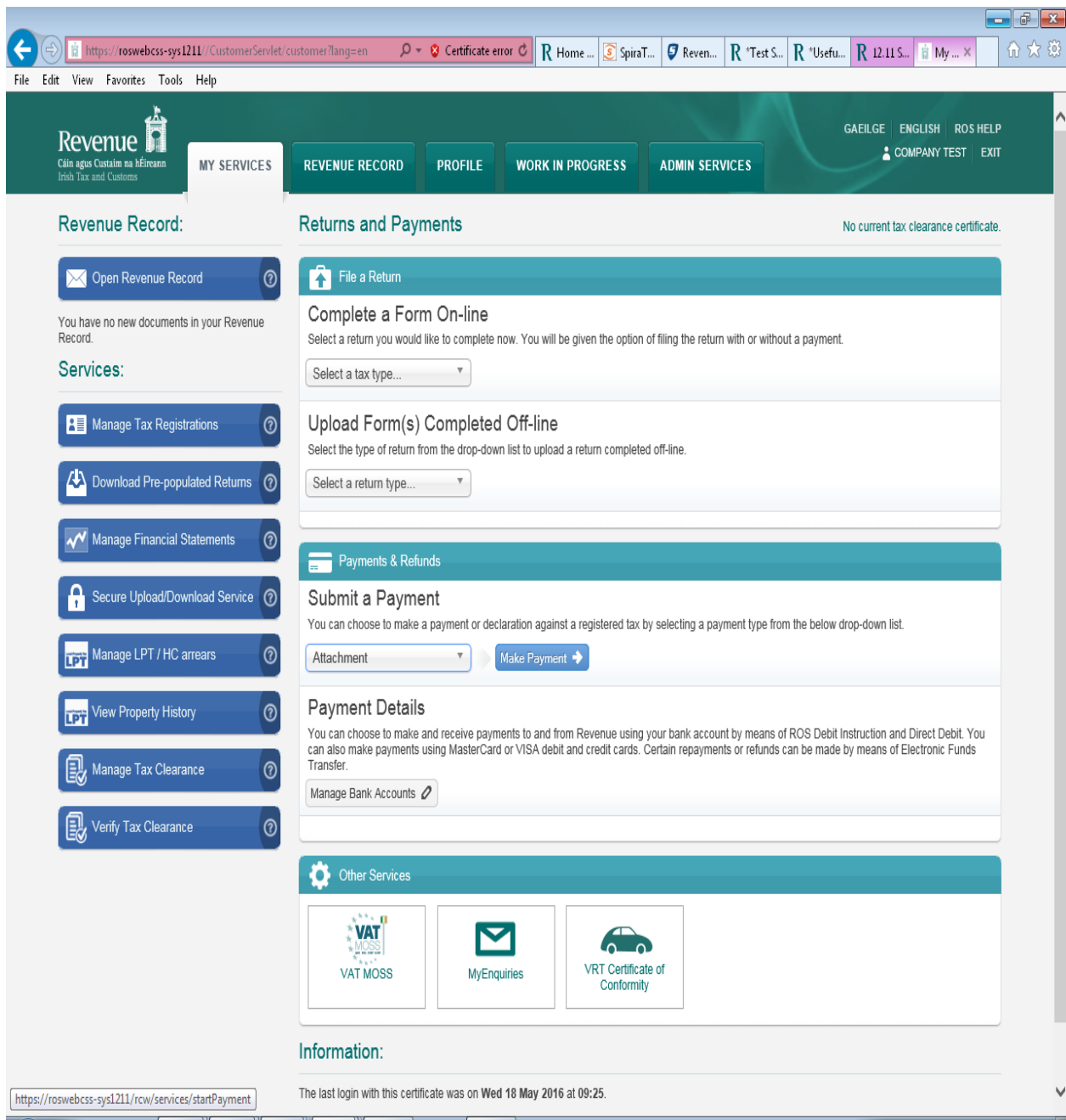


Figure 2: Screenshot showing how to select Attachment Option

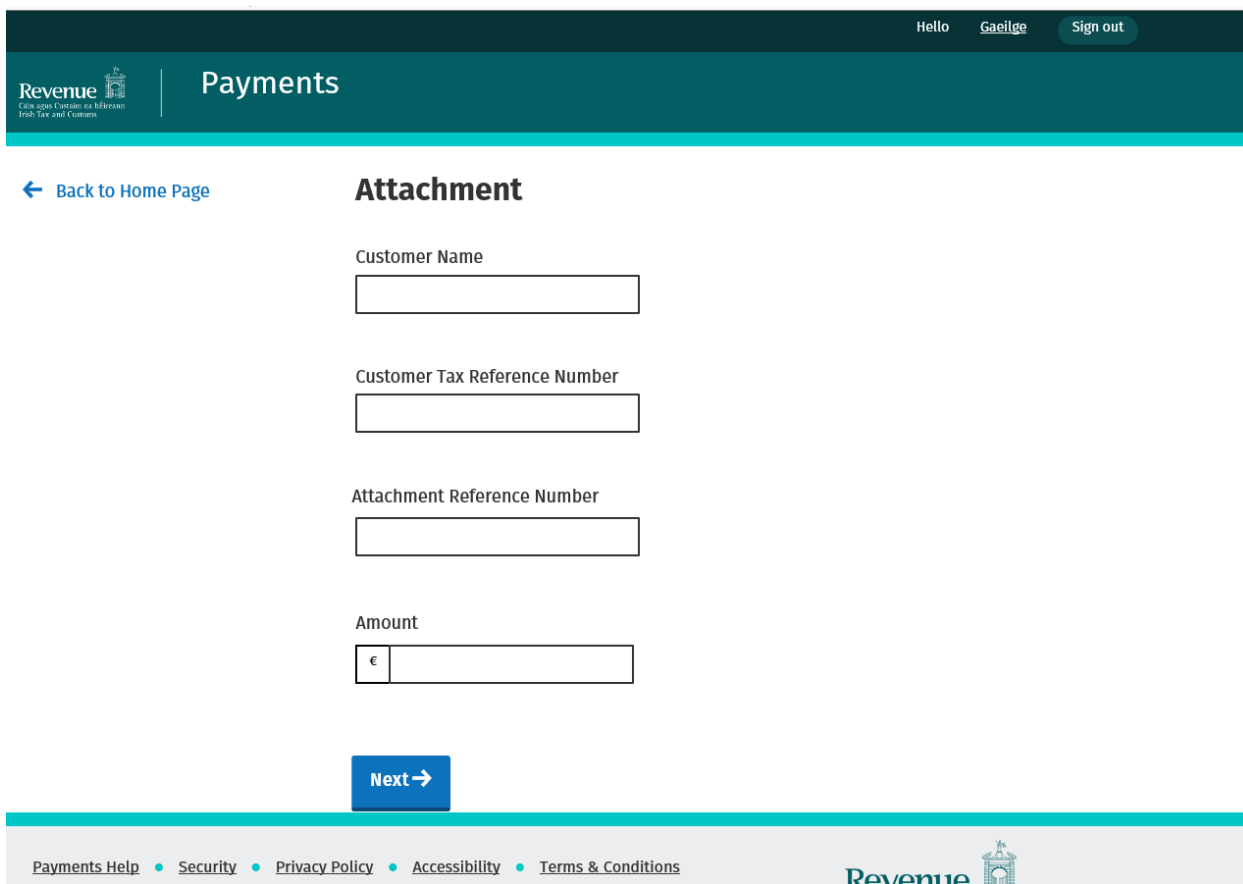


Figure 3: Screenshot showing details required to input an Attachment payment

MyAccount

Paying an Attachment via myAccount - 5 Easy Steps

Step 1 –

Access the [myAccount](#) online payment facility on the Revenue website www.revenue.ie by clicking on the myAccount link on the homepage. You will see a **“Payments”** section on the home page.

Step 2 –

Click on **“Pay now”** on the **Payments Section** on the myAccount home page. You will be asked – **What type of payments are you making** – the drop-down menu defaults to tax. Click **“Attachment”** and you will be presented with the attachment payments screen.

Step 3 –

Click **“Add payment**. Enter the details requested on the payment screen and click **“Add payment”**

Step 4 –

You will now be asked **“How do you wish to pay”**. Select your preferred payment method and enter the relevant details. Remember to insert an email address. When complete click **“Add payment** to proceed.

Step 5 –

You will now be presented with a **“Sign and Submit”** screen with your PPSN pre-populated. You must enter your myAccount password to complete the payments process. Click **“Sign and submit”** and you will then be presented with a screen that confirms payment. This completes the payment process.

