

Publication of Tax Defaulters Pursuant to Section 1086 TCA 1997

List of Tax Defaulters Part 2

Document last updated April 2018

Table of Contents

1. Obligation to Publish	3
1.1 Publishable Cases	3
1.2 Summary	4
2. Cases not publishable	4
2.1 Qualifying Disclosures	5
2.2 Settlements less than relevant threshold amount	5
2.3 Cases where penalty charged is not greater than 15% of the tax	5
2.4 Qualifying Avoidance Disclosures – No Publication	5
3. Details to be published	5
3.1 Penalty Determinations - Section 1086 (2)(a) and (b) TCA 1997	5
3.2 Agreed Settlements – Section 1086 (2)(c), (d) and Section 1086 (2B) TCA 1997	5
4. Settlement Offers – Approval, Acceptance and Publication	6
4.1 Approval	6
4.2 Letter of Offer and Acceptance	6
4.3 Overpayments of tax and publication.	6
5. Time limit for publication	7
5.1 Accepted settlements	7
5.2 Penalty Determinations by the Courts	7
6. Preparation of Tax Defaulters Lists in Regions/Divisions	8
6.1 Accepted Settlements	8
6.2 Penalty Determinations by the Courts	8
6.3 Accepted settlements covering a number of years or taxheads	8
6.4 Deemed Agreement	9
6.5 Offer and Acceptance	9
6.6 Additional Particulars	9
6.7 Amount Unpaid	9
6.8 Payment	10
6.9 Details to be published	10
6.10 Deceased Cases	10
Appendix 1 - Examples	11

1. Obligation to Publish

The provisions of Section 1086 Taxes Consolidation Act, 1997 oblige Revenue to publish Lists of Tax Defaulters, within three months of the end of each quarter in which agreed settlements are reached between a taxpayer and Revenue or Penalty Determinations are made by the Courts (where defined criteria are met), in Iris Oifigiúil.

Section 57 Finance Act 2016 introduced a number of amendments to Section 1086 Taxes Consolidation Act, 1997 which are effective from 1 January 2017:

- A new term 'adjusted specified sum' was introduced. This relates to the total settlement amount less any amount in respect of a qualifying disclosure.
- The list of tax defaulters must identify those who have not fully paid, within the relevant period, the specified sum or adjusted specified sum.
- The threshold amount for publication purposes has increased to €35,000.

Details of relevant Penalty Determinations by the Courts and settlements reached between a taxpayer and Revenue are publishable in Lists of Tax Defaulters, whether paid or not.

1.1 Publishable Cases

Cases are publishable under Section 1086 TCA 1997, subject to the criteria listed at paragraphs 6.1 and 6.2.

1.1.1 Court Determinations

Section 1086(2) (a) TCA 1997 provides for publication of all cases where a fine or penalty is imposed [or determined] by a Court under any of the various Acts under the care and management of the Revenue Commissioners. Where a taxpayer is publishable under this category, the tax amount on which the Court has determined the penalty will also be published.

Section 1086(2) (b) TCA 1997 provides for publication of all cases where a fine or penalty, in respect of a tax or duty offence, is imposed (or determined) by a Court, otherwise than under the said Acts.

In essence all fines determined by a Court are publishable. Penalties determined by a Court are also publishable subject to exclusions set out in Section 1086 (4B). Please see paragraph 6.2 below for these exclusions.

1.1.2 Accepted Settlements

Section 1086(2) (c) TCA 1997 provides for the publication of all cases where, instead of initiating proceedings for the recovery of any fine or penalty of the kind mentioned above, Revenue accepts an offer in settlement of all liability to tax or duty, interest and penalties (a specified sum or adjusted specified sum).

Section 1086(2) (d) TCA 1997 provides for publication of all cases where a settlement has been agreed between a taxpayer and Revenue in respect of a payment of tax or duty, interest and penalties (a specified sum or adjusted specified sum), even after Court proceedings have been initiated, and whether or not a fine or penalty has been imposed (or determined) by the Court.

A specified sum or adjusted specified sum must include tax, interest (except in the case of customs and excise settlements) and a penalty.

A formal offer in settlement (template available in RCM) must be received from a taxpayer. The date that this offer is accepted is the date that the settlement is made. The amounts shown in the letter of acceptance must match those in the formal letter of offer.

1.1.3 Settlements deemed to be agreed due to full payment

Where a written offer is not provided by the taxpayer, but the taxpayer has paid the full settlement and the criteria set out in Section 1086 TCA 1997 are met, Section 1086 (2A) provides that there is a deemed agreement. Such cases are publishable provided the conditions for publication are met. The taxpayer should be informed in writing that the payment made is being accepted by the Revenue Commissioners in settlement of liabilities due, that publication of the settlement will take place and of the details to be published. The date of this letter determines the quarter in which publication will take place.

1.1.4 Non-Qualifying Disclosures: Assurance Checks, Aspect Queries and Profile Interviews

Disclosures made by taxpayers in the course of Assurance Checks, Aspect Queries and Profile Interviews, are regarded as unprompted disclosures, provided they satisfy the conditions contained in Section 1077E (1), see paragraph 3.7 Code of Practice for Revenue Audit and other Compliance Interventions and Tax and Duty Manual on Disclosures.

Where, settlements or agreements reached on foot of such disclosures are not paid, they are non-qualifying disclosures and, consequently, are publishable under Section 1086 (2B) TCA 1997 where all the conditions for publication are met, see paragraph 6.1.

1.2 Summary

- Where there is agreement with a person in relation to a settlement, and there are no excluding factors (see paragraph 2), the settlement is publishable, whether paid or not.
- Where there is no agreement with a person in relation to penalties, and there is a Court determination, and there are no excluding factors, the case is publishable whether or not amounts due have been paid.
- Unprompted Disclosures received in the course of non-audit compliance interventions, which become non-qualifying due to non-payment, are publishable in the List of Tax Defaulters where there are no excluding factors.

2. Cases not publishable

An agreed settlement that does not contain all three elements of tax, interest (except in the case of customs and excise settlements) and a penalty cannot be considered for publication. Likewise where a penalty has been determined by a Court it will not be considered for publication unless the penalty has been determined in relation to tax and there is interest due (except in the case of customs and excise settlements). It does not matter whether the interest is paid or not. It is sufficient that the tax liability has attracted an interest charge.

Having established those cases that should be considered for publication the following categories are excluded.

2.1 Qualifying Disclosures

Where a taxpayer has made a qualifying disclosure of tax defaults to the satisfaction of Revenue before the commencement of any audit or inquiry by them, the settlement or a penalty determination will not be published. For the definition of a qualifying disclosure, see Section 1077E (1) TCA 1997.

2.2 Settlements less than relevant threshold amount

In the case of accepted settlements reached with a taxpayer after 1 January 2017 under subsection (2) (c) or (d) of Section 1086 TCA 1997 - the total amount of tax, interest and penalties comprised in that settlement must exceed €35,000 to be published. The €35,000 threshold applies regardless of when the liabilities arose.

This €35,000 threshold also applies to penalty determinations under subsection (2) (a) or (b) of Section 1086 TCA 1997 i.e. the tax on which the penalty was determined, the interest and the penalty must exceed €35,000.

2.3 Cases where penalty charged is not greater than 15% of the tax

Where the penalty agreed as part of an accepted settlement does not exceed 15% of the tax included in the settlement, the settlement will not be published. Likewise where a penalty determined by a Court does not exceed 15% of the tax to which that penalty relates, the determination will not be published.

2.4 Qualifying Avoidance Disclosures – No Publication

A taxpayer who incurs a 'tax avoidance surcharge' and/or makes a 'qualifying avoidance disclosure' will not have the details of his or her tax settlement published in the list of tax defaulters in accordance with Section 1086 TCA 1997.

3. Details to be published

3.1 Penalty Determinations - Section 1086 (2)(a) and (b) TCA 1997

Publication in the List of Tax Defaulters is a consequence of a Penalty Determination by the Courts where relevant criteria are met.

The following details will be published as a consequence of a Penalty Determination by the Courts:

- The name, address and occupation of the taxpayer.
- The amount of the penalty determined by the Court.
- The amount of tax or duty on which the penalty amount was determined (the amount of under-declaration or non-declaration of tax or duty) will be referenced in the additional particulars.

3.2 Agreed Settlements – Section 1086 (2)(c), (d) and Section 1086 (2B) TCA 1997

The taxpayer should be advised that the following details will be published where accepted settlements and non-qualifying disclosures meet publication criteria:

- name, address and occupation of the taxpayer.
- settlement details:
 - Tax

- Interest
 - Penalties
 - Total Settlement
 - Additional Particulars (relating to the under-declaration or non-declaration of the tax/duty)
- Where the settlement has not been paid in full, a note that any unpaid amounts, at the end of the quarter in which the settlement is agreed, will be included in the details published – see paragraph 6.7.

4. Settlement Offers – Approval, Acceptance and Publication

4.1 Approval

All settlement offers, both audit/investigation settlement offers and non-audit intervention settlement offers (Aspect Query and Profile Interviews) are subject to approval, and the Board of the Revenue Commissioners has delegated the authority to Regional and District staff to approve certain offers.

Publishable settlements must be approved at Assistant Secretary level.

Taxpayers should not be advised that an offer has been accepted unless approval at the appropriate level has been obtained.

4.2 Letter of Offer and Acceptance

Where cases are publishable under Section 1086 (2)(c), Section 1086 (2)(d) and Section 1086 (2B) TCA 1997, agreement in writing must have been reached with the taxpayer in relation to the specified sum or adjusted specified sum. A letter of offer in relation to the specified sum must be signed by the taxpayer for acceptance by Revenue.

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

[...]

4.3 Overpayments of tax and publication.

An overpayment of tax that has arisen as a direct result of an audit/investigation will reduce the amount of the settlement for publication. An example of this might be a customer who had exceeded the VAT registration threshold but was not registered for VAT. A liability for VAT would arise together with a reduction in Income Tax or Corporation Tax due. It is not envisaged that this will arise in many cases.

In circumstances where the overpayment (which arose as a direct result of the intervention) reduces the settlement below the publication threshold, the settlement will not be published.

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

[...]

5. Time limit for publication

Where cases are not published within the timeframe set out in legislation, the opportunity to publish is lost and cases that have missed the publication deadline cannot be published subsequently.

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

[...]

5.1 Accepted settlements

Publication of all settlements must take place within three months of the end of the quarter in which the taxpayer is notified that his/her offer has been accepted by Revenue, e.g. a settlement accepted on 4 February (which is within the 3 month period ended 31 March), must be published before 30 June. The date the taxpayer is notified of Revenue's acceptance of the offer is the date that determines the time of publication.

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

[...]

5.2 Penalty Determinations by the Courts

The date on which a penalty determination is made by a relevant Court determines the time of publication of such cases. Determinations must be published within 3 months of the end of the quarter in which a Determination is made. Although Court Orders must be perfected following a Determination by a relevant Court, and the taxpayer has 21 days from the date of perfection to appeal the Determination, the date of Determination, and not the date of perfection, is relevant to decide the time of publication in the absence of an appeal.

Orders are usually 'perfected' within 2/3 weeks of the Determination and submitted to the Revenue Solicitor's Division (RSD). Perfected Orders, when received by the RSD, are forwarded to the Revenue Official who took the case to Court.

A taxpayer can appeal a Penalty Determination but must do so within 21 days of the Order being 'perfected'. The Appeal is submitted to the RSD. Regions should check with the RSD to ascertain if any Appeals have been received. If no appeal is made against the Determination, the Determination must be published within 3 months of the end of the quarter in which a determination is made (not within 3 months of the date on which it was 'perfected').

It is also possible that a Judge may place a 'stay' on an Order for Recovery. Such a 'stay' will relate only to the Order for Recovery and does not affect the date of the Determination or alter the time for publication.

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

[...]

6. Preparation of Tax Defaulters Lists in Regions/Divisions

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

[...]

6.1 Accepted Settlements

All relevant settlements, which contain tax, interest and a penalty, should be included in the list where:

- a qualifying disclosure was not made
- the aggregate of tax, interest and penalties exceeds €35,000, and
- the penalty as a percentage of the tax included in the settlement is greater than 15%.

6.2 Penalty Determinations by the Courts

All relevant cases where a Penalty Determination has been made by the Courts are publishable where:

- The penalty determined exceeds 15% of the tax,
- the aggregate of tax, interest and penalties exceeds €35,000, and
- a qualifying disclosure has not been made.

6.3 Accepted settlements covering a number of years or taxheads

Arising from the introduction of Section 57 Finance Act 2016 the following approach must be taken to determine if a tax settlement is publishable. Any element of the settlement that relates to a qualifying disclosure must firstly be excluded to arrive at an adjusted specified sum. Where a settlement covers more than one year and/or more than one taxhead, initially, each taxhead included in the settlement should be examined separately to ensure that it contains tax, interest and a penalty. Those taxheads that contain tax, interest and penalty are then combined. The exemptions from publication contained within Section 1086 (4) (specified sum or adjusted specified sum not exceeding €35,000 and the penalty being less than or equal to 15% of the tax) are then applied to this amount.

The following steps should be taken when determining whether a settlement is publishable or not:

- a) Establish if any element of the settlement relates to a qualifying disclosure. If so this element must be excluded.
- b) Disregard any element of the settlement that has arisen as a result of a technical adjustment, no loss of revenue or innocent error as described in Code of Practice for Revenue Audit and other Compliance Interventions - Chapter 3.
- c) Where an agreed settlement comprises of more than one tax, it must be broken up for each taxhead, to show the tax, the interest and the penalty, i.e. the tax, interest and penalty that apply to VAT should be separated from that relating to PREM etc. It is not necessary to breakdown the settlement further into different years.

- d) Each of these taxheads is then examined to ensure that they contain tax, interest and a penalty. If they do not contain all three elements then they are excluded from publication.
- e) All taxheads that contain tax, interest and a penalty are then brought together to make the combined amount.
- f) Check that the combined amount as established at (e) exceeds the threshold for publication, currently €35,000 on all settlements agreed after 1 January 2017.
- g) Check that the penalty as a percentage of the tax included in the combined amount established at (e) exceeds 15%.
- h) If both conditions at (f) and (g) above are satisfied then the combined amount is publishable.

Please see examples at Appendix 1 and template in Appendix 2.

6.4 Deemed Agreement

Where a written offer is not provided by the taxpayer, but the taxpayer has paid the full settlement and the criteria set out in Section 1086 TCA 1997 are met, Section 1086 (2A) provides that there is deemed agreement. Such cases are publishable. The taxpayer should be advised in writing that the payment made is being accepted by the Revenue Commissioners in settlement of liabilities due, that publication of the settlement will take place and of the details to be published. Publication will take place within three months of the end of the quarter in which the taxpayer is notified of this deemed agreement.

6.5 Offer and Acceptance

Where cases are publishable under Section 1086 (2) (c), Section 1086 (2) (d) and Section 1086 (2B) TCA 1997, agreement in writing must have been reached with the taxpayer in relation to the specified sum – see paragraph 4.2.

In the case of accepted settlements, the taxpayer should be made aware, even though it is not required by legislation, that publication arises and of the details to be published.

In the case of Court determined penalties which satisfy the criteria for publication, a letter should issue advising of the details to be published.

6.6 Additional Particulars

Summary information on the matters giving rise to the additional liability and the circumstances in which the default arose is publishable.

This additional information is published as 'Additional Particulars' and includes a description of the intervention type, the default and the taxhead. An example of this is as follows.

'Revenue Audit. Under-declaration of Income Tax, Corporation Tax, Capital Gains Tax, VAT, PAYE/PRSI/USC, Relevant Contracts Tax' etc.

6.7 Amount Unpaid

Section 57 Finance Act 2016 introduced a requirement whereby those who failed to pay the specified sum or adjusted specified sum within the relevant period must be identified. Amounts being paid under an agreed instalment arrangement are not regarded as unpaid.

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

[...]

A letter must issue to the taxpayer, after the end of the quarter in which the settlement is agreed, advising of the amount that will appear as unpaid in the publication list.

6.8 Payment

All relevant accepted settlements and Penalty Determinations are publishable whether they have been paid or not.

6.9 Details to be published

Please refer to Section 3 above.

6.10 Deceased Cases

Settlements in the case of deceased taxpayers, which meet publication criteria, should not be listed in the List of Tax Defaulters unless a settlement agreement has been reached between the deceased and Revenue, prior to death.

Where a relevant agreement is reached with a taxpayer who dies prior to publication, 'Now Deceased' should appear in brackets after the name. The name and address of an executor or administrator should never appear in the publication details.

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

[...]

Appendix 1 - Examples

The examples set out below clarify the position in respect of settlements. All examples are in relation to settlements agreed after 1 January 2017.

Example 1

A VAT Audit is carried out covering the period July 2010 to June 2017. A settlement is reached for a total of €34,000 to include tax, interest and penalties. Assume no disclosure and the penalty exceeds 15% of tax. The settlement is not publishable because the threshold of €35,000 was not exceeded.

Example 2

A comprehensive audit is undertaken for 2013 to 2015. Settlement of €76,450 agreed as detailed below. Settlement includes a qualifying disclosure for VAT 2013 and 2014.

A more recent version of this manual is available.

Each of these taxheads are then examined to ensure that they contain tax, interest and a penalty. If they do not contain all three elements then they are excluded from publication.	RCT does not contain tax or interest and is therefore excluded.
All taxheads that contain tax, interest and a penalty are then brought together to make the combined amount.	PREM and CT contain tax, interest and a penalty and are combined. The combined amount is now €33,450 made up of tax €25,500, interest €2,750 and penalty €5,200.
Check that this combined amount exceeds the threshold for publication, currently €35,000 on all settlement agreed after 1 January 2017.	As the combined amount of €33,450 is less than €35,000 the settlement is not publishable.
Check that the penalty as a percentage of the tax included in the combined amount exceeds 15%.	Not applicable, combined amount not publishable.
Conclusion	Combined amount is not publishable.

Tax	PREM				VAT			RCT	CT	Total
	2013	2014	2015	Total	2013	2014	Total	2015	2015	
Tax	9,500	5,000	10,000	24,500	15,000	15,000	30,000	0	1,000	55,500
Interest	1,000	500	750	2,250	1,000	1,000	2,000	0	500	4,750
Penalty	1,900	1,000	2,000	4,900	1,500	1,500	3,000	8,000	300	16,200
	20%	20%	20%	20%	10%	10%	10%		30%	29%
Total	12,400	6,500	12,750	31,650	17,500	17,500	35,000	8,000	1,800	76,450

Steps to determine if an agreed settlement is publishable, see paragraph 6.3.	
Establish if any element of the settlement relates to a qualifying disclosure. If so it must be excluded.	VAT 2013 and 2014 are excluded as a qualifying disclosure was made.
Disregard any element of the settlement that has arisen as a result of a technical adjustment, no loss of revenue or innocent error as described in Code of Practice for Audit and other Compliance Interventions - Chapter 3.	Not applicable.
Where an agreed settlement comprises of more than one tax, it must be broken up for each tax, to show the tax, the interest and the penalty, i.e. the tax, interest and penalty that apply to CT should be separated from that relating to PREM etc. It is not necessary to breakdown the settlement further into different years.	See Totals in table above.

A comprehensive audit is undertaken for 2013 to 2015. Settlement of €71,300 agreed as detailed below. No disclosure received.

Tax	PREM				VAT			RCT	CT	
Year	2013	2014	2015	Total	2013	2014	Total	2015	2015	Total
Tax	12,500	12,500	12,500	37,500	5,000	5,000	10,000	0	1,000	48,500
Interest	1,000	1,000	1,000	3,000	1,000	1,000	2,000	0	500	5,500
Penalty	2,500	2,500	2,500	7,500	750	750	1,500	8,000	300	17,300
	20%	20%	20%	20%	15%	15%	15%		30%	36%
Total	16,000	16,000	16,000	48,000	6,750	6,750	13,500	8,000	1,800	71,300

Steps to determine if an agreed settlement is publishable, see paragraph 6.3.

Establish if any element of the settlement relates to a qualifying disclosure. If so it must be excluded.

No qualifying disclosure made.

Disregard any element of the settlement that has arisen as a result of a technical adjustment, no loss of revenue or innocent error as described in Code of Practice for Audit and other Compliance Interventions - Chapter 3.

Not applicable.

Where an agreed settlement comprises of more than one tax, it must broken up for each tax, to show the tax, the interest and the penalty, i.e. the tax, interest and penalty that apply to CT should be separated from that relating to PREM etc. It is not necessary to breakdown the settlement further into different years.	See Totals in table above.
Each of these taxheads is then examined to ensure that they contain tax, interest and a penalty. If they do not contain all three elements then they are excluded from publication.	RCT does not contain tax or interest and is therefore excluded.
All taxheads that contain tax, interest and a penalty are then brought together to make the combined amount.	PREM, VAT and CT all contain tax, interest and a penalty and are combined. The combined amount is now €63,300 made up of tax €48,500, interest €5,500 and penalty €9,300.
Check that this combined amount exceeds the threshold for publication, currently €35,000 on all settlement agreed after 1 January 2017.	As the combined amount of €63,300 is greater than €35,000.
Check that the penalty as a percentage of the tax included in the combined amount exceeds 15%.	The penalty (€9,300) as a percentage of the tax (€48,500) is 19.2%.
Conclusion	As the combined amount exceeds €35,000 and the penalty as a percentage of the tax included in the combined amount exceeds 15% the combined amount is publishable.

Example 4

Comprehensive audit undertaken for 2013 to 2015. Settlement of €78,500 agreed as detailed below. No disclosure received.

Tax	PREM				VAT			RCT	CT	
	2013	2014	2015	Total	2013	2014	Total	2015	2015	Total
Tax	12,500	12,500	20,500	45,500	5,000	5,000	10,000	0	1,000	56,500
Interest	1,000	1,000	1,000	3,000	1,000	1,000	2,000	0	500	5,500
Penalty	2,500	1,875	3,075	7,450	750	0	750	8000	300	16,500
	20%	15%	15%	16%	15%	0%	8%		30%	29%
Total	16,000	15,375	24,575	55,950	6,750	6,000	12,750	8,000	1,800	78,500
Comment						Technical Adjustment				

Steps to determine if an agreed settlement is publishable, see paragraph 6.3.	
Establish if any element of the settlement relates to a qualifying disclosure. If so it must be excluded.	No disclosure received
Disregard any element of the settlement that has arisen as a result of a technical adjustment, no loss of revenue or innocent error as described in Code of Practice for Audit and other Compliance Interventions Chapter 3.	VAT 2014 arose as a result of a technical adjustment and is therefore disregarded.
Where an agreed settlement comprises of more than one tax, it must be broken up for each tax, to show the tax, the interest and the penalty, i.e. the tax, interest and penalty that apply to VAT 2013 should be separated from that relating to PREM etc. It is not necessary to breakdown the settlement further into different years.	See Totals in table above
Each of these taxheads is then examined to ensure that they contain tax, interest and a penalty. If they do not contain all three elements then they are excluded from publication.	RCT does not contain tax or interest and is therefore excluded.
All taxheads that contain tax, interest and a penalty are then brought together to make the combined amount.	PREM, VAT 2013 and CT all contain tax, interest and a penalty. The combined amount is now €64,500 made up of tax €51,500, interest €4,500 and penalty €8,500.
Check that this combined amount exceeds the threshold for publication, currently €35,000 on all settlement agreed after 1 January 2017.	The combined amount exceeds €35,000.
Check that the penalty as a percentage of the tax included in the combined amount exceeds 15%.	The penalty as a percentage of the tax included in the combined amount is 16.5% and therefore exceeds 15%.
Conclusion	Combined amount is publishable. Tax €51,500, interest €4,500 and penalty €8,500, total €64,500.

Example 5

Settlement agreed arising from a comprehensive audit for 2014 and 2015. No disclosure. Overpayment arose for Income Tax for 2014 and 2015 as a direct result of the audit. This overpayment can be offset against the liabilities identified during the audit and can reduce the figure for publication.

Tax	VAT			Income Tax			
Year	2014	2015	Total	2014	2015	Total	Total
Liability	30,000	12,500	42,500	-10,000	-6,000	-16,000	26,500
Interest	3,000	1,000	4,000	0	0	0	4,000
Penalty	6,000	2,500	8,500	0	0	0	8,500
	20%	20%	20%	0%	0%	0%	32%
Total	39,000	16,000	55,000	-10,000	-6,000	-16,000	39,000

In practice the income tax overpayment is offset against the VAT due for 2014 to reduce the taxpayer's exposure to interest. However if the tax that appears on the publication list is similarly reduced it will show a penalty of 32% which is not in agreement with the settlement. This higher penalty also implies a more serious tax default. To address this issue, the overpayment in respect of income tax should be offset against the VAT, interest and penalty shown on the publication list on a pro rata basis. The calculation is as follows

Specified Sum	VAT Total	Calculation of overpayment offset	Overpayment available for offset	Publication Figures
VAT	42,500	$16,000 \times 42,500 / 55,000$	12,364	30,136
Interest	4,000	$16,000 \times 4,000 / 55,000$	1,164	2,836
Penalty	8,500	$16,000 \times 8,500 / 55,000$	2,472	6,028
Rate	20%		20%	20%
Total	55,000		16,000	39,000

Example 6

€200,000 settlement in tax, interest and penalties agreed in writing. €50,000 paid.

Publishable figure is €200,000 (S1086 (2B) TCA 1997).

Example 7

€200,000 settlement in tax, interest and penalties agreed in writing. All settlement sent to enforcement.

Publishable figure is €200,000 (S1086 (2B) TCA 1997).

Example 8

€200,000 additional liability identified, in tax, interest and penalties but no agreement. Assessments must be raised and become final and conclusive. Penalties must be determined by the Courts thereafter.

The penalty, as determined by the court, and assuming no other excluding factors (e.g. penalty must be greater than 15% of the tax, and there was not a qualifying disclosure) will be published. The amount of tax on which the penalty was determined will be mentioned in the additional particulars.

Appendix 2: Template to establish if publication applies

Steps to determine if an agreed settlement is publishable - see paragraph 6.3.	
Establish if any element of the settlement relates to a qualifying disclosure. If so it must be excluded.	
Disregard any element of the settlement that has arisen as a result of a technical adjustment, no loss of revenue or innocent error as described in Code of Practice for Audit and other Compliance Interventions Chapter 3.	
Where an agreed settlement comprises of more than one tax, it must broken up for each tax, to show the tax, the interest and the penalty, i.e. the tax, interest and penalty that apply to VAT should be separated from that relating to PREM etc. It is not necessary to breakdown the settlement further into different years.	
Each of these taxheads is then examined to ensure that they contain tax, interest and a penalty. If they do not contain all three elements then they are excluded from publication.	
All taxheads that contain tax, interest and a penalty are then brought together to make the combined amount.	
Check that this combined amount exceeds the threshold for publication, currently €35,000 on all settlement agreed after 1 January 2017.	
Check that the penalty as a percentage of the tax included in the combined amount exceeds 15%.	
Conclusion.	