

Guidelines on Observing a Business Premises for Tax Purposes

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1. Observing Business Premises for Tax Purposes - General

Where a Revenue officer has information that leads him or her to suspect that a person has made an incorrect return or that their books and records do not reflect the true extent of the person's business or income, the officer may carry out an observation exercise of the business premises to establish the true level of business activity carried on.

An officer may also observe a business premises from the outside, over a period of time, to get a better understanding of the nature and extent of the activity carried on there. This is in addition to any other methods used to gauge the true extent of a business such as, where appropriate, making sample purchases on a business premises and observing how transactions are accounted for.

2. Private Residence

Revenue Officers may not observe a taxpayer's private residence except in very exceptional circumstances (and then only in consultation with the Audit/Branch Manager, who may consult with Investigations and Prosecutions Division).

Officers can only enter a private residence of a taxpayer, with the consent of the taxpayer, or on foot of a Court Order. An officer may view the residence from outside the grounds to establish the location, size and type of residence, where that becomes material to an enquiry into the adequacy of the returns being made, (or, as the case maybe, where returns are not being made), by that person.

3. Non-Interference or Intrusion

Where Revenue officers undertake an observation exercise of a business premises it should be done discreetly and with care so not to draw the attention of the public, the customers or the proprietor, or to intrude or interfere in any way with the operation of the business. Phones, video cameras or similar recording equipment should not be used to record a taxpayer or his or her customers.

4. Approval Required

Any operation involving such an observation exercise, other than normal once-off type appraisal of a business, should be discussed beforehand with, and have the approval of, an officer at Assistant Principal level. Before giving approval, the manager should be satisfied that the proposed action is necessary (that is there is no less intrusive way of dealing with the matter) and that it is proportionate to the tax at risk. A number of officers may be required for carrying out such an exercise in relation to a business premises, with provision for relief where necessary, and it may need to be carried out at different times.

5. Health and Safety

The health and safety of the officers involved in observation is of paramount importance. Officers who have not previously carried out observation should consult with colleagues, who have experience of conducting such observation exercises on similar type businesses, before they begin carrying out observations.

6. Keeping a Record

A record should be kept of the dates and time(s) on which the exercise was conducted and of the relevant information obtained. Officers should only record matters, which are directly relevant to the taxpayer's liability.

7. Sharing Insights

Cases where the observation of business premises has resulted in the uncovering of under-declarations or non-declarations or has otherwise been of significant value in establishing the true liability in a case can provide valuable insights. Officers are requested to forward a report of such cases to the Compliance Network Group so other staff can benefit from the experience gained.

[These guidelines do not cover targeted drugs and anti-smuggling related operations where operational requirements may necessitate a different approach.]