

# Mitigation and Application of Fines and Penalties

## Part 47-00-01

This document should be read in conjunction with section 1065 Taxes Consolidation Act 1997

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## 1. Introduction

- 1.1. The provisions of Section 1065 Taxes Consolidation Act 1997 (TCA) concerning the mitigation and application of fines and penalties and the discharge of persons from prison were amended by Section 78 Finance (No 2) Act 2013.
- 1.2. Certain powers of mitigation that the Revenue Commissioners and the Minister for Finance had under Section 1065 TCA were removed as they were considered no longer appropriate in the light of developments in the law on the imposition of both fines and penalties. The powers of the Revenue Commissioners to mitigate were confined to penalties only, and the Minister for Finance's power to mitigate was repealed.
- 1.3. Section 1065 TCA applies to all the taxes and duties listed in Section 1077A(1) TCA:
  - The Tax Acts – that is, all enactments relating to income tax and corporation tax in the TCA and any other enactment,
  - The Capital Gains Tax Acts – that is, all enactments relating to capital gains tax in the TCA and any other enactment,
  - Parts 18A, 18B, 18C and 18D TCA, which relate to the income levy, the parking levy, the domicile levy, and the universal social charge, respectively
  - The Value-Added Tax Consolidation Act 2010, and the enactments amending or extending that Act,
  - The Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,
  - The Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,
  - The statutes relating to the duties of excise and to the management of those duties,
  - The Customs Acts,
  - The Finance (Local Property Tax) Act 2012, and
  - any instrument made under any of those Acts, and any instrument made under any other enactment relating to tax.

## 2. Extent of amendments

- 2.1. Section 78 Finance (No. 2) Act 2013 consolidated the mitigation provisions in section 1065 TCA and deleted or amended certain other provisions on mitigation. The retained mitigation provisions are contained in section 1065 TCA, as amended, and are applied for the purposes of all taxes and duties.
- 2.2. The Revenue Commissioners may at their discretion –
  - mitigate any penalty imposed under the Acts,
  - mitigate or further mitigate, subject to a maximum mitigation of 50%, any penalty determined by a relevant Court to be due and payable by a person, and
  - stay or compound any proceedings for the recovery of any fine or penalty.
- 2.3. Section 78 of the 2013 Act repealed the Revenue Commissioners' power to order a person to be discharged from prison before the term of imprisonment has expired and also their power to mitigate fines imposed by the Courts. That section also repealed the Minister for Finance's powers of mitigation of fines and penalties.
- 2.4. Section 78 of the 2013 Act also amended section 130 Finance Act 2001 to delete the Revenue Commissioners' mitigation powers in that section in relation to excise penalties. These powers are now contained in section 1065 TCA. A judge's power to mitigate fines and penalties, as provided for in section 130 Finance Act 2001, is retained.