

## Revenue powers exercised in places other than a Revenue office

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## 1 Introduction

The Manual sets out the Revenue Commissioners' policy on the exercise of statutory powers by Revenue officers in dealings with taxpayers for Revenue purposes in places other than at a Revenue office. These functions are carried out by Revenue officers in taxpayers' premises, at ports and airports and by use of mobile task units, throughout the State. The Manual also covers certain powers of search. The purpose of the Manual is to ensure that these Revenue powers are used in a proper manner and that taxpayers are aware of their rights as well as their obligations. The Manual updates information previously available in Statement of Practice SP Gen 1/94 (previously revised in 2006).

Revenue officers who are required to exercise Revenue powers are specially authorised by the Revenue Commissioners for that purpose. All Revenue officers who are authorised to exercise powers are issued with an Identity Card, which shows the powers for which they are authorised. The officer may also have a separate written document, which contains authorisation under other legislation. Revenue officers are required to carry their Identity Card with them, when exercising powers on outdoor duty, and to produce it on request.

In this Manual:

“authorised” is used to describe the process whereby an officer is authorised to exercise the functions (including powers and duties) specified in statutory provisions under Tax, Customs or Excise law, and “authorisation” and “authorised officer” should be read accordingly;

“tax” is used to cover any tax, duty, levy or charge under the care and management of the Revenue Commissioners and “taxpayer” and “taxation” should be read accordingly; and “taxpayer” also includes all members of the public dealt with by Revenue officials in the discharge of Revenue responsibilities, including those not involving a tax charge.

## 2 The need for Revenue powers

### 2.1 Self-assessment

Most transactions between taxpayers and Revenue are on a self-assessment basis, that is, returns and other information filed by taxpayers are accepted as the basis for processing tax liabilities or discharging other Revenue responsibilities. To be effective, all self-assessment systems must be backed up by a process to verify the returns and other information supplied. Tax legislation therefore contains a range of powers which enable Revenue to carry out all its functions in dealing with complying and non-complying taxpayers. In some

instances, the verification objectives are best achieved by a visit to the taxpayer. In some cases, such a visit may be the only way of making progress.

## 2.2 Co-operation of taxpayers

Most taxpayers co-operate fully with Revenue requirements. This allows Revenue to function in a speedy and efficient manner with the minimum of disruption to taxpayers. This co-operation also means that in everyday situations only very basic powers are used, for example, those allowing examination and sampling of goods and entry to premises to examine and, if necessary, take copies of records.

## 2.3 Non-compliant behaviour

A small minority of taxpayers seek to evade their obligations and do not wish to co-operate with Revenue requirements, including those that may arise in connection with audit and other visits. If this position were not adequately addressed, those persons would not pay their fair share of taxation and business persons could be put at a competitive disadvantage.

# 3 The Customer Service Charter

The use of Revenue powers is subject to legal provisions and constraints as contained in the relevant legislation, which must be respected by Revenue officials. Officers are at all times required to operate within the terms of the [Customer Service Charter](#), which reflects wider provisions relating to taxpayers' rights and obligations. Officers must also proceed in accordance with the orders, instructions and directions of the Revenue Commissioners. Visits are required to be carried out at reasonable times, in an impartial manner, with due respect for taxpayers' privacy and consideration for possible inconvenience involved in a Revenue visit.

# 4 Authorised officers

Revenue powers can be exercised only by officers who have been specially authorised for that purpose by the Revenue Commissioners. The Revenue Commissioners ensure that only suitable officers are authorised, that those officers receive appropriate training and instruction and that, through their Identity Card or other authorisation in writing, their authority is verifiable. An officer will be authorised by the Revenue Commissioners only following a recommendation of suitability from a senior officer nominated by the Revenue Commissioners for that purpose.

An officer's authorisation is set out on his or her Identity Card. The Identity Card contains:

- the officer's name;
- the officer's photograph;
- a list of the legislation for which the officer is authorised;
- a facsimile of the signature of the Revenue Commissioner by whom the officer was authorised; and
- the Revenue hologram.

The officer may also have a separate written document, which contains authorisation under other legislation.

The Identity Card and its contents are provided for in Section 858 Taxes Consolidation Act 1997 (TCA). That section provides that the production by an officer of his or her Identity Card to a person will be taken as evidence of authorisation and will satisfy the officer's obligation to produce his or her authorisation to that person when required to do so.

#### 4.1 Verification powers

The verification powers of Revenue officers can be divided into two categories:

- normal verification powers usually exercised with the consent of the taxpayer, such as entry to premises to examine, copy or remove records (including records stored on computer) and to examine and sample goods;
- more exceptional powers, to be used in certain limited or non-routine circumstances, such as search for records and goods, detention and seizure of goods, entry to private residences in accordance with a Court Order or search warrant and arrest of persons in certain limited circumstances in accordance with the law.

### 5 Visits to taxpayer's premises

Normal visits to a taxpayer's premises fall into the following three categories:

- routine visits;
- checking of records or stock, or examination of consignments; and
- detailed examination of a taxpayer's records or goods.



**Routine visits:** Many Revenue visits to a taxpayer's premises involve only routine matters, for example, explanation for a transaction or sight of a document. Such visits will be brief and may be made without a prior appointment. If such a visit inconveniences a taxpayer, or the matters arising cannot be readily dealt with, officers will arrange the visit for a more suitable time.

**Records and stock checks and examination of consignments:** Revenue officers involved in Customs and Excise duties make visits to taxpayers' premises without prior appointment to carry out records and stock checks and perform examinations. Such checks will be carried out with the least possible inconvenience to the taxpayer.

**Detailed examinations:** A visit, other than one involving routine matters or stock checks, or examination of consignments, is normally pre-arranged and officers attempt to arrange the visit at a time convenient for the taxpayer and his or her adviser. Taxpayers are advised in advance of the proposed time and purpose of the visit and what records it is intended to examine.

## 5.1 Obligations of officers

On meeting taxpayers, officers exercising Revenue powers are required to identify themselves, show their Identity Card and state the purpose of the meeting.

Officers should also provide business cards showing the address and telephone number of their office.

These procedures do not apply to Customs and Excise checks carried out in clearly defined areas of operation where officers are easily identifiable as such (for example, at sea and air terminals). However, officers should always have their Identity Card with them when on official business and be prepared to produce it on request.

Every effort is made to limit the impact of a visit on a taxpayer's normal routine by organising the visit in a way that suits the taxpayer.

Compliance with any reasonable requests from an officer should enable most visits or meetings to be carried out speedily and efficiently and should obviate the necessity for repeat visits or a prolonged audit or enquiry.

Exceptionally, if there is reason to believe that advance notice of a visit would not be appropriate, the normal procedure for advance notice of visits would not apply.

## 5.2 Entry to private residence

During routine or pre-arranged visits, entry to that portion of premises used wholly and exclusively as a private residence will occur only with the consent of the occupier. (Entry to such premises without consent would arise only in circumstances referred to in paragraph 7 below.)

## 6 Financial records of professional persons

Officers may, within their powers, examine the financial records of professional persons. Officers will not encroach on areas of advice given by professionals to clients. They will not enquire into information disclosed by clients to their advisers, including information which might be relevant to court proceedings, actions or settlements.

## 7 Seizure, search, entry and arrest powers

Revenue legislation contains provisions giving specific non-routine powers designed to counter evasion and obstruction. These include powers of seizure, search, entry to premises (including a private residence in certain circumstances) to conduct enquiries or investigations, and powers of arrest in certain limited circumstances.

The Revenue Commissioners are intent on ensuring that these powers continue to be directed in a controlled and specific manner. The possible use of these powers arises for consideration only in specific circumstances and does not arise in the course of a routine or pre-arranged visit where the taxpayer co-operates with the officer. The level of management from which approval must be obtained will vary according to the power being used.

### 7.1 Seizure of goods

In VAT inquiries, a detention of goods arises only:

- if goods supplied for export at the zero rate of VAT are retained for sale on the home market,
- if goods are obtained at zero-rate in another Member State by fraudulent use of a VAT number, or
- if goods are supplied by a taxable person who does not register for VAT.

Other goods, which may be detained or seized by Revenue officers, include the following:

- Goods imported or exported without clearing Customs formalities or without payment of import charges;
- Goods the importation or exportation of which is prohibited or restricted;
- Motor vehicles on which Vehicle Registration Tax or VAT has been evaded;
- Illicit tobacco and alcohol products;
- Goods on which excise duty has been evaded;
- Rebated marked gas oil (diesel) or kerosene from which the proper markers (chemical marker and colourant) have been removed;
- Vehicles or conveyances used in the transport of goods liable to forfeiture, as above;
- Materials and equipment used for the removal of the marker from gas oil or kerosene;
- Materials and equipment used for the manufacture of illicit tobacco or alcohol products; and
- Amusement and gaming machines not properly licensed.

When an officer detains goods, the taxpayer must be given an itemised list of the items detained and, in due course, if the goods are being formally seized, a notice to that effect must be given. Where vehicles or conveyances are detained, officers will, as far as practicable, seek to minimise inconvenience to the driver and passengers.

## 7.2 Search of an individual

The question of search of an individual, other than for Customs purposes, arises in very limited circumstances and only if an officer has reason to believe that an individual has evidence which may be required in criminal proceedings relating to VAT about his or her person and does not produce it on request. In Customs cases, search of an individual will arise only if the officer has reason to believe that the individual has goods which have not been declared about his or her person and has failed to produce them on request.



These searches involve the examination of an individual's outer garments and, except for suspected drug smuggling cases, would not involve removal of other clothing or intimate body searches. In the case of persons suspected of carrying drugs in internal body concealments, officers engaged in Customs duties use the latest best practice in this sensitive area in consultation with their superior officers. (In no circumstances are internal body searches undertaken by Revenue officers). An individual will be searched only by an officer of the appropriate gender.

[Section 30 Customs Act 2015](#) provides for the power to search an individual for Customs purposes.

[Section 138 of Finance Act 2001 does not allow for search of an individual but does provide a power of search of receptacles in connection with suspected tobacco offences.]

### 7.3 Entry to premises without consent

A search of any premises will arise only if prohibited, smuggled or illicit goods (including illegally manufactured alcohol or tobacco products or fuel from which prescribed markers have been removed) or documents relating to smuggling or evasion are believed to be present, or in other limited circumstances. For example, a search of premises would happen if an individual does not produce records or goods required for examination when requested to do so and an officer has reason to believe that the records or goods required for examination are in the premises and would constitute evidence of serious evasion.

Entry to a premises under a search warrant, where that is required, may occur in cases dealt with by Investigations and Prosecutions Division in the course of investigation with a view to prosecution, and in cases investigated by enforcement staff in Customs Division.

Entry by an officer to a premises, or a portion of a premises, which is occupied wholly and exclusively as a private residence, without the consent of the occupier, arises only in limited circumstances and requires approval at senior management level in all cases, as well as a Court Order or search warrant as prescribed by law.

### 7.4 Arrest powers

The question of arrest by a Revenue officer for VAT purposes arises only where there are grounds for suspecting that a criminal offence in relation to VAT has been committed by an individual who is not established in the State or who is thought likely to leave the State.

In Customs or Excise cases, the question of arrest will arise where an officer reasonably suspects a serious offence has been committed under Customs or Excise legislation. Apart from drug smuggling cases, an arrest will in practice

only be made as a last resort. The occasions when an arrest may be carried out include:

- where the person is not resident in the State, or is likely to leave the State;
- where an officer has been seriously obstructed or assaulted in the course of an investigation (for example, in the prevention of smuggling, at an oil laundry or at an illicit still).

The powers of arrest for excise purposes, set out in [Section 139 Finance Act 2001](#), do not extend to tobacco tax stamp offences. However, that section provides authorised officers with a power of detention in relation to such offences, for the purposes of handing over an individual to An Garda Síochána.

[Section 32 Customs Act 2015](#) provides for the power of arrest in Customs matters.

## 8 Stopping motor vehicles and other conveyances

Revenue officers engaged in Customs or Excise duties may request a driver to stop a motor vehicle (including a container or trailer) where it is reasonably believed that the vehicle is carrying smuggled goods or excisable products. They may also request a vehicle to stop in order to check payment of Vehicle Registration Tax. ([Section 134 Finance Act 2001](#)). A vehicle may only be stopped by uniformed officers and clearly visible signs will be placed at appropriate intervals at the roadside. Inspection of the vehicle and goods will be carried out as quickly as possible. Officers may also request that boats, vessels, and other conveyances be brought to a halt for examination.

Revenue officers may engage in joint operations of this nature with members of An Garda Síochána.

[Section 26 Customs Act 2015](#) provides for the power to stop conveyances and [Section 27 Customs Act 2015](#) provides for the power to board and search conveyances for Customs purposes.

## 9 Removal of records

Whenever an officer removes records from a premises, the taxpayer will be given a list of the items taken (the list to be endorsed by the officer and by the taxpayer, where feasible). Where possible, the officer should indicate when the records are likely to be returned, but this may not always be feasible (for example, where the records are taken in the course of an investigation being carried out with a view to prosecution).

Where appropriate, for example when records have been removed and the taxpayer requires them for current trading purposes, copies of the records

removed will be given to the taxpayer or, if required, the taxpayer will be given controlled access to the records removed.

Records removed will be returned to the taxpayer as soon as possible. If the records are required by Revenue for the purposes of legal proceedings, they will be returned after the proceedings are completed.

## 10 Requiring assistance from taxpayers and other persons

During Revenue visits, officers will normally direct requests for reasonable assistance - including information, explanations and documents - to the taxpayer or the person delegated by the taxpayer to deal with the officer. These requests are made in an informal manner on a co-operative basis. While officers have a statutory right to require reasonable assistance from taxpayers or other persons, they will consider a formal request only in circumstances when persons under enquiry refuse to comply with normal requests from officers.

If officers need to rely on their statutory power, they will clearly inform the persons concerned of this power. Please refer to [Section 902 TCA](#).

Persons required to provide reasonable assistance will normally fall into the following categories:

- i. the company secretary, directors, senior executives or other person appointed to provide assistance to the Revenue officer, where the taxpayer is a company;
- ii. the taxpayer, where the taxpayer is not a company;
- iii. employees of the taxpayer, other than those mentioned specifically at (i). (When requiring assistance from employees in category (iii), officers may require assistance only in relation to employees' own emoluments, their own tax affairs or their functions in the operation of the business of their employer. Officers will not require assistance from such employees about the personal tax affairs of their employer or other persons.)

For persons other than those mentioned above, this power will only arise exceptionally and will be used only with the approval of senior officers nominated by the Revenue Commissioners for this purpose. Please refer to Tax and Duty Manual (TDM) [Part 38-04-02](#) and the other manuals on Revenue powers for further information.

Other than for Customs and Excise purposes, where a customer may possess evidence regarding illegal activity, officers on visits cannot require assistance from members of the public who are on the premises to purchase goods or receive a service.

## 11 Garda assistance

Under Section 906 TCA, and certain Customs and Excise legislative provisions, officers may be accompanied by members of An Garda Síochána. This will normally arise only where circumstances suggest a Garda presence may be necessary, for example, if it is considered that an officer may be obstructed, or in cases involving smuggling of drugs or dangerous substances.

## 12 Monitoring the use of powers

The Revenue Commissioners are committed to careful monitoring of the use of powers and the periodic review of how they operate. Apart from routine or pre-arranged visits to examine records and goods, check stocks, perform examinations, make enquiries or to collect returns or outstanding tax, and except for smuggling cases requiring immediate action, officers must have discussed with and obtained prior approval for proposed courses of action from more senior officers. The level of management from which approval must be obtained will vary according to the power being used.

## 13 Complaint and review procedures

Any person is entitled to a review of matters arising from his or her dealings with Revenue officers. The procedure for making a complaint is set out in Revenue's [Complaint and Review Procedures Leaflet \(CS4\)](#). There are three stages:

### Stage 1

Make a formal **Complaint** to the Revenue office where your case is managed (the Local Office).

**If the issue cannot be resolved, or you are unhappy with the outcome, you can move to:**

### Stage 2

Request a **Local Review**, to be carried out by the Manager (Principal Officer) from the Local Office, or in certain circumstances by the Manager (Principal Officer) from the relevant Divisional office.

**If you are not satisfied with the outcome of the Local Review, you can move to:**



**Stage 3**

Request a **Review**, to be carried out by an independent Internal or External Reviewer.

Requests for a Local Review should be submitted to the relevant Local or Divisional Office as appropriate. (Details can be found at the [contact locator](#) page on the Revenue website.) Requests for an Internal or External Review should be made to the Review Secretariat, Revenue Commissioners, Ground Floor, Cross Blocks, Dublin Castle, Dublin 2.

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