

## Revenue Legislative Services' Guide to interpreting legislation

### Part 01-00-06

Document reviewed last May 2021.

---



## Table of Contents

1. Legislative interpretation .....	3
2. Purpose of this guide .....	3
3. Suggested practical approach to interpreting legislation in general .....	3
4. Suggested practical approach to interpreting legislation at the case level.....	4
Part 1 – Interpreting legislation.....	6
5. Sources of guidance on legislative interpretation.....	7
5.1 Revenue interpretations.....	7
6. The rules and guides to legislative interpretation .....	7
6.1 Words defined in statute .....	8
6.2 Literal rule.....	8
6.3 Purposive rule.....	9
6.4 Changes since enactment .....	9
6.5 References to enactments, or part thereof .....	9
6.6 Presumptions and Maxims .....	9
7. Practical issues to take note of when interpreting legislation .....	11
Part 2 – Interpreting case law .....	13
8. Precedent.....	14
9. The Courts.....	14
10. Foreign Decisions.....	14
11. Overruling a precedent.....	15
12. Distinguishing a precedent .....	15
13. Elements of a judgement.....	16
13.1 Deciding the facts.....	16
13.2 Applying relevant legal principles .....	16
13.3 Decision .....	16
14. Interpreting a decision.....	16
Part 3 – RLS’ Interpreting procedure.....	17
Part 4 – Interpretation file .....	20
Part 5 – Dealing with EU law claims .....	25

## 1. Legislative interpretation

The purpose of interpreting legislation is to determine the intention of the legislature. It is the Constitutional prerogative of the Courts to interpret legislation. The more senior the Court that makes the interpretation the more authoritative that interpretation will be<sup>1</sup>.

However, Revenue officers in the course of their duties are often expected to form views as to what interpretation will or should be given to a particular piece of legislation. In particular Revenue officials are or will be expected to offer a view as to what their opinion is in regard to interpreting a specific piece of legislation. In many instances, the word or phrase which requires interpreting may already have been considered by the Courts, or the Courts may have examined similar facts and determined whether or not they fit within a provision, or a similar provision. In those cases, regard should be had to cases which have either persuasive or precedential value.

Alternatively, Revenue officials in the course of their duties, either in a customer service role or in a compliance role, will be expected to form a view as to what a particular piece of legislation means and how it applies to a particular taxpayer. Since such activities are case specific the actual proven facts are key in all such instances: legislation cannot and should not be interpreted and applied to unknown or uncertain facts.

## 2. Purpose of this guide

The purpose of this guide is to set out a consistent organisational wide approach to interpreting legislation for direct and capital taxes. Additional guidance on interpreting indirect taxes, such as VAT, will be included in the future.

While this guidance may assist RLS officers in drafting legislation, it is primarily intended for officers dealing with an interpretation issue in relation to a taxpayer (e.g. a compliance issue).

## 3. Suggested practical approach to interpreting legislation in general

1. Identify the words / phrases that need clarification.

---

<sup>1</sup> Refer to Part 2 below for details on the doctrine of legal precedent.

2. Start with the definitions section of the provision, then that of the Chapter, that of the Part, that of the relevant tax (e.g. s.3 TCA 1997 for the Income Tax Acts), then that of the Tax Acts (e.g. s.2 TCA 1997), then that of the Act (e.g. s.1 TCA 1997), then that of the Schedule to the Interpretation Act 2005 (as applied by s.21 of that Act).
3. Read the section completely and see if it refers to other sections<sup>2</sup>.
4. Read those sections.
5. Read case law on similar provisions to see if the Courts have addressed this issue.
6. Apply the rules, maxims and presumptions outlined below.

#### 4. Suggested practical approach to interpreting legislation at the case level

1. What are the facts and what is the available evidence that supports those facts? It is important to look beyond the label put on a transaction to determine the true legal form of the transaction.<sup>3</sup>
2. Have the facts been agreed with the taxpayer or are the actual facts in dispute?
3. If the facts are in dispute has the Revenue position been put to the taxpayer and if it has what is taxpayer's response. Does the matter need to be further investigated before it becomes an interpretation issue?
4. Care should be given to ensuring that the approach that Revenue is adopting is reasonable and consistent with the proven facts and – unless there is a carefully-considered reason to amend that approach – with the normal approach that Revenue officials take in such matters.
5. What is the relevant legislation that applies to the particular facts in question?
6. Follow the guidance set out in Section 3 above.

---

<sup>2</sup> Notes to the section in the non-statutory consolidations may be helpful in this regard. Related sections, which may be relevant to the section being interpreted, may also be listed as "cross-references" in the notes to the section in the non-statutory consolidations.

<sup>3</sup> *McCabe v South City and County Investments Co. Ltd* [1997] 3 IR 300. The principle of looking beyond the label is very different to the use of substance over form in section 811/ 811C challenges. Cases involving deciding whether there is a contract of / for services involve looking beyond the label.

7. Remember:

- In order to make an assessment the Officer must have met the relevant State of mind test<sup>4</sup>.
- Revenue officers are obliged to explain the reasons for their decisions. While decision letters should refer to the relevant sections of legislation or a case upon which a decision turned, they should be in plain English and include explanations of what the sections do or what the case law means<sup>5</sup>. Letters should provide the tax payer with enough information to understand why the decision was made and whether or not they should appeal against the decision.

---

<sup>4</sup> Refer to Tax and Duty Manual (TDM) [Part 41A-05-01](#) for details on this.

<sup>5</sup> Where the letter is to a very technical agent, for example, it would be appropriate to tailor your language appropriately.



## Part 1 – Interpreting legislation

A more recent version of this manual is available.

## 5. Sources of guidance on legislative interpretation

Guidance on legislative interpretation comes from a number of sources. The first source is the legislation itself, followed closely by the Interpretation Act 2005 and any court cases on similar legislation. There are a number of rules of interpretation that always apply, as well as maxims and presumptions that may apply<sup>6</sup>, when interpreting legislation.

While sources external to the legislation, such as published material from when the legislation was passing through the Oireachtas, can be useful in explaining what was intended, it is not binding on whether the words used actually achieved that objective.

### 5.1 Revenue interpretations

Where Revenue has previously given an opinion<sup>7</sup> to a taxpayer<sup>8</sup> based on a full disclosure of all relevant facts, then Revenue will follow that opinion. However, if on reviewing the opinion Revenue believes that it is incorrect, it may be withdrawn prospectively.

Where Revenue has issued guidance on an issue, and a taxpayer has relied on that guidance in good faith<sup>9</sup>, then Revenue will follow that guidance (unless it has been superseded by changes in legislation or case law). If on reviewing the guidance Revenue believes it is incorrect, that guidance will be withdrawn and amended.

Note that taxpayers are not bound by an opinion given by Revenue or by Revenue guidance if they can show that the approach that they adopt is in line with the legislation.

## 6. The rules and guides to legislative interpretation

There are a number of sources and rules that will be of use when interpreting legislation. They are outlined below.

---

<sup>6</sup> [“Consultation Paper on Statutory Drafting and Interpretation: Plain Language and the Law”](#) (1999), Law Reform Commission, provides a detailed analysis of these, as they stood prior to the Interpretation Act 2005.

<sup>7</sup> References to “opinions” include reference to confirmations.

<sup>8</sup> E.g. pursuant to TDM [Part 37-00-40](#) (LCD) or TDM [Part 37-00-00a](#) (Revenue’s Technical Services)

<sup>9</sup> Revenue guidance may not be relied upon where there is a tax avoidance purpose or to otherwise gain a tax advantage.

## 6.1 Words defined in statute

Look at the beginning of the:

- Section,
- Chapter,
- Part, and then
- Act

to see if the word is defined there. If it is not, refer to **Section 21** of, and the **Schedules** to, the **Interpretation Act 2005** to see if it is defined there.

Where an enactment defines or interprets a word or expression, other parts of speech or grammatical forms of the word or expression have a corresponding meaning [**section 20(2) Interpretation Act 2005**].

A word that imports the singular shall be read as importing the plural, and vice versa [**section 18(a) Interpretation Act 2005**]. Equally, a word that imports the masculine gender shall be read as importing the feminine gender, and vice versa [**section 18(b) Interpretation Act 2005**].

Where a section is importing a definition from another section, Chapter, Part or enactment then it is important to understand that definition in its original context. In its original context, that definition may be based upon, or rely upon, another definition and both definitions may then need to be considered when importing the main definition.

When interpreting an SI, a word or expression used in an SI has the same meaning as it has in the enactment under which the SI is made [**section 19 Interpretation Act 2005**].

If an Act contains a definition, the definition should be used unless a contrary intention appears elsewhere in the Act itself [**section 20(1) Interpretation Act 2005**].

Examples of the operation of a provision, clearly identified as such by the heading "Example", should not be read as exhaustive and may extend, but not limit, the meaning of the provision [**section 11 Interpretation Act 2005**].

## 6.2 Literal rule

If the word is not defined in the Act, and where the provision is directed to the public at large, apply the ordinary and natural meaning of the words used. This is the primary rule of interpretation and it is legitimate to consult a dictionary to determine the meaning of words which have no particular legal meaning. If a provision is aimed at a particular trade, business or transaction, then the words should be construed as having the meaning that they have in the context of that trade, business or



transaction, even if that may differ from its ordinary meaning [**Henchy J, De Brun (Inspector of Taxes) v Kiernan [1981] and McCarthy J, McCann Ltd v Ó’Culacháin [1986]**].

### 6.3 Purposive rule

If such an interpretation is absurd or ambiguous, read the piece of legislation as a whole (including the long and short titles, preamble, schedules, and definition and interpretation sections) and apply the plain intention of the Oireachtas or maker of the legislation [**section 5 Interpretation Act 2005** and **O’Donnell J, Revenue Commissioners v O’Flynn Construction Ltd and others [2011] ITR 113**].

Prior to the Interpretation Act, elements of this purposive rule were found in the mischief rule, the golden rule (also referred to as the presumption against absurdity) and a teleological, or schematic, approach to interpretation (the approach taken to the interpretation of EU law).

### 6.4 Changes since enactment

Courts may make allowances for any changes in the law, social conditions, technology, the meaning of words used and other relevant matters which have occurred since the enactment of a piece of legislation, but only in so far as its text, purpose and context permit [**section 6 Interpretation Act 2005**].

Prior to the introduction of the **Interpretation Act 2005** this was referred to as the presumption that an updated construction should be applied.

### 6.5 References to enactments, or part thereof

A citation or reference to an enactment shall be read as a citation or reference to an enactment as amended, no matter when the citation or reference came into operation [**section 14 Interpretation Act 2005**].

References to a Part, Chapter, section, Schedule or other division should be read as a reference to the enactment in which the reference occurs [**section 9(1) Interpretation Act 2005**] while references to subsections, paragraphs etc. should be read as references to the division of the provision in which the reference occurs [**section 9(2) Interpretation Act 2005**].

### 6.6 Presumptions and Maxims

These are not binding legal rules, but they provide guidance on statutory interpretation.

### 6.6.1 Maxim of **noscitur a sociis**

Roughly translated, this means that ‘a thing is known by its associates’. It provides that while that the literal interpretation of one section may seem clear, when considered in light of the Act as a whole, or related Acts, the intended meaning may be revealed as different from the meaning indicated by that section when read in isolation. **“A small section of a picture, if looked at up-close, may indicate something quite clearly; but when one stands back and examines the whole canvas, the close-up view of the small section is often found to have given a wholly wrong view of what it really represented”**<sup>10</sup>.

### 6.6.2 Maxim of **eiusdem generis**

This means ‘of the same genus’, and is similar to, but narrower than, the maxim of **noscitur a sociis** [**People (Attorney General) v Kennedy** [1946] IR 517]. It provides that if a provision includes a broad or open-ended term which follows examples or more restrictive terms, the broad term should be interpreted in terms of those examples. A common example is the expression ‘dogs, cats and other animals’. Applying the maxim of **eiusdem generis** the general words (other animals) are to be interpreted in light of the more specific words (dogs and cats), such that it would be construed to mean domestic animals of some sort.

### 6.6.3 Maxim of **generalia specialibus non derogant**

The principle that a general statutory provision does not replace a specific one is a maxim with which care must be had in relation to tax. In **Revenue Commissioners v O’Flynn Construction Ltd** it was argued that the presence of a specific anti-avoidance provisions within the relevant legislation, which did not prevent the scheme from working, precluded the application of the general anti-avoidance provision from having effect (**section 811 TCA 1997**). This was rejected by the majority of the Supreme Court based on the wording of **s.811**.

### 6.6.4 Maxim of **expression unis est exclusion alterius**

Translated as ‘to express one thing is to exclude another’, the principle is that where the Act applies a rule in particular circumstances then the courts can infer that it was not intended to apply to other circumstances. It was found in **Kiely v Minister for Social Welfare** [1977] IR 267 that a piece of legislation which provided that a written statement could be received into evidence in certain specific circumstances implied it could not be received in other circumstances.

### 6.6.5 Presumption of constitutionality

Where the courts are faced with two interpretations, one of which would render the legislation unconstitutional and one of which would render it constitutional, the constitutional interpretation must be adopted [**Walsh J, East Donegal Co-op v Attorney General** [1970] IR 317].

### 6.6.6 Presumption of compatibility with EU law and International Obligations

As with constitutionality, if two interpretations appear equally valid, and one is compatible with EU / international obligations and the other is not, the compatible

---

<sup>10</sup> **People (Attorney General) v Kennedy** [1946] IR 517 at p.536

interpretation should be adopted [**Dowling v Ireland** [1991] 2 IR 279 re EU and **O'Domhnaill v Merrick** [1984] IR 151 re international obligations].

#### 6.6.7 Presumption that all law bears a meaning

Also known as the presumption against redundancy, this presumption provides that an interpretation which involves certain words or phrases used in the legislation becoming meaningless, superfluous or serving no purpose should not stand. It is presumed that each word is put in the legislation for a purpose [**Cork Co Council v Whillock** [1993] 1 IR 231].

#### 6.6.8 Presumption against retrospective effect

Unless the legislation specifically provides that it applies retrospectively, it is presumed not to have retrospective effect [**Hamilton v Hamilton** [1982] IR 466].

#### 6.6.9 Presumption against extra-territorial effect

It is presumed that the legislation is intended only to cover the territory of the State, unless it is otherwise clearly stated [**Chemical Bank v McCormack** [1983] ILRM 350].

#### 6.6.10 Presumption against unclear changes in law

A change in law must be clear, either in express terms or by clear implication. In the event of ambiguity the Court should interpret the law as not having been changed [**Minister for Industry and Commerce v Hales** [1967] IR 50].

#### 6.6.11 Presumption that penal statutes be construed strictly

In the absence of clear and unambiguous words a penal liability will not be implied by the courts [**Re Emergency Powers Bill 1976** [1977] IR 159]. The purposive approach set out in **section 5 Interpretation Act 2005** does not apply to a provision that relates to the imposition of a penalty or other sanction.

The imposition of a charge to tax is not generally considered to be a penalty or other sanction and therefore this presumption will not generally apply, other than in respect of provisions within the taxing statutes which impose a penalty (e.g. **section 1077E TCA 1997**).

#### 6.6.12 Presumption re reliefs and allowances

It is generally accepted that, in absence of any statutory direction, taxpayers may claim reliefs and allowances in the manner which is most beneficial to them (see eg **Sterling Trust v IRC** 12 TC 868; **Ellis v BP Oil Northern Ireland Refinery Ltd** [1987] STC 52 and **Commercial Union Assurance Co v Shaw** [1999] STC 109).

## 7. Practical issues to take note of when interpreting legislation

1. Amendments are shown in [square brackets] in non-statutory consolidations (e.g. the Irish Tax Institute's, Chartered Accountants Ireland's or Bloomsbury Professional publications).

2. In non-statutory consolidations (e.g. the Irish Tax Institute's, Chartered Accountants Ireland's or Bloomsbury Professional publications) footnotes to the provision concerned include:
  - a. citations of the legislation enacting amendments<sup>11</sup>
  - b. other sections referenced in the provision concerned; and
  - c. cross-references to the provision concerned in other sections of the Act.

Considering the interaction of the provision concerned with other sections of the relevant legislation, as signalled by such cross-references, may assist in interpreting the provision.

3. Language and punctuation are used deliberately:

“means” is a definition

“includes” is an interpretation

“shall” was always viewed as the imperative, but the Courts have found it to be permissive when applied to taxpayers so care should be taken on interpretations that involve ‘shall’<sup>12</sup>

“may” is permissive or authorising

“deemed” is temporarily suspending reality, and the deeming goes no further than that one section

“subject to” is “governed by” what is said

“notwithstanding” is “despite” what is said

“and” means both or all

“or” means one of two or more, and may include all.

A tax case in which many of the rules, maxims and presumptions of interpretation were applied, implicitly and explicitly, is **Patrick O'Connell (Inspector of Taxes) v Tara Mines Ltd**: VI ITR 523, where the definition of the phrase ‘mining operations’ was in dispute. It is worth reading in full to understand the Courts’ approach to such issues.

---

<sup>11</sup> The enacting legislation will be relevant to issues of retrospection - the temporal scope of the provision - where care has been taken in the drafting to provide clarity in that regard.

<sup>12</sup> Refer to section 7 of TDM [Part 15-02a-06](#) for more detail on this, following the UK Court's decision in **Ellis v BP** [1987] 59 TC 474.



## Part 2 – Interpreting case law

A more recent version of this manual is available.



## 8. Precedent

It is important to note that the doctrine of precedent applies to the interpretation of statutes. Once a matter has been decided (by one of the higher courts) it becomes a precedent. The decision of the Superior courts as to the correct interpretation of a provision of a statute will therefore be binding. In any later case to which that principle is relevant, the same principles should be applied (subject to certain exceptions). Whether the precedent is binding (i.e. **must** be followed) or persuasive (i.e. **may** be followed) depends upon the type of legal principle and the court in which it was decided.

The judgement can generally only be overruled by a higher court or by legislation.

## 9. The Courts

The decisions of the Court of Justice of the European Union (CJEU) are binding on all Irish courts in relation to the interpretation or application of EU law.

The decisions of the Supreme Court are binding on all lower courts. The Supreme Court may overrule the decision of any lower court. The Supreme Court will typically only hear appeals on questions of law, not on findings of fact by the lower court. The Supreme Court will generally follow its own decisions, but it reserves a scope to depart from them where there are “compelling reasons”.

The High Court is bound by decisions of the Supreme Court. The High Court may overrule the decisions of lower courts and its decisions bind all lower courts. It is generally expected to follow its own earlier decisions but is not bound to do so.

The Appeal Commissioners are bound by decisions of the High Court or Supreme Court. Previous determinations by the Appeal Commissioners are not a precedent in that they are not binding on the Appeal Commissioners. However, they may be of persuasive authority. Historically, decisions of the Appeal Commissioners were not reported and were not available to the public. However since the introduction of the Finance (Tax Appeals) Act 2015 the Appeal Commissioners are obliged to publish their determinations within 3 months of their being made, which they do on their website ([www.taxappeals.ie](http://www.taxappeals.ie)).

## 10. Foreign Decisions

A court is not bound to follow the decisions of foreign courts – this does not include the CJEU. However, those decisions can be of persuasive authority and may be followed at the option of the courts. Decisions of other common law countries are frequently cited and adopted by the Irish courts, particularly where there is no Irish authority governing the issue in question.

Given the origin of the Irish legal system and the judicial links between the two systems, it is not surprising that English decisions are the most commonly cited foreign decisions. In constitutional matters, the courts pay special attention to decisions of courts in the United States of America, especially the Federal Supreme Court. The citing of decisions from other common law jurisdictions, such as Australia, Canada and New Zealand has become more common in recent years.

A significant number of the Irish tax laws are similar in principle to the tax law of the United Kingdom. Consequently, many of the decisions of the UK courts can be of great assistance in the interpretation of the corresponding Irish statutes. However, the Irish courts are fully entitled to ignore the UK case law entirely.

## 11. Overruling a precedent

A precedent may be overruled either by statute or by a higher court. A precedent may also, in limited circumstances, be overruled by a court of equal standing, e.g. the High court may overrule an earlier High Court decision (see for example the comments of Charleton J in **Menolly Homes Ltd v Appeal Commissioners and Revenue Commissioners** [2010] ITR 75 in relation to how his decision differs from that of O'Neill J in **Viera Ltd v The Revenue Commissioners: [2009] ITR 143.**) If it is overruled by a higher court, the earlier rule of law is deemed never to have existed. This is part of the declaratory theory of the law. The law is never changed, it is merely restated correctly. It does not mean that earlier cases which have been concluded will be reopened, but cases which are not concluded when the law is restated are affected by the restatement.

The courts do not overrule earlier precedents unless there is good reason. Overruling must be distinguished from reversing a decision, which is the term used when a decision is altered on appeal e.g. a decision of the Circuit Court may be reversed on appeal to the High Court.

## 12. Distinguishing a precedent

A court can avoid following a decision which apparently applied to the case in hand, but of which it disapproves, by distinguishing the precedent from the case in hand. Distinguishing is a process whereby a court finds that the material facts of the two cases differ, so that the precedent need not be followed.

## 13. Elements of a judgement

In deciding a case the judge must decide what the facts are, ascertain the law, and apply the law to the facts of the case. These three elements are contained in each judgement.

### 13.1 Deciding the facts

The judge determines and states the relevant facts based on the evidence heard by the court. Generally speaking, because the facts of every case are different, it is only findings as to matters of law, not findings of fact, which will serve as a precedent for later cases. However, if the facts of a prior case are particularly similar to the facts of a later case and the legal arguments are substantially the same the court may be guided by the earlier decision when it comes to applying the relevant legal rules to the facts at hand.

### 13.2 Applying relevant legal principles

Having ascertained the facts of the case, the court will then decide what it believes are the relevant legal principles to be applied in the case before the court. If there have been previous cases on the same question where the judges have opined on the legal principles to be applied, the lawyers will open these cases to the judge. The judge will be bound to follow some of these decisions and free to ignore others (as set out above).

### 13.3 Decision

The judge arrives at a decision in a case by applying the principles of law to the material facts. This is called the **ratio decidendi** (reason for the decision) and is the only binding element of the decision as far as later cases are concerned. All other statements of legal principle, such as statements of law which do not relate directly to the material facts in question, are known as **obiter dicta** (comments by the way) and are only persuasive in later cases.

## 14. Interpreting a decision

In deciding a case, the **ratio decidendi** is not stated by the court. This is for later courts to discover but this may be difficult due to the manner in which courts give their decisions. The judge may give the decision in a speech or in a written judgement but it is not divided into the three sections above. This is further compounded if the case goes to appeal which may be heard by five or up to seven judges. If the judges disagree in their conclusion and/or reasoning, this may make it difficult for a later court to determine the **ratio decidendi**.

## Part 3 – RLS' Interpreting procedure

A more recent version of this manual is available.



1. Be clear on the question being asked.
  - a. At a high level, is this the correct question to be asked and why is it being asked?
    - i. Is the issue more complex than it seems and should the district / RTS do more research on wider issues and possibly have questions for more than one RLS expert? If so, give guidance to the district on what additional work is required.
    - ii. Does the question indicate that there may be a wider problem (sectoral or general) with interpretation or application of a provision or a gap in the legislation? If so, particular attention should be paid to points 9 and 10 below.
  - b. Seek additional information from the district if relevant, for example where RLS do not have access to systems such as the IC system. There is a fine line between having enough information to determine the answer to the case and having so much information that you are effectively working the case.
  - c. Ensure that the officer submitting the question is not asking RLS to make a decision for the district. RLS can advise on the technical aspects but do not advise the districts on the course of action they must take. The final response that issues to the taxpayer is the case manager's responsibility.
  - d. Remember RLS's role is to determine the right answer and not to find ways to support the district's case.
2. Identify the relevant Irish legislative provisions.
  - a. Identify any TDMs, the Notes for Guidance or other internal guidance already given on those sections (if not already identified in the RTS query). In some cases it may also be helpful to refer to the original legislation file.
  - b. Check the branch's opinion register and CRMS to determine if Revenue (RLS, RTS or more generally) have addressed a similar issue previously. Specifically check if any advice was previously given to this specific taxpayer.
  - c. Identify other reliable commentary sources (e.g. Butterworth's Irish Income Tax etc.)
  - d. Identify whether the Irish legislation is transposed from EU legislation – if so, refer to Point 5.



- e. Apply Part 1 of this document to interpret the legislation.
  - f. Apply the legislative provisions to the facts of the case.
3. Identify any relevant Irish case law (or UK case law if the UK law is similar).
    - a. Check the footnotes to the legislation for references to relevant cases
    - b. Check any cases referred to in the commentary sources.
    - c. Check HMRC's manuals on similar areas for cases which may be of relevance.
    - d. Apply Part 2 of this document to use the case law to aid in the interpretation of the legislation.
  4. Identify whether there any relevant appeals or court cases pending.
  5. If there is an EU aspect to the case refer to Part 5 Interpreting – EU law aspects.
  6. Consider if anything has emanated from Revenue which contradicts your findings and the appropriate course of action if it has.
  7. Obtain 4-eyes sign-off. 4-eyes review should be obtained before sending the reply to RTS in relation to complex or novel queries.
  8. Determine if the query highlights a gap in legislation. If so, consider whether further research is required with a view to whether or not a Finance Bill amendment/ Regulations should be recommended.
  9. Determine if the query highlights a gap in Revenue's guidance material, or an opportunity to provide greater clarity to districts on a particular aspect. If so, prepare an updated TDM / OI / eBrief.
  10. Enter the appropriate details of the opinion onto the relevant tracking system.
  11. Ensure that a file (electronic or paper) is prepared documenting the work done in support of the opinion which issued, using the appropriate file cover<sup>13</sup>/recording system.

---

<sup>13</sup> Refer to Part 4 of this document.

## Part 4 – Interpretation file

**A more recent version of this manual is available.**

File:	
Query [RTS / LCD / Direct / Other]	A
Final issued RLS response	B
RLS workings (including an interpretation query report)	C
Guidance <sup>i</sup> : <ul style="list-style-type: none"> <li>- TDMs</li> <li>- Tax Briefings / e-briefs</li> <li>- Other Revenue guidance / opinions</li> <li>- Commentary books</li> <li>- HMRC's manuals (if relevant)</li> </ul>	D
Case law <sup>i</sup> : <ul style="list-style-type: none"> <li>- Irish</li> <li>- UK (if relevant)</li> <li>- CJEU (if relevant)</li> </ul>	E
Has query highlighted deficiency or an opportunity in current legislation? If Yes, prepare draft submission to Finance	Yes / No F
Has query highlighted deficiency or an opportunity in current guidance? If Yes, prepare new or supplemental guidance	Yes / No G
If the case goes to Appeal and the Tax Appeal Commissioners find for the taxpayer, will legislation or guidance need to be updated? If Yes, prepare draft submission / guidance	Yes / No H

i. If no material is included in this part of the file, please indicate why.

**1. Summary**

Taxpayer / Company Name	
Customer Number	
Agent (if any)	
Source of Query (RTS/ LCD/ Other (please specify)	
Relevant legislative provision(s)	
Brief Summary of Interpretation Query/ Issue	
Brief Summary of Response	
Has the Query been logged on the Interpretation Queries recording system (including this report)?	
Does this interpretation relate to subject matter to which exchange provisions apply? <sup>14</sup>	

<sup>14</sup> Refer to TDM [Part 35-00-01](#) or guidance on what rulings that are subject to exchange provisions.

**2. Background and Summary of Issue**

A request was received from [ ] to confirm [ ]....

**3. Summary of Facts of Case****4. Analysis<sup>15</sup>**

Is there any published guidance on the issue?

Is there any relevant case law (Irish, UK or CJEU)?

Has Revenue provided an interpretation on a similar issue previously? Do you agree with that interpretation?

Did a review of any relevant legislative file shed any light on the matter?

<sup>15</sup> Views of others solicited in connection with this query can be included in the Appendix.



**5. Response (in form to be sent to RTS Expert/LCD/Other)<sup>16</sup>****6. Other outcomes**

Has the query highlighted a need to amend or introduce guidance?

Do we need to consider making a proposal to change legislation?

Do we need to withdraw an interpretation given in another case which you disagree with, and which has been highlighted by a review of this particular case?

<b>Prepared by:</b>	
<b>Date:</b>	
<b>Reviewed by/ Consulted with*:</b>	
<b>Date:</b>	
<b>Approved by (PO)**:</b>	
<b>Date:</b>	

\* A 4 eye review approach is necessary in all cases. However, in some cases, it will be the PO that forms part of the 4-eye review such that completion of 1 and 3 are only relevant/ required.

\*\* PO to consider whether the matter is of such significance that the Assistant Secretary should be consulted.

<sup>16</sup> If you are of the view that the opinion that will ultimately be provided by LCD/ RTS/ Other to a taxpayer, and to which your interpretation relates, is subject to exchange of information provisions relating to rulings this should be highlighted. Similarly, if the interpretation is issued directly by RLS to a taxpayer, the question of applicability of EU and OECD provisions relating to exchange of tax rulings should be addressed.

## Part 5 – Dealing with EU law claims

A more recent version of this manual is available.

A district should NOT make any decision on a point of EU law in respect of direct or capital taxes without first contacting RLS through the RTS procedures. RLS branches must ensure that the EU Branch of International Division is notified of relevant direct and capital tax issues.

A more recent version of this manual is available.