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## [41A.05.02] Full self assessment

### Revenue assessment in the absence of a return

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#### **1. Failing to submit a return**

Where a taxpayer has failed to submit a Form 11, CG1 or CT1, as appropriate, section 959O provides that penalties under section 1052 and 1054 may arise. In addition, a surcharge under section 1084 may apply ( refer to [Part 47-06-01](#)

#### **2. Making an assessment in the absence of a return**

Where a taxpayer has not filed a return (be that a Form 11, CG1 or CT1), then a Revenue Officer may, under section 959AC, make a Revenue Assessment on that person for the amount of tax, which in the best of the officer's judgment, is due.

##### **2.1. Time Limits**

Section 959AC(2) specifically provides that Revenue assessments in the absence of a return can be made at any time. The normal 4 year restriction contained in section 959AA(1) (which provides that where a taxpayer has made a full and true disclosure of all material facts, Revenue cannot make or amend an assessment later than 4 years after the end of the chargeable period to which the return relates) does not apply.

In addition, section 959Z(4), which sets out the time limits within which Revenue may make enquiries, specifically provides that Revenue may carry out enquiries at any time where those enquiries relate to a tax liability where there is no return. That is, the normal 4 year time limit on enquiries does not apply.

##### **2.2. Notice of assessment**

The normal rules for what must be contained in a notice of assessment under Part 41A do not apply and instead, under s.959AC(3), a short notice which sets out only the amount of tax payable by the person for the chargeable period, need issue.

#### **3. Amending such an assessment**

If a Revenue Officer considers that it is necessary to amend a Revenue assessment which was issued in the absence of a return, then section 959AC(4) provides that they may do so.

If a taxpayer submits a return, and the Officer accepts that return as a full and true disclosure of all material facts, then the Officer can replace the Revenue assessment in the absence of a return with an amended Revenue assessment.

If the Officer accepts parts of that return, the Officer should issue an amended Revenue assessment which the taxpayer may then, under section 959AF, appeal as with all other amended assessments.

#### 4. Rights of appeal against a Revenue assessment in the absence of a return

Section 959AH(1) provides that a taxpayer may not appeal a Revenue assessment raised in the absence of a return until they have filed a tax return for the period in question. If a taxpayer has not appealed an assessment within 30 days from the notice of assessment, that notice becomes final and conclusive<sup>1</sup>, meaning any tax due thereunder is collectible.

Where an Officer is refusing an appeal, then under section 933(1)(b) the Officer must notify the taxpayer of the grounds for the refusal (e.g. no return has yet been filed). A taxpayer can, within 15 days of the date of issue of the refusal letter, appeal against this refusal (under s.933(1)(c)).

The appeal criteria and timings under Part 41A are different to those under Part 41 so Officers must be certain which set of rules apply, by virtue of the year of assessment or accounting period to which the assessment relates. If in doubt as to which Part applies, consult manual [41A.01.02](#).

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<sup>1</sup> Under section 933(6)(a)