

Prosecution of serious tax offences

Presentation by

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Revenue Commissioners

Care and Management

Raising, collecting, receiving and accounting for tax and duties.

Statement of Strategy 2011 – 2013

Our mission: to serve the community by fairly and efficiently collecting taxes and duties and implementing customs controls.

Compliance

Increased emphasis on prosecution for serious tax and customs evasions.

Custom Service Charter

Presumption of honesty.

Revenue Code of Practice for Revenue Audit (October 2010)

- Multi-faceted approach to non-compliance
- Audits
- Investigations
- Non-audit interventions

Revenue Investigation

- Strong concerns of serious tax offences
- Precludes benefits of “qualifying disclosure”
- Risk of increased penalties, publication and criminal prosecution

Possible Offences

- Deliberate omissions from tax returns
- False claims for repayment
- Use of forged or falsified documents
- Facilitating fraudulent evasion of tax
- Failure to file returns
- Failure to remit taxes – fiduciary taxes

Investigative Powers

- 908A TCA – Bank Records
- 908C TCA – Search Warrant
- 908D TCA – Production Order

Offences

- Section 1078 Taxes Consolidation Act 1997, as amended
- Incorrect information
- False claims for relief or payment
- Failure to file returns
- Issuing or producing false documents
- Failure to deduct and pay remittances when due
- Being concerned in or facilitating the fraudulent evasion of tax
- Knowingly or wilfully destroying or concealing documents
- Obstruction of person exercising statutory powers for tax purposes

Penalty Provision

- Summary fine €5,000 can be mitigated to not less than one quarter, or up to 12 months imprisonment or both fine and imprisonment.
- Indictment – fine up to €126,970 or imprisonment not exceeding 5 years or both fine and imprisonment.
- Court can order that return or other documents be filed within a specified period.
- Failure to do so is a further offence.

Prosecution Statistics

- Since 1999, 73 convictions
- 29 custodial sentences of which 18 received suspended sentences
- Fines

Case Law

- Attorney General v James Casey [1930] I.R., 163
- McLoughlin v Tuite [1989] I.R., 88
- DPP v George Redmond [2001] I.R., 390
- DPP V Colm Perry CCA 29th July, 2009

Common Law Offences

- Cheating the public revenue
- Conspiracy to cheat the public revenue
- Attempting to cheat the public revenue
- Attorney General v Baird Hilton [2004]
- Minister for Justice Equality and Law Reform v Tighe [2010]