



# Irish Taxation Institute

Educating, Developing & Representing

Draft

For Discussion by TALC Audit Sub-Committee members only  
17 August 2009

## Not Revenue Approved

### No Loss of Revenue

Compliance is about guarding against loss of income to the Exchequer. No Revenue Administration can operate on the basis that there may be a loss of tax revenues at some point.

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“No loss of revenue” is sometimes presented as a reason why a taxable person has not accounted for tax on a particular transaction or payment. Taxpayers may be of the view that, since the customer can claim a credit for tax charged, there is no loss of tax to Revenue if the parties to a transaction or payment fail to account for tax on the transaction. This practice undermines the integrity of the tax system, distorts competition and undermines a taxpayer’s right to a fair and consistent system.

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It is recognised that genuine errors can occur where there is no loss of revenue to the State. The provisions set out below are for use in exceptional circumstances, involving genuine cases where there has been no loss to the Exchequer. These provisions do not deter from the importance of compliance with tax regulations and the avoidance of risk to the revenue income stream. There is no basis in law for this approach and it is not acceptable as a basis for failing to account for tax.

**Deleted:** The practice undermines the integrity of the tax system, it distorts competition and undermines the taxpayer’s right to a fair and consistent system.¶

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Revenue will only consider “No loss of revenue” claims on a case-by-case basis and in circumstances where:

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- There was no deliberate advantage sought by non-compliance.
- The nature of the failure to deduct tax is exceptional
- It can be shown to the satisfaction of the Inspector that the overall impact on the Exchequer is tax neutral.
- The taxpayer rectifies the failure to deduct tax within an agreed timeframe.
- Complex business structures, set up by taxpayers, are not lightly ignored for the purposes of non-compliance with the Regulations.

**Deleted:** ¶ There has been exceptional failure to deduct tax, there has been genuine error or misunderstanding and the failure to account for tax was clearly and demonstrably not deliberate but accidental.¶

**Deleted:** <#> There is no commercial advantage by non-compliance with the various Regulations.¶

The following broad principles will be considered:

**Comment [m1]:** We are unclear as to the intent behind this statement and suggest that the above points cover any situation envisaged – we consider that this point should be omitted.

- Interest will be calculated having regard to any period of temporary loss of revenue to the Exchequer.
- A fixed penalty, proportionate to the error up to a maximum of €60,000 will be applied in cases where it has been accepted that there is “no loss of revenue” to the Exchequer.
- The definition of “Group” to include other connected business entities and associates.

**Deleted:** <#>Where the taxpayer has proved to the satisfaction of Revenue that tax has been lost, or has been paid, the tax will not be collected.†

**Deleted:** will be applied for non-operation of the regulations for each return.

#### Isolated Instances and Technical Issues

- Tax, interest and penalties will **not** be imposed where there has been exceptional failure to deduct tax. Exceptional failure means an isolated incident and must not involve failure to deduct tax generally – it must be a one-off.
- Complexity of technical issues will be considered.

#### Other

- It will be a condition of any concessional treatment that the taxpayer will provide a written undertaking that the correct procedures will be compiled with thereafter.