



## Revenue Interventions – New Code of Practice 1 May 2022

**Note:** The Code of Practice is effective from 1 May 2022. It is important that you carefully read this document and contact Moore should you need to take action and make a qualifying disclosure by 30 April 2022.



Revenue recently published its new 'Code of Practice on Audit and other Compliance Interventions' which covers all taxes and duties with the exception of customs. The code is a set of guidelines on the engagement of Revenue with taxpayers and tax advisers during the course of enquiries or interventions. Revenue carry out such actions in order to assess taxpayer behaviour and compliance. The guidelines provide insight into Revenue interventions, the regime of tax penalties and the options available to taxpayers to disclose tax liabilities. The new code has resulted in significant changes to the classification of compliance interventions and the ability for taxpayers to make qualifying disclosures.

### Recap on the existing code:

The existing Code of Practice is effective to 30 April 2022 and provides for various categories of compliance interventions:

- 1. Non-audit interventions:** such interventions include profile interviews, aspect / assurance queries and requests for self-review of tax affairs. Under this category a taxpayer could make an unprompted qualifying disclosure for tax underpayments and avail of reduced penalties.
- 2. Audit interventions:** the second category of intervention concerns Revenue audits which could arise where the response to a non-audit intervention was not dealt with sufficiently. Alternatively, Revenue could initiate an audit to take a broader look at taxpayers' affairs. A taxpayer is not entitled to make an unprompted qualifying disclosure where notification of the audit has been issued. However, a taxpayer could make a prompted qualifying disclosure before an audit had actually commenced.
- 3. Investigations:** such investigations by Revenue are reserved for either a significant case of tax evasion and fraud or an issue across a number of taxpayers or sector. If a Revenue investigation has commenced, the taxpayer is unable to make either a prompted or unprompted qualifying disclosure.

### Why update it:

There have been significant developments since the key features of the code were implemented in 2010. The proposed changes reflect the changing landscape of Revenue compliance interventions. Risk profiling of taxpayers has become substantially more targeted due to the quantities of data available to Revenue from foreign tax authorities, real-time reporting, financial institutions and taxpayers themselves. Furthermore, the changes within the new framework are focused on motivating taxpayers to self-review and correct an underpayment of taxes on a voluntary basis. Previously, taxpayers could significantly mitigate penalties by way of a voluntary qualifying disclosure when contacted by Revenue (except in instances where a notification of audit had issued or an investigation had commenced). The new code aims to narrow this opportunity and instead encourage taxpayers to engage proactively with Revenue in advance on tax underpayments.

### Summary of the new code:

The new code has developed a graduated framework to respond to risk and taxpayer behaviour under Level 1, 2 and 3.

**Level 1:** The interventions at this level include non-filer reminders, requests to self-review and real-time notifications during the submission of returns. Taxpayers may still make an unprompted qualifying disclosure or self-correct tax returns (within a required timeframe) once an intervention under this level arises. Profile interviews will also be used by Revenue to familiarise themselves with the taxpayer as opposed to a particular risk issue. Level 1 interventions may also be communicated by media channels (social media, broadcast, radio etc.) to particular sectors or groups to review identified risks.

**Level 2:** The interventions will be used where Revenue have reason to be concerned with a particular aspect of the taxpayer's affairs. The interventions available to Revenue include audit and a new type of intervention - 'risk review'. A

risk review will mainly be a desk based review of the taxpayer's affairs for a certain tax head and / or tax period and is similar to an aspect query under the existing code. A significant departure from the approach to aspect queries, is the fact a taxpayer is unable to make an unprompted qualifying disclosure in response to a risk review. The taxpayer will, however, be able to make a prompted qualifying disclosure once they have been notified of the risk review by Revenue. This should ultimately result in an increase in penalties where an underpayment of taxes is uncovered.

A risk review will commence 28 days after the date of notification and prompted qualifying disclosures must be made in advance of this date. A taxpayer may inform Revenue within 21 days of the notification to request an extra 60 days to prepare a qualifying disclosure. It should be noted that a Revenue audit will be conducted for the most part under the same rules as that of the existing code.

**Level 3:** Investigations will be primarily the same under the new code as they were under the existing code.

It is important to note that the new graduated framework of interventions may be escalated due to the perceived risk or based on findings from an initial intervention. Furthermore, Revenue may proceed with a Revenue Audit (Level 2) or investigation (Level 3) rather than a Level 1 intervention where it is found to be warranted.

### Other significant changes:

- **Self-correction:** under the new code taxpayers are required to notify Revenue in writing if self-correcting a tax return. Amending a return without notification will not qualify for self-correction without penalty.
- **Audit timelines:** The time allowed to prepare for an audit has increased from 21 days to 28 days.
- **Notice of prompted disclosure.** The time allowed to notify Revenue of an intention to prepare a prompted qualifying disclosure has increased from 14 days to 21 days.
- **Publication:** The code has been updated for the legislative change to the rules on publication of tax defaulters. Publication will not apply under the new code where the tax underpayment or refund incorrectly claimed does not exceed €50,000 (previous threshold of €35,000 in regard to the combined tax, interest and penalties).
- **Offshore matters:** As provided in legislation, the new code now provides a taxpayer with the opportunity to make a qualifying disclosure in regard to offshore matters which previously was unavailable.

Finally, it should be noted if a taxpayer is informed of a Revenue intervention up to 30<sup>th</sup> April it will fall under the existing Code of Practice. Any interventions notified to taxpayers from 1<sup>st</sup> May onwards will fall under the new Code of Practice.

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If you have any queries or concerns regarding the new code of practice and the implications for you or your business, please do not hesitate to contact us.

For further information, please see contact information below.

#### Contact Information

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