



20/12/2016

Mr. Ken Foxe
ken.foxe@gmail.com

Re: FOI request 343/2016

Dear Mr. Foxe,

I refer to the request which you made under the Freedom of Information Act 2014 for records held by this body:

“- copies of any reports, recommendations, or submissions held by your Department relating to Section 55 of the Finance Bill 2016.

- copies of any correspondence, written or electronic, sent to Minister Noonan or his ministerial office relating to the above,

- copies of any correspondence, written or electronic, received from the Revenue Commissioners relating to the above,

- copies of any representations received by the Department of Finance relating to the above.”

I, John Day, Assistant Principal, have now on 20/12/2016 made a final decision to part-grant your request.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied,
and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that this body considers relevant to your request.

2. Findings, particulars and reasons for decisions to deny access

Access should be granted to Records Nos. 2, 3, 4, 5 & 8.

Access should be part-granted to Records Nos. 1, 7 & 12.

Access should be refused to Records Nos. 6, 9, 10 & 11.

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

I have decided to part-grant access to records 1, 7 & 12 on the basis that certain material contained in these records is not relevant to the request and so has been redacted.

Access to parts of records - 18. (1) *Where an FOI request would fall to be granted but for the fact that it relates to a record that is an exempt record, by reason of the inclusion in it, with other matter, of particular matter, the head of the FOI body concerned, shall, if it is practicable to do so, prepare a copy, in such form as he or she considers appropriate, of so much of the record as does not consist of the particular matter aforesaid and the request shall be granted by offering the requester access to the copy.*

Access to Record 6 has been refused on the basis of legal privilege and also on the grounds of the record being held or created by the Office of the Attorney General.

Access to Record 11 has been refused on the grounds of the record being held or created by the Office of the Attorney General.

Parliamentary, court and certain other matters – 31(1) (a) *A head shall refuse to grant an FOI request if the record concerned- (a) would be exempt from production in proceedings in a court on the ground of legal professional privilege.*

Restriction of Act - 42(f) *This Act does not apply to (f) a record held or created by the Attorney General or the Director of Public Prosecutions or the Office of the Attorney General or the Director of Public Prosecutions, other than a record relating to general administration*

Access to Records 9 and 10 has been refused on the grounds that the material is in the public domain and therefore not covered by this Act.

Refusal on administrative grounds to grant FOI requests - 15. (1) *A head to whom an FOI request is made may refuse to grant the request where—*
(d) *the information is already in the public domain*

Other than for those already in the public domain I have considered the question of whether the public interest would on balance be better served by granting rather than refusing access to these records.

Considerations in favour of complete release include the desirability of the greatest possible release of official records and the general public interest of persons being able to access official records that relate to the wider community.

Considerations against disclosure include the right to legal professional privilege and that the Act does not apply to certain records created by the Office of the Attorney General.

I have concluded that, on balance in this case, the public interest is better served by refusal of these records.

3. Rights of appeal

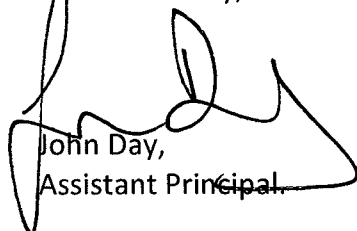
In the event that you are unhappy with this decision you may appeal this. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Finance, Upper Merrion Street, Dublin 2 DO2 R583 or by e-mail to foi@finance.gov.ie.

Your correspondence should include a fee of €30 [€10 in respect of medical cards] for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to Accountant, Department of Finance or if you wish to make payment by electronic means please contact foi@finance.gov.ie.

You should make your appeal within 4 weeks (20 working days) from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Should you have any questions or concerns regarding the above, please contact me by telephone on 01-6045596.

Yours sincerely,



John Day,
Assistant Principal.

john.day@finance.gov.ie

Request Ref: FOI 343/2016

Schedule of Relevant Documents

Rec. No	Brief Description and date of record	No. of pages	Decision: Grant/ Part Grant/ Refuse	Basis of Refusal: Section of Act	Reason for Decision	Record - Edited/Identify Deletions
1.	Email re proposed Finance Bill changes from Revenue to D/Finance 22Jun16	2	Part Grant	18(1)	Material not relevant to this request has been redacted	Deletions marked on attached
2.	Submission from Revenue sent to D/Finance 3Aug16 suggesting changes to s.1086 of Taxes Consolidation Act, 1997 (publication of defaulters) via Finance Bill 2016	5	Grant			
3.	Email sequence relating to (2) above 12Aug16	2	Grant			
4.	Submission from Department to Minister for Finance 3Oct16 proposing s.1086 changes via Finance Bill 2016	7	Grant			
5.	Supplementary information re Revenue proposal received 3Oct16	3	Grant			
6.	Legal advice re one of the items contained in the submission to the Minister 6Oct16	4	Refuse	31(1); 42(f)	Legal advice obtained from Office of the Attorney General	
7.	Material prepared 7Oct16 re proposed changes (to be included in and with Memo for Government to be discussed at Cabinet meeting of 11Oct16)	7	Part Grant	18(1)	Material not relevant to this request has been redacted	Deletions marked on attached
8.	Draft prepared 14Oct16 re proposed changes (now forming s.55) for Finance Bill 2016 Explanatory Memo	1	Grant			

9.	Final version of above material prepared 14Oct16 re proposed changes (now forming s.55) for Finance Bill 2016 Explanatory Memo	1	Refuse	15(1)(d)	Material now in the public domain as s.55 of Explanatory Memo http://www.oireachtas.ie/documents/bills28/bills/2016/8316/b8316d-memo.pdf	
10.	Stamped Copy (legislative draft) for s.55 of Finance Bill 2016	4	Refuse	15(1) (d)	Material now in the public domain as Section 55 of Bill as Initiated http://www.oireachtas.ie/documents/bills28/bills/2016/8316/b8316d.pdf	
11.	Cover note from Office of Parliamentary Counsel (part of Office of the Attorney General) re (10) above	1	Refuse	42(f)	Correspondence from Office of the Attorney General	
12.	Email chain relating to items (8), (9) & (10) above 14Oct16	5	Part Grant	18(1)	Material not relevant to this request has been redacted	Deletions marked on attached

①

From: McCabe, Brian
Sent: 22 June 2016 10:52
To: O'Leary, Des (Des.O'Leary@finance.gov.ie)
Cc: Hanley, Sheila; Boyle, Brian
Subject: FB List - [REDACTED] and publication of tax defaulters

Des

There are a number of technical but important items that are causing difficulties in practice that we strongly feel need to be addressed in the forthcoming Finance Bill. We didn't raise them at yesterday's meeting as we were conscious that you had no advance warning that they were coming.

The amendments relate to two aspects of the civil regime for dealing with tax defaulters, that is : [REDACTED] and the publication of Revenue defaulters.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Publication of tax defaulters:

A number of taxpayers have successfully prevented Revenue from publishing in full, settlements made with them by relying on unintended ambiguities in Section 1086 which governs the publication of tax defaulters.

There seems to be a difficulty in publishing full particulars of persons who do not make an agreement with Revenue. Technically it would appear that the only element of such cases that can be published is the court penalty imposed (which is listed in Part 1 of the Defaulters List) and this significantly weakens the impact of publication in such cases.

It further appears that a person may not be published if they make a voluntary disclosure, even in respect of matters falling outside the voluntary disclosure and this also defeats the intention of the legislation.

We hope to bring forward technical amendments to remove these obstacles to full publication.

Regards

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Please note that Revenue cannot guarantee that any personal and sensitive data, sent in plain text via standard email, is fully secure. Customers who choose to use this channel are deemed to have accepted any risk involved. The alternative communication methods offered by Revenue include standard post and the option to use our (encrypted) MyEnquiries service which is available within myAccount and ROS. You can register for either myAccount or ROS on the Revenue website.

Tabhair faoi deara nach féidir leis na Coimisinéirí Ioncaim ráthaíocht a thabhairt go bhfuil aon sonraí pearsanta agus íogair a gcuirtear isteach i ngnáth-théacs trí r-phost caighdeánach go huile is go hiomlán slán. Meastar go nglacann custaiméirí a úsáideann an cainéal seo le haon riosca bainteach. I measc na modhanna cumarsáide eile atá ag na Coimisinéirí ná post caighdeánach agus an rogha ár seirbhís (criptithe) M'Fhiosruithe a úsáid, tá sí ar fáil laistigh de MoChúrsaí agus ROS. Is féidir leat clárú le haghaidh ceachtar MoChúrsaí nó ROS ar shuíomh gréasáin na gCoimisinéirí.

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To: Des O'Leary
Department of Finance.

From: Rents, Assessments, Powers and Pensions Branch,
Personal Taxes Policy and Legislation Division,
Office of the Revenue Commissioners.

Author: Sheila Hanley.

Re: Changes to Section 1086 TCA 1997 (Chapter 6 Part 47 re Publication of names of tax defaulters) to:

- provide for greater equity as between defaulters who pay and those who do not pay by allowing the latter to be distinguished in the published defaulters list;
- remove unintended ambiguity about the quantum for publication of the settlement with the taxpayer in cases where there is a partial disclosure of a tax default;
- remove an outdated reference to the 1993 Amnesty; and
- make permissive rather than mandatory the Ministerial order raising the limit for publication in line with increases in the Consumer Price index.

Date: 2nd August 2016.

BACKGROUND

The 1983 Finance Act introduced the publication regime for tax defaulters, which is currently reflected in section 1086 of the Taxes Consolidation Act 1997 (TCA 1997). Along with other sanctions and penalties, the publication regime is considered to be an important component of the deterrence of evasion in a system based, since 1988, on self-assessment.

Section 1086 requires the Revenue Commissioners to compile and publish lists of certain tax defaulters. The lists are compiled on a quarterly basis and published in *Iris Oifigiuil* within 3 months of the end of each particular quarter. Publication in the List of Tax defaulters is a consequence of reaching a settlement with Revenue concerning tax defaults which meets certain criteria set out in the section. Publication is mandatory where the conditions are met.

There are a number of exceptions to the publication requirement provided for in Section 1086(4) as follows:

- cases where the total amount of tax, interest and penalties comprised in the "specified sum" in settlement does not exceed a threshold for publication (currently a de facto threshold of €35,000 is being applied by Revenue- see the final paragraph below),
- cases where the amount of fine or penalty included in the specified sum does not exceed 15% of the tax included in that sum,
- cases which have come forward with a voluntary qualifying disclosure, and
- cases coming within the 1993 Amnesty.

The section also provides by way of Ministerial Order, for the mandatory raising of the threshold limit for publication every five years in line with the Consumer Price Index.

This submission is to seek the agreement of the Department of Finance and the Minister for four amendments to s1086 in the forthcoming Finance Bill. These amendments are detailed below.

DETAILS OF THE SUBMISSION

Publication of further particulars of non-paying defaulters (Section 1086(2B)):

This sub-section was introduced to address a situation where there was an agreed “specified sum” which Revenue had accepted or undertaken to accept in settlement of a case in lieu of initiating court proceedings but where the taxpayer failed to pay the sum or to enter into genuine payment arrangements. Prior to the introduction of ss(2B), those who were unable, or refused, to pay were avoiding publication entirely on the basis of legal advice to the effect that, as the section then stood, acceptance of a specified sum did not require payment or the prospect of payment.

The introduction of subsection (2B) ensured that where a person fails to pay the specified sum they are, nevertheless, to be included on the defaulters list. However, the effect of this is that the paying and the non-paying defaulter are treated the same, i.e. both are published with no distinction. This would not appear to be equitable and it reduces the transparency of the material published as it can make it appear that a case is now up to date with its Revenue liabilities when that may not be the situation.

Sub-section 5 of Section 1086 sets out certain particulars in relation to a defaulter (in addition to the name, address and occupation) that Revenue may at their discretion include in the defaulters list e.g. particulars of the matter giving rise to the settlement. It is proposed that Revenue’s discretion in that regard be extended so that in a case falling within ss (2B), the fact that it is such a case i.e. a defaulter in whose case payment of the specified sum has not been made, should also be publicised.

Exclusions from publication – Qualifying Disclosures (Section 1086 (4)(a)):

As already outlined, there are a number of exceptions to the publication requirement set out in section 1086(4) including situations where the defaulter has made a full voluntary disclosure in advance of Revenue commencing an investigation or enquiry (ss(4)(a)).

The scope of these exceptions is such that the only ways in which a tax defaulter could have his name published is either as a result of a court imposed fine or penalty, through reaching a substantial settlement for tax default with Revenue (over the de facto threshold limit of €35,000) or where the penalty element exceeds 15% of the tax as a consequence of, for example, repeated tax defaults or failure to co-operate with a Revenue investigation.

The amount to be published in the defaulters list is the “specified sum” pursuant to an agreement made with the taxpayer. “Specified sum” is as defined in S. 1086 (2) (c) and (d) where Revenue “accepted or undertook to accept a specified sum of money in settlement of any claim by the Revenue Commissioners in respect of any specified liability of the person” for tax, interest on that tax.....and any fine or other monetary penalty in respect of that tax.

The term “specified sum” is not further defined, but subsection (2A) states that the reference to a specified sum in paragraph (c) and (d) of (Subsection (2)) includes a reference to a sum which is the full amount of the claim by the Revenue Commissioners in respect of the specified liability referred to in those paragraphs. In practice, where a settlement covers a number of items these are integrated into one settlement i.e. a single specified sum, for the purposes of publication. Our legal advice is that where there is one overall agreement, the specified sum is a single sum that cannot be broken down into constituent parts.

(2)

The upshot of this is that the interaction between section 1086 and Section 1077E has given rise to doubt about Revenue's capacity to publish in cases where the taxpayer had made a partial voluntary disclosure which did not cover all matters giving rise to a liability the subject of the publishable settlement. The difficulty arises because (under section 1086(4)(a)) Revenue cannot publish in the case of a person in respect of whom Revenue is satisfied that, before any investigation or enquiry had been started by them into any matter occasioning a liability, the person had "voluntarily furnished to them a qualifying disclosure within the meaning of Section 1077E ... in relation to and full particulars of that matter".

Within Section 1077E there is a difference in the definition of "qualifying disclosure", depending upon whether the taxpayer's behaviour is deliberate or careless. If the behaviour is deliberate, for a voluntary disclosure to be qualifying the person must give full particulars of all matters occasioning a liability to tax that gives rise to a penalty (S1077E(1)(a)). Therefore, in the case of deliberate behaviour, the exemption from publication does not apply unless full particulars are given of all matters and all periods.

However, in the case of careless behaviour, the requirement is for full particulars occasioning a liability to tax that gives rise to a penalty for the "relevant period". Therefore, a taxpayer may give a qualifying disclosure in relation to the matters the subject of a Revenue audit but might give no qualifying disclosure in relation to other defaults for other periods which come to light during the audit. In such a case the "specified sum" in respect of which, at the end of an audit, Revenue agrees to refrain from initiating proceedings for the recovery of a fine or penalty, may include liabilities for periods in respect of which a voluntary qualifying disclosure has been made and other periods in respect of which no such qualifying voluntary disclosure has been made. Under the legislation as it stands, the taxpayer in such a case could not be published.

It seems logical and reasonable in terms of what should be permissible under the legislation that Revenue should publish in relation to liabilities uncovered by Revenue for periods in respect of which no voluntary disclosure had been made, in circumstances where there has been a qualifying voluntary disclosure by the taxpayer involving careless behaviour for another period or periods. However, while Revenue is under a duty to publish unless an exclusion applies, we must exercise care in publishing the names of taxpayers if any doubt exists as to whether an exemption to publication does or does not apply. In this case the legislation as currently written bears the interpretation (supported by our legal advice) that there is a single agreement and single specified sum which should be construed so as to exclude publication when any voluntary qualifying disclosure has been made in relation to any of the periods covered in the agreement.

It is proposed, therefore, to amend Section 1086 to redefine the "specified sum" in cases involving careless behaviour, so that the portion of the settlement sum in respect of which a qualifying disclosure has been made is excluded. This will mean that, in the case of an audit where a qualifying disclosure is made in respect of some periods but not others, publication may not take place to the extent of the voluntarily disclosed amounts but the exclusion will not apply (and therefore publication will apply) to the tax defaults uncovered by Revenue in respect of which no disclosure has been made – provided, of course, that the undisclosed part of the settlement meets, in its own right, the other criteria for publication, that is, it exceeds the threshold amount and/or the penalty element exceeds 15% of the tax.

The amendment to Section 1086 sub-section 4 (a) is proposed in order to maintain the incentive to make a full disclosure of all tax defaults and to preserve the sanction of publication in cases where there is not a full disclosure.

Exclusions from publication - Tax Amnesties (Section 1086 (4) (b)):

A further amendment to Section 1086 is proposed to delete in its entirety subsection 4 (b). Subsection 4(b) applies the exclusion from publication to a person in whose case "section 72 of the Finance Act, 1988 (*Incentive to bring tax affairs up to date*) or section 3 of the Waiver of Certain Tax, Interest and Penalties Act

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1993 (*WCTIPA 1993* - the 1993 “Amnesty”) applied”. Subsection 4 (b) was inserted by Subsection 3(7) of the *WCTIPA 1993*. Thus the exclusion from publication formed part of the suite of incentives enjoyed by persons who came forward under the Incentive amnesty and the 1993 Amnesty.

Section 72 FA 1988 provided for full payment of arrears of taxes during the period 27th of January 1988, to 30th of September 1988 with remission provided for interest and penalties that would otherwise have applied. The *WCTIPA 1993* provided for a “specified period” within which the taxpayer had to come forward to avail of the benefits. That period was from the passing of the Act on 14 July 1993 to the 30th of November 1993 with payment in respect of outstanding taxes to be made by 14 January 1994.

The Amnesty benefits – including the benefit of non publication - were intended to apply to the settlements being made under the terms of the Amnesty.

It would be clearly contrary to fairness and transparency if, having once made a settlement to which the “1988 tax amnesty” or the “1993 tax amnesty” applied, the person became a person in whose case future settlements for tax defaults continued to fall within the publication exceptions. However, there is a clear danger based on the literal words of the sub-section that such a person could successfully challenge the publication of future settlements in their case.

To avoid this possibility and since, due to the passage of time, the amnesty provisions referred to in the paragraph have been worked out in relation to the periods covered, it is thought safer to delete the paragraph entirely. The only effect will be that the exclusions from publication will no longer include a category of persons who availed of the amnesty.

Raising of the threshold limit for publication in line with CPI (Section 1086(4A))

The provision to increase the threshold limit for publication was inserted by Finance Act 2005. At that time, the limit of €12,700 had not been changed since the section had originally been enacted in 1983. In 2005 the limit was increased to €30,000 and provision was made to increase this amount by Ministerial order every five years by reference to the CPI.

Section 1086(4A) makes it mandatory on the Minister for Finance to provide by Order, commencing in 2010 and every fifth year thereafter, a new publication limit to take effect from 1 January in the year in question. Each new limit is to be arrived at by indexing the then existing limit in accordance with the CPI and rounding up to the nearest €1,000. Each new limit is required to take effect in respect of settlements that include only liabilities which arise on or after the 1st January in question and periods that commence on or after that date.

A Ministerial Order was made in December 2010 (S.I.643 of 2010) which increased the limit from €30,000 to €33,000. A further Order should have been made during 2015 to increase the limit again. Based on the requirements of the legislation, if such an Order had been made it would have increased the publication limit to €35,000 with effect from 1 January 2015. However, the statutory requirement to increase the limit was missed.

When the fact that the statutory requirement to increase the limit was missed was noted, it was fortunate that no taxpayer had been disadvantaged (in the sense of having been published in circumstances where the person would not have been published if the Order increasing the limit to €35,000 had been made). Currently, having regard to the clear intention of the legislation (i.e. that the limit would be increased in line with the CPI every five years and that Revenue’s requirement to publish would be based on that indexed limit) Revenue is now applying a €35,000 limit to liabilities arising on or after 1 January 2015. This is to ensure that no taxpayer is inappropriately published.

(2)

The wording of the legislation in Section 1086(4A) regarding the making of the Order every 5 years is mandatory and tied to a specific time period rather than permissive or open as to the period for review, this is the basis of the current difficulty.

To avoid a recurrence, it is recommended that the section be made permissive rather than mandatory and that the fixed period of 5 years for review of the threshold be made flexible so that it can take place “from time to time”.

CONCLUSION

The first three legislative changes are needed to ensure the section operates as intended and the final change is recommended for administrative reasons. Accordingly, Revenue recommends, subject to the Department’s and the Minister’s agreement, that these amendments are included in Finance Bill, 2016.

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John Day

From: McCabe, Brian <bmccabe@revenue.ie>
Sent: 12 August 2016 15:21
To: Des O'Leary; Hanley, Sheila
Cc: Boyle, Brian; John Day; Rory O'Kelly; Pat Leahy
Subject: RE: Changes to Section 1086 : Publication of names of tax defaulters

Des

Thanks for this.

Just to let you know that we are likely to "push" on this. We don't regard it as lower priority and, as far as I'm aware, there are no guarantees about a second Bill.

While not a specific anti-avoidance measure, it is very much in the "powers" space.

Regards

Brian

From: Des O'Leary [mailto:Des.O'Leary@finance.gov.ie]
Sent: 10 August 2016 10:05
To: Hanley, Sheila
Cc: Boyle, Brian; McCabe, Brian; John Day; Rory O'Kelly; Pat Leahy
Subject: RE: Changes to Section 1086 : Publication of names of tax defaulters

Dear Sheila,

Thanks for the proposed submission. As you may be aware, the Minister wants to discuss the issue of the Statutory Instrument revising the threshold further with us when he returns from holidays. This should take place early in September.

As regards the proposed TCA amendments, we will have to discuss with Gary Tobin whether they can be added to the "2016 Finance Bill List" before any submission on them can be made to the Minister. I would consider it unlikely that we would get approval to include them in this year's Bill, given that policy is to limit the Bill to Budget items, anti-avoidance and priority issues. It is currently intended that a subsequent Bill dealing with lower priority items will be processed in early 2017. I would envisage that these items could be considered for that Bill.

Regards

Des O'Leary
Principal
Tax Policy Division
Department of Finance, Government Buildings, Upper Merrion Street, Dublin 2, DO2 R583

Direct: (+353) 1 604 5657
Mobile: (+353) 87 929 0049
Website: www.finance.gov.ie

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Tá an fhaisnéis atá sa ríomhphost seo (agus in aon cheangaltáin) faoi rún agus is don fhaighteoir/do na faighteoirí beartaithe é agus é/íad sin amháin. Mura tusa an faighteoir beartaithe, níor cheart duit an teachtaireacht seo ná aon chuid di a úsáid, a nochtadh, a chóipeáil, a dháileadh ná a choinneáil. Sa chás gur trí earráid a fuair tú an ríomhphost seo, tabhair fógra dom láithreach faoi sin agus scríos gach cóip den ríomhphost seo ó do ríomhchóra(i)s. Tabhair faoi deara go bhféadfaidh an ríomhphost seo agus aon fhreagra air bheith faoi réir iarraidh ar a eisiúint de bhun an Achta um Shaoráil Faisnéise

From: Hanley, Sheila [<mailto:shanley@revenue.ie>]
Sent: 03 August 2016 15:00
To: Des O'Leary
Cc: Boyle, Brian; McCabe, Brian
Subject: Changes to Section 1086 : Publication of names of tax defaulters

Dear Des

As flagged by Brian McCabe in an email to you on 23rd June we are making proposals for changes to the publication regime for tax defaulters which we would like to see in Finance Bill 2016. I attach a detailed submission in this regard.

Regards
Sheila

Please note that Revenue cannot guarantee that any personal and sensitive data, sent in plain text via standard email, is fully secure. Customers who choose to use this channel are deemed to have accepted any risk involved. The alternative communication methods offered by Revenue include standard post and the option to use our (encrypted) MyEnquiries service which is available within myAccount and ROS. You can register for either myAccount or ROS on the Revenue website.

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(4)

00858-16: FB17#30 Changes to publication of tax defaulters

To: Minister	Author: John Day
Status: For Review by Minister	Owner: Sub_FIN Ministers Office
Purpose: For Decision	Reviewers: Pat Leahy, Gary Tobin
Division/Office: Tax Division	
Decision By:	

Action Required

Approval of proposed changes to s. 1086 Taxes Consolidation Act 1997 (publication of tax defaulters)

Executive Summary

Changes are proposed to Section 1086 TCA 1997 (Chapter 6 Part 47 re Publication of names of tax defaulters) to:

- provide for greater equity as between defaulters who pay and those who either fail to or do not pay by allowing the latter to be distinguished in the published defaulters list;
- remove unintended ambiguity about the quantum for publication of the settlement with the taxpayer in cases where there is a partial disclosure of a tax default;
- remove an outdated reference; and
- make permissive rather than mandatory the Ministerial order raising the limit for publication in line with increases in the Consumer Price index.

The first three legislative changes are needed to ensure the section operates as intended and the final change is recommended for administrative reasons.

*Wobed
Agreed as discussed
my tid
2016*

(4)

Comments

- (03/10/2016 13:39:00) Margaret Fitzgerald: Submitted to the Minister's Office by Margaret Fitzgerald on behalf of the Secretary General
- (03/10/2016 13:34:22) Gary Tobin: Minister, this is a technical and potentially controversial Finance Bill amendment and you will want to discuss it with officials.

Detailed Information

Background

1. Finance Act 1983 introduced the publication regime for tax defaulters, which is currently reflected in section 1086 of the Taxes Consolidation Act 1997 (TCA 1997). Along with other sanctions and penalties, the publication regime is considered by Revenue to be an important component of the deterrence of evasion in a system based, since 1988, on self-assessment.

2. Section 1086 requires the Revenue Commissioners to compile and publish lists of certain tax defaulters. The lists are compiled on a quarterly basis and published in Iris Oifigiúil within three months of the end of each particular quarter. Publication in the List of Tax Defaulters is a consequence of reaching a settlement with Revenue concerning tax defaults which meets certain criteria set out in the section. Publication is mandatory where the conditions are met.

There are a number of exceptions to the publication requirement provided for in Section 1086 (4) as follows:

- cases where the total amount of tax, interest and penalties comprised in the "specified sum" in settlement does not exceed a threshold for publication (currently a de facto threshold of €35,000 is being applied by Revenue);
- cases where the amount of fine or penalty included in the specified sum does not exceed 15% of the tax included in that sum,
- cases which have come forward with a voluntary qualifying disclosure, and
- cases coming within section 1086 (4) (b).

3. The section also provides by way of Ministerial Order, for the mandatory raising of the threshold limit for publication every five years in line with the Consumer Price Index.

Proposal

4. This submission requests your approval for four amendments to s.1086 in the forthcoming Finance Bill. These amendments are detailed below.

First proposed amendment: publication of further particulars of non-paying defaulters (Section 1086(2B)):

(4)

5. This subsection was introduced to address a situation where there was an agreed "specified sum" which Revenue had accepted or undertaken to accept in settlement of a case in lieu of initiating court proceedings but where the taxpayer failed to pay the sum or to enter into genuine payment arrangements. Prior to the introduction of subsection (2B), those who were unable, or refused, to pay were avoiding publication entirely on the basis of legal advice to the effect that, as the section then stood, acceptance of a specified sum did not require payment or the prospect of payment.

6. The introduction of subsection (2B) ensured that where a person fails to pay the specified sum they are, nevertheless, to be included on the defaulters list. However, the effect of this is that the paying and the non-paying defaulter are treated the same, i.e. both are published with no distinction. This would not appear to be equitable and it reduces the transparency of the material published as it can make it appear that a case is now up to date with its Revenue liabilities when that may not be the situation.

7. Subsection 5 of Section 1086 sets out certain particulars in relation to a defaulter (in addition to the name, address and occupation) that Revenue may at their discretion include in the defaulters list e.g. particulars of the matter giving rise to the settlement. It is proposed that Revenue's discretion in that regard be extended so that in a case falling within ss (2B), the fact that it is such a case i.e. a defaulter in whose case payment of the specified sum has not been made, should also be publicised separately.

Second proposed amendment: exclusions from publication – Qualifying Disclosures (Section 1086 (4)(a)):

8. The amendment to section 1086 subsection 4 (a) is proposed in order to maintain the incentive to make a full disclosure of all tax defaults and to preserve the sanction of publication in cases where there is not a full disclosure.

9. As already outlined, there are a number of exceptions to the publication requirement set out in section 1086(4) including situations where the defaulter has made a full voluntary disclosure in advance of Revenue commencing an investigation or enquiry (subsection (4)(a)).

10. The scope of these exceptions is such that the only ways in which a tax defaulter could have his name published is either as a result of a court imposed fine or penalty, through reaching a substantial settlement for tax default with Revenue (over the de facto threshold limit of €35,000) or where the penalty element exceeds 15% of the tax as a consequence of, for example, repeated tax defaults or failure to co-operate with a Revenue investigation.

12. The amount to be published in the defaulters list is the "specified sum" pursuant to an agreement made with the taxpayer. "Specified sum" is as defined in section 1086 (2) (c) and (d) where Revenue "accepted or undertook to accept a specified sum of money in settlement of any

(4)

claim by the Revenue Commissioners in respect of any specified liability of the person" for tax, interest on that tax.....and any fine or other monetary penalty in respect of that tax.

13. The term "specified sum" is not further defined, but subsection (2A) states that the reference to a specified sum in paragraph (c) and (d) of (Subsection (2)) includes a reference to a sum which is the full amount of the claim by the Revenue Commissioners in respect of the specified liability referred to in those paragraphs. In practice, where a settlement covers a number of items these are integrated into one settlement i.e. a single specified sum, for the purposes of publication. Legal advice to Revenue is that where there is one overall agreement, the specified sum is a single sum that cannot be broken down into constituent parts.

14. The interaction between section 1086 and section 1077E has given rise to doubt about Revenue's capacity to publish cases where the taxpayer has made a partial voluntary disclosure which did not cover all the matters giving rise to a liability the subject of the publishable settlement. The difficulty arises because under section 1086(4)(a) Revenue cannot publish in the case of a person in respect of whom Revenue is satisfied that, before any investigation or enquiry has been started by them into any matter occasioning a liability the person has voluntarily furnished to them a qualifying disclosure within the meaning of section 1077Ein relation to and full particulars of the matter."

15. Within section 1077E there is a difference in the definition of "qualifying disclosure", depending upon whether the taxpayer's behaviour is deliberate or careless. If the behaviour is deliberate, for a voluntary disclosure to be qualifying the person must give full particulars of all matters occasioning a liability to tax that gives rise to a penalty (s.1077E(1)(a)). Therefore, in the case of deliberate behaviour, the exemption from publication does not apply unless full particulars are given of all matters and all periods.

16. However, in the case of careless behaviour, the requirement is for full particulars occasioning a liability to tax that gives rise to a penalty for the "relevant period". Therefore, a taxpayer may give a qualifying disclosure in relation to the matters the subject of a Revenue audit but might give no qualifying disclosure in relation to other defaults for other periods which come to light during the audit. In such a case the "specified sum" in respect of which, at the end of an audit, Revenue agrees to refrain from initiating proceedings for the recovery of a fine or penalty, may include liabilities for periods in respect of which a voluntary qualifying disclosure has been made and other periods in respect of which no such qualifying voluntary disclosure has been made. Under the legislation as it stands, the taxpayer in such a case could not be published

17. It seems logical and reasonable in terms of what should be permissible under the legislation that Revenue should publish in relation to liabilities uncovered by Revenue for periods in respect of which no voluntary disclosure had been made, in circumstances where there has been

(14)

a qualifying voluntary disclosure by the taxpayer involving careless behaviour for another period or periods.

18. However, while Revenue is under a duty to publish unless an exclusion applies, care must be exercised in publishing the names of taxpayers if any doubt exists as to whether an exemption to publication does or does not apply. In this case the legislation as currently written bears the interpretation (supported by legal advice provided to Revenue) that there is a single agreement and single specified sum which should be construed so as to exclude publication when any voluntary qualifying disclosure has been made in relation to any of the periods covered in the agreement.

19. It is proposed, therefore, to amend Section 1086 to redefine the "specified sum" in cases involving careless behaviour, so that the portion of the settlement sum in respect of which a qualifying disclosure has been made is excluded. This will mean that, in the case of an audit where a qualifying disclosure is made in respect of some periods but not others, publication may not take place to the extent of the voluntarily disclosed amounts but the exclusion will not apply (and therefore publication will apply) to the tax defaults uncovered by Revenue in respect of which no disclosure has been made – provided, of course, that the undisclosed part of the settlement meets, in its own right, the other criteria for publication, that is, it exceeds the threshold amount and/or the penalty element exceeds 15% of the tax.

Third proposed amendment: exclusions from publication (Section 1086 (4) (b):

19. A further amendment to Section 1086 is proposed to delete in its entirety subsection 4 (b). Subsection 4(b) applies the exclusion from publication to a person in whose case "section 72 of the Finance Act, 1988 (*Incentive to bring tax affairs up to date*) or section 3 of the Waiver of Certain Tax, Interest and Penalties Act 1993 (*WCTIPA 1993*) applied". Subsection 4 (b) was inserted by Subsection 3(7) of the WCTIPA 1993.

20. Section 72 Finance Act 1988 provided for full payment of arrears of taxes during the period 27th of January 1988 to 30th of September 1988 with remission provided for interest and penalties that would otherwise have applied. The WCTIPA 1993 provided for a "specified period" within which the taxpayer had to come forward to avail of the benefits. That period was from the passing of the Act on 14th July 1993 to 30th of November 1993 with payment in respect of outstanding taxes to be made by 14th January 1994.

21. The benefits – including the benefit of non publication - were intended to apply to the settlements being made under these terms.

22. It would be clearly contrary to fairness and transparency if, having once made a settlement to which the so-called "1988 tax amnesty" or the "1993 tax amnesty" applied, the person became a person in whose case future settlements for tax defaults continued to fall within the

(14)

publication exceptions. However, there is a clear danger based on the literal words of the subsection that such a person could successfully challenge the publication of future settlements in their case.

23. To avoid this possibility and since, due to the passage of time, the relevant provisions referred to in the paragraph have been worked out in relation to the periods covered, it is thought safer to delete the paragraph entirely. The only effect will be that the exclusions from publication will no longer include a category of persons who availed of these provisions.

Fourth proposed amendment: raising of the threshold limit for publication in line with CPI (Section 1086(4A)):

24. The provision to increase the threshold limit for publication was inserted by Finance Act 2005. At that time, the limit of €12,700 had not been changed since the section had originally been enacted in 1983. In 2005 the limit was increased to €30,000 and provision was made to increase this amount by Ministerial order every five years by reference to the Consumer Price Index CPI.

25. Section 1086(4A) makes it mandatory on the Minister for Finance to provide by Order, commencing in 2010 and every fifth year thereafter, a new publication limit to take effect from 1st January in the year in question. Each new limit is to be arrived at by indexing the then existing limit in accordance with the CPI and rounding up to the nearest €1,000. Each new limit is required to take effect in respect of settlements that include only liabilities which arise on or after the 1st January in question and periods that commence on or after that date.

26. A Ministerial Order was made in December 2010 (S.I. 643 of 2010) which increased the limit from €30,000 to €33,000. A further Order should have been made during 2015 to increase the limit again. Based on the requirements of the legislation, if such an Order had been made it would have increased the publication limit to €35,000 with effect from 1st January 2015. However, the statutory requirement to increase the limit was missed (this issue was the subject of submission "00670-16: Ministerial Order re Defaulters Publication Limit", copy attached, which you noted you wished to discuss).

27. When the fact that the statutory requirement to increase the limit was missed was noted, it was fortunate that no taxpayer had been disadvantaged (in the sense of having been published in circumstances where the person would not have been published if the Order increasing the limit to €35,000 had been made). Currently, having regard to the clear intention of the legislation (i.e. that the limit would be increased in line with the CPI every five years and that Revenue's requirement to publish would be based on that indexed limit) Revenue is now applying a €35,000 limit to liabilities arising on or after 1st January 2015. This is to ensure that no taxpayer is inappropriately published.

(4)

28. The wording of the legislation in section 1086(4A) regarding the making of the Order every five years is mandatory and tied to a specific time period rather than permissive or open as to the period for review, this is the basis of the current difficulty.

29. While administrative procedures in both Finance and Revenue have been amended to avoid a recurrence, nonetheless it is recommended that the section be made permissive rather than mandatory and that the fixed period of five years for review of the threshold be made flexible so that it can take place as appropriate. The Office of the Attorney General will be consulted in relation to this proposed approach.

30. Officials are available to discuss.

Tax Administration & Revenue Powers Section, Tax Policy Division, 30th September 2016

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

John Day
Sub_FIN Sec Gens Office
Sub_FIN Ministers Office

Read receipt list

SP-ContentAccess
John Day
Pat Leahy
Gary Tobin
Margaret Fitzgerald
Sean Kinsella

Action Logs

Created: 19/09/2016 15:47:08: Submission created by John Day

Sent For Review: 28/09/2016 15:53:58: Submission sent to Pat Leahy for Review by John Day

Sent For Review: 30/09/2016 18:51:32: Submission sent to Gary Tobin for Review by Pat Leahy

Sent to the Secretary General: 03/10/2016 13:34:28: Submission sent to Secretary General for Review by Gary Tobin

Sent to the Minister: 03/10/2016 13:39:00: Submission sent to Minister for Review by Margaret Fitzgerald

John Day

15

From: John Day
Sent: 03 October 2016 11:30
To: 'Hanley, Sheila'
Subject: RE: Changes to Section 1086 : Publication of names of tax defaulters

Sheila,

Received with thanks.

Regards,

John.

From: Hanley, Sheila [mailto:shanley@revenue.ie]
Sent: 03 October 2016 11:29
To: John Day
Cc: Pat Leahy; McCabe, Brian; Rigney, Declan
Subject: RE: Changes to Section 1086 : Publication of names of tax defaulters

Dear John
Sorry about the delay in responding to your mail below.
I am advised by the Division which is responsible for publication as follows :

"Publication of the names of tax defaulters is a very important deterrent and underpins Revenue's drive against tax and duty non-compliance carried out through our compliance intervention programme. The list of tax defaulters is published quarterly and, as a mandatory obligation on the Revenue Commissioners, it is critical that any case that meets the criteria for publication is published and that any case that does not meet the criteria is not published. The proposed changes will make clearer the circumstances in which Revenue must publish tax defaulters and the amount to be published. Revenue strongly believes that in the interest of fairness for taxpayers, the proposed changes should be provided for at the earliest opportunity."

Regards
Sheila

From: John Day [mailto:John.Day@finance.gov.ie]
Sent: 19 September 2016 16:27
To: Hanley, Sheila
Cc: Pat Leahy; McCabe, Brian
Subject: RE: Changes to Section 1086 : Publication of names of tax defaulters

Sheila,

We're preparing this submission to go up as we understand it's a matter that Revenue is keen to pursue.

While we agree that it's desirable to make the changes proposed we're likely to be asked why it's critical that they go into FB16. We understand that the Minister's intention is to minimise what goes into this Bill - since it won't be subject to the new scrutiny processes – so we may well have to argue more strongly than usual for any measure to be included.

Just to be clear, the merits of the proposals are not in doubt, it's why Revenue considers they have to go into the current Bill?

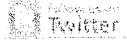
5

Any additional arguments you can provide that would strengthen the case would be useful, either for inclusion in the submission itself or for the discussion which will accompany it.

Regards,

John.

John Day | Tax Policy Division | Department of Finance, Government Buildings, Upper Merrion Street, Dublin 2 DO2 R583 |
Direct: (+353) 1 604 5596 (ext. 5596)
Website: www.finance.gov.ie



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Tá an fhaisnéis atá sa ríomhphost seo (agus in aon cheangaltáin) faoi rún agus is don fhaighteoir/do na faighteoirí beartaithe é agus é/iad sin amháin. Mura tusa an faighteoir beartaithe, níor cheart duit an teachtaireacht seo ná aon chuid di a úsáid, a nochtadh, a chóipeáil, a dháileadh ná a choinneáil. Sa chás gur trí earráid a fuair tú an ríomhphost seo, tabhair fógra dom láithreach faoi sin agus scrios gach cóip den ríomhphost seo ó do ríomhchóra(i)s. Tabhair faoi deara go bhféadfaidh an ríomhphost seo agus aon fhreagra air bheith faoi réir iarraidh ar a eisiúint de bhun an Achta um Shaoráil Faisnéise.

From: Hanley, Sheila [<mailto:shanley@revenue.ie>]
Sent: 03 August 2016 15:00
To: Des O'Leary
Cc: Boyle, Brian; McCabe, Brian
Subject: Changes to Section 1086 : Publication of names of tax defaulters

Dear Des

As flagged by Brian McCabe in an email to you on 23rd June we are making proposals for changes to the publication regime for tax defaulters which we would like to see in Finance Bill 2016.
I attach a detailed submission in this regard.

Regards
Sheila

Please note that Revenue cannot guarantee that any personal and sensitive data, sent in plain text via standard email, is fully secure. Customers who choose to use this channel are deemed to have accepted any risk involved. The alternative communication methods offered by Revenue include standard post and the option to use our (encrypted) MyEnquiries service which is available within myAccount and ROS. You can register for either myAccount or ROS on the Revenue website.

Tabhair faoi deara nach féidir leis na Coimisinéirí Ioncaim ráthaíocht a thabhairt go bhfuil aon sonraí pearsanta agus íogair a gcuirtear isteach i ngnáth-théacs trí r-phost caighdeánach go huile is go hiomlán slán. Meastar go nglacann custaiméirí a úsáideann an cainéál seo le haon riosca bainteach. I measc na modhanna cumarsáide eile atá ag na Coimisinéirí ná post caighdeánach agus an rogha ár seirbhís (criptithe) M'Fhiosruithe a úsáid, tá sí ar fáil laistigh de MoChúrsaí agus ROS. Is féidir leat clárú le haghaidh ceachtar MoChúrsaí nó ROS ar shuíomh gréasáin na gCoimisinéirí.

Please note that Revenue cannot guarantee that any personal and sensitive data, sent in plain text via standard email, is fully secure. Customers who choose to use this channel are deemed to have accepted any risk involved. The alternative communication methods offered by Revenue include standard post and the option to use our (encrypted)



MyEnquiries service which is available within myAccount and ROS. You can register for either myAccount or ROS on the Revenue website.

Tabhair faoi deara nach féidir leis na Coimisinéirí Ioncaim ráthaíocht a thabhairt go bhfuil aon sonraí pearsanta agus íogair a gcuirtear isteach i ngnáth-théacs trí r-phost caighdeánach go huile is go hiomlán slán. Meastar go nglacann custaiméirí a úsáideann an cainéal seo le haon riosca bainteach. I measc na modhanna cumarsáide eile atá ag na Coimisinéirí ná post caighdeánach agus an rogha ár seirbhís (criptithe) M'Fhiosruithe a úsáid, tá sí ar fáil laistigh de MoChúrsaí agus ROS. Is féidir leat clárú le haghaidh ceachtar MoChúrsaí nó ROS ar shuíomh gréasáin na gCoimisinéirí.

(7)

From: John Day
Sent: 07 October 2016 16:07
To: Rory O'Kelly
Subject: FW: Memo for Government meeting 11 October 2016 (Tax Administration & Revenue Powers items)

From: Pat Leahy
Sent: 07 October 2016 15:08
To: John Day
Subject: RE: Memo for Government meeting 11 October 2016 (Tax Administration & Revenue Powers items)

John

Ok subject to some small changes

Pat

From: John Day
Sent: 07 October 2016 13:46
To: Pat Leahy
Cc: Rory O'Kelly
Subject: FW: Memo for Government meeting 11 October 2016 (Tax Administration & Revenue Powers items)

Pat,

Updated after the meeting this morning with the Minister.

Ok to include?

Thanks,

John.

From: John Day
Sent: 06 October 2016 16:30
To: Pat Leahy
Cc: Rory O'Kelly
Subject: RE: Memo for Government meeting 11 October 2016 (Tax Administration & Revenue Powers items)

Pat,

This FB16 Memo concerns only items that will specifically appear in the Bill

I have prepared a line on the various measures below as per

Rory's requirements BUT I have advised that we cannot firm up on these until after the Minister meets Revenue tomorrow, Friday.

[Redacted]

[Redacted]

Not sure as regards the publication of defaulters measures, we need to know whether the Minister will mention these in the Budget speech or not. The text to be included won't change, it's just where it goes in Appendix A, i.e. Part 1 or Part 2.

I have included draft speaking points also for these (for Appendix B).

I wouldn't propose any of these items as "highlights" for Appendix C.

Regards,

John.

Appendix A (List of Items) (Part 1)
Tax Administration and Revenue Powers

[Redacted]

[Redacted]

[Redacted]

Appendix A (Part 2 ~~the~~)
Tax Administration and Revenue Powers
Publication of tax defaulters

Changes are proposed to Section 1086 TCA 1997 (Chapter 6 Part 47 re Publication of names of tax defaulters) to:

- provide for distinguishing, in the published defaulters list, between defaulters who pay and those who do not pay;
- remove unintended ambiguity in cases where there is a partial disclosure of a tax default;
- remove an outdated reference; and
- make permissive rather than mandatory the Ministerial order raising the limit for publication in line with increases in the Consumer Price index.

Appendix A (Part 2)

[Tax Administration and Revenue Powers

[Redacted text block]

Appendix B (speaking points)

Tax Administration and Revenue Powers

[Redacted text block]

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Publication of tax defaulters

- Along with other sanctions and penalties, the publication regime is considered by Revenue to be an important component of the deterrence of evasion in a system based, since 1988, on self-assessment.
- The first of the proposed changes is intended to provide for greater equity as between defaulters who pay and those who don't by allowing the latter to be distinguished in the published defaulters list;
- The second change will remove unintended ambiguity about the quantum for publication of the settlement with the taxpayer in cases where there is a partial disclosure of a tax default while the third simply removes an outdated reference.
- The final change introduces greater administrative flexibility by making permissive rather than mandatory the Ministerial order relating to raising the limit for publication.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17

[REDACTED]

From: Rory O'Kelly
Sent: 06 October 2016 12:39
To: Tax
Subject: FW: Memo for Government meeting 11 October 2016
Importance: High

Folks

Please ensure that your material is cleared at PO level before you forward to us.

Regards
Rory

From: Rory O'Kelly
Sent: 30 September 2016 15:25
To: Tax
Subject: Memo for Government meeting 11 October 2016
Importance: High

Folks

We will be bringing a Memo for Government to the Cabinet meeting on Tuesday, 11 October, re Finance Bill 2016. (eCabinet on Friday 7 October)

This will set out the List of Items for Finance Bill 2016 and will also include Budget items. The following week we will be seeking approval of the Bill as Initiated.

You are now requested to supply material for the following:

A – the Appendix (List of Items), we are looking for a few lines on each item, not half a page. Please indicate which Part the material is relevant to. (i.e. Part 1. Measures to be announced in the Budget or, Part 2. Further measures to be announced on Publication of the Bill.) Also, please indicate which tax head the material should be included in.

Font – Calibri. Font size 12 and Justified.

7

B – possible speaking points.

Again, please indicate which Part the material is relevant to. Also, please indicate which tax head the material should be included in.

Font – Calibri. Font size 14, 1.5 spacing and Justified.

C – items to be highlighted in the body of the memo.

Font – Calibri. Font size 12 and Justified.

For your information only, I attach a copy of the Memo, Appendix and Speaking Points for FB 2015.

Please reply (cc James) no later than **11.00 am Thursday, 6 October.**

Regards

Rory O'Kelly / Tax Policy Division / Department of Finance, Government Buildings, Upper Merrion Street, Dublin 2 DO2 R583

Direct: (+353) 1 604 5597 (ext 5597)

Website: www.finance.gov.ie

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Draft explanatory memorandum re Section XX : publication of names of tax defaulters

Section XX makes a number of changes to Section 1086 which relates to the publication of names of tax defaulters.

The section provides that, for settlements of tax, interest and penalties entered into by Revenue with a tax defaulter arising on or after 1 January 2017, the settlement amount may be split between the amount (if any) relating to a qualifying disclosure made by the taxpayer and the amount relating to matters not subject to a qualifying disclosure. The effect of the change is that, while the portion of the settlement sum in respect of which a qualifying disclosure is made will be excluded from publication, the portion relating to the other matters will be publishable, if the publication criteria, as regards the amount of the settlement sum and the level of penalties relating to the other matters, are met.

The section also provides that, in the case of defaulters who are to be published in the list and who have failed to pay the settlement sum, the fact of non-payment may be included in the published particulars.

Finally, the section amends the mandatory requirement that the Minister for Finance make an order increasing the publication limit (currently €33,000) every 5 years to a discretionary requirement to increase the limit “from time to time”, and deletes an obsolete reference.

12

From: McCabe, Brian [mailto:bmccabe@revenue.ie]
Sent: 14 October 2016 17:14
To: John Day; Hanley, Sheila
Cc: Pat Leahy
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

Revised EM attached re 1086 – I'll give you a ring.

Brian

From: McCabe, Brian [mailto:bmccabe@revenue.ie]
Sent: 14 October 2016 17:01
To: John Day
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

Thanks – missed that – bit hectic here.

Brian

From: John Day [mailto:John.Day@finance.gov.ie]
Sent: 14 October 2016 17:00
To: McCabe, Brian
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

Further down the email:

EM ok by me, might just add the word "also" near the end, i.e. "...and **also** deletes an obsolete reference."

Regards,

John.

From: McCabe, Brian [mailto:bmccabe@revenue.ie]
Sent: 14 October 2016 16:57
To: John Day
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

Can you let us have the suggested change?

Brian

(12)

From: Pat Leahy
Sent: 14 October 2016 16:54
To: McCabe, Brian
Cc: John Day; Hanley, Sheila
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

Brian

Pat

Pat Leahy | Principal | Capital Taxes | Department of Finance, 14-16 Merrion Upper Street, Dublin 2 DO2 R583

Direct: (+353) 1 604 5330 (ext. 5330)
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Tá an fhaisnéis atá sa ríomhphost seo (agus in aon cheangaltáin) faoi rún agus is don fhaighteoir/do na faighteoirí beartaithe é agus é/iad sin amháin. Mura tusa an faighteoir beartaithe, níor cheart duit an teachtaireacht seo ná aon chuid di a úsáid, a nochtadh, a chóipeáil, a dháileadh ná a choinneáil. Sa chás gur trí earráid a fuair tú an ríomhphost seo, tabhair fógra dom láithreach faoi sin agus scríos gach cóip den ríomhphost seo ó do ríomhchóra(i)s. Tabhair faoi deara go bhféadfaidh an ríomhphost seo agus aon fhreagra air bheith faoi réir iarraidh ar a eisiúint de bhun an Achta um Shaoráil Faisnéise

From: McCabe, Brian [mailto:bmccabe@revenue.ie]
Sent: 14 October 2016 16:22
To: John Day; Hanley, Sheila
Cc: Pat Leahy
Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

About to give pat a call on that .

Brian

From: John Day [mailto:John.Day@finance.gov.ie]
Sent: 14 October 2016 16:21
To: McCabe, Brian; Hanley, Sheila

(12)

Cc: Pat Leahy

Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

Brian,

No worries but if you do then please advise a.s.a.p. as any changes will need to be cleared here.

[REDACTED]

Thanks,

John,

From: McCabe, Brian [<mailto:bmccabe@revenue.ie>]

Sent: 14 October 2016 16:17

To: John Day; Hanley, Sheila

Cc: Pat Leahy

Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

Just to mention that we may have a few last minute tweaks to the text. Will advise asap.

Brian

From: John Day [<mailto:John.Day@finance.gov.ie>]

Sent: 14 October 2016 15:56

To: Hanley, Sheila

Cc: McCabe, Brian; Pat Leahy

Subject: FW: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

Sheila,

Looks fine to us, would suggest one small EM change below to make clear the "obsolete reference" issue is separate from that relating to publication limit.

Many thanks,

John.

From: Pat Leahy

Sent: 14 October 2016 15:45

To: John Day

Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John

Carry through this change

Pat

Sent from my Windows 10 phone

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From: John Day

Sent: Friday 14 October 2016 15:37

To: Pat Leahy

Subject: RE: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

Pat,

EM ok by me, might just add the word "also" near the end, i.e. "...and **also** deletes an obsolete reference."

JD.

From: Hanley, Sheila [<mailto:shanley@revenue.ie>]

Sent: 14 October 2016 15:10

To: John Day; Pat Leahy

Cc: Boyle, Brian; McCabe, Brian; Rigney, Declan

Subject: Stamped FB amendment to Section 1086 publication and Explanatory memorandum

John and Pat,

I attach the legislation which has been stamped together with a draft explanatory memorandum for agreement please.

Regards

Sheila

Please note that Revenue cannot guarantee that any personal and sensitive data, sent in plain text via standard email, is fully secure. Customers who choose to use this channel are deemed to have accepted any risk involved. The alternative communication methods offered by Revenue include standard post and the option to use our (encrypted) MyEnquiries service which is available within myAccount and ROS. You can register for either myAccount or ROS on the Revenue website.

Tabhair faoi deara nach féidir leis na Coimisinéirí Ioncaim ráthaíocht a thabhairt go bhfuil aon sonraí pearsanta agus íogair a gcuirtear isteach i ngnáth-théacs trí r-phost caighdeánach go huile is go hiomlán slán. Meastar go nglacann custaiméirí a úsáideann an cainéal seo le haon riosca bainteach. I measc na modhanna cumarsáide eile atá ag na Coimisinéirí ná post caighdeánach agus an rogha ár seirbhís (criptithe) M'Fhiosruithe a úsáid, tá sí ar fáil laistigh de MoChúrsaí agus ROS. Is féidir leat clárú le haghaidh ceachtar MoChúrsaí nó ROS ar shuíomh gréasáin na gCoimisinéirí.

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12

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