

## [41A.05.04] Full self assessment (Part 41A)

### Time limits for making enquiries and making or amending assessments

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#### 1. What enquiries can be carried out?

Section 959Z(1) provides that a Revenue Officer may carry out enquiries to determine:

- Whether or not a person is chargeable to tax for a period,
- Whether or not a person is a chargeable person for a period,
- The amount of income, profits or gains the person is chargeable to tax on, and
- The entitlement of any person to any allowance, deduction, relief or tax credit.

This means that while an Officer can carry out enquiries on foot of a tax return, an Officer may also carry out enquiries before the tax return is filed, if they have questions on some item which may, or should, be included in that return.

#### 2. Time limits

Under section 959Z(3), a Revenue Officer can carry out enquiries into a return at any point up to the end of the 4<sup>th</sup> year after the return was filed<sup>1</sup>. Where a taxpayer submits an amended return, this 4 year period runs from the end of the year in which the amended return is filed. That is, Revenue will always have 4 years from the end of the year in which the return is filed in which to carry out enquiries into a return.

Under section 959AA(1) a similar time frame applies to the amending of assessments.

The 4 year timeframe will therefore apply to most enquiries carried out by Revenue Officers. There are three main situations where that 4 year timeframe for carrying out enquiries can be lifted. These three situations are:

##### 2.1. Fraud or neglect

Where an Officer has reasonable grounds for believing that any form of fraud or neglect has been committed by or on behalf of the person in relation to the tax due for the chargeable period, then, under section 959Z(4)(b) there is no time limit on when enquiries may be made.

Under section 959AD(3) provides that there is no time limit on when Revenue may make or amend an assessment in cases of fraud or neglect. An assessment made or amended in cases of fraud or neglect should be for an amount that is due in the best of the Officer's judgement.

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<sup>1</sup> For details on when a taxpayer can amend a return, refer to manual [41A-04-01](#).

## 2.2. Absence of a return

See [Part 41A-05-02](#) for details of the timeframes and other issues relevant to situations where a taxpayer has not filed a tax return.

## 2.3. Incomplete or incorrect tax return

Section 959Z(4)(a) provides that there is no time limit for carrying out enquiries where the Officer is not satisfied with the sufficiency of the return or where the Officer has reasonable grounds for believing that a return does not contain a full and true disclosure of all material facts.

Section 959AC(2)(b) and (c) provide that there is no time limit for a Revenue Officer in making or amending an assessment in these circumstances. An assessment made or amended in these cases should be for an amount that is due in the best of the Officer's judgement.

## 3. Timeframes for making assessments without enquiries

There are a number of occasions when an Officer may make or amend an assessment outside of the 4 year timeframe, and any amount due to the taxpayer repaid notwithstanding the time limits in section 865, without the need for an Officer to carry out any enquiries outside of that timeframe.

- Where the Appeal Commissioners have heard an appeal against an assessment and that assessment must be amended to reflect the Appeal Commissioners determination, it can be amended outside of the 4 year timeframe under section 959AA(2)(b).
- Where an assessment should be amended to take account of something which happened after the return was filed, section 959AA(2)(c) provides that such amendment may be made outside of the 4 year timeframe (for example if a trade ceases and a claim is made for terminal loss relief under section 385, the cessation of the trade is something which happened after the filing of the returns for the 3 years to cessation. In addition, s.385 compels Revenue to amend assessments to grant terminal loss relief, once a valid claim has been made under s.865).
- Where the assessment had a calculation error (e.g. a totting error), section 959AA(2)(d) provides that it may be amended outside of the 4 year timeframe.
- Where the assessment did not reflect the facts disclosed by the chargeable person (e.g. the assessment did not reflect the return), section 959(2)(e) provides that it may be amended outside of the 4 year timeframe.

## 4. Appeals

If an Officer is carrying out enquiries outside of the 4 year timeframe, then within 30 days of that enquiry the taxpayer may appeal, under section 959Z(5), to the Appeal Commissioners on the grounds that they believe the Officer is precluded from carrying out those enquiries. That is, the taxpayer is contending that they do not fall into one of the categories of 2.1 (fraud or neglect), 2.2 (there was a return) or 2.3 (the return was complete) above.

Where a taxpayer is appealing such enquiry, the enquiry should be suspended pending the Appeal Commissioners decision.

A more recent version of this manual is available.