

Collection Manual

Guidelines for Using the Court Process to Pursue Tax Liabilities

A more recent version of this manual is available.

Revised November 2016

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Part 1 Guidelines to using the Court Process to pursue Tax Liabilities

1. Summary

- 1.1 This summary contains the main points covered in this guideline to assist staff in the use of the Court process to secure payment of tax liabilities.
- 1.2 Solicitor referral is the process by which Revenue commences enforcement action through the Courts. The first step in the process is the referral of a liability to the Solicitor for legal action, i.e. Solicitor referral via the ICM System. The first legal option available to Revenue will be to obtain a Court judgment that an amount is due to Revenue by a taxpayer. Revenue can then pursue further legal action such as:
- Judgment Mortgage
 - Forced Sale
 - Instalment and Committal Orders
 - Bankruptcy for Individuals
 - Liquidation of Companies.
- 1.3 Revenue has contracts with six firms of external Solicitors for the provision of the legal services associated with debt collection and the enforcement process. With the exception of liquidation work, which is carried out by the Revenue Solicitor's Office (RSO), the legal services associated with Revenue debt collection are performed by one of the six firms. These firms have a high level of experience in this area of law and their personnel are available to discuss the various case options with caseworkers.

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[...]

- 1.4 **VAT Repayment Claim:** In advance of initiating enforcement action in any case where there is a VAT repayment claim on file, the caseworker should contact the relevant District to **establish whether the claim is available for offset (See Paragraph 5.9).**
- 1.5 All **ICM Enforcement Procedures** are set out in **Part 2 of this Manual.**

Note:

When a case is referred to Solicitor, the taxpayer is liable for costs and fees, including those associated with Court proceedings.

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2. Introduction

- 2.1 A key aspect of successful caseworking is early identification of the action most likely to impact on the taxpayer and secure payment of the tax debt. The caseworker will initiate appropriate enforcement action when a Final Demand/Estimate fails to result in either full payment of the liabilities or a satisfactory phased payment agreement.

- 2.2 At this stage there are three options available - Sheriff, Solicitor and Attachment. The caseworker will determine the most appropriate enforcement option having regard to the previous compliance history and all other relevant circumstances of each case.
- 2.3 This Manual outlines all of the various possibilities for pursuit action through the Courts. The process is initiated by securing a Court judgment and, if this action is not sufficient to secure payment of the tax debt, the caseworker will then consider whether further Court action is appropriate.

3. Scope

These guidelines are for all Revenue staff engaged in debt management case-working.

4. External Solicitors

Details of the six solicitor firms contracted to carry out the legal services associated with Revenue debt collection are available as follows:

- **Appendix 13 – List of Solicitor Firms and relevant GCD areas**
- **Appendix 14 – Solicitor Contact Details**
- **Appendix 15 – Glossary of Legal Terms.**

5. Considerations prior to a Solicitor Referral Decision

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- 5.6 Solicitor referral can be a very effective means of collection and in the majority of cases it will not involve a lengthy legal process. Almost **85%** of the tax collected on Solicitor cases is as a result of the Solicitor demand letter issued prior to the enforcement of judgment stage. Solicitors focus on securing payment or quickly moving to obtain a Judgment. Registration of Judgment will usually have a very serious impact on the financial well-being of a taxpayer by impairing his/her credit rating and therefore, if at all possible, most businesses will try to pay the debt prior to this stage. Where payment is not made at this stage, the caseworker should consider the various options for enforcement of judgment set out in these guidelines. Alternative enforcement options, e.g. liquidation proceedings in company cases, should also be considered in consultation with the Solicitors and taking account of data available from various sources, i.e. IBI, Land Registry, Customer Notes etc.
- 5.7 In most instances, once it is decided that the liability is to be pursued through the Courts, all outstanding liabilities should be included in the Solicitor referral. However, in order to obtain a better result for Revenue, there may be occasions when it may be more appropriate to refer part of the liabilities to Solicitor and use an alternative enforcement option, e.g. Attachment, to pursue the balance.

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- 5.8 In addition to various Court actions, there are other possibilities that may help secure payment of the tax debt, such as withholding repayments or refusing to issue a tax clearance certificate. Prosecution for non-submission of tax returns can also be effective in some cases where the debt is based on estimates.
- 5.9 **Enforcement of Debt where a VAT Repayment Claim has been made**

If a taxpayer has submitted a VAT Repayment Claim that is the subject of an open Work Item, then BEFORE enforcing any outstanding tax the caseworker should contact the relevant District to confirm whether the claim is available for offset:

- If the claim can be offset against outstanding tax, then only the remaining debt should be enforced.
- If the claim is not available for offset against outstanding taxes, then the caseworker should notify the taxpayer accordingly prior to enforcement referral.

If the VAT repayment claim has been withheld pending receipt of additional information, the caseworker should make it clear to the taxpayer that unless the information requested is provided within a defined deadline (1-2 weeks) the outstanding tax will be enforced.

6. When is Solicitor Enforcement appropriate?

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7. Solicitor Enforcement on Company Debts

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[...]

8. Enforcement of Irish cases

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[...]

9. Solicitor Referral to obtain Court Judgment

- 9.1 The first step in the Court process is the referral of the liability to the Solicitor for a Court judgment. All subsequent enquiries from taxpayers in relation to the liabilities included in referrals should then be directed to the relevant solicitor.

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- 9.2 The taxpayer will be liable for the costs and fees that arise when a case has been referred to the Solicitor and Court proceedings have been initiated.

There are several possible developments that can result from a Solicitor referral –

- [Appendix 7](#) - ICM Caseworking Outcomes.
- [Appendix 8](#) - Various stages that can follow on from Solicitor referral.

- 9.3 The Solicitor will receive online notification of any change in the liability for the periods referred. **Paragraph 3 in Part 2** of this document sets out the procedure for amending a referral to **reduce the liability**.
- 9.4 It is **not possible** to amend a solicitor referral to **increase** the amount referred for collection enforcement. In cases where liabilities have increased, e.g. returns replacing estimates, it may be possible to withdraw the original referral and issue a new referral if the solicitor has not commenced proceedings. This should only be done after consultation and agreement with the solicitor.
- 9.5 Where it is not appropriate to withdraw an original referral and issue a new referral to reflect increased liabilities, the caseworker has the option of issuing a new manual referral for the additional amounts, i.e. excluding any amounts on original referral
Ref: Part 2 - Paragraph 4 - Procedures for Manual Referrals.

10 Deadlines

- 10.1 Most Court actions are subject to specific time limits and deadlines either because of the date of the Court hearing or because time periods are specifically laid down in the relevant legislation. Care should be taken to ensure that any required action such as swearing an Affidavit is carried out within the timeframe specified by the Solicitors.

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11. Additional liability

If an additional liability arises following a Solicitor referral, the caseworker must check the current referral status on ICM. Depending on the current status of the original referral, the various options are explained in **Part 2 - Procedures for using the Court Process to pursue Tax Liabilities**. The caseworker should ensure that referral of the additional liability is appropriate having regard to the case circumstances and the progress being made in relation to the earlier referral

12. Withdrawal of Solicitor's Referral by Revenue

A caseworker must always advise the Solicitor of the reason for withdrawal of a referral. The vast majority of cases are withdrawn from Solicitors as a result of payment of the liabilities or submission of a return(s) resulting in a **nil** balance. The main reasons for withdrawal of a Solicitor referral are:

➤ **Payment made directly to Revenue**

The taxpayer makes payment directly to this office after a referral has been issued to Solicitor. The Solicitor must be advised of the payment when the referral is being withdrawn. The caseworker must input the **payment date** in the ICM notes as this determines Solicitor's costs

Note:

Do not withdraw the referral if the payment was made after enforcement as the taxpayer must pay interest and solicitor's costs.

➤ **Returns Received/Liability displaced**

Subsequent to a Solicitor referral based on estimates, the taxpayer may submit returns for the relevant periods showing a net claim, a nil, or a liability accompanied by full payment

➤ **Ceased**

The caseworker should contact the Solicitor to establish if there are any goods available for seizure if a company has ceased trading

➤ **Deceased**

The case should be forwarded to the local Revenue District to finalise all aspects of caseworking when a person is deceased

➤ **Offsets/Overpayments**

Before withdrawing a referral, ensure that any claim or overpayment available for offset covers the full liability referred to Solicitor

➤ **Liquidation/Receivership/Bankruptcy**

Solicitor referrals should be withdrawn immediately

➤ **Change of Address/Bailiwick**

The Solicitor will advise the caseworker if the taxpayer moves premises and if this involves a different GCD the referral must be referred to the relevant Solicitor firm

➤ **Conflict of Interest**

The Solicitor cannot act in a case where s/he has an existing professional relationship (e.g. Solicitor/Client) with the taxpayer. This will only become known after referral when the Solicitor notifies Revenue of the relationship. An alternative enforcement option (Sheriff or Attachment) will be required

➤ **Alternative Enforcement being pursued**

Occasionally, in high risk cases, Revenue may decide that exemplary enforcement measures (e.g. liquidation, bankruptcy, forced sale) are necessary to recover very substantial liabilities and may therefore decide to withdraw referrals in order to include all liabilities in judgment proceedings. The Team Leader/Manager will be involved in such cases

➤ **Appeal**

In certain circumstances a taxpayer may appeal a liability raised as a result of a local Revenue audit. Tax under appeal should **never be enforced until the appeal is finalised** and the audit Officer who raised the liability confirms that it is in order to pursue collection

➤ **Phased Payment Arrangement with Revenue**

If the caseworker is prepared to consider a taxpayer's proposal for a phased payment arrangement to discharge all liabilities, including those referred to Solicitor, the caseworker must contact the Solicitor's office to request their agreement. Revenue will **not** consider requests from taxpayers for a phased payment agreement until **all Solicitor costs and expenses are paid in full** directly to the Solicitor's office. The taxpayer must produce **a receipt as proof of payment of Solicitor's costs and expenses before any phased payment arrangement** can be agreed. Caseworkers should **not withdraw** the relevant referral(s) from the Solicitor until they have confirmed with the Solicitor's office that **all associated costs and expenses have been paid**

➤ **Issued in Error**

It is possible that a payment is received at the same time that a liability is referred to Solicitor, e.g. if payment is received within one working day of the Solicitor referral. In these circumstances the referral should be withdrawn immediately

13. Referral Returned by Solicitor

- **Returns Received / Liability Displaced**
The Solicitor has succeeded in receiving the taxpayer's outstanding returns either with full payment or the returns showing a nil liability
- **Offsets available to cover full liability referred**
The Solicitor has received outstanding tax returns showing a claim amount that covers the full liability referred
- **Incorrect Solicitor selected**
If a taxpayer has moved premises or resides in another GCD the Solicitor advises the caseworker and returns the referral for re-issue to the appropriate Solicitor
- **Dead Letter Office (DLO)**
The referral will be withdrawn if the taxpayer is no longer operating from the stated address
- **Ceased**
The Solicitor will withdraw the referral quoting "Ceased Trading"
- **Deceased**
The Solicitor will withdraw the referral and the case should be referred to the relevant Revenue District to finalise outstanding caseworking
- **Client/Conflict of Interest**
The Solicitor cannot act in a case where s/he has a professional relationship (Solicitor/Client) with the taxpayer
- **Liquidation/Receivership/Bankruptcy**
Referrals must be withdrawn under any of these circumstances
- **Hardship**
The referral should be withdrawn if the Solicitor is satisfied that a written submission from the taxpayer detailing grounds of hardship is bona fide

14. Obtaining Judgment

- 14.1 A Court judgment is a legal determination that an amount is due by a judgment debtor to a judgment creditor. In Revenue cases, it is a determination by the Court that a taxpayer owes an amount (tax and/or interest) to Revenue. Revenue Judgments are valid for 12 years. (See further information at 14.5)
- 14.2 The majority of Court judgments can be obtained within two to three months if the liability is not contested. If the taxpayer disputes the liability, a full Court hearing may be required and this will inevitably take longer.

- 14.3 The purpose of seeking a Court judgment is to put pressure on the taxpayer to pay the debt. In some cases, the judgment or even the threat of a judgment will be sufficient to achieve the desired outcome.

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15. Publication of the Judgment

- 15.1 Where obtaining a judgment has not achieved the desired result, the caseworker should consult with the Solicitor to decide on the next course of action.

- 15.2 As a first step, it is usually agreed that the judgment should be registered and published. Once it has been confirmed that no payment has been received on foot of the judgment, the Solicitor should be asked to arrange for registration and publication of the judgment.

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[...]

- 15.4 Registration and publication of the judgment have the effect of putting details of the debt into the public domain causing adverse publicity for the individual. Stubbs Gazette and Experian All Ireland Gazette search the Court records in order to publish the list of judgments registered in their respective publications.

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16. Satisfaction of Judgments and Discharge of Judgment Mortgages

16.1 Satisfaction Piece

The Satisfaction of a Judgment is registered in the Central Office of the Four Courts, Dublin, for publication. The Central Office is where all Court Judgments are registered for publication.

Registration of Satisfaction can occur if the payment of the Judgment sum is full or partial or indeed if there is no payment but an agreement is reached with Defendant to vacate the Judgment for whatever reason.

The process requires that a Satisfaction Piece is completed, signed by the Plaintiff and registered in the Central Office.

Judgments registered in the Central Office are a matter of public record but the Central Office has no role in publication of the Judgment. Iris Oifigiúil, Experian & Stubbs Gazette collect the Judgment details from the public record, probably on a weekly basis, and publish these details. It is also open to other publications, such as national or local newspapers, to collect and publish this information.

It is useful to note that in cases where the Judgment has not been registered for publication there is no way of publicly recording the fact that the judgment is now satisfied.

16.2 Deed of Discharge

A Discharge of a Judgment Mortgage *or* Release of a Judgment Mortgage is registered in the Land Registry or Registry of Deeds (whichever is appropriate) when the plaintiff agrees to discharge or release a Judgment Mortgage that was previously registered on the Defendant's property.

The Discharge registered in the Land Registry/Registry of Deeds only states that the plaintiff:

"...hereby requires the cancellation in the said folio of the entry of judgment mortgage"

This means that while the Discharge or Release has the effect of cancelling the Judgment Mortgage on the property, it does not affect the status of the Judgment and therefore the plaintiff has the option to use another form of collection enforcement of the Judgment which continues to exist.

As with a Satisfaction, a Deed of Discharge can also be registered under any circumstances, i.e. if there has been full, partial or indeed no payment of the Judgment liability but an agreement is reached with Defendant to vacate the Judgment for whatever reason. Revenue may agree to this in certain exceptional circumstances, e.g. whereby we agree to accept from the taxpayer an irrevocable Letter of Undertaking to pay the Judgment liabilities out of the proceeds of the sale of the property

For relevant templates see [Appendix 5 - Deed of Discharge - Land Registry](#) and

[Appendix 6 - Deed of Discharge - Registry of Deeds](#)

17. Collector-General's Dedicated Enforcement Unit

The role of the Dedicated Enforcement Unit (DEU) is

To use dedicated enforcement measures to pursue and conclude collection activity in cases of serious debt and non-compliance where standard enforcement collection measures have proved unsuccessful.

The main Dedicated Enforcement measures are:

- **Bankruptcy**
- **Forced Sale**
- **Committal Order / Committal to Prison**
- **Mareva Injunction**
- **Garnishee Order**
- **Receiver by way of Equitable Execution**

Cases are referred to DEU by HEOs in Debt Management Units and by the Revenue Regions when any of above enforcement options is considered suitable.

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18. Prosecution Programme for VAT 3 and P35 (incl LPT) and Imposition of Penalties

Penalties & Prosecutions Unit (PPU) Newcastlewest initiates **criminal prosecution** proceedings to deal with the non-filing of VAT 3 and P35 (incl LPT) returns. Prosecution is contingent on evidence that there is serious non-compliance and/or a definite expectation that a substantial liability will be quantified on receipt of the relevant returns. PPU **also imposes civil penalties under Section 987 of TCA 1997.**

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19. Commonality Checks

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20. Judgment Mortgage / Forced Sale

- 20.1 Following a Court judgment, one option is to put pressure on the taxpayer for payment of the tax debt by registering the judgment as a mortgage against the taxpayer's property. A registered mortgage ensures that if the property is subsequently disposed of either in the normal course or as a result of a Forced Sale, the Revenue debt will be paid out of the net proceeds of sale, i.e. the price received for the property less the costs of the sale and any earlier mortgages or judgments registered against the

property. However, in many instances the judgment mortgage will not become immediately relevant unless the taxpayer wishes to sell or re-mortgage the property.

- 20.2 When a judgment mortgage is registered on a taxpayer's property consideration should be given to seeking Court approval for permission to sell the property without the taxpayer's consent. This is called a Forced Sale or a Mortgage Suite. Refer to [Judgment Mortgage Procedure](#).

21. Considerations prior to proceeding to Judgment Mortgage

- 21.1 The key factor in deciding on whether to obtain a Judgment Mortgage is to identify a suitable property owned by the taxpayer.

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22. Companies & Judgment Mortgages (JMs on Company Assets)

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23. Registration of a Judgment Mortgage plus costs

There are two separate systems for recording transactions to property in Ireland:

1. The registration of title system (*Land Registry*) which provides a state guaranteed title to property and
2. The registration of deeds system (*Registry of Deeds*) which records the priority of the registered deeds and conveyances.

Both systems are mutually exclusive and both systems are under the control and management of the Property Registration Authority of Ireland.

Land Registry and Registry of Deeds register the Judgment Mortgage against the property and send a copy of the Solicitor's application to register the charge on CRO.

The Solicitors acting on behalf of Revenue must carry out the following action:

- If Judgment is recovered against a company and that Judgment is subsequently converted into a Judgment Mortgage affecting any property of the company, then there is a requirement on the part of the **creditor (Revenue)** to file **Form C10**
- The Judgment Mortgage shall be void against the liquidator and any creditor of the company unless the **Form C10** and the relevant **Judgment Mortgage Affidavit** are submitted together with the filing fee of €40

24. Risks for consideration in relation to Judgment Mortgages

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[...]

25. Discharging a Judgment Mortgage

25.1 Arrangements must be made for discharge of any Judgment Mortgage(s) where payment is received against the tax debt covered by such Judgment Mortgage(s).

25.2 In some instances the taxpayer will propose that the tax debt be paid out of the proceeds of the sale of the property and may request that Revenue lift the Judgment Mortgage in advance so that a sale can proceed. In these instances the Judgment Mortgage can be removed provided there is a solid guarantee that Revenue will get paid from the proceeds of sale, e.g. a letter of unconditional and irrevocable undertaking from the taxpayer's solicitor confirming that Revenue will be paid from the proceeds of the sale of the property within an agreed timeframe. As with any undertaking, the caseworker needs to ensure that the arrangement is watertight and the acceptance of any such undertaking must be approved at case Manager level. If in doubt about the wording of the Letter of Undertaking legal advice should be sought (usually from Revenue's external solicitors or otherwise from the RSO).

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26 Instalment Order

26.1 A decision to proceed with an application for a Court Instalment Order must be approved at Principal Officer level

26.2 Relying on a Court judgment, Revenue can apply to the Court for an Examination of the taxpayer's means and an Instalment Order for payment of the tax debt based on the taxpayer's ability to pay

26.3 This procedure is relatively inexpensive as proceedings are taken in the District Court local to where the taxpayer normally resides

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[...]

27 Committal Order

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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- 27.2 To ensure a Committal Order hearing where taxpayers fail to comply with Instalment Orders, Revenue will need to provide evidence to prove the taxpayer's non-compliance with the original Instalment Order and that the non-compliance is due to **wilful refusal** or **culpable neglect**
- 27.3 Revenue's evidence proving wilful refusal or culpable neglect will need to be watertight as otherwise the Court may treat the Committal proceedings as Variation proceedings, possibly resulting in a reduction in the amounts payable under the initial Instalment Order. However, in the absence of any reasonable explanation by the taxpayer, the Court may grant a Committal Order for imprisonment if the judge is satisfied that the creditor (Revenue) has established that:
- the failure to pay the sum in respect of which the debtor has made a default is not due to inability to pay, but is due to their wilful refusal or culpable neglect, **and**
 - the debtor has no goods that could be taken in execution under any process of the Court by which the Judgment Order or Decree for the debt was given.
- 27.4 If the Court grants a Committal Order, Revenue may then instruct the Solicitor to arrange for the issue of an arrest warrant to the Gardaí with the intention of committing the taxpayer to prison for a period not exceeding 3 months.

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28 Bankruptcy

- 28.1 Where a person is not in a financial position to settle their debts, a creditor may apply to the Court to have the person adjudicated bankrupt under the Bankruptcy Act 1988. As a precursor to seeking bankruptcy, it is Revenue's policy to have obtained a Court judgment for the outstanding liability. In exceptional cases, bankruptcy proceedings can commence based on the tax liability on record without judgment
- 28.2 On being adjudicated bankrupt, the person's assets, (with certain exceptions such as the articles of clothing, furniture and tools of the individual's trade), are taken over by a Court appointed Official Assignee to be used to pay off creditors in a predetermined order. The Official Assignee is based in the offices of the Insolvency Service of Ireland (ISI)
- 28.3 Bankruptcy legislation dictates that a debtor may not present a petition for adjudication unless they have made reasonable efforts to reach an appropriate arrangement with their creditors. In considering a creditor's petition, the Court must consider whether the debtor's inability to meet his liabilities could be more appropriately dealt with by means of a Debt Settlement Arrangement (DSA) or a Personal Insolvency Arrangement (PIA)

[...]

- 28.6 It is an offence under the Companies Act 1963, as amended, for a bankrupt person to act in various capacities including Director, Auditor, Manager, Liquidator or Receiver of a company without the consent of the Court
- 28.7 Certain professions are governed by bodies where members' personal finances are subject to regulatory requirements
- 28.8 Other implications of bankruptcy for individuals are that their credit rating is greatly reduced and financial institutions may not grant them loan approval. Furthermore, the bankrupt taxpayer will also have to inform the Official Assignee if he/she wishes to travel abroad.

29 Debtor petitions for Bankruptcy

- 29.1 **Section 11(3) of the Bankruptcy Act 1988** (amended by the Personal Insolvency Act 2012), allows a person experiencing financial difficulties to present a petition to the Court to declare him/herself bankrupt
- 29.2 The Court will consider adjudicating an individual bankrupt only if it is satisfied that a Debt Settlement Arrangement (DSA) or a Personal Insolvency Arrangement (PIA) is not a more appropriate option
- 29.3 If the Court is satisfied that bankruptcy is the only viable option for the debtor then it will adjudicate the debtor bankrupt
- 29.4 Once adjudicated bankrupt, the debtor will meet with the Official Assignee to arrange publication of a Bankruptcy Notice outlining the date for the statutory sitting at which creditors may attend and submit claims for payment.

30 Mareva Injunction

A **Mareva injunction** is used to restrain the dissipation of assets before or after a judgment. Its effectiveness is dependent on the injunction being sought immediately on receipt of intelligence of the potential sale of assets. It effectively freezes the assets so that the affected party cannot remove them from the jurisdiction or otherwise dispose of assets below a certain value wherever they might be located, until the Court tells them otherwise. A judgment is not required in order to make a Court application for a Mareva injunction. Collector-General approval is required before instructing the external solicitors to proceed with a Mareva injunction application.

31 Garnishee Order

A **Garnishee Order** grants the creditor a legal attachment of any monies now due but not yet paid to the debtor, for the purpose of satisfying debts. In order to be effective, the applicant creditor must have very good intelligence in relation to any such monies due. In such circumstances the creditor can apply to the Court upon Affidavit for a conditional Order of Garnishee directing that the third party pay the monies directly to the creditor. In order to apply to the Court for a Garnishee Order the creditor is required to have a judgment in respect of the outstanding liabilities. Collector-General approval is required in advance of instructing the external Solicitors to proceed with an application to the Court for a Garnishee Order.

32 Receiver by way of Equitable Execution

The process of **appointing a Receiver by way of Equitable Execution** may be used where a third party will owe money to a debtor at some point in the future. The Affidavit in support of the application needs to show that Revenue has reason to believe that a sum of money, but not necessarily a debt, is held by or about to be paid by some other person to or on behalf of a judgment debtor and that the said judgment debtor has a beneficial interest. A judgment is required in order to apply to the Court to appoint a Receiver by way of Equitable Execution. Collector-General approval is required in advance of instructing the external solicitors to proceed to make an application to the Court to appoint a Receiver by way of Equitable Execution.

33 Land and Conveyancing Law Reform Act 2009

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[...]

34 Liquidation

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1. Procedures to carry out a solicitor referral through ICM

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3. Procedure to amend a Referral

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

4. Procedures for Manual Referrals

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

5. Referral Outcomes

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

6. Instalment Set-up/Termination

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

7. Re-Referral

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

8. Referral Stages

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

9. Reaction to Solicitor Enforcement

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

10. Court Judgment Procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

11. Instructions for Caseworkers when swearing Affidavits

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

12. New District Court Rules - Affidavits & Certificates

12.1 Summary

All 'defended' District Court Certificates must be signed by staff at Executive Officer or Higher Executive Officer level and will no longer require to be sworn by a Commissioner for Oaths.

- (1) There is no longer a requirement to have sworn evidence for defended District Court Cases as the new District Court Rules remove the requirement for evidence to be submitted by way of an Affidavit.
- (2) Therefore, all defended District Court cases will be dealt with by way of only one Certificate pursuant to S.960J of the TCA 1997 (as amended) – [See Appendix 1](#)

12.2 Background

Previously, the District Court Rules provided for evidence to be tendered by way of Affidavit (Order 8, Rule 3). However, the new District Court Rules (Civil Procedure Rules 2014) have specifically deleted Order 8, Rule 3, thus the requirement for evidence to be tendered by way of Affidavit no longer applies.

Section 960J of the TCA 1997 (as amended), provides that the new certificate for all defended cases in the District Court will be used as follows:

“(1) In proceedings for the recovery of tax, a certificate signed by the Collector-General to the effect that, before the proceedings were instituted, any one or more of the following matters occurred:

- (a) the assessment to tax, if any, was duly made,
- (b) the assessment, if any, has become final and conclusive,
- (c) the tax or any specified part of the tax is due and outstanding,
- (d) demand for the payment of the tax has been duly made,
- (e) the stated amount of income tax under Schedule E is due and outstanding

shall be evidence until the contrary is proved of such of those matters that are so certified by the Collector-General”.

12.3 Circuit Court & High Court

The provision for use of an Affidavit remains specified in the Circuit Court Rules. If a defence is filed in Circuit Court proceedings, there is a specific procedure for seeking summary judgment by way of Notice of Motion grounded on an Affidavit, which is similar to that used in the High Court when an appearance is filed. Therefore, a certificate signed by a Revenue Officer is not appropriate in Circuit Court or High Court proceedings.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

13. Judgment Mortgage Procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

14. Forced Sale Procedure

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[...]

15. Discharging a Judgment Mortgage Procedure

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[...]

16. Instalment Order Procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

17. Committal Order Procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

18. Bankruptcy Procedure

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

19. General Conditions of Bankruptcy

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[...]

Appendix 1 – District Court Certificate

AN CHUIRT DUICHE THE DISTRICT COURT

District Court Area of

District No.

Between:-

MICHAEL GLADNEY

Plaintiff

-and-

[PLEASE INSERT]

Defendant

CERTIFICATE

Issued pursuant to Section 960 J of The Taxes Consolidation Act, 1997 (as amended)

I, **(Print name clearly)**
of the Collector-General's Office, Office of the Revenue Commissioners, Sarsfield House,
Francis Street, Limerick, an Officer of the Revenue Commissioners duly authorised pursuant
to the provisions of Section 960B of the Taxes Consolidation Act, 1997 (as amended) hereby
certify that at the time of issue of these proceedings one or more of the followings matters
occurred:

- a. [An assessment to tax was duly made] / [A return to tax was duly made]
(Delete as appropriate)
- b. [The assessment has become final and conclusive within the meaning of The
Tax Acts] /
[The return has become final and conclusive within the meaning of The Tax
Acts] **Delete as appropriate)**
- c. The sum of € in respect of arrears of the tax and interest was and
remains due and outstanding,
- d. A demand for the payment of the outstanding tax has been duly made prior to
the issue of the within proceedings.
- e. The stated amount of income tax under Schedule E is due and outstanding.

Certified this day of

Signed:

Name:
Officer of the Revenue Commissioners

Appendix 2 – High Court Affidavit – Appearance filed

THE HIGH COURT (Revenue)

Record No:

Between:

MICHAEL GLADNEY

Plaintiff

- AND -

Defendant

AFFIDAVIT

I, _____,
of the Office of the Revenue Commissioners, Collector General's Division,
Of _____
aged eighteen years and upwards, make Oath and say as follows:-

1. I am an Officer of the Revenue Commissioners and I have been duly authorised to make this Affidavit for and on behalf of the Plaintiff and do so from facts within my own knowledge and from knowledge which was derived from files and other official records in my custody or power or possession as a Revenue Officer, save where otherwise appears and whereso otherwise appearing, I depose to same believing same to be true and accurate.
2. The Plaintiff's claim is for the sum of € _____ in respect of tax and interest. The claim is for arrears of € _____ in respect of tax and the sum of € _____ in respect of interest, making a total sum of € _____, set out in the Special Indorsement of Claim on the Summary Summons which issued herein on the _____ 2015, [less the sum of € _____ which has been credited to the Defendant since the issue of proceedings, leaving a balance of € _____], which sum is due and owing by the Defendant to the Plaintiff.
3. I say and believe that prior to the issue of proceedings, the Plaintiff has called upon the Defendant to discharge the said sum of € _____ yet despite the aforesaid demand, the Defendant has failed, refused and/or neglected to discharge the full amount thereof. [Due allowance has been made for certain credits subsequently arising, as specified in paragraph 2 above].
4. I say and believe that as of the date of swearing hereof, the said sum of € _____ remains due and owing by the Defendant to the Plaintiff.

5. I say and believe and am advised that the Defendant has no defence to the Plaintiff's claim [*duly adjusted as set out at paragraph 2 above*].
6. I therefore pray that this Honourable Court make an order as is set out in the notice of motion granting the Plaintiff liberty to enter final judgement in the sum of € together with such further or other Order as to this Honourable Court may deem appropriate.

Sworn/Affirmed before me by
this day of 20
at
in the County of
before me a Commissioner for Oaths/
Practising Solicitor empowered to
administer Oaths
and I know the Deponent

DEPONENT

**COMMISSIONER FOR OATHS
PRACTISING SOLICITOR**

This Affidavit is filed by

Solicitors on behalf of the Plaintiff

Filed this day of 20

THE HIGH COURT
(Revenue)

Between:

MICHAEL GLADNEY

Plaintiff

- AND -

Defendant

AFFIDAVIT

REF

Appendix 3 – Checklist for Judgment Mortgage Affidavits, Satisfaction Pieces and Discharges

Judgment Mortgage Affidavit Submission Form

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[...]

Appendix 4 – Information Sharing Template to Revenue Solicitors

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[...]

More recent version of this manual is available.

Appendix 5 - Deed of Discharge – Land Registry

FORM 63

Requisition by a judgment creditor for the cancellation in the register of an entry of a notice of deposit of an affidavit of judgment as a mortgage or an entry of judgment mortgage (Rule 114)

LAND REGISTRY

County

Folio

Michael Gladney, [as Successor to _____,]* Collector General of the Revenue Commissioners and the judgment creditor specified in an affidavit of judgment registered on the _____ day of _____ 20____ at entry number _____ as a burden on the interest of _____ in the property described in folio _____ of the register County _____, hereby requires the cancellation in the said folios of the entry of judgment mortgage.

Dated the _____ day of _____ 20____.

Signed by the said Michael Gladney
in the presence of:

Michael Gladney

Note — This application for cancellation may also be made by the personal representative of the judgment creditor.

*delete as appropriate

Appendix 6 – Deed of Discharge – Registry of Deeds

THIS INDENTURE made the day of 200 between
of
(hereinafter called “the Grantor”) of the one part and of (hereinafter called “the Grantee”) of
the other part.

WHEREAS the Grantor obtained and entered up a Judgment in the Court against the Grantee on
in a cause entitled the Court, Court area of
Record No.
between , Plaintiff and , Defendant, for the sum of € and for €
costs making in the aggregate the sum of € (hereinafter called “the Judgment debt”) and **WHEREAS** on
foot of the said Judgment an Affidavit of Ownership was registered in the Registry of Deeds at Dublin on
20 , (Book No. , No.) under the provisions of the Judgment Mortgage Act 1850 as a Mortgage affecting
such interests as the Grantee was possessed of or was entitled to in law or in equity over the lands tenements
hereditaments and premises that is to say **ALL THAT AND THOSE** the lands and premises known as
situate in the Barony of and County of
and **WHEREAS** the Grantee has requested the Grantor to release the said Judgment
Mortgage insofar as it relates to the said premises and no more which the Grantor has agreed to do upon the
terms and in the matter hereinafter appearing.

NOW THIS INDENTURE WITNESSETH that in pursuance of the premises the Grantor as Judgment
Mortgagee hereby surrenders and releases unto the Grantee **ALL THAT AND THOSE** the lands and premises
known as

TO HOLD the same unto the Grantee his executors, administrators and assigns freed and discharged from the
said Judgment Mortgage and from all monies due and owing on foot thereof **PROVIDED ALWAYS** that
nothing herein contained shall restrict, limit or affect the right of the Grantor to enforce the balance of the said
Judgment or a Judgment Mortgage in respect thereof against the Grantee on any other property or security.

SIGNED SEALED and DELIVERED
by the **GRANTOR** in the presence of:

Appendix 7 - ICM Outcomes

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Appendix 8 - Referral Stages

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Appendix 9 - Solicitor Remuneration

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[...]

Appendix 10 - List of Alphabetical Characters used with Warrants/Referrals

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[...]

Appendix 11 – Property Search - Land Registry & Registry of Deeds

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[...]

Appendix 12 – Examples of Different Options for Enforcing Company Debts

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[...]

Appendix 13 - Solicitor Schedule

Referrals to Solicitors are based on the GCDs according to the schedule below.

In determining the appropriate Solicitor firm for each referral the relevant address should be

- Registered Office of a company
- Postal Address of an individual or partnership.

FIRM	ALLOCATION
Holmes O'Malley Sexton	GCD 05 Fingal GCD 40 Tipperary GCD 63 Limerick GCD 65 Kerry GCD 66 South West 1 GCD 67 South West 2 GCD 80 Construction Property Mining Energy GCD 81 Drink Tobacco and Multiples GCD 82 Food Industry GCD 83 Financial Services (Banking) 1 GCD 84 Financial Services (Insurance) GCD 85 Financial Services (Pension Schemes)
Ivor Fitzpatrick & Co.	GCD 02 Dublin South City GCD 07 Dublin Region (Construction) GCD 25 Westmeath & Offaly GCD 45 Kildare GCD 61 North West Cork & West Cork City
Denis I Finn Solicitors	GCD 04 South Dublin GCD 23 Sligo, Leitrim & Longford GCD 24 Donegal GCD 26 Louth GCD 27 Cavan & Monaghan GCD 46 Meath
Byrne Wallace	GCD 01 Dublin City Centre & Foreign GCD 20 Galway City & Roscommon GCD 22 Mayo GCD 42 Waterford
Pierse Fitzgibbon	GCD 06 Dun Laoghaire/Rathdown GCD 60 Cork East & North Cork City GCD 62 Cork South West GCD 68 Southwest Region (Legal & Accountancy Cases) GCD 86 ICT GCD 87 High Wealth Individuals GCD 88 Oil Industry & Motor Distribution GCD 89 Services Media & Leisure GCD 90 Healthcare & General Manufacturing GCD 91 Financial Services (Banking) 2 GCD 92 Property & Construction 2
Mason Hayes & Curran	GCD 03 Dublin North City GCD 21 Galway County GCD 41 Kilkenny, Carlow & Laois GCD 43 Wexford GCD 44 Wicklow GCD 64 Clare

Appendix 14 – Solicitor Contact Details

<p>Holmes O'Malley Sexton Bishopsgate, Henry Street Limerick. P.O. Box 146 Telephone 061-313222 Fax: 061-310414</p> <p>Senior Partner: Mr Donal Creaton 061 445573 donal.creaton@homs.ie</p> <p>Contacts: Jacci Fox - 061 445585 jacci.fox@homs.ie Mary O Connell - 061 445568 mary.oconnell@homs.ie Ann Murphy 061 445589 ann.murphy@homs.ie Ann Lynch 061 445541 ann.lynnch@homs.ie</p> <p>GCD (05 Fingal) (40 Tipperary) (63 Limerick) (65 Kerry) (66 South West 1) (67 South West 2) GCD 80-85</p>	<p>Mason Hayes & Curran South Bank House, Barrow Street, Dublin 4 Telephone 01-6145000 Fax: 01-6145001</p> <p>Senior Partner: Mr Jason Harte jharte@mhc.ie 01 6145246</p> <p>Contacts: Elizabeth Quinn 01 6142414 equinn@mhc.ie (High Court) Anna Giles 01 6142162 agiles@mhc.ie (High Court) Enda Boyle 01 6145276 eboyle@mhc.ie (Circuit Court) Charles McKean 01 6142449 (District Court) cmckean@mhc.ie Katherine Farmer (Secretary) 01 6145071 kfarmer@mhc.ie</p> <p>GCD (3 Dn Nth City) (21 Galway County) (41 Kilkenny Carlow Laois) (43 Wexford) (44 Wicklow) (64 Clare)</p>
<p>Ivor Fitzpatrick & Co 44-45 St. Stephens Green Dublin 2 Telephone 01-6787000 Fax: 01-6785424</p> <p>Senior Partner: Ms Margaret Scully 01-6327576 margaret.scully@ivorfitzpatrick.ie</p> <p>Contacts: Michael Commons 01 – 6327566 (High Court/Bankruptcy) Michael.common@ivorfitzpatrick.ie</p> <p>Paul Falvey 01 – 6327532 (Circuit Court) paul.falvey@ivorfitzpatrick.ie</p> <p>Caoimhe McCrea 01 – 6327670 (District Court) Caoimhe.mccrea@ivorfitzpatrick.ie</p> <p>Natalie Foley 01- 6327602 (IT/General Queries) natalie.foley@ivorfitzpatrick.ie</p> <p>GCD (2 Sth Dublin City) (07 Dublin Region (Construction) (25 Westmeath/Offaly) (45 Kildare) (61 Nth West Cork & West Cork City)</p>	<p>Pierse Fitzgibbon Solicitors Market Street Listowel Co. Kerry</p> <p>Telephone 068-50990 Fax 068-21692</p> <p>Senior Partner: Ms Martina Larkin 068-50936 martina.larkin@pierse.ie</p> <p>Contacts: Anna Lynch 068-50917 anna.lynnch@pierse.ie Joanne Carmody 068-50935 joanne.carmody@pierse.ie Eileen Stack 068-50945 eileen.stack@pierse.ie Yvonne Young 068 50912 yvonne.young@pierse.ie</p> <p>GCD (6 Dun Laoghaire/Rathdown) (60 Cork East and Nth Cork City) (62 Cork South West) (68 Southwest Region (Legal & Accountancy Cases & GCD 86 - 92</p>

Appendix 14 – Solicitor Contact Details

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Jennifer Heffernan 01 6030827
jh@denisifinn.ie
Breda Walsh 01 6030828
bw@denisifinn.ie
Ciara Murphy 01 6030829
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GCD(4 South Dublin) (23 Sligo/Leitrim/Longford)
(24 Donegal) (26 Louth) (27 Cavan/Monaghan)
(46 Meath)

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SHarte@byrnewallace.com
Una Leavy 01 6915248
uleavy@byrnewallace.com
Bianca Ford 01 6915388
BFord@byrnewallace.com

GCD (1 Dublin City Centre & Foreign)
(20 Galway City & Roscommon) (22 Mayo)
(42 Waterford)

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Appendix 15 – Glossary of Legal Terms

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Appendix 16 – Final Demand Letter

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Appendix 17 – Revenue Solicitor Letter

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