

TAX BRIEFING

Office of the Chief Inspector of Taxes

Issue 29 - December 1997

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Editorial

On behalf of all involved in the publication of *Tax Briefing*, I would like to wish all our readers a very Happy Christmas and very best wishes for 1998. I would also like to thank all our contributors in 1997.

This year we have published five issues of *Tax Briefing* and without a constant flow of good material from our contributors this would not have been possible. We are very grateful to them and appreciate the time and effort that goes into preparing articles.

As we head into 1998 we are conscious of a number of exciting developments that have happened in 1997 and others that will come our way in 1998. We have seen the development of the **Strategic Management Initiative** with the passing into law of the Public Service Management Act.

We have also seen the signing into law of the **Taxes Consolidation Act 1997 (No. 39 of 1997)**, a major milestone for any Tax Administration or tax practitioner. In this issue of *Tax Briefing* we have used the Taxes Consolidation Act references with the old legislation in brackets and we will continue to do this in 1998 until we are all familiar with the new Act.

In January next we will launch our **Customer Service Standards**. This will be in keeping with our commitment in the SMI-Delivering Better Government and is our next major step in delivering a quality customer service.

April will see the introduction of the **Freedom of Information Act**. We are working on having our internal instructions available from 21 April next and also to have structures in place for dealing with requests under the Act.

During next year *Tax Briefing* will be bringing you regular updates on our preparations for the Euro. This will enable you and your clients do business with us in Euro from 1 January 1999.

Next year will also see further changes in the way we do business with you. Our **Internet site** will be developed and will provide more complete information and we intend to have all our forms available for download from the site. Information has been provided on **Aertel** and this will be used as another means of communication during 1998.

We look forward with confidence to these developments and, as in the past, we know we can rely on your continued co-operation and support as we enter into this exciting new era.

Nollaig faoi sheán is faoi Mhaise daoibh go léir, a léitheoirí.

John Leamy - Editor.

Returns Compliance Programmes for 1998

Introduction

Tax Briefing Issue 26 - April 1997 outlined details of the returns compliance position and programmes for 1997. In concluding it was stated that the success of any Compliance Programme is measured by reference to the improvement in the filing rate and the successful pursuit of those who continue to ignore the system but it must also take account of the increased awareness of taxpayers of their obligation to file their returns on time in future. *This should be reflected in improved timely filing rates in 1998 and subsequent years which is the ultimate goal.*

Ongoing Programmes

The compliance programmes to pursue the outstanding returns for 1995/96 are ongoing and will continue until early 1998. Districts are concentrating in particular on cases that have not filed returns for a number of years. These cases are being pursued to finality by referral for prosecution, possible audit, enforcement etc.

The 1997 initiatives were proposed as a direct response to the unsatisfactory rate of timely filing achieved by January 1997 for the 1995/96 return.

As a result of the changes, the numbers of returns that were submitted within the first three months of the programme had increased significantly. An additional 25,000 returns were submitted by May 1997. This compares with 12,000 in the same period in 1996. It is hoped to build on this improvement next year.

While this article focuses on Income Tax Returns, similar programmes are carried out for companies. In fact the letters to companies issue in January each year. In 1998 the letters will be issuing direct to the company at the business address.

1996/97 Tax Returns

At this stage in the year however your attention has most likely turned to the filing of the **1996/97** Income Tax Returns which must be submitted by **31 January 1998**. Every effort must be made to encourage customers to file their returns on time.

What are the benefits of timely filing or to put it another way, what are the consequences of late or non-filing?

Surcharge:

Where a return of income is delivered within two months after the return filing date (i.e. by end March 1998), a surcharge of 5% of the tax liability is imposed subject to a maximum surcharge of £10,000. This is increased to 10% of the tax liability if the return is delivered more than two months after the return filing date. The maximum surcharge at this stage is £50,000.

Payment/Interest:

Timely filing means that the return is processed and the customer is aware of the amount due in advance of the payment due date for the balance of the tax i.e. 30 April 1998. This enables customers to schedule their finances and to avoid interest at a rate of 1.25% per month (15% per annum).

Contact with the Tax Office:

Failure to file a return will result in direct contact between the tax office and the customer. Every non-filing individual will be written to in March 1998. This will be followed up by telephone calls, visits etc.

Ultimate Consequences :

Failure to file may ultimately result in criminal prosecution under *Section 1078 Taxes Consolidation Act 1997* formerly (Section 94 Finance Act 1983) with a fine of £1,000 and/or a term of imprisonment.

Failure to file and pay tax may result in:

- A possible audit of the books and records
- Enforcement of the liability by the sheriff or solicitor
- The issue of an attachment notice by the Inspector of Taxes.

In the next edition of *Tax Briefing* we will give you more details of the 1998 Compliance Programmes and a calendar of events. In brief these programmes will include:

- The issue of income tax letters early in March direct to the customers
- The issue of letters to the company business address and to individual home addresses
- Pursuing new cases that commenced since 6 April 1996 who have two returns outstanding
- The pursuit of the persistent non-filers to finality.
- The importance of timely filing should be stressed to your clients now as the ultimate responsibility/cost for late or non-filing lies with them.

Send in that Return Now . . .

As the deadline for return filing approaches we thought you might enjoy this lament from one of our UK C&E colleagues on receiving this year's tax return, the first under the new self-assessment arrangements introduced this year in the UK.

The Tax Return

“Each year it comes to me and you
(except when they're on strike)
It's from the Inland Revenue - it's outlandish more like!
Another monster tax return, this time it's 'self assessed
I'd love to see the whole thing burn, oh what a bloody pest!
I'm not a bankrupt, cheat or crook; my means are fairly small.
And when you take a closer look it's not too bad at all.
There really doesn't seem to be an awful lot to do:
With questions up to twenty three, and helpful notes in blue.
I've lots of time it's only May - four months we're looking at:
And if it's late there's fines to pay but not much fear of that!
I'll have it done by then at worst, completed posted and
by close of play on June the first with several months in hand.
In essence just a two-hour job if really galvanised:
I'm not so much a lazy slob - but just disorganised.
I'll take it step-by-step, no fuss, with due regard for health,
I'll do a bit each day and conquer it by stealth.
'Enter here your total pay with benefit and tips'
Perhaps I won't commence today, can't find my wages slips.
Why it's so hard I can't conceive...'include sums reimbursed'
what can that mean? I can't believe it's May the thirty first!
'Produce a statement form your bank' I think I'll go to bed.
My mind is just an awful blank - I'll read a book instead.
But this apart we'll make a start, and gird our
loins with strength:
And don't upset the applecart....it's now July the tenth!
As August passes you must know I've other things to do.
September dawns as planned, I'm in a right old stew.
Procrastination, we are told, becomes the thief of time.
So now's the time to break the mold and stop this pantomime.
September's gone and so I'm forced to calculate my tax.
My deepest, darkest fears endorsed,
my sang froid nearly cracks.
Christmas comes and goes to boot: the feeling's getting worse.
I treat my family like a brute, the victims of my curse.
By now you must be wondering quite how this tale will end,
With all this aimless blundering and going round the bend.
And yes, you've guessed, I haven't won,
next year's is here as well
Before I've got the last one done, a carousel to Hell!"

Roger Darby

Purchase of Refurbished Buildings

Background

It has been brought to our attention by a number of practitioners that they have experienced difficulties in calculating capital allowances where newly refurbished buildings have been bought by their clients. As the refurbishment expenditure in these situations is not incurred directly by the purchasers the provisions of *Section 279 Taxes Consolidation Act 1997* formerly [Section 19 Finance Act 1970] are applied. This article explains the operation of *Section 279 Taxes Consolidation Act 1997* formerly [Section 19 Finance Act 1970] in situations which involve:

- Construction expenditure
- Refurbishment expenditure
- Refurbishment expenditure and the Temple Bar “uplift”

Construction Expenditure

Under *Section 279 Taxes Consolidation Act 1997* formerly [Section 19 Finance Act 1970] a purchaser of a newly constructed industrial building is deemed to have incurred construction expenditure on the building provided that:

- The vendor did not claim any industrial buildings allowances in respect of the building
- and**
- The relevant interest in the building is sold before the building is used, or within a period of one year after it commences to be used.

The section caters for situations where buildings are purchased from non-builders *subsection 2* (subsection 1) and from builders *subsection 3* (subsection 2).

Under *Section 279(2) Taxes Consolidation Act 1997* formerly [Section 19(1)] - purchase from a non-builder, the purchaser is deemed to incur construction expenditure amounting to **the lower of:**

- The amount of the construction expenditure actually incurred
- or
- The net price paid

Under *Section 279(3) Taxes Consolidation Act 1997* formerly [Section 19 (2)] - purchase from a builder, the purchaser is deemed to incur construction expenditure amounting to the **“net price paid”**.

The **“net price paid”** means the amount represented by A in the equation:

$$A = B \times \frac{C}{C + D} \text{ where}$$

B is the amount paid by a person on the purchase of the relevant interest in the building

C is the amount of the expenditure actually incurred on the construction of the building

D is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of *Section 270(2) Taxes Consolidation Act 1997* formerly [Section 256 (1) Income Tax Act 1967]

Section 270(2)(a) Taxes Consolidation Act 1997 formerly [Section 256 (1)(a)] refers to **“any expenditure incurred on the acquisition of, or of rights in or over, any land”**.

In the case of a newly constructed building which qualifies for industrial buildings allowances the calculation of the “**net price paid**” can be summarised by the following equation:

$$A = B \times \frac{C}{C + D} \text{ where}$$

- A** Net price paid
- B** Purchase price
- C** Construction costs
- D** Non-allowable costs

In a construction situation the non-allowable costs will normally be the site costs involved.

Refurbishment Expenditure

The formula in *Section 279 Taxes Consolidation Act 1997* formerly [Section 19 Finance Act 1970] applies as follows in refurbishment situations:

$$A = B \times \frac{C}{C + D} \text{ where}$$

- A** Net price paid
- B** Purchase price
- C** Refurbishment expenditure
- D** Non-allowable costs

Here the refurbishment expenditure actually incurred is substituted for the construction expenditure actually incurred.

In a refurbishment case the non-allowable cost (i.e. “**D**” in the formula) will normally be the cost of the site and any building thereon. Buildings on the site must be included because the non-allowable costs (**D**) include “*any expenditure incurred on the acquisition of, or of rights in or over, any land*” *Section 270(2)(a) Taxes Consolidation Act 1997* formerly [Section 256 (1)(a) Income Tax Act 1967] and land includes buildings, etc. (Interpretation Act 1937).

Refurbished buildings - example of the operation of the formula

Following on from the above, an example of the calculation of the “net price paid” in a refurbishment situation, using the formula in *Section 279(1) Taxes Consolidation Act 1997* formerly [Section 19 (2A) Finance Act 1970], is as follows:

Example 1

A developer purchases an existing property in April 1996 for £90,000 (Site Value of £10,000 and Building Value of £80,000). Refurbishment expenditure of £55,000 is incurred by the developer and the building is sold by him for £180,000 in April 1997. The calculation of the “**net price paid**” is as follows:

$$\begin{aligned} & \text{£180,000} \times \frac{\text{£55,000}}{\text{£55,000} + \text{£90,000}} \\ & = \text{£68,275} \end{aligned}$$

Accordingly under *Section 279(3) Taxes Consolidation Act 1997* formerly [Section 19 (2) Finance Act 1970] the amount of expenditure which is deemed to have been incurred by the person who purchases the refurbished building from the developer is **£68,275**.

Note

If the refurbishment expenditure in this example was incurred by a person whose trade did not consist of the construction of buildings with a view to their sale, the amount of expenditure which the purchaser is deemed to have incurred under *Section 279(2) Taxes Consolidation Act 1997* formerly [Section 19 (1) Finance Act 1970] is **£55,000, i.e. the lower of:**

- The expenditure actually incurred on the refurbishment
- or**
- The net price paid.

Temple Bar Area - Refurbished buildings

In Temple Bar cases the calculation of the “net price paid” is further complicated by virtue of the “uplift” which is provided for in *Section 331 Taxes Consolidation Act 1997* formerly [Section 55 (2) Finance Act 1991]. Under that section the refurbishment expenditure was deemed to include the lower, as the case may be, of:

- The market value of the building at 1 January 1991
- or**
- The purchase price of the property.

Temple Bar - where uplift does not apply

Where the “uplift” does not apply in a refurbishment situation in Temple Bar the calculation of “the net price paid” will be the same as for other designated areas.

Example 2

Same situation as in Example 1. Additional information - Building is located in Temple Bar. The value of the building (excluding site) at 1 January 1991 was £60,000. Net price paid:

$$\begin{aligned} & \text{£180,000} \times \frac{\text{£55,000}}{\text{£55,000} + \text{£90,000}} \\ & = \text{£68,275} \end{aligned}$$

The purchaser is deemed under *Section 279(3) Taxes Consolidation Act 1997* formerly [Section 19 (2) Finance Act 1970] to have incurred expenditure of **£68,275**. The Temple Bar “uplift” **does not apply** as the expenditure incurred by the developer on refurbishment (£55,000) did not exceed the lower of the value of the building at 1 January 1991 and its purchase price at April 1996 (i.e. lower of £60,000 and £80,000).

Temple Bar -where the uplift applies

As indicated earlier the “uplift” is regarded, under the Temple Bar legislation, as part of the refurbishment expenditure which is incurred. Accordingly the amount of the “uplift” may be included in “C” (refurbishment expenditure) in the formula in *Section 279 Taxes Consolidation Act 1997* formerly [Section 19 Finance Act 1970]. If “C” in the formula includes the uplift which is deemed to be additional expenditure on refurbishment that amount should be taken in as part of “C” in both the numerator and the denominator. The value of “D” (non-allowable costs) remains unchanged.

Example 3 (a) - uplift applies - uplift included as part of refurbishment expenditure

Same situation as in Example 1. Additional information - Building is located in Temple Bar. The value of the building (excluding site) at 1 January 1991 was £50,000.

Net price paid:

$$\begin{aligned} & \text{£}180,000 \times \frac{\text{£}55,000 + \text{£}50,000}{(\text{£}55,000 + \text{£}50,000) + \text{£}90,000} \\ & = \text{£}96,923 \end{aligned}$$

The purchaser is deemed under *Section 279(3) Taxes Consolidation Act 1997* formerly [Section 19 (2) Finance Act 1970] to have incurred expenditure of **£96,923**.

Note - Example 3 (a):

If the developer had not sold the building he would have been entitled to claim capital allowances by reference to a figure of £105,000, i.e. refurbishment expenditure of £55,000 plus “uplift” of £50,000.

The inclusion of the “uplift” in “C” in the formula may deem a person who purchases a building from a developer, to have incurred less expenditure than the developer was deemed to have incurred. In Example 3(a) the developer was deemed to incur £105,000 while the purchaser is deemed to incur only £96,923. Accordingly in all situations where it is more beneficial to the taxpayer Revenue will accept a computation where a taxpayer:

- First calculates the “net price paid” (excluding the uplift) in the manner outlined in Example 2 above
- and**
- Then adds the amount of the “uplift” (where it applies) to the amount which results. See Example 3 (b) hereunder.

Example 3 (b)

Alternative method - calculate net price paid first

Net price paid:

$$180,000 \times \frac{\text{£}55,000}{\text{£}55,000 + \text{£}90,000}$$

| | |
|-------------------|----------------|
| | £68,275 |
| Temple Bar Uplift | <u>£50,000</u> |
| Total | £118,275 |

The expenditure deemed to have been incurred by the purchaser using this method is **£118,275**, as against **£105,000** deemed to have been incurred by the developer.

Owner-Occupiers of Residential Property

This article clarifies the entitlement of owner-occupiers to relief in respect of conversion expenditure and the entitlement to relief in situations where qualifying properties are purchased from builders/developers.

General

Relief to individuals in respect of **construction or refurbishment** expenditure incurred on owner-occupied dwellings in Urban Renewal areas is provided in *Section 349 Taxes Consolidation Act 1997* formerly [Section 46 Finance Act 1994]. Similar relief in respect of property in the Customs House Docks Area, Temple Bar Area, Dublin Docklands Area and on Designated Islands is provided for in other Finance Acts.

To qualify for relief, the property involved must be first used, after the construction or refurbishment expenditure has been incurred, by the individual who incurred the expenditure as his/her only or main residence. **Relief is not available to a subsequent owner of the property.**

The relief applies for the year of assessment in which the expenditure is incurred and for each of the nine subsequent years, provided the property is the only or main residence of the individual in the year of claim. The amounts which may be claimed are:

- Construction costs 5% per annum (Total = 50%)
- Refurbishment costs 10% per annum (Total = 100%)

Conversion expenditure

While conversion expenditure is not specifically mentioned in the sections which deal with owner-occupier relief Revenue accept that such expenditure may be regarded as refurbishment expenditure and relief will be granted accordingly.

Properties purchased by Owner-Occupiers from builders/developers

Section 349 Taxes Consolidation Act 1997 formerly [Section 46 Finance Act 1994] and the other sections which deal with owner-occupiers do not specifically cater for situations where newly constructed or refurbished (including converted) properties are purchased from builders/developers by owner-occupiers. Revenue accept that the **first purchaser** of such a building is entitled to claim owner-occupier relief where the property is used as that individual's only or main residence.

In deciding the amount of the purchase price which qualifies for relief to owner-occupiers the same general rules as those which apply in relation to purchasers of rented residential accommodation will apply. In the case of the purchase of a newly constructed dwelling relief is allowed by reference to the amount of "the relevant price paid". This amount is arrived at by using the following formula:

Relevant price:

$$B \times \frac{C}{C + D} \text{ where}$$

- B** Net price paid
C Construction costs
D Site costs

In the case of conversion or refurbishment expenditure relief is confined to the lower of:

- The amount of conversion or refurbishment expenditure (as applicable), which was incurred in the qualifying period
- and
- The net price paid (or appropriate portion of the net price paid where part of the conversion or refurbishment expenditure is incurred outside of the qualifying period).

Grants or other payments received directly or indirectly from the State or out of public funds are deducted, in all cases, from the amount of expenditure which qualifies for relief.

Revenue Internet Web Site

We are currently in the process of redesigning our web site [<http://www.revenue.ie>] and it is proposed initially that the redesigned site will be a structured library of Revenue related information. It is intended to display information under the following headings:

- Directory of Revenue offices, contact points and responsibilities
- Statements of Practice
- Guidance notes
- Revenue Information Leaflets
- ***Tax Briefing***
- Tax bands, rates and allowances
- VRT information
- Travellers Allowances
- Small Business page
- Service through Irish
- Press Releases, Corporate Plan, Annual Report
- Key Dates
- Bulletin board
- EURO news
- Most frequently asked questions.

There will be limited interactivity on the site through the current e-mail addresses already displayed on the site. Further developments are planned for 1998 including having a number of returns available for download from the site.

We would welcome any suggestions or comments from practitioners regarding our proposals for the site. Comments or suggestions can be sent by e-mail to taxes@revenue.iol.ie

Tax Treatment of Subscriptions to Trade and Professional Associations

(Made by persons chargeable to tax under *Section 18 Taxes Consolidation Act 1997 - Schedule D Case 1 or Case 11*)

Introduction

We have received a number of enquiries about the tax treatment of subscriptions made by self-employed traders and self-employed professionals to trade and professional associations. The purpose of this article is to indicate the general tax treatment of subscriptions to trade and professional associations and also to give details of:

- An arrangement which trade and professional associations can enter into with Revenue
- The tax treatment applicable to subscriptions where such an arrangement is in place
- How application is made for entering into such an arrangement.

Trade Associations

Annual subscriptions paid to a trade protection or other trade association are allowable as a deduction only to the extent that they represent contributions towards expenditure incurred by the association on behalf of its members which if incurred by the members individually would have been allowable in arriving at their profits.

Accordingly, subscriptions are not allowable insofar as they represent contributions towards:

- Expenditure by the association of a capital nature (e.g. the cost of erecting buildings)
- or**
- Expenditure by the association which if incurred by the members individually would not be allowable as being too indirectly or too remotely connected with the carrying on of the trade (e.g. expenditure for social or political objects).

Contributions in the nature of premiums to an **insurance fund** maintained by a trade association are allowable notwithstanding accumulation of the fund, provided the cover obtained is such that the premiums for obtaining it from an ordinary insurance company would have been allowable.

Professional Associations

An annual subscription to a professional association or institute, membership of which constitutes a qualification to carry on the profession concerned is allowed as a deduction where:

- It is wholly or mainly in the nature of a fee for the right to hold the qualification
- and**
- The association exists for purely professional purposes.

Fees paid for admission to a profession are not allowable deductions.

Other subscriptions to professional associations follow the principles as outlined above in relation to Trade Associations.

The Inspector may require a copy of the accounts of the association concerned in determining the allowability of a deduction claimed by a taxpayer in respect of a subscription to a trade or professional association.

Revenue Practice

Trade and professional associations may apply to enter into an arrangement with Revenue for special tax treatment of subscriptions. The terms of such an arrangement provide that:

- Subscriptions, entrance fees and other payments made by members to the association (except payments, such as loans or deposits which are both capital payments as respects the payer and capital receipts as respects the association) are allowed as a deduction in the hands of the payer
- Non-capital payments by the association to members are treated as trade receipts in the hands of the recipient
- The association is assessed to tax on the surplus of its receipts over its expenditure. Practitioners should also note the following points in relation to associations which have entered into the arrangement with Revenue:

- The arrangement applies only to income from and payments out of subscriptions, entrance fees etc. Accordingly, other income (e.g. investment income) is taxable in accordance with normal tax rules.
- Where, on becoming a member of an association, a trader or professional is required to pay subscriptions for past years in addition to the subscription for the first year of membership, a deduction will be allowed for the total amount paid in the period in which it is paid.
- No deduction will be allowed in respect of a contribution towards the cost of erecting buildings or other capital expenditure whether such contribution is in the form of a lump sum donation, special addition to the subscription, call or levy.

To date, approximately 300 trade and professional associations have entered into this arrangement. Applications by trade or professional associations who wish to adopt the arrangement should be sent to the Office of the Chief Inspector of Taxes. A copy of the constitution, rules and accounts of the association and a list of its members should accompany the application.

Clearance Certificate - Form CG50A

It appears from feedback from tax districts that requests for the issue of Capital Gains Tax Clearance Certificates are giving rise to a lot of correspondence, telephone calls and faxes between practitioners, solicitors and tax districts. Some of the problems being encountered are as follows:

Form CG50

Applications are being made on:

- The old version of the Form CG50 or photocopies of this version
- Practitioners/solicitors own PC version of the old version of Form CG50

Practitioners are advised to destroy stocks of the old version of the Form CG50 and to use the new version only. Supplies of these forms can be obtained from the *Revenue Forms & Leaflets Service at (01) 878 0100* or any tax office.

Submission of Applications

Tax Practitioners and solicitors are once again reminded that applications should be submitted well in advance of the closing date. In many cases the applications are being received in tax districts on the date of closing. The applications should be posted so that they are **received** in the tax office at least 3 working days in advance of the closing date (this may mean actually posting the application 4/5 days in advance of the closing date.)

If the closing date on the contract for sale has elapsed at the time of making the application, confirmation will be required that the consideration has not passed and a revised closing date must be specified.

We cannot guarantee the issue of a clearance certificate unless the CG50 is received three working days in advance of the closing date.

Grounds for Application

The grounds for the application should be clearly marked on the Form CG50 and only one option should be specified.

Signature on Forms CG50

The Form CG50 must be signed by the person(s) making the disposal. Practitioners and solicitors are not permitted to sign the form on behalf of the vendor. Particular attention should be paid to Note 10 of the Notes on Completion on the back of the form.

Disposal by Non-Residents

Where a disposal is being made by a non-resident, practitioners/solicitors are reminded that a computation of the capital gains tax liability is required and the tax on the disposal together with any other capital gains tax outstanding must be paid before a clearance certificate will be issued.

Cancelled Sales

If a sale falls through or is cancelled the clearance certificate Form CG50A issued should be destroyed. Under no circumstances should the certificate be retained and used for a subsequent sale of the property to a different purchaser.

Summary

To ensure that clearance certificates are issued promptly practitioners and solicitors must:

- Submit a properly completed form CG50
- Including all relevant documentation (contract for sale, CGT computation where appropriate etc.)
- To the Inspector of Taxes who deals with the tax affairs of the vendor
- At least 3 working days in advance of the closing date.

Corporation Tax

Reduced Rate of Corporation Tax / Manufacturing Relief / Completion of Form CT1

General

The introduction of the reduced rate of corporation tax, *Section 22 Taxes Consolidation Act 1997* formerly [Section 44 Finance Act 1996] and the subsequent amendments to the corporation tax rates, *Sections 21 & 22 Taxes Consolidation Act 1997* formerly [Sections 59 & 60 Finance Act 1997] has led to a certain amount of confusion and difficulties in the completion of Form CT1. The calculations become even more complex in cases where manufacturing relief applies.

The purpose of this article is to:

- Outline the calculations and apportionments required as a result of the introduction of the **reduced rate** of corporation tax.
- Illustrate by way of examples the calculations required in cases where manufacturing relief applies
- Indicate where necessary the entries which should be made on the Corporation Tax Return Form CT1. Practitioners should note that the Form CT1 has been revised to cater for the further amendments to the corporation tax rates which took effect from 1 April 1997. **The new Form CT1 should be used for all cases with accounting periods ending after 1 April 1997.**

Corporation Tax Rates

The main features of the changed/reduced rates are as follows:

Profits up to 31 March 1996:

Corporation Tax Rate - 38%

Profits up to 31 March 1997:

First £50,000 of income taxable @ 30% Balance of profits taxable @ 38%

Profits after 1 April 1997:

First £50,000 of income taxable @ 28% Balance of profits taxable @ 36%

All corporation tax returns which span these dates must be divided into periods before and after these dates to determine the appropriate amounts chargeable at the full rate and the reduced rate. In addition where applicable the bands outlined above must be apportioned e.g.

| | | |
|--|---------------|---------|
| <i>Profits year ended 30/04/97</i> | £60,000 | |
| <i>Period ending 31/3/97 (£60,000 x 11/12)</i> | | £55,000 |
| Reduced Rate £50,000 x 11/12 = | £45,834 @ 30% | |
| Balance | 9,166 @ 38% | |
| <i>Period ending 30/04/97 (£60,000 x 1/12)</i> | | £5,000 |
| Reduced Rate £50,000 x 1/12 = | £4,166 @ 28% | |
| Balance | £834 @ 36% | |

The CT1 Return Form for this year should show

Section 12 Box RR

Reduced Rate £45,834 @ 30%

Full Rate £9,166 @ 38%

Section 12 Box RT

Reduced Rate £4,166 @ 28%

Full Rate £834 @ 36%

Corporation Tax returns which are not completed on this basis will require amendment and may lead to the issue of incorrect notices of assessment.

Other important features of the reduced rate are:

- The reduced rate is restricted to the amount of the company's profit if less than £50,000
- The reduced rate is shared equally between associated/group companies or allocated in such manner as they specify. However, only one reduced band may be claimed in total.
- Capital gains do not qualify for the reduced rate and continue to be chargeable at 40% irrespective of the accounting period to which they apply
- Manufacturing profits do not qualify for the reduced rates.

The following calculations should help to illustrate the different calculations involved.

Example 1

Company A has the following profits for the year ending 31 March 1998:

Case 1 £110,000

Case V £10,000

It has a chargeable gain of £9,000 for the same period. The company has no manufacturing income and no associated companies.

Final Assessment

Case 1 £110,000

Case £10,000

Income £120,000

Adjusted Chargeable Gain

£9,000 x $\frac{40}{36}$ £10,000

Profit £130,000

Reduced Rate £50,000 @ 28% £14,000

Balance £80,000 @ 36% £28,800

Total £42,800

In the above example the company's liability on the chargeable gain was:

£9,000 @ 40% £3,600

This has in effect been shown as

£10,000 @ 36% £3,600

Form CT1 entries should be made as follows:

| | | | |
|------------|---------------|---------|-------|
| Section 9 | Box G9 | £9,000 | |
| Section 12 | Box RT | £50,000 | @ 28% |
| | | £80,000 | @ 36% |

Example 2

In Example 1, if the Case 1 figure was £30,000 the position would be as follows:

Final Assessment

| | |
|----------------------------|----------------|
| Case 1 | £30,000 |
| Case V | <u>£10,000</u> |
| Income | £40,000 |
| Chargeable Gain | |
| £9,000 x $\frac{40}{36}$ | <u>£10,000</u> |
| Profit | £50,000 |
| Reduced Rate £40,000 @ 28% | £11,200 |
| Balance £10,000 @ 36% | <u>£3,600</u> |
| <i>Total</i> | <i>£14,800</i> |

Form CT1 entries should be made as follows:

| | | | |
|------------|---------------|---------|-------|
| Section 9 | Box G9 | £9,000 | |
| Section 12 | Box RT | £40,000 | @ 28% |
| | | £10,000 | @ 36% |

It is important to note that the figure to be entered in Box G9 of the form CT1 is the actual gain i.e. in the above example enter £9,000.

Our computer system will make the appropriate adjustment to the chargeable gain when issuing the assessment.

Manufacturing Relief Calculations

The manufacturing relief formula includes the fraction 28/38 or 26/36 as appropriate in arriving at the 10% charge. It is important therefore that the manufacturing income is excluded from the calculation of the reduced rate bands.

The formula for manufacturing relief is expressed as follows:

$$A \times \frac{B}{C} \times \frac{26}{36}$$

where:

- A** Relevant Corporation Tax
- B** Case 1 from Manufacturing Sales
- C** Total income less amount taxable at the reduced rate

For the purposes of the manufacturing relief formula **Relevant Corporation Tax** is:

Tax on Profits

less

Tax on chargeable gain

less

Tax on income charged at the reduced rate.

Example 3

Company B has the following profits for the year ending 31 March 1998

Case 1 £100,000

[80% of sales qualify for
manufacturing relief]

Case V £10,000

Total £110,000

Reduced Rate Calculation

Non-Manufacturing Case 1

[£100,000 x 20%] £20,000

Case V £10,000

Total £30,000

Final Assessment

Case 1 £100,000

Case V £10,000

Income £110,000

Reduced Rate

£30,000 @ 28% £8,400

Balance

£80,000 @ 36% £28,800

Total £37,200

Form CT1 entries should be made as follows:

Section 12 Box RT £30,000 @ 28%

£80,000 @ 36%

Manufacturing Relief Calculation

Relevant Corporation Tax £28,800

(£37,200 - £8,400)

Manufacturing Case 1 £80,000

(Case 1 £100,000 x 80%)

Total Income £110,000

Amount taxable at the

reduced rate £30,000

Manufacturing Relief formula is:

$$\frac{\pounds 28,800 \times \pounds 80,000}{\pounds 110,000 \text{ less } \pounds 30,000} \times 26 = 36$$

which is £20,800

The figure of £20,800 is shown on Section 13 Box R3 of Form CT1.

The net corporation tax due is:

$$(\pounds 37,200 - \pounds 20,800) = \pounds 16,400.$$

Example 4

Company C has the following profits
for the year ending 31 December 1997

Case 1 £100,000

[80% of sales qualify
for manufacturing relief]

Case £10,000

Total £110,000

Reduced Rate

As in the previous example the
amount qualifying for the reduced
rate is £30,000.

Period 1/1/97 to 31/3/97

Income £110,000 x 3/12 = £27,500

£30,000 x 3/12 = £7,500

£7,500 @ 30% £2,250

Balance £20,000 @ 38% £7,600

Period 1/4/97 to 31/12/97

Income £110,000 x 9/12 = £82,500

£30,000 x 9/12 = £22,500

£22,500 @ 28% £ 6,300

Balance £60,000 @ 36% £21,600

Total (1/1/97-31/12/97) £37,750

Form CT1 entries should be made as follows:

Section 12 **Box RR** £7,500 @ 30%

£20,000 @ 38%

Section 12 **Box RT** £22,500 @ 28%

£60,000 @ 36%

Manufacturing Relief Calculation**Period 1/1/97 to 31/3/97**

| | |
|------------------------------------|---------|
| Relevant Corporation Tax | £7,600 |
| Manufacturing Case 1 | £20,000 |
| (£80,000 x 3/12) | |
| Total Income | £27,500 |
| Amount taxable at the reduced rate | £7,500 |

Manufacturing Relief formula is:

$$\frac{£7,600 \times £20,000}{£27,500 \text{ less } £7,500} \times \frac{28}{38}$$

which is **£5,600****Period 1/4/97 to 31/12/97**

| | |
|------------------------------------|---------|
| Relevant Corporation Tax | £21,600 |
| Manufacturing Case 1 | 60,000 |
| (£80,000 x 9/12) | |
| Total Income | £82,500 |
| Amount taxable at the reduced rate | £22,500 |

Manufacturing Relief formula is:

$$\frac{£21,600 \times £60,000}{£82,500 \text{ less } £22,500} \times \frac{26}{36}$$

which is **£15,600**Total manufacturing relief is **£21,200****The figure of £21,200 is shown on Section 13 Box R3 of Form CT1.**

The net corporation tax due is:

$$(\text{£}37,750 - \text{£}21,200) = \text{£}16,550.$$

Example 5

Company D has the following profits for year ended 30 June 1997

| | |
|--------|----------|
| Case 1 | £200,000 |
|--------|----------|

[70% of sales qualify for manufacturing relief]

| | |
|--------------|----------------|
| Case 111 | £40,000 |
| Case V | <u>£20,000</u> |
| Total Income | £260,000 |

Company D has one Associate Company

Reduced Rate Calculation

| | |
|--------------------------|----------------|
| Non-Manufacturing Case 1 | |
| [200,000 x 30%] | £60,000 |
| Case 111 | £40,000 |
| Case V | <u>£20,000</u> |
| Total | £120,000 |

The maximum relief under *Section 22 Taxes Consolidation Act 1997* formerly [Section 28A] is

$£50,000 \times 1/2 = £25,000.$

This allows for the fact that the company has one associate.

The income to be assessed is as follows:

£25,000 @ reduced rate band. Balance of £235,000 @ the higher bands.

Tax due is as follows:

Period 1/7/96 to 31/3/97

$£25,000 \times 9/12 = £18,750$

£18,750 @ 30% £5,625

$£235,000 \times 9/12 = £176,250$

£176,250 @ 38% £66,975

[Figures to Section 12 Box RR CT1]

Period 1/4/97 to 30/6/97:

$£25,000 \times 3/12 = £6,250$

(£6,250) @ 28% £1,750

$£235,000 \times 3/12 = £58,750$

(£58,750) @ 36% £21,150

[Figures to Section 12 Box RT CT1]

Total (1/7/96 - 30/6/97) £95,500

Manufacturing Relief Calculation

Period 1/7/96 to 31/3/97:

Relevant Corporation

Tax £66,975

Manufacturing Case 1 £105,000

(£200,000 x 70% x 9/12)

Total Income £195,000

(£260,000 x 9/12)

Amount taxable at the reduced rate £18,750

Manufacturing Relief formula is:

$£66,975 \times \frac{£105,000}{£195,000 \text{ less } £18,750} \times \frac{28}{38}$

which is **£29,400**

Period 1/4/97 to 30/6/97:

Relevant Corporation Tax £21,150

Manufacturing Case 1 £35,000

Total Income £65,000

Amount taxable at the reduced rate £6,250

Manufacturing Relief formula is:

$$\text{£}21,150 \times \frac{\text{£}35,000}{\text{£}65,000 \text{ less } \text{£}6,250} \times \frac{26}{36}$$

which is **£9,100**

Total Manufacturing Relief is **£38,500**

The figure of £38,500 is shown on Section 13 Box R3 of form CT1.

The net corporation tax due is

$$(\text{£}95,500 - \text{£}38,500) = \text{£}57,000$$

Summary

Practitioners are reminded that:

- The chargeable gain figure on Form CT1 at G9 is **before** any adjustment for corporation tax.
- Chargeable gains and manufacturing Case 1 income **do not** form part of the reduced rate band
- Composite corporation tax rates **should not** be used when completing Form CT1
- All accounting periods must be apportioned to determine the amounts chargeable at the reduced rates
- New Form CT1 should be used for all accounting periods spanning 1 April 1997
- Where associated companies wish to elect to have the reduced rate of £50,000 apportioned between them, they should complete Panel 27 on the Form CT1.

Completion of Returns - Help Us to Help You

Introduction

Income Tax Returns for 1996/97 are being submitted at the moment. While the standard of completion is very good, some problems are still being encountered. **We would ask that you bring the following points to the attention of your staff.**

Income from Trade, Profession or Vocation

Details are not being shown on the Return for:

- Description of Trade
- Address at which carried on

Also, where the trade has ceased or the accounting date has been changed the practitioner should highlight this and advise of any revision due for the previous year of assessment if applicable.

Losses

The sections on losses should be fully completed to indicate how the loss is to be utilised i.e. set off against other income under *Section 381 Taxes Consolidation Act 1997* formerly [Section 307 ITA 1967] or carried forward under *Section 382 Taxes Consolidation Act 1997* formerly [Section 309 ITA 1967]. If a loss is to be created or augmented by capital allowances and claimed under *Section 392 Taxes Consolidation Act 1997* formerly [Section 318 ITA 1967] this should be stated.

Retirement Annuity Relief

The following questions at Section 31 of the Return are not being answered properly and this can give rise to the incorrect tax relief being granted.

- In what occupation have you non-pensionable earnings ?
- Name of Insurance Company or Trust Scheme
- If you or your spouse were born before 6 April 1942 please state date of birth

PAYE Income

PAYE sources of income are often omitted from the Return or only some of the sources of PAYE income are shown. Practitioners are reminded to list all PAYE sources.

Increased Exemption/Dependent Children

Some practitioners are failing to complete Section 43 of the Return in cases where increased exemption is applicable. This results in further correspondence between the practitioner and the tax office on receipt of the notice of assessment.

VSA Computations

Direct payments to the Collector-General's Office should be excluded from VSA computations. These payments will be credited automatically when the notice of assessment is issued.

Capital Gains Tax

In many cases Section 50 of the return which deals with Capital Gains Tax is not being completed.

Completion of Return

Some practitioners when submitting tax returns place too much reliance on attached computations and do not complete the returns properly. Phrases such as “see computation attached” and “per computation” are not acceptable.

All sections of the form must be fully completed and if there is no income under a particular heading “none” should be entered.

Documents which should be enclosed with returns :

BES/Film relief

Fully completed RICT or Film 3 forms where available at the date of return filing (see note on page 27).

Retirement Annuity Contributions

RAC certificates where available at the date of return filing (see note on page 27).

Trade/Profession

Accounts of the trade or profession together with computations of profit (loss), capital allowances and balancing charges. **Remember, the correct figures are required to be entered on the return.**

Health Expenses Relief

Form Med 1 should be attached to the return where a claim for health expenses is being made. Where a claim for dental expenses is being made forms Med 1 and Med 2 should be attached.

Withholding Tax

Forms F45/F43 for the relevant credit period.

Miscellaneous Matters

We wish to draw practitioners attention to the following matters which will assist us in providing a more efficient service to customers.

Cessations

Practitioners frequently request that a case be removed from our records as their client has ceased trading. It would be of assistance if they would also give us brief details of the post self-employed position at that point.

PRSI

Age Limit

The upper age limit for payment of PRSI contributions is 66 - this is sometimes mistakenly thought to be age 65.

PAYE & Non-PAYE Income

In cases where **both** PAYE and non-PAYE income arise the notice of assessment which issues will take into account the PRSI payable on the PAYE income if the total income exceeds the upper limit for PRSI [£22,300 for 1996/97 and £23,200 for 1997/98].

Example

Taxpayer has the following for 1996/97:

| | |
|-----------------|---------------|
| Non-PAYE income | £16,000 |
| PAYE salary | <u>£8,000</u> |
| Total Income | £24,000 |

PRSI payable on non-PAYE income on notice of assessment will be as follows:

PRSI (£22,300 - £8,000)

= £14,300 - £1,040

= £13,260 @ 5% = **£663**

Levies payable on non-PAYE income on notice of assessment will be as follows:

Health Contribution

£16,000 x 1.25% £200

Employment & Training Levy

£16,000 x 1% £160

Total £360

Double Taxation Relief

A lot of queries are received on the subject of Double Taxation Relief and the calculations involved. We would like to remind practitioners that this topic was covered in detail in an article in *Tax Briefing* - Issue 13 which may be of assistance.

Company Acquiring its Own Shares

Practitioners are reminded that a return on Form AOS1 should be made at the same time as the Form CT1. In the absence of such a return it will be assumed that “distribution” and not capital gains tax treatment applies to the acquisition. If the correctly intended treatment is not clarified this can lead to unnecessary costs for both Revenue and the taxpayer.

Submission of BES / Film Relief and Retirement Annuity Certificates

We have been asked to clarify the position on submission of BES/Film and Retirement Annuity certificates as mentioned in *Tax Briefing* - Issue 28 in the article on “**Completion of Returns 1996/97 & Documents to be Enclosed**”. Practitioners should note as follows:

Self-Employed Clients

RICT/FILM 3 and RAC certificates should be submitted with the return if they are available at the time of filing. If the certificates are not available at return filing time relief may be claimed on the return. Repayments arising on the basis of returns submitted will be processed without the certificates. Certificates need only be submitted where requested by the Inspector as part of our control measures.

PAYE Clients

Relief for BES/Film and retirement annuity contributions will only be included in tax-free allowances during the tax year on receipt of the appropriate certificate. Claims after the end of the tax year will be processed without the relevant certificates (if, not available) on receipt of a properly completed return of income. These returns will also be the subject of control measures.

Conclusion

We would again like to emphasise that these procedures are being implemented on a trial basis only. As a control measure, we will be undertaking verification audits to ensure that amounts being claimed are supported by correct documentation. Certificates must be readily available when called for and claims which are not ultimately supported by the correct documentation will be subject to the appropriate interest/penalty provisions. **Practitioners are reminded that these new procedures do not remove the obligation to have the necessary documentation available to support these claims for relief.**

Cross Border Workers and Ex-Patriates

Sections 45 and 46 of the Social Welfare Act 1996 extended the exemption from the Health Contribution and Employment and Training Levies to individuals entitled to hold a Medical Card by virtue of Council Regulation (EEC) No. 1408/71. (Generally individuals who pay Social Insurance in another European Community Member State) Prior to this amendment, the exemption had been given to persons who were holders of means tested medical cards. The reasoning behind the amendment was to extend the levy exemption to cross border workers.

Unfortunately the 1996/97 Form 11 was not updated to reflect the new position and still asks the question whether the individual or their spouse holds a **Means Tested** Medical Card. This will be rectified in issues of the Form 11 for future years. In the meantime practitioners whose clients are holders of a Medical Card by virtue of Regulation (EEC) No. 1408/71 should tick yes in answer to the question asked at Section 43 in the 1996/97 Form 11. The levies will be automatically exempted when the return is processed.

We apologise for any misunderstandings which may have occurred.

Staff Canteens & VAT

Background

Section 5 (3) Value-Added Tax, as amended, provides that the supply of certain services may be deemed by Regulation to be a supply of services by a person for consideration in the course of business.

Regulation 24 deems the supply of catering services by a person for his/her own private or personal use to be a supply of services for consideration in the course of business and, therefore, taxable. Similarly, the supply of catering services for staff to which he/she contributes in whole or in part is deemed to be a supply of services for consideration in the course of business and, therefore, taxable.

Regulation 24 states that the total cost of providing the service is taxable where it exceeds £500 in any taxable period but concessionally a limit of £20,000 per annum is applied.

Employers have the option of calculating their canteen liability on either the statutory basis or the concessional basis.

Statutory Basis (Section 5 (3) and 10 (4) VAT Act 1972)

Under the statutory basis, the amount on which the employer is liable to account for VAT is **either** the total cost of providing the service, which includes e.g. catering costs, light, heat, rent, wages etc. or the takings, **whichever is the greater**, at the 12.5% rate.

The employer will be entitled to take a deduction in respect of all VAT charged to him/her in connection with the operation of the canteen.

Concessional Basis

The concessional treatment applies where a canteen is operated by an outside caterer on behalf of an employer who makes no contribution, apart from a subsidy, towards the running of the canteen. The outside caterer accounts for VAT on both cash received from the employees and the subsidy from the employer.

The employer in these circumstances will not have to account for VAT under the statutory basis outlined above but will also not be entitled to take a deduction in respect of any VAT charged in connection with the canteen e.g. caterer's invoice, VAT on building of the canteen area, VAT on capital equipment, light and heat etc.

Irrespective of which basis is used to calculate liability, the sale of alcoholic drinks, minerals and cigarettes is always subject to VAT at the standard rate. In addition, confectionery not consumed in the course of a meal is also liable to VAT at the standard rate.

Section 13A VAT Act 1972

Practitioners will be aware that registered persons whose turnover from Intra-Community supplies and exports of goods exceeds 75% of their total annual turnover can apply for a Form 13B authorisation which entitles them to receive goods or services free of VAT.

The 13B authorisation form is currently being redrafted to include the following:

- A change in the format of the expiry date i.e. the expiry date for authorisations expiring after 1 January 2000 will be in a six digit format i.e. an expiry date of October 2000 will be shown as 102000.

- - A reminder to registered persons that where the authorisation is used to acquire qualifying goods or services VAT free, and those goods or services are not used in connection with taxable supplies, they have an obligation, under existing VAT legislation to account for the appropriate VAT in their VAT return.
-

Agrimonetary Compensation

A revaluation of the Green Pound can result in a drop in income for Dairy Farmers and where this arises a payment known as **Agrimonetary Compensation** is made to compensate the farmer for the loss. The payment is usually made through the network of Co-ops.

As no supply of goods or services gives rise to the payment it should be noted that an unregistered farmer is **not** entitled to receive the normal flat rate addition of 3.3% when the compensation is paid. Consequently no repayment of VAT will be due to the Co-op as a result of paying the compensation to such farmers.

Foreign Traders and Construction Contracts

Many foreign traders who obtain construction contracts within the Republic of Ireland do not appear to be aware of their obligation to register for VAT in Ireland. A person who makes taxable supplies in the State but who is not established here must register. Section 8(3)(d) VAT Act 1972 prevents the trader from availing of the normal registration limits.

The position normally comes to light when a claim is made for repayment of Relevant Contracts Tax. Revenue policy is to restrict such repayments to recover all VAT due on supplies of goods or services.

Practitioners are asked to bring this matter to the attention of their clients.

Eligibility for Cash Receipts Basis

Practitioners are reminded that the annual turnover threshold for eligibility for the cash receipts basis was **increased from £250,000 to £500,000** with effect from 17 July 1997. There are obvious cash flow benefits to be obtained by qualifying traders from changing to a cash receipts basis of accounting for VAT.

To date the numbers of traders availing of the opportunity to opt for the cash receipts basis has been less than that expected when the measure was introduced. Practitioners dealing with clients who wish to change to the cash receipts basis **should notify their local tax office** giving details of their turnover for the last twelve months and an estimate of their likely turnover for the next twelve months.

New Administrative Procedures and Forms for Transfers of Unquoted Shares

From Monday, 10 November 1997, the Stamp Duty Offices in Dublin and Cork introduced new administrative procedures and forms to assist in the speedy processing of transfers on sale of unquoted shares. A “mail-shot” explaining the new procedures and enclosing copies of the forms was issued to practitioners by the Revenue Commissioners during the week commencing 3 November last.

In summary, the new arrangements, which will operate on a pilot basis and be reviewed after four months operation, are the result of discussions at the Tax Administration Liaison Committee (TALC) and are designed to streamline procedures and improve customer service.

The new Form SD4 will give certainty to practitioners regarding the treatment they can expect particular share transfers to receive when presented for stamping and will also clarify for practitioners when and what supporting documentation will be required.

In parallel with the new Form SD4 a new shorter Form Q7 for the valuation of unquoted shares for Capital Acquisitions Tax purposes is being introduced.

Direct Repayment of VAT to Customers Bank/Building Society Account

Issue 26 of *Tax Briefing* gave details of the system introduced by the Collector-General whereby VAT registered traders can have their repayments made directly to a nominated Bank or Building Society account.

This system has three important benefits for our customers:

- It provides a more secure method of receiving repayments
- It is unaffected by any vagaries in the postal system
- It ensures greater efficiency in the service the Collector-General provides in making repayments.

Confirmation of the crediting of the customer's nominated Bank or Building Society account is sent to the customer when that account is credited.

The Collector-General intends to extend this system to all VAT registered customers and to end the system of repayment by cheque very shortly. Customers and practitioners who have not done so should ensure, without delay, that Bank or Building Society Account details to which repayments can be credited are sent to the Collector-General - these details can be included on the VAT 3 return form. This will ensure that there is no delay in receiving repayments of VAT when the cheque repayment system is ended.

QUERIES

Relevant Contracts Tax

Question

How are payments to subcontractors by principal contractors prior to receipt of a relevant payments card (RCT 47) to be treated for tax purposes?

Answer

Section 531(1) Taxes Consolidation Act 1997 formerly [Section 17(2) Finance Act 1970] obliges a principal contractor to deduct tax from payments to subcontractors.

Section 531(12)(b) Taxes Consolidation Act 1997 formerly [Subsection (8)(b) Finance Act 1970] allows the principal to pay the subcontractor without deduction of tax where the principal has received a relevant payments card from the Revenue Commissioners viz. “*a principal who, upon receiving the card, shall be entitled during the income tax year (or the unexpired portion thereof) to which the relevant payments relates to make payments to the subcontractor named in the card without deduction of tax.*”

Accordingly payments cannot be made without deduction of tax by principal contractors to subcontractors prior to receipt of the relevant payments card (RCT 47) from the tax office.

Failure by principal contractors to adhere to this leaves them liable to payment of the tax which should have been deducted in accordance with *Section 531(1) Taxes Consolidation Act 1997* formerly [Section 17(2) Finance Act 1970].

However, where exceptionally a payment is made prior to receipt of a relevant payments card and the tax affairs of both the principal and subcontractor are fully up to date Revenue will not seek to collect the tax involved. These type of cases should be exceptional. Revenue reserves the right to pursue collection of the tax involved where principal contractors are abusing the system or are habitually resorting to making payments prior to receipt of RCT 47's.

Question

We have been asked to clarify the correct tax treatment for RCT where a person is under subcontract with a person who is carrying out forestry operations under another relevant contract.

Answer

Section 530(1) Taxes Consolidation Act 1997 formerly [Section 13 Finance Act 1997] extended the definition of forestry operations within the scope of RCT. However, no new categories of principal contractor have been created. For example, a company which has a contract with a farmer to plant trees (a forestry operation) and subcontracts all or part of the work to subcontractors. The company is a principal contractor in relation to its subcontractors. The farmer is not a principal contractor in relation to the company unless the farmer is also carrying out forestry operations and can be regarded as a principal contractor in his/her own right.

Solicitors & Client Accounts

Question

We have been asked to clarify the third party reporting requirements for solicitors regarding payments for services made from client accounts?

Answer

Section 889(6) Taxes Consolidation Act 1997 formerly [Section 227 Finance Act 1992 which inserted subsection (4A) into Section 173 Income Tax Act 1967] states that “*a return shall include payments made on behalf of any other person*”. The reporting provisions therefore clearly apply to payments made on behalf of clients including from “client accounts”.

At the time of the passing of the Act solicitors were concerned about client confidentiality and as a consequence meetings were held in 1993 between Revenue and the Incorporated Law Society of Ireland. The result was that:

- Revenue gave assurance on solicitor/client confidentiality
- The information required on the return only concerns details of the payment made to the Third Party and no information about a client on whose behalf a payment is made or the circumstances giving rise to a payment is required.

Payments for services to any one person in any return period which do not exceed £3,000 in the aggregate do not have to be reported.

The situations in which the reporting requirements are relaxed for solicitors are outlined in *Tax Briefing* - Issue 12.

It should be borne in mind that the underlying structure and Revenue approach is such so as to ensure confidentiality.

Entertainment Expenses

Question

Where an employer reimburses an employee for vouched business entertainment expenses incurred wholly, exclusively and necessarily in the performance of the duties of the employment - how are these treated for tax purposes?

Answer

Where an employee receives payments that are no more than reimbursements of entertainment expenses actually incurred on behalf of the employer such payments should not be charged to income tax under *Section 112 Taxes Consolidation Act 1997* formerly [Section 110 Income Tax Act 1967]. The expenses will, however, be disallowed in the employer's tax computation.

General Medical Service (GMS) Scheme

Question

What is the correct tax treatment of grants received by medical practitioners under the drug target scheme operated by the General Medical Services Payments Board?

Answer

Under the GMS scheme, where a doctor prescribes less drugs in the current year than s/he did in the previous year, the GMS pays to the Health Board to which the doctor is attached an amount equal to the difference between the cost of the drugs prescribed in the current year and the cost of those prescribed in the previous year. The Health Board passes on to the doctor by way of grant, 50% of the amount received from the GMS. The doctor must use the money to develop his/her practice.

In the particular circumstances of the GMS scheme, Revenue accept that in so far as grants paid to doctors under the drugs target scheme are capital in nature, they are not taxable. The grant falls to be deducted in calculating the cost of any item of plant etc., the cost of which it subsidises. Where the grant is revenue in nature, it should be taken into account in arriving at the profits of the doctor's profession.

Form 46G(Company)

Question

What are the requirements for the submission of Form 46G(Coy) ?

Answer

The requirements for submission of Forms 46G(Coy) - to be completed by companies, remains as before i.e. a return is required where payments made for services exceed £3,000 regardless of whether or not a form is issued to the company by the tax office. The revised conditions outlined in **Tax Briefing** - Issue 21 applied to Forms 46G, individual, only.

Health Expenses Relief

Practitioners should note that the cost of a false eye is regarded as an expense incurred on the purchase of a medical appliance and is allowable for tax purposes under *Section 469 Taxes Consolidation Act 1997* formerly [Section 12 Finance Act 1967].

Information Leaflets

A new leaflet has been issued as follows:

Leaflet IT55 The Business Expansion Scheme: Relief for Investment in Corporate Trades.

Supplies are available from the **Revenue Forms & Leaflets Service** at (01) 878 0100 or any tax office.

Flat-Rate Schedule E Expenses

Revised expenses for 1997/98

Grooms employed by racehorse trainers

Flat-rate expenses of £150 per annum have been agreed for 1997/98 et seq.

Cosmetologists (Society of Applied Cosmetology)

Flat-rate expenses of £125 per annum have been agreed for 1997/98 et seq. in respect of individuals who are obliged to supply and launder their own white uniforms.

Rates of Social Insurance and Assistance Payments

To assist tax practitioners in completing returns and to minimise contacts with the Department of Social, Community and Family Affairs, tables containing the maximum rates of social insurance and assistance payments for 1997/98 are set out on pages 37 - 39. [The amounts for 1995/96 and 1996/97 are also included for ease of reference].

Tax Briefing Index

A copy of the *Tax Briefing* Index, containing items of current/ongoing relevance, is enclosed with this issue.

Medical Insurance

The following is an updated list of 'Authorised Insurers' in the State [new addition shown in bold].

- BUPA Ireland Ltd
- CIE Clerical Staff Hospital Fund
- ESB Staff Medical Provident Fund
- ESB Marina Staff Medical Provident Fund
- **Goulding Voluntary Medical Scheme**
- Irish Life Assurance plc Medical Aid Society
- Irish Life Assurance plc Outdoor Staff Benevolent Fund
- New Ireland/Irish National Staff Benevolent Fund
- Prison Officer's Medical Aid Society
- St. Paul's' Garda Medical Aid Society
- Sun Alliance Insurance Co.
- VHI

Social Insurance Payments (Contributory)

| Description | Annual Taxable amounts | | | Weekly Rate | |
|--|------------------------|--------|--------|-------------|----------|
| | 1995/9 | 1996/9 | 1997/9 | New from | (Old) |
| | 6 | 7 | 8 | 9/6/1997 | |
| <i>Retirement pension/ old age contributory pension</i> | | | | | |
| 1 Under 80 years of age | | | | | |
| Personal rate | 3,767 | 3,880 | 4,029 | 78.00 | (75.00) |
| Person with Living Alone Allce. | 4,021 | 4,182 | 4,341 | 84.00 | (81.00) |
| Person with adult dependant under 66 | 6,239 | 6,442 | 6,667 | 129.00 | (124.50) |
| Person with adult dependant 66 or over | 6,474 | 6,669 | 6,896 | 133.40 | (128.90) |
| 2 Aged 80 or over | | | | | |
| Personal rate | 4,016 | 4,138 | 4,289 | 83.00 | (83.00) |
| Person with Living Alone Allce | 4,270 | 4,440 | 4,601 | 89.00 | (86.00) |
| Person with adult dependant under 66 | 6,488 | 6,700 | 6,927 | 134.00 | (129.50) |
| Person with adult dependant 66 or over | 6,722 | 6,927 | 7,156 | 138.40 | (133.90) |
| 3 Increase for each child dependant | 790 | 790 | 790 | 15.20 | (15.20) |
| <i>Widow's/Widower's contributory pension/ deserted wife's benefit</i> | | | | | |
| 1 Under 80 years of age | | | | | |
| Personal rate | 3,421 | 3,523 | 3,670 | 71.10 | (68.10) |
| Person with Living Alone Allce. | 3,675 | 3,825 | 3,982 | 77.10 | (74.10) |
| 2 Aged 80 or over | | | | | |
| Personal rate | 3,669 | 3,781 | 3,930 | 76.10 | (73.10) |
| Person with Living Alone Allce. | 3,923 | 4,083 | 4,242 | 82.10 | (79.10) |
| 3 Increase for each child dependant | 884 | 884 | 884 | 17.00 | (17.00) |
| <i>Invalidity pension</i> | | | | | |
| 1 Under 65 years of age | | | | | |
| Personal rate | 3,322 | 3,424 | 3,571 | 69.20 | (66.20) |
| Person with Living Alone Allce. | 3,576 | 3,726 | 3,883 | 75.20 | (72.20) |
| Person with Adult dependant | 5,512 | 5,680 | 5,903 | 114.30 | (109.80) |
| 2 Aged 65-79 | | | | | |
| Personal rate | 3,767 | 3,880 | 4,029 | 78.00 | (75.00) |
| Person with Living Alone Allce. | 4,021 | 4,182 | 4,341 | 84.00 | (81.00) |
| Person with adult dependant | 5,957 | 6,136 | 6,360 | 123.10 | (118.00) |
| 3 Aged 80 or over | | | | | |
| Personal rate | 4,016 | 4,138 | 4,289 | 83.00 | (80.00) |
| Person with Living Alone Allce. | 4,270 | 4,440 | 4,601 | 89.00 | (86.00) |
| Person with adult dependant | 6,205 | 6,394 | 6,620 | 128.10 | (123.60) |

| | | | | | |
|--|-----|-----|-----------------------|-------|---------|
| | | | Tax Briefing Issue 29 | | |
| 4 Increase for each child dependant | 790 | 790 | 790 | 15.20 | (15.20) |

Disability benefit and occupational injury benefit

| | | | | | |
|-----------------------------|-------|-------|--------|---------|-----------|
| Personal rate | 3,235 | 3,336 | 3,289* | 67.50* | (64.50*) |
| Person with adult dependant | 5,176 | 5,329 | 5,240* | 107.50* | (103.00*) |
| | | | | * |) |

Unemployment benefit and pay-related benefit

| | | | | | |
|-----------------------------|--------|--------|--------|---------|-----------|
| Personal rate | 2,715* | 2,816* | 2,963* | 67.50* | (64.50*) |
| Person with adult dependant | 4,656* | 4,809* | 5,029* | 107.50* | (103.00*) |
| | | | | * |) |

*While the weekly rates shown are the actual payments the annual figures represent the taxable amounts only i.e.

DB: For 1997/98 the first 18 days are excluded.

UB: For 1995/96 et seq., the first £10 per week is excluded.

Social Assistance Payments (Non-Contributory)

| Description | Annual taxable amounts | | | Weekly Rate | |
|--|------------------------|-------------|-------------|--------------------------|----------|
| | 1995/9 6 | 1996/9 7 | 1997/9 8 | New from 9/6/199 7 | (Old) |
| <i>Old Age and blind pension</i> | | | | | |
| 1 Under 80 years of age | | | | | |
| Personal rate | 3,235 | 3,336 | 3,483 | 67.50 | (64.50) |
| Person with Living Alone Allce. | 3,488 | 3,638 | 3,795 | 73.50 | (70.50) |
| Person with adult dependant | 5,176 | 5,329 | 5,549 | 107.50 | (103.00) |
| | | | | |) |
| 2 Aged 80 or over | | | | | |
| Personal rate | 3,483 | 3,594 | 3,743 | 72.50 | (69.50) |
| Person with Living Alone Allce. | 3,737 | 3,896 | 4,055 | 78.50 | (75.50) |
| Person with adult dependant | 5,424 | 5,587 | 5,809 | 112.50 | (108.00) |
| | | | | |) |
| 3 Increase for each child dependant | 686 | 686 | 686 | 13.20 | (13.20) |
| <i>Widow's pension/deserted wife's allowance or prisoners wife's allowance</i> | | | | | |
| 1 Under 80 years of age | | | | | |
| Personal rate | 3,235 | 3,336 | 3,483 | 67.50 | (64.50) |
| Person with Living Alone Allce. | 3,488 | 3,638 | 3,795 | 73.50 | (70.50) |
| 2 Aged 80 or over | | | | | |
| Personal rate | 3,483 | 3,594 | 3,743 | 72.50 | (69.50) |
| Person with Living Alone Allce. | 3,737 | 3,896 | 4055 | 78.50 | (75.50) |
| 3 Increase for each child dependant | 790 | 790 | 790 | 15.20 | (15.20) |
| <i>Lone Parent's Allce (including one child)</i> | | | | | |
| 1 Increase for each additional child dependant | 790 | 790 | 790 | 15.20 | (15.20) |
| <i>One Parent Family Payment (including one child)</i> | | | | | |
| 1 Increase for each additional child dependant | N/A | 1,115* | 4,273 | 82.70 | (79.70) |
| | N/A | 212* | 790 | 15.20 | (15.20) |
| * Represents 14 weeks from 2 January 1997 | | | | | |
| <i>Carer's Allowance</i> | | | | | |
| (An additional 50% will be payable from June 1997 where more than one incapacitated person is cared for) | 3,235 | 3,465 | 3,639 | 70.50 | (67.50) |
| | | | | |) |
| 1 Increase for each child dependant | 686 | 686 | 686 | 13.20 | (13.20) |
| | | | | |) |
| <i>Prescribed Relative Allowance</i> | 1,796 | 1,852 | 1,990 | 38.80 | (35.80) |
| | | | | |) |