

Revised procedures for Tax Clearance in respect of Public Service Contracts, Grants, Subsidies and similar type payments. (Department of Finance Circulars 43/2006 and 44/2006)

As there is no C2 in the revised RCT system that came into force on 1st January 2012, the current procedures in relation to Tax Clearance Procedures for Public Service Contracts, Grants, Subsidies and similar type payments are being revised. The Department of Finance are in the process of revising Circulars 43/2006 and 44/2006. The revised circulars will issue shortly.

In the meantime, the following procedures should be followed in relation to Circular 43/2006.

In the case of all public sector contracts of a value of €10,000 (inclusive of VAT) or more within any 12-month period, the contractor (and agent as appropriate) will be required *either* to

- produce a current tax clearance certificate, or,
- demonstrate a satisfactory level of subcontractor tax compliance (see below).

Furthermore, in the case of subcontractors on any public sector contract of a value of €10,000 (inclusive of VAT) or more, it will be a condition for the award of the contract that all subcontractors employed on the project must produce a tax reference number where payments exceed €650. Records of tax reference numbers must be kept by the contractor and be available for inspection where requested by the Revenue Commissioners. Where payments exceed €2,600 in any 12 month period the subcontractor will be required to *either* to

- produce a current tax clearance certificate, or,
- demonstrate a satisfactory level of subcontractor tax compliance (see below).

Payments under a contract are at all times conditional on compliance with these requirements.

Demonstration of a satisfactory level of subcontractor tax compliance:

From 1st January 2012 subcontractors in the construction, forestry or meat processing sectors will have tax withheld at 0%, 20% or 35%. ***Where a 35% rate has been determined for a subcontractor, they have not demonstrated a satisfactory level of subcontractor tax compliance and do not meet the qualifying criteria under the new arrangements.***

Before the awarding of the contract:

Before a relevant contract (i.e. a contract that is subject to RCT) is awarded, *subcontractors at 0% or 20% can produce a Subcontractor's Notification of Determination issued under Section 530I Taxes Consolidation Act 1997 showing the rate determined by Revenue to demonstrate their satisfactory subcontractor tax compliance.* The contracting authority or principal can accept the Subcontractor's Notification of Determination if it has been issued within the previous 30 days. (See note below regarding transitional arrangements).

After the awarding of the contract

Where a relevant contract (i.e. a contract that is subject to RCT) has been awarded to a subcontractor, the contracting authority or principal contractor must notify Revenue of the relevant contract online under Section 530B Taxes Consolidation Act 1997. In response to such a notification, Revenue will issue an instant acknowledgement indicating the appropriate rate of 0%, 20% or 35%. *Where a 35% rate is indicated, the contracting authority or principal will be aware that the subcontractor has not demonstrated a satisfactory level of subcontractor tax compliance and the contracting authority should invoke paragraph 6 of circular 43/2006.*

When a subcontractor's rate is amended by Revenue or as the result of a rate review by the subcontractor, the contracting authority or principal will be notified of the change in rate.

If a subcontractor who previously demonstrated a satisfactory level of subcontractor tax compliance is moved to the 35% rate, the contracting authority should invoke paragraph 6 of circular 43/2006.

Transitional Measure:

As a transitional measure, subcontractors' rates are being frozen **between 1st January 2012 and 31st March 2012**. While subcontractors are being issued with an initial Notification of Determination of Rates, the rate will not be amended during this period. As such, during this period the contracting authority or principal can accept

a Subcontractor's Notification of Determination showing a rate of zero or 20% as demonstrating a satisfactory level of subcontractor tax compliance even if it has been issued outside of the 30 day limit mentioned above.

Similar arrangements in relation to the replacement of the C2 card by the subcontractor's demonstration of a satisfactory level of tax compliance will apply in respect of Circular 44/2006. Further details will be posted online shortly.

Tenderers requiring further information on demonstration of a satisfactory level of subcontractor tax compliance and Notifications of Determination under Section 530I should contact their local Revenue District. Contact addresses and telephone numbers are available on the Revenue Website at www.revenue.ie and are also available in the State Directory section of the Eircom phonebook.