

## **Third Party Returns: Requirement to Report Information Automatically**

### **Part 38-03-13**

This document should be read in conjunction with sections 888, 889, 890, 891, 892, and 894 of the Taxes Consolidation Act of 1997

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## 1. Introduction

This manual sets out practical arrangements for making the automatic returns of information required under section 894 TCA 1997.

This section requires automatic filing of the following returns:

Form 46G	return of payments made by individuals, trusts, partnerships, and unincorporated bodies for services rendered (s889, TCA 1997)
Form 46G (Company)	return of payments made by companies for services rendered (s889, TCA 1997).
Form 8-2	return by persons in receipt of income belonging to others (s890, TCA 1997).
Form 8B-A	return by financial institutions paying or crediting interest without deduction of tax (s891, TCA 1997)
Form 8-3	return by letting agents and managers of premises (s888(2)(d), TCA 1997).
Form 21R	return by nominee shareholders (s892, TCA 1997).

Sections 2, 3, and 4 of this document outline filing arrangements common to all the returns listed above. Sections 5, 6 and 7 provide guidance for completing Forms 8-2, 8-3 and 21R. Section 8 details arrangements in respect of submission of Forms 8-2, 8B-A, 8-3, and 21R. Section 9 provides guidance on the Form 46G and Form 46G (Company). Section 10 outlines special arrangements in respect of solicitors, representatives of deceased persons, and certain others.

## 2. Return period and date

### Individuals

For individuals and other persons (other than companies) the return should include payments made in the 12 months to 31 December each year or, if more convenient, up to the date on which accounts of the trade, etc. are normally prepared. Returns must be filed before 31 October of the following year.

### Companies

For companies, each return should cover all relevant payments in an accounting period and be submitted not later than 9 months after the end of the relevant accounting period.

### 3. Exclusions

Under the legislation, a Revenue official may exclude any person from the obligation to make a return or may confine a return to a particular type or category of information. This should only be done in exceptional circumstances. Officials considering such an exclusion should contact the Third Party Returns Unit ([3rdpartyreturns@revenue.ie](mailto:3rdpartyreturns@revenue.ie)) for guidance.

### 4. Penalties

It should be noted that where a taxpayer fails to deliver a true and correct return they shall be liable to a penalty of €3,000 and the withholding of tax clearance and/or repayments.

### 5. Form 8-2 returns

#### 5.1 Who should file a Form 8-2?

Persons who have received income or similar payments belonging to another person are required to make a Form 8-2 return. Persons who may be required to make a return include, but are not limited to:

- Accountants
- Auctioneers
- Bare trustees
- Debt collectors
- Financial/business advisers.
- Intermediaries (including internet intermediaries)
- Loss adjusters
- Solicitors
- Stockbrokers

Members of the public occasionally in receipt of amounts on behalf of other persons need not make Form 8-2 returns in respect of such amounts unless, in exceptional cases, they are requested to do so.

#### 5.2 What should be included on the Form 8-2?

The Form 8-2 should include details of total payments to any one person which exceed €3,810 for the period of the return (see Section 2 above for details of return periods).

Amounts which should be returned include:

- interest received under the terms of a late closing clause in a contract for sale, which is passed on to the client
- settlements which include specific non-capital amounts for loss of earnings or profits or other income amounts.

The Form 8-2 must also provide the name and address of every person to whom the income belongs.

Payments of the following type need not be returned on this form:

- Payments from the sale of land
- Capital sums awarded by the Courts for damages or personal injuries
- Payments already subject to deduction of tax (e.g. deposit interest payments from which DIRT is deducted)
- Distributions of an Irish resident company with an attaching entitlement to a tax credit, chargeable to tax under Schedule F
- Debts collected on behalf of:
  - any of the persons listed in Schedule 13 TCA 1997 (Accountable Persons – Withholding Tax), PLCs, and Building Societies and their subsidiaries;
  - debts collected for a client which do not exceed €3,810 in aggregate for a return period.

## 6. Form 8-3 and other returns required under s888 of the TCA 1997

### 6.1 Introduction

Section 888 of the Taxes Consolidation Act 1997 obliges Government Agencies, Local Authorities, and Letting Agents to make returns to Revenue of certain payments made in connection with property lettings. The returns should include all details of rental income and income from provision of short term accommodation arising from all properties in the State. These returns must be filed under self-assessment without being requested by Revenue.

Section 888 also provides that Revenue may by notice in writing require returns of information from lessors, former lessors, lessees, occupiers and former lessees. In addition, Revenue may require returns in respect of foreign properties. Details from lessors, lessees, occupiers or of income from foreign properties need only be provided when requested by Revenue.

## 6.2 Letting agents and similar

A Form 8-3 return must be filed by any person who as an agent manages premises or is in receipt of rent or other payments arising from premises. The obligation to file arises whether or not the owner of the premises is resident in Ireland.

For purposes of the Form 8-3, 'premises' means any lands, tenements or hereditaments in the State and includes:

- premises occupied for business purposes (commercial or industrial),
- premises occupied for residential purposes (flats, apartments, houses, parts of houses, holiday homes) and
- land.

Any person who organises, takes charge and acts on behalf of the owner of the premises is an agent managing premises. The fact that the rent or other payment may be paid directly to the landlord's bank account does not remove the obligation to file the Form 8-3.

'Rent or other payments' are described in Tax and Duty Manual [Part 04-08-01](#). Note the Form 8-3 should also include income from provision of short-term accommodation. This includes accommodation for occasional visitors provided through an online booking service. Details of rent or short-term accommodation operated through a trade e.g. a guest house are not required.

If an agent receives a deposit or part of the rent or part other payment arising from the premises, the full details of the rental agreement for the reporting period should be reported on the Form 8-3. Similarly, if the agent manages the premises but payments are made directly to the landlord, the full details of the rental agreement for the reporting period should be reported on the Form 8-3.

## 6.3 Statutory bodies

Any payments in the nature of rent or rent subsidy by a Minister of Government, a local authority or other boards or authorities established under statute must be returned to Revenue. Further detail on what constitutes 'rent' is available in Tax and Duty Manual [Part 04-08-01](#).

## 6.4 Details to be returned

The details required on these returns include:

- (i) the full address of all let premises,
- (ii) the local property tax number of each let premises that is a residential property\*,
- (iii) the name and address of each person to whom the let premises belongs,
- (iv) the tax reference number of every such person\*,
- (v) a statement of all rent or other payments (as described in Section 6.1) arising in respect of such premises, and
- (vi) such other particulars as may be specified in the notice.

\*Statutory Instrument (SI) 432 of 2019, a commencement order for returns under Section 888, requires filers to include both the tax reference number of the property owner and the LPT number of the let residential premises on all returns. In practice Revenue will require this additional information to be included in returns for periods ending in 2020 and later, that will be filed in 2021 and later years.

## 7. Form 21R returns

Section 892 of the TCA 1997 requires nominee holders of securities to return certain information to Revenue. The prescribed form for this return is the Form 21R, which must include the following information:

- Name & address of the beneficial owner of the securities;
- The nominal value of the securities and, if the securities are shares, the number and class of such shares;
- The date on which each security was registered in his or her name.

The return must include securities held at any time during the period covered by the return even if not held at the end of the return period.

A return need not be made under this heading where details have already been provided under another provision of the Tax Acts (e.g. return by trustees of a profit sharing scheme approved by the Revenue Commissioners under Chapter IX of Finance Act 1982).

Shareholders of "shelf companies" (i.e. companies which have never traded and hold no assets other than a nominal amount representing the initial issued subscriber shares) need not make returns in respect of such shares under this heading.

“Securities” include:

- Shares, stocks, bonds, debentures and debenture stock of a company (within the meaning of section 4(1)) and also any promissory note or other instrument evidencing indebtedness issued to a loan creditor (within the meaning of section 433(6)) of a company;
- Irish government securities and any stock, debenture stock, certificate of charge or other security which is issued with the statutory approval of the Minister of Finance and in relation to which the principal and interest is guaranteed by the Minister for Finance (for example, stock issued by the ESB);
- Securities of the government of any country or territory outside the State.

## 8. Submission of Forms 8-2, 8B-A, 8-3, and 21R

Third party return forms can be downloaded in a spreadsheet format from the Revenue website. Returns should be submitted using the My Enquiries facility. Once signed in to either ROS or MyAccount:

- click on ‘MyEnquiries’ (at top of screen)
- select ‘Add New Enquiry’
- under the ‘Enquiry Relates to’ select either Income Tax (IT) or Corporation Tax (CT) under ‘More specifically’ – select ‘Third party returns (excluding Form 46G)’
- provide ‘enquiry details’ in the box provided
- attach the excel spreadsheet form and submit.

Queries in relation to filing of third-party returns may be sent to [3rdPartyReturns@revenue.ie](mailto:3rdPartyReturns@revenue.ie), either directly via email or using the MyEnquiries facility. Customers who have a ROS digital certificate will be able to access MyEnquiries through their ROS account. Customers who do not have an active ROS digital certificate can either register for MyAccount or register for ROS in order to use the MyEnquiries service.

## 9. Form 46G and 46G (Company) Returns

In this document, the terms ‘46G filer’ and ‘46G return’ should be taken to refer to both Form 46G and Form 46G (Company). These are returns of information about certain payments made by traders and other persons carrying on a business activity, including statutory bodies.

### 9.1 Who should make a 46G return?

Trusts, partnerships, and unincorporated bodies (including charities and statutory bodies), and self-employed individuals (including farmers and professionals) must return payments of the kind outlined in section 9.2 using a Form 46G. Companies must return the same types of payment using a Form 46G (Company).



The following should be noted in respect of other parties:

### **Government bodies**

Government Departments and other bodies who are obliged to file a return under Section 891B return are not required to complete a 46G return.

### **Group companies**

For group companies, the returns for all companies in the group may be made by any one of the companies. In such cases, each company remains responsible for its own return.

## **9.2 What payments must be returned?**

Subject to certain exclusions, details of the following payments must be returned:

- Payments for services rendered in connection with the trade, profession, business etc., whether paid on the filer's own behalf or on behalf of someone else;
- Payments for services rendered in connection with the formation, acquisition, development or disposal of the trade or business;
- Periodical or lump sum payments made in respect of any copyright.

Where a consideration is given otherwise than in the form of money, particulars of the value and type of consideration should also be given.

The following payments need **not** be returned:

- Payments for services/activities which are not on the list set out in Appendix 1 of this manual;
- Payments to a single entity, where the aggregate of such payments in the period covered by the return does not exceed €6,000 in;
- Payments from which withholding tax has been deducted (eg, payments subject to PAYE, fees paid subject to withholding tax, payments subject to Relevant Contracts Tax, etc.);
- Payments for services in which the value of any goods provided as part of the service exceeds two thirds of the total charge;
- Payment to non-residents (however, where a Third Party operates from a business or private address in the State, he or she should be regarded as - resident);
- Payments for essential utilities such as electricity, gas, and telephone.

### 9.3 What details must be given on a 46G return?

Filers must submit the following details:

- Identifying details of payee:
  - Full name/full title of company
  - Private address
  - Business name (if any)
  - Business address
  - Tax Reference Number
- Total amount of payments made or value of consideration given.
- Nature of consideration, if not money.
- Nature of services or rights provided.
- An indication of whether the figures are VAT inclusive or exclusive.

Filers should ensure that their business records are adequate to supply the above information. In particular, they should ensure that persons providing services also provide their tax reference number (their VAT registration number or PPS number may be used). It should be noted that the VAT Regulations require that a person charging VAT should furnish an invoice that includes a valid VAT reference number.

The amount of the payment for services shown on the 46G return should normally be exclusive of VAT. However, payments may be returned inclusive of VAT by traders etc. whose records are maintained on a basis that would make it difficult to make the return on a VAT-exclusive basis. Persons not registered for VAT may make returns inclusive or exclusive of VAT. Filers should indicate clearly whether the figures returned are VAT inclusive or not.

### 9.4 How should the 46G return be filed?

46G returns should be filed electronically using the Revenue Online Service (ROS).

The 46G return can be completed online, or by downloading the Revenue Offline version of the returns, or in MS Excel format. In all cases the return should be filed through ROS. The ROS online, offline and MExcel versions of Form 46G are updated annually in line with Revenue's Pay and File process. If you have queries about the spreadsheet version of Form 46G please email [46gspreadsheet@revenue.ie](mailto:46gspreadsheet@revenue.ie) for assistance.

Should you require assistance with [ROS registration](#), please contact the ROS Technical Helpdesk:

- Email at: [roshelp@revenue.ie](mailto:roshelp@revenue.ie)
- Telephone at 01-7383699
- If you live outside the Republic of Ireland please email the Helpdesk with your number and they will telephone you, or call +353 1 7383699.

## 10. Special arrangements in respect of solicitors and others

### 10.1 Solicitors

In addition to the normal activities involved in the running of any enterprise ("office account" matters), solicitors may in the ordinary course of business make payments on behalf of clients or receive income which beneficially belongs to clients ("client account matters"). Office account matters must be reported in the normal way. The following rules are to apply to solicitors in relation to client account matters:

- (a) Individual payments of less than €127 need not be reported, provided they have not been split to keep the value below €127. (This limit does not apply to "office account" items).
- (b) Where reportable payments are made on behalf of clients, the identity of the payment recipient must be disclosed; the identity of the client need not be disclosed.
- (c)
  - (i) Rents reflected in apportionment accounts on the closing of sales or rents collected (whether initial rent or a deposit) on the drawing up of new leases need not be reported.
  - (ii) Ground rent collections which are less than €635 in aggregate for a client in a return period need not be reported.
- (d) Payments made towards the maintenance of a child or his/her parent (e.g. in circumstances which might have given rise to an affiliation or maintenance order being granted against the payer) need not be reported.

- (e) Debts collected need not be reported in the following circumstances:-
- (i) Debts collected which are incidental to the main services provided for a client.
  - (ii) Debts collected on behalf of:
    - any of the persons listed in **Schedule 13 TCA 1997** (Accountable Persons - Withholding Tax).
    - PLCs, and
    - Building Societies  
and their subsidiaries.
  - (iii) Debts collected for a client which do not exceed €3,810 in aggregate for a return period.
- (f) The cost of special software to facilitate third party returns reporting requirements may be treated as a revenue item rather than a capital item.
- (g) An error in a third party return will not automatically trigger a Revenue audit. Where a problem arises, the solicitor should be asked to reconsider the return and rectify the matter. Where this fails, a certificate from the solicitor's accountant will be requested. Where audits are carried out full regard will be given to client confidentiality.
- (h) In cases subject to full audit, compliance with the third party reporting requirement should form part of the normal checks carried out. Where, exceptionally, it is considered necessary to audit a third party return on its own, approval must first be obtained from the Assistant Secretary in charge of the relevant Division.

## 10.2 Other parties

Paragraphs (c) (i), (e) (ii), (e) (iii), and (f) of section 7.1 above have general application to all persons required to make third party returns.

## 10.3 Personal representatives of deceased persons

In general, where a solicitor or other professional is acting as a personal representative of a deceased person they will not be required to make third-party returns on behalf of the deceased. An exception to this is if the executor trades on behalf of the estate, in which case third-party return obligations may arise in the normal way.

When beneficiaries are treated as succeeding from the date of death, the distribution of the assets of the deceased person will be disclosed separately to Revenue as part of the probate process, and a third party return is not required.

Members of the public acting as personal representatives are not generally required to automatically make third party returns.

## 11. Appendix 1

List of Services/Activities in respect of which returns of payments are required (Form 46G and Form 46G Company):

- Accountancy (including Auditing, Taxation, Secretarial etc.)
- Actuarial
- Advertising including online advertising/Promotion
- Agricultural/General Contracting
- Architectural (including Draughtspersons)
- Auctioneering
- Book-keeping
- Building Repair/Maintenance/Management
- Call Centre/Customer Service\*
- Catering
- Childcare\*
- Cleaning
- Commissions
- Computer (including software)
- Consultancy
- Courier/Delivery
- Dentistry
- Diving
- Electrical
- Engineering
- Entertainment
- Equipment/Plant Hire
- Exhibitions
- Farrier
- Fitness, Sport & Leisure Services\*
- Fleet Management Services\*
- Haulage
- Health & Safety Services\*
- HR/Recruitment Services\*
- Internet & Information Technology related services (including website design or re-design, cloud services etc.)\*
- Journalism
- Landscaping/Gardening/Horticulture\*
- Legal
- Marketing /Business Analysis\*
- Medical
- Merchandising
- Model Agency
- Nursing
- Photographic
- Plumbing

- Printing & Publishing\*
- Promotion
- Public Relations
- Research\*
- Secretarial
- Security & Investigation
- Surveying
- Training/Education
- Translation/Interpreting
- Transport
- Vehicle Repair/Maintenance
- Veterinary and other services relating to animals

\*New category of service/activities