

Revised procedures for Tax Clearance in respect of Public Service Contracts (Department of Finance Circulars 43/2006 and 44/2006) updated March 2020

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*

- 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:

Payments that are made to a subcontractor in the construction, forestry or meat processing sectors that come within Relevant Contracts Tax (RCT) have tax withheld at the rates of 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..***

Before the awarding of the contract:

Before a relevant contract (i.e. a contract that is subject to RCT) is awarded, subcontractors at the 0% or 20% rate 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.

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 deduction rate (0%, 20% or 35%) for the subcontractor. 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.

A subcontractor can request a Notification of Determination through ROS by selecting the "Look up/Review Deduction Rate" option from the eRCT Home Page and then select the "Request Letter" option. The Notification of Determination will be sent to the subcontractor's ROS inbox where it can be printed by the subcontractor at their convenience.

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.