

# TAX BRIEFING

## RCT - PRINCIPAL CONTRACTORS



### New Registration Procedures for RCT Principal Contractors.

Section 20 Finance Act 2004 amended Section 531 Taxes Consolidation Act 1997 relating to Relevant Contracts Tax. The amendment included an enabling provision allowing Revenue, by way of regulations, to set up and maintain a register of Principal Contractors in the construction, forestry and meat processing industries and to require all Principal Contractors in those industries to formally register as Principals.

The *Income Tax (Relevant Contracts) Regulations 2004 (S.I No. 761 of 2004)*, made recently by Revenue provide that the new registration procedures will come into effect from 1 January 2005.

### Obligation to Register

A person who becomes a Principal after the operative date of the Regulations i.e. 1 January 2005, must formally notify the Revenue Commissioners of that fact within 21 days of entering into his or her

first relevant contract as a Principal. A person who is a Principal on the operative date but has not previously indicated this to Revenue must do so within 21 days of that date. Notification must be made on the appropriate form. The standard registration forms for individuals (TR1) and companies (TR2) have been amended and now contain an application for registration as a Principal. For persons who are already registered with Revenue for IT, CT or VAT, the appropriate form is a Form P33. These forms are available at [www.revenue.ie](http://www.revenue.ie). Revenue will subsequently give notice to such Principals that they have been registered.

### Persons who have already indicated to Revenue that they are Principals

A person who is a Principal on the operative date and who has previously indicated this to Revenue, is taken to have met the notification requirements and will be formally registered as a Principal. Revenue will again give notice to this effect. However, if at the time such notice is given a person has ceased to be a Principal, Revenue must be informed in writing of that fact within 21 days of the date of receipt of the registration notice.

### Changes to registration details/Duty to inform of Cessation

Where a change occurs in any of the details provided, or taken to have been provided, to Revenue, or where a person ceases to be a Principal, the Regulations make provision for Revenue to be informed within certain time limits.

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## KEY DATES

## January 2005

- 14 PAYE/PRSI**  
P30 monthly return and payment for December 2004
- 14 Dividend Withholding Tax**  
Return and payment of DWT for December 2004
- 14 PSWT**  
F30 monthly return and payment for December 2004
- 14 Relevant Contracts Tax**  
RCT30 monthly return and payment for December 2004
- 19 VAT**  
VAT3 return plus any payment for period November/December 2004  
VAT3 Annual return for the year ending December 2004
- 1-21 Corporation Tax**  
2nd Instalment PT for APs ending between 1-31 July 2004  
1st Instalment PT for APs ending between 1-28 February 2005  
Returns for APs ending between 1-30 April 2004  
Pay balance on APs ending between 1-30 April 2004
- 1-31 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-30 April 2004
- 31 Capital Gains Tax**  
Payment due on gains arising between 1 October 2004 to 31 December 2004

## February

- 14 PAYE/PRSI**  
P30 monthly return and payment for January 2005
- 14 Dividend Withholding Tax**  
Return and payment of DWT for January 2005
- 14 PSWT**  
F30 monthly return and payment for January 2005
- 14 Relevant Contracts Tax**  
RCT30 monthly return and payment for January 2005
- 15 PSWT**  
F35 annual return for year ended 31 December 2004
- 15 RCT**  
RCT35 return for year ended 31 December 2004
- 15 PAYE/PRSI**  
Issue P60 2004, to each employee  
Due date submission of Form P35 for year ended 31 December 2004
- 1-21 Corporation Tax**  
2nd Instalment PT for APs ending between 1-31 August 2004  
1st Instalment PT for APs ending between 1-31 March 2005  
Returns for APs ending between 1-31 May 2004  
Pay balance on APs ending between 1-31 May 2004
- 1-28 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-31 May 2004

## March

- 14 PAYE/PRSI**  
P30 monthly return and payment for February 2005
- 14 Dividend Withholding Tax**  
Return and payment of DWT for February 2005
- 14 PSWT**  
F30 monthly return and payment for February 2005
- 14 RCT**  
RCT30 monthly return and payment for February 2005
- 19 VAT**  
VAT 3 return and payment for period January/February 2005
- 1-21 Corporation Tax**  
2nd Instalment PT for APs ending between 1-30 September 2004  
1st Instalment PT for APs ending between 1-30 April 2005  
Returns for APs ending between 1-30 June 2004  
Pay balance on APs ending between 1-30 June 2004
- 1-31 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-30 June 2004
- 31 Income Tax**  
Deadline for claiming Separate Assessment for 2005
- 31 Income Tax**  
Deadline for nominating Assessable Spouse for 2005

## RCT

(Continued from page 1)

### Cancellation of a Registration

In addition, to allow for the ongoing maintenance of the register, the Regulations allow Revenue to cancel a person's registration where in its opinion that person has ceased to be a Principal. Persons affected will get 21 days notice of the intention to cancel the registration and will have the opportunity, within that period, to inform Revenue in writing that they are still Principals for Relevant Contracts Tax purposes.

### Other Changes

The Regulations also make some minor amendments to the original Regulations to update certain references and to bring them into line with the primary legislation.

Copies of the Regulations may be purchased from:

*The Government Publications Sales Office,  
Sun Alliance House,  
Molesworth Street,  
Dublin 2*

or through any bookseller. They may also be accessed on the Revenue website at [www.revenue.ie](http://www.revenue.ie). ■

## REPORT ON ROS PAY &amp; FILE

2004

By midnight on 18 November (the tax deadline for electronic filers) a total of 157,218 income tax returns for 2003 had been filed through Revenue's on-line service (ROS). Early indications suggest that over 53% of timely filers used the electronic route this year. This compares with 40% last year and 9% in 2002. The ROS service provides on-line forms with in-built calculations and validation to assist practitioners in meeting their customers' obligations.

During the year Revenue undertook major enhancements to the service to make sure there would be no performance problems despite the anticipated heavy traffic. The co-operation of tax practitioners and the fact that many customers are now much more familiar with the ROS system also helped enormously to ensure a hugely successful and smooth operation during Pay & File this year.

The ROS helpdesk, which remained open until after midnight, reported a very busy day on 18 November right up to the deadline resolving difficulties for last minute customers filing their returns and making payments.

A total of 18,600 returns were filed on the final day. Our network of local ROS Liaison Officers throughout the country also reported a very busy week.

In terms of overall compliance levels, early indications suggest that the level of timely compliance (both paper and electronic) is up again this year.

### ROS Customer Information Service

The ROS system currently handles approximately 50,000 Customer Information Service (CIS) enquiries each week. However, the number of enquiries on the service increased to nearly 35,000 per day in the build up to the recent ROS Pay & File extended deadline. This facility allows busy practitioners and customers to view their Revenue transactions and details such as payments, returns due and filed, charges and collections online at a time and place that suits them. This increased use of the ROS CIS significantly reduced the number of calls to Revenue Offices over the past few weeks and also saved a considerable amount of phone calls and time for busy practitioners. ■

## REVENUE eBRIEF

A list of Revenue eBriefs which issued since the last issue of **Tax Briefing**, issue 57 (October 2004) follows. These, together with earlier eBriefs can be accessed on the Revenue website [www.revenue.ie](http://www.revenue.ie) on the practitioners page

- |        |   |
|--------|---|
| No. 42 | Change in Payment Facility From January 17, 2005                    |
| No. 41 | ROS Pay & File 2004   |
| No. 40 | ROS Pay & File 2004   |
| No. 39 | Re: Cancellation Form for a Tax Registration                        |
| No. 38 | Digital Certificate Issues, Clients, ROS Debit Instructions (RDI's) |
| No. 37 | Pay And File  |
| No. 36 | 31 October Deadline for Some ROS Customers                          |
| No. 35 | October Issue of Tax Briefing                                       |
| No. 34 | Pay & File Deadline   |
| No. 33 | Computation of Interest on Tax Overdue                              |

If you would like to receive Revenue eBrief forward your e-mail address to [eBrief@revenue.ie](mailto:eBrief@revenue.ie). ■

# BUDGET SUMMARY

## 2005

### Income Tax

The chart below gives a summary of the main personal tax credits for 2005 (with comparisons for 2004).

Personal Tax Credits		
Personal Tax Credits	Budget 2004 €	Budget 2005 €
Single Person	1,520	1,580
Married Person	3,040	3,160
<b>Widowed Person</b>		
Without dependent children	1,820	1,980
Qualifying for One-Parent Family Tax Credit	1,520	1,580
<b>One-Parent Family</b>		
Widowed Person	1,520	1,580
Other Person	1,520	1,580
<b>Widowed Parent Tax Credit</b>		
Bereaved in 2004	-	2,800
2003	2,600	2,300
2002	2,100	1,800
2001	1,600	1,300
2000/2001	1,100	800
1999/2000	600	
Home Carer Tax Credit Max.	770	770
PAYE Tax Credit	1,040	1,270
<b>Age Tax Credit</b>		
Single/Widowed	205	205
Married	410	410
<b>Blind Tax Credit</b>		
Single Person	800	1,000
One Spouse Blind	800	1,000
Both Spouses Blind	1,600	2,000
<b>Other Tax Credits</b>		
Incapacitated Child Tax Credit Max.	500	1,000
Dependent Relative Tax Credit Max.	60	60

Changes to Standard Rate Reliefs are as follows:

Relief	2004 € Max	2005 € Max
<b>Rent Tax Relief</b>		
Single aged under 55	1,270	1,500
Married/Widowed aged under 55	2,540	3,000
Single aged 55 & over	2,540	3,000
Married/Widowed aged 55 & over	5,080	6,000
Tuition Fees (Academic Year 2005/06)	3,175	5,000

### Tax Rates and Tax Bands

#### Tax Rates

There are no changes in the tax rates of 20% and 42%.

#### Tax Bands

The standard rate tax band has been widened. The table below sets out the tax rates and bands.

Summary Chart - Tax Rates and Bands		
Personal Circumstances	Bands of Taxable Income	
	2004 €	2005 €
Single/Widowed without dependent children	28,000 @ 20% Balance @ 42%	29,400 @ 20% Balance @ 42%
Single/Widowed qualifying for One-Parent Family Tax Credit	32,000 @ 20% Balance @ 42%	33,400 @ 20% Balance @ 42%
Married couple (one spouse with income)	37,000 @ 20% Balance @ 42%	38,400 @ 20% Balance @ 42%
Married couple (both spouses with income)	37,000 @ 20% [with increase of 19,000 max] Balance @ 42%	38,400 @ 20% [with increase of 20,400 max] Balance @ 42%



# BUDGET SUMMARY

# 2005

## Exemption Limits

The exemption limits for persons aged 65 years and over have been increased as indicated in the table below.

Personal Circumstances	2004 €	2005 €
Single/Widowed 65 years of age & over	15,500	16,500
Married Couple 65 years of age & over	31,000	33,000

The limits for Single/Widowed persons aged under 65 and Married couples aged under 65 remain unchanged at €5,210 and €10,420 respectively.

Marginal Relief will continue to apply where income does not greatly exceed the relevant exemption limit.

The above exemption limits are increased by €575 for each of the first two dependent children and by €830 for the third and subsequent children.

## Benefit-in-Kind

The current small benefit threshold has been increased from €100 to €250 with effect from 1 January 2005.

## Taxation of Unemployment Benefit

The special tax exemption for Unemployment Benefit for systematic short-time workers is being extended to 31 December 2006.

## Farming Taxation

Measures are being introduced to assist changes taking place in the farming sector. These are:

### Stock Relief

The following are being extended from 1 January 2005 for a further two years:

- Special incentive stock relief (100%) for certain young trained farmers
- Existing general 25% stock relief.

## Farm Pollution Control

The writing down period for capital allowances is being reduced from 7 to 3 years. For expenditure incurred during the 4 year period commencing 1 January 2005, there will be an option to claim relief at the rate of 33<sup>1</sup>/<sub>3</sub>% p.a. over 3 years. The current alternative arrangement of the lesser of €31,750 or 50% of expenditure in any one year will still be available.

## Averaging of Certain FEOGA payments

Provision will be made to enable farmers who are not already using income averaging to average certain FEOGA payments, in three equal instalments, over the years 2005, 2006 and 2007.

## Farmers VAT

Farmers flat rate for 2005 is being increased from 4.4% to 4.8%.

## Farmers Stamp Duty

See under **Stamp Duty**, overleaf regarding a new stamp duty relief for the exchange of farm land.

## Tax Incentive Schemes

The termination date for the various schemes laid down in Finance Act 2004 will remain unchanged.

## VAT

Other than the changes for Farmers VAT detailed above, there are no changes to VAT rates.

## Capital Gains Tax

The Minister announced no changes in the Budget in relation to the Capital Gains Tax.

## Corporation Tax

The Minister announced no changes in the Budget in relation to Corporation Tax.

## Stamp Duty

### First Time Buyers

The stamp duty rates payable by first time buyers, who are owner occupiers of second hand residential property up to €635,000, have been reduced. The revised stamp duty rates, which will apply to **instruments executed on or after 2 December 2004**, are set out below.

Aggregate Consideration	Existing first time buyer Rate	New first time buyer rate
Up to €127,000	Exempt	Exempt
€127,001 - €190,500	Exempt	Exempt
€190,501 - €254,000	3%	Exempt
€254,001 - €317,500	3.75%	Exempt
€317,501 - €381,000	4.5%	3%
€381,001 - €635,000	7.5%	6%
Over €635,000	9%	9%

(Continued on page 6)

## BUDGET SUMMARY

Continued from page 5

### Financial Cards

Relief is to be introduced to provide an exemption from a second or subsequent charge to Stamp Duty arising from the switching of financial cards such as credit cards, charge cards, ATM cards and Laser cards. Full details of the exemption will be published in the Finance Bill 2005.

### Exchange of Farm Land

A new relief from Stamp Duty is to be introduced for exchanges of farm land between two farmers for the purposes of consolidating each farmer's holding. Under the relief, the stamp duty charge will be based on an amount equal to the difference in the values of the lands exchanged, which must be payable in cash. The once off relief will apply for a two-year period and full details of the relief, including the qualifying conditions, will be published in the Finance Bill 2005.

### Companies Capital Duty

The rate at which Companies Capital Duty is charged is being reduced from 1% to 0.5%, for **transactions effected on or after 2 December 2004**. The main transactions which are liable to Companies Capital Duty are the formation of limited companies and the allotment of shares by such companies.

### Excise Duty

Apart from that listed below there are no changes to the main excise rates.

### Relief for Microbreweries

From 1 January 2005 50% of the standard rate of Alcohol Products Tax will apply to beers produced by microbreweries, that is those who produce less than 20,000 hectolitres annually.

### Sulphur Free Petrol

Details of an excise differential on sulphur free petrol will be announced in the Finance Bill 2005.

### Vehicle Registration Tax

#### Hybrid Vehicles

The 50% refund of Vehicle Registration Tax on the purchase of 'hybrid' vehicles is extended to 31 December 2006.

### PRSI & Health Contributions

From 1 January 2005 the contribution ceiling for employees' PRSI is increased from €42,160 to €44,180.

The reduced employers' PRSI rate of 8.5% for class AO employees remains unchanged.

#### Class A (Normal rate at which contributions are made)

Income (€)	Employer	Employee
Up to 44,180	10.75%	6% (includes 2% Health Contribution)
Over 44,180	10.75%	2% (Health Contribution)

Employees earning €287 p.w. or less, will be exempt from PRSI and those earning €400 p.w. or less, will be exempt from the Health Contribution of 2%.

For employees earning in excess of €287 p.w. the first €127 p.w. will continue to be free of PRSI. The weekly rate of €26 for employees on a modified PRSI rate also remains unchanged.

#### Class S (Self-Employed)

Income (€)	Rate
All Income	5% (includes 2% Health Contribution)

Self-Employed persons are exempt from the Health Contribution of 2% where the annual income is €20,800 or less. Minimum annual PRSI contribution is €253. ■

## THIRD PARTY RETURNS

The method of filing certain Third Party Returns (including Form 46G) was raised recently at TALC. Currently Revenue require that returns are filed electronically on diskette - see *Third Party Returns - A guide to the submission of returns in electronic form* available on the Revenue website at [www.revenue.ie/publications/curntfms/curfms\\_d.htm](http://www.revenue.ie/publications/curntfms/curfms_d.htm).

Following discussions at TALC, Revenue have reconsidered the matter and will, until further notice, accept paper returns for those who want to continue to use paper returns.

## ROS RELEASE DECEMBER 2004

## ROS

### ROS Release, December 2004

The latest release of the Revenue On-line Service is scheduled to take place on 11 December 2004. This release includes the following:

- 2004 Form 11
- 2005 P35

Both online and offline versions of these forms will be available after this release. Users of the ROS Offline application should ensure that they download these new forms.

### ROS Offline Application

An upgraded version of the ROS Offline Application is included in this release. Revenue strongly recommends that all users of the ROS Offline Application install this new version without delay. This process takes less than 10 minutes and must be completed before you download the new versions of the 2004 Form 11 and the 2005 P35 mentioned above. Further instructions in relation to the installation process are contained in the following article.

### Betting Duty

Bookmakers will now be able to file Betting Duty returns and make Betting Duty payments electronically using the ROS Service.

### Gift & Inheritance Tax Return - Form IT38

Following a request from the Law Society, dual signature functionality for filing and paying will now be available for the ROS Form IT38.

### CGT Assessments

CGT Assessments will in future be processed automatically and sent to the ROS inbox. All CGT assessments arising from the 2003 Forms 11 submitted to date will issue shortly.

### Annual Forms

2005 versions of all relevant Forms to include any immediate Budget rate changes are included in this release and are available to download in the offline application. ■

## WHAT IS THE ROS OFFLINE APPLICATION?

## ROS

The ROS Offline Application is a facility for the completion or part completion of Revenue returns without the expense of online internet costs. The facility offers all of the functionality available in the online versions of the forms including mini calculators and full calculation of liabilities. When the returns or payments are ready to be filed they can then be uploaded to Revenue using the ROS online facility.

### How to Install the ROS Offline Application.

A new version of the ROS Offline Application, Version 5.0, is scheduled to be released on 11 December.

Revenue strongly recommends that all users of the ROS Offline Application install this new version without delay. As new forms or new versions of forms are released in the future it will be necessary to have Version 5.0 installed to download these forms.

To assist practitioners, copies of the new CD ROM have issued recently. Follow the step by step instructions to install the new Offline Application. Previous users of the Offline Application will only need to take Step 1 *Install ROS Components*. Steps 2 and 3 *Install Adobe Acrobat Reader* and *Internet Browser* are optional for previous users but should be followed if you have not used the Offline Application previously.

When you have successfully installed the new version of the application you should open the application from the ROS icon on your desktop, select *Download* then select *Refresh*. A full list of the forms available for download will

be displayed and you should select *Download* for the form types that will be required by you in future. Previous users of the Application should note that this instruction also applies to them. Installing the new version of the Application deletes previously downloaded versions of the forms. Previously saved completed or partially completed forms will still be available.

### Reminder

*Practitioners are reminded that they should regularly check the Download tab in the Offline Application to check for new versions of forms or new forms available for download. When you select the Download tab you should select the Refresh button. By scrolling through the various forms listed you will see forms that are available to download. In particular you should note forms marked with Upgrade buttons. This indicates a new version of a form previously downloaded by you.*

If you have not received your copy of the ROS CD ROM in the post you can also download the ROS Offline Application directly from the ROS homepage. Go to the ROS homepage at [www.ros.ie](http://www.ros.ie) select the *Download* tab and then click on the *Download* link under ROS Offline Application.

### How do I know I have successfully installed Version 5?

Open the ROS offline application from the ROS icon on your desktop, select *Help* and then select *About*. This will display the version number of your Offline Application which should show 5.0. ■

## P35 END OF YEAR RETURN

Tax Year 2004

### Employers are reminded that the deadline for receipt of P35 Returns is 15 February

In meeting this deadline the Revenue On-Line Service (ROS) provides employers with the simplest, quickest and most efficient method of filing P35 Returns and making payments.

The benefits from using ROS include:

- Instant access to your own or your clients Revenue account including data regarding returns outstanding, payments made and due.
- Confidential and Secure Channel for the electronic filing of Returns and payment of liabilities due.
- Instant acknowledgement of Returns and payments filed.
- A 'rollover' feature in the ROS offline facility, which enables all relevant data to be carried forward from one year to the next.
- A faster and more efficient service.
- Prompt repayments if any refund due is claimed on the P35 Return.
- Savings in time and money.
- Simple user-friendly forms. No paper forms required.
- Instant and accurate calculation of liability.
- Online and offline filing facilities.
- Facility to print P60's for employees and copies of the P35 Declaration and employee details.

In order to register for ROS all you need to do is select the ROS link from the Revenue homepage at [www.revenue.ie](http://www.revenue.ie) From the ROS homepage click on "How

to become a ROS customer" and follow the three step process.

Practitioners using the Revenue On-Line Service should ensure that all their clients are registered under their TAIN number on Revenue's system for PAYE/PRSI purposes. Practitioners can use ROS to check their client list and the tax heads for which each client is set up.

Further information is available on the homepage and includes Frequently Asked Questions and demonstrations on the main facilities provided. If you have any additional queries you can contact the Employer Help-line.

### Employer Help-line

The Employer Help-line is available every day from 9.30 am to 5.00 pm and calls are charged at local rates. The Help-line will remain open until 8pm Monday – Friday during weeks commencing 31 January and 7 February 2005 to assist employers and practitioners in completing the P35 return. The phone number is 1890 25 45 65

### Changes to the 2004 P35 Return

With effect from 1 January 2004, employers have been obliged to account for PAYE, PRSI and Health Contributions on the taxable value of most Benefits in Kind and other non-cash benefits provided by them for their employees i.e. notional pay. The total taxable pay in respect of each employee for the tax year 2004 should include the value of these benefits.

The P35 Declaration for 2004 includes an additional box at line G for the total taxable benefits (notional pay) for all employees.

Please complete below, detach and return

N.B. This declaration can only be used in respect of the employer named.

NAME: \_\_\_\_\_

REG. No: \_\_\_\_\_

YEAR END: 3 1 D E C \_\_\_\_\_

NOTICE NO: \_\_\_\_\_

G BENEFITS .00

I certify and declare that all particulars required to be entered by me in this return are fully and truly stated to the best of my knowledge and belief.

EMPLOYER'S SIGNATURE: \_\_\_\_\_

PHONE NO: \_\_\_\_\_ DATE: \_\_\_\_\_

Please do not fold or write or mark below this line.

A TOTAL TAX .00

B TOTAL PRSI .00

C TOTAL A + B .00

D TOTAL PAID .00

E REFUND AMT .00

F PAYABLE .00

P35 A

90 7 104: 93 288444 71



## P35 END OF YEAR RETURN

Tax Year 2004

### Accurate Completion

Practitioners and employers should make every effort to ensure that the P35 is fully and accurately completed and that all the information required on the P35 has been provided. An incomplete return does not fulfil an employer's legal obligation to make a return. Furthermore, if employee data is omitted it can cause unnecessary hardship for individuals in obtaining their social welfare entitlements. Practitioners and employers who fail to provide proper and complete P35 returns may increase compliance costs for themselves and also risk a penalty.

Revenue is using the most up to date technology to capture and process data, and the accurate and timely processing of returns will be greatly improved by practitioners and employers adhering to the following:

- ◆ **Ensuring that the declaration/payslip is only used for the employer to whom it is issued.** This is because each form is pre-coded with details that are unique to that employer.
- ◆ **Returning the original forms.** The technology used by Revenue to process returns is designed to operate with original forms. The forms should be completed clearly and legibly in accordance with the instructions provided. Photocopies should not be used. Additional stationery is available from the Employers P35 Unit by calling the Help-line number - 1890 254565.
- ◆ **Ensuring that each employee's PPS Number is included.** The employee PPS Number is crucial in ensuring that the social insurance records of employees are updated. If in exceptional cases, the employee's PPS Number is not available, the employee's name, address, and date of birth must be included on the return. In the absence of this information employees may face great difficulties in claiming social insurance benefits.
- ◆ **Fully completing each form.**

### Employers with Computer Payrolls

Employers who use a computerised payroll package can also file the P35 Return through ROS if their software package is compatible with ROS. A full list of compatible packages is available on the ROS homepage. The software

vendor should be contacted if there is any doubt as to whether a payroll package is compatible with ROS.

Employers filing the P35 on diskette should note that it is intended to phase out the diskette filing option over the next two years. ROS will then provide the only electronic option and employers are encouraged to make the transition to ROS as soon as they are in a position to do so. Revenue will provide full support to any employers using ROS.

### Employers with Manual Payrolls

P35 Returns for employers with manual payrolls can also be returned electronically via ROS with no paper forms required.

Employers who intend to make the return on paper should by now have received their P35 forms for completion for the tax year ended 31 December 2004. The postal address for the completed forms is:

*The Office of the Revenue Commissioners,  
Collector-General's Division,  
PO Box 354,  
Limerick.*

For your convenience a pre-addressed envelope was included in the P35 pack that issued to employers in recent weeks.

### Employers with no Employees

A return indicating zero liability must be made for registered employers who had no employees during the tax year.

### Overpayments

To ensure prompt repayment/offset of any refund due, the amount of the refund should be claimed at line E on the P35 declaration/payslip.

### Penalties

Employers who fail to return their P35 by -15 February deadline are liable to a penalty of €630 and this penalty increases by €630 each month that the return remains outstanding subject to a maximum of €2,535. Failure to comply may also lead to a tax audit. The names of employers penalised by the Courts are published. ■

# PROPERTY BASED INCENTIVES

# IT

## Introduction

The 2004 Returns of Income (Forms 11, 11E, 12 and 12 Directors) contain a requirement to return details of certain allowances and reliefs. The information sought is capital allowances and reliefs on the following property based incentive schemes:

- Urban Renewal
- Town Renewal
- Seaside Resort
- Rural Renewal
- Multi-story Car Parks
- Living over the Shop
- Enterprise Areas
- Park and Ride
- Student Accommodation
- Hotels [Defined S.268(1)(d)]
- Holiday Cottages [Defined S.268(3)]
- Nursing Homes [Defined S.268(1)(g)]
- Housing for elderly/infirm [Defined S.268(3A)]
- Convalescent Homes [Defined S.268(1)(i)]
- Qualifying Private Hospitals [Defined S.268(1)(j)]
- Qualifying Sports Injury Clinics [Defined S.268(1)(k)]
- Buildings used for certain childcare purposes [Defined S.843A]

The information requested in this part of the return is the 'specified details', to which *Sections 1052(1)(aa) and 1084(1)(ib) TCA 1997*, refers. A copy of Panel L from the Form 11 is reproduced opposite.

## What amount must be returned?

The information required is the claim for the relief in the year. It does not include amounts carried forward as either losses or capital allowances from prior years.

## Example

Original allowable expenditure on property	100,000
WDA claimed for 2004 (say 15%)	15,000
Unused capital allowances forward	12,000
Total allowances available for 2004	27,000
Amount used in 2004	9,000
Carry forward to 2005	18,000

The amount to be entered in this part of the return is 15,000, that is the amount of the writing down allowance.

**Note: The information entered in this panel is for information purposes only. You will still have to claim the allowance in the appropriate section elsewhere in the returns.**

## What is requested?

The information is sought under two main headings, Residential Property and Industrial Building Allowance. Each of these main heading is further divided between Owner Occupier and Investor/Lessor.

## Residential property

**Owner Occupier** - If an allowance is due in 2004 the amount to be entered here is the annual amount of the allowance, irrespective as to when the property was purchased.

**Rented Residential Property** - This relief is commonly known as 'Section 23' relief. As this relief is granted in full in the year in which the property is first let under a qualifying lease, information on this relief is only required in that year. Unused relief is carried forward as a rental loss and therefore is not required in this panel.

## Industrial Building Allowance

The recording of the relief here is the same for both owner occupiers and Investor/lessors. An Owner Occupier is a person who owns the 'relevant interest' in a property and the property is in use for the purpose of a trade carried on by him.

A lessor is an individual who lets a building to a lessee.

## Some questions

### Who should complete this section?

Everybody who is claiming tax relief on a property incentive scheme.

### What figures should be entered on the return?

Enter the amount claimed in 2004 only. See earlier example.

### An investment was made in a property a number of years ago. Does this section have to be completed?

Regardless of when the property was purchased, or the investment made, if an amount of relief is claimed for 2004 it must be entered in Panel L.

### There is no longer any relief due from the property. What should be entered on the return?

Nothing. If the tax relief has all been used up, or even if the relief now due is only a carry forward of unused amount from a previous year, then no figure should be entered in Panel L.

# PROPERTY BASED INCENTIVES

IT

PPS No. 

## L - DETAILS OF PROPERTY BASED INCENTIVES ON WHICH RELIEF IS DUE IN 2004 [901 - 923]

You are required to provide the following information in support of your claim to any of the following reliefs. You should note that the details required below are the "specified details" referred to in Section 1052(1)(aa) and Section 1084(1)(b)(ib) TCA 1997 and that any failure to fully and correctly complete this panel may leave you liable to penalties under Section 1052 TCA 1997 and/or a surcharge under Section 1084 TCA 1997.

Enter the amount of the annual cost of the relief, that is the amount claimed in the year, excluding amounts carried forward into the year either as losses or capital allowances, and before deducting any amount of unused losses and/or capital allowances which will be carried forward to subsequent years.

Incentive Schemes	Sections in TCA 1997	Residential Property	
		Owner Occupier S.372 AR	Investor - Lessor S.372 AP/AU
901. Urban Renewal	S.372AP & AR	<input type="text"/>	<input type="text"/>
902. Town Renewal	S.372AP & AR	<input type="text"/>	<input type="text"/>
903. Seaside Resort	S.372AU	<input type="text"/>	<input type="text"/>
904. Rural Renewal	S.372AP & AR	<input type="text"/>	<input type="text"/>
905. Living over the Shop	S.372AP & AR	<input type="text"/>	<input type="text"/>
906. Park and Ride	S.372AP & AR	<input type="text"/>	<input type="text"/>
907. Student Accommodation	S.372AP	<input type="text"/>	<input type="text"/>

Incentive Schemes	Sections in TCA 1997	Industrial Building Allowance	
		Owner Occupier	Investor - Lessor
908. Urban Renewal	S.372C & D	<input type="text"/>	<input type="text"/>
909. Town Renewal	S.372AC & AD	<input type="text"/>	<input type="text"/>
910. Seaside Resort	S.352 & S.353	<input type="text"/>	<input type="text"/>
911. Rural Renewal	S.372M & N	<input type="text"/>	<input type="text"/>
912. Multi-storey Car Parks	S.344	<input type="text"/>	<input type="text"/>
913. Living over the Shop (Commercial Premises Only)	S.372D	<input type="text"/>	<input type="text"/>
914. Enterprise Areas	S.343	<input type="text"/>	<input type="text"/>
915. Park and Ride	S.372V & W	<input type="text"/>	<input type="text"/>
916. Hotels [Defined S.268(1)(d)]	S.272	<input type="text"/>	<input type="text"/>
917. Holiday Cottages [Defined S.268(3)]	S.272	<input type="text"/>	<input type="text"/>
918. Nursing Homes [Defined S.268(1)(g)]	S.272	<input type="text"/>	<input type="text"/>
919. Housing for elderly/infirm [Defined S.268(3A)]	S.272	<input type="text"/>	<input type="text"/>
920. Convalescent Homes [Defined S.268(1)(i)]	S.272	<input type="text"/>	<input type="text"/>
921. Qualifying Private Hospitals [Defined S.268(1)(j)]	S.272	<input type="text"/>	<input type="text"/>
922. Qualifying Sports Injury Clinics [Defined S.268(1)(k)]	S.272	<input type="text"/>	<input type="text"/>
923. Buildings used for certain childcare purposes [Defined S.843A]	S.272 & S.273	<input type="text"/>	<input type="text"/>

## PROPERTY BASED INCENTIVES

Continued from page 11

**The business has a turnover is in excess of €13 million. Accordingly paper accounts and financial statements are required. Does Panel L have to be completed?**

Yes. Panel L is separate from the Extracts from Accounts pages.

**The property investment is made through a partnership. The partnership makes its own returns. Does the individual's share have to entered on the Form 11/11E?**

Yes. Each partner accounts for his or her share of the investment separately.

**Both spouses have separate investments. How is this shown on the return?**

Where the husband and wife are assessed under *Section 1017 TCA 1997*, i.e., under joint assessment, a single tax return should be made showing income, allowances and reliefs of both spouses. In Panel L of the return a single figure is required for each relief. If both spouses have claimed relief for the same type of investment the aggregate should be entered in the appropriate box.

**Does the amount of the original investment need to be returned?**

No. Only enter the amount of the relief for 2004.

**Full details regarding this property have already been sent in to Revenue. Do they need to be sent in again?**

No. But the amount of the tax relief claimed in 2004 has to be entered in Panel L.

**It will take time to get these figures together. Can they be sent in after the return?**

No. This is part of the Return of Income. If details are submitted late a surcharge for late submission of return may arise (*Section 1084(1)(b)(ib) TCA 1997*).

**There are no investment properties. What is required in this part of the return?**

This section should be left blank. Do not put any zeros in the boxes or a line through the page.

**A "Section 23" property was purchased in 2004 but to date has not been let. What figure is put on the return?**

As no relief is due in 2004 this section should be left blank. ■

## INCOME TAX RETURNS 2004

IT

### Introduction

The Pay and File income tax return for 2004 is now available on the Revenue website and will shortly be available from Revenue Offices. The self assessment returns for this year are again the Form 11 and Form 11E (which is an extract of the larger Form 11).

Practitioners will continue to be sent returns for their clients in bulk as in previous years. We will commence the issue of these personalised returns in early 2005. A personalised return will not issue to those who we know are ROS users.

The ROS Form 11 will be available later this month - see separate article on the December ROS release on page 7.

The comprehensive *Guide to Completing 2004 Tax Returns* will be available in early 2005.

The facility for Revenue to issue assessments for the year 2004 will be available from January 2005. This will apply to both paper and ROS filed returns.

The 2004 Form 11 is broadly similar to last year's return in content except that it contains new sections on:

- Tax exempt income (required by *Section 35 Finance Act 2003*) and

- The capture of information on property based tax incentive schemes (required by *Section 86 Finance Act 2004*)

In addition there are a number of small changes to other parts of the return that bring this return more in line with the ROS return.

The design and layout of both the Form 11 and Form 11E has changed to facilitate the capture of the information returned. It is important that the form is correctly completed to facilitate the accurate capture of the data. When making date and monetary entries only one digit should be entered in each box.

### Extracts from Accounts pages

Following consultation with TALC the 'Notes to the Accounts' section of these pages has been removed from the 2004 return.

### Property Based Incentives

A new panel has been added to the Form 11, 11E, (and the PAYE Form 12 and 12 Directors). The information requested in this panel is details of the annual claim for relief for a number of property based incentive schemes. A more detailed note on this part of the return is on page 10 of this issue of *Tax Briefing*. ■



## PAYMENT FACILITY

**Payment Facility in Collector-General's Division, Apollo House, Tara Street, Dublin 2 to close with effect from Monday 17 January 2005.**

The Public Office of the Collector-General's Division in Apollo House, Tara Street, Dublin 2 will close for the receipt of tax payments and returns as and from Monday 17 January 2005.

From that date all tax payments and returns previously sent or hand-delivered to the Apollo House address should instead be sent to:

*The Collector-General's Division,  
Sarsfield House,  
Francis Street,  
Limerick.*

Where a payment is in excess of €25,000, the payment and relevant return should be sent to

*PO Box 408,  
Business Reply,  
Sarsfield House,  
Limerick.*

Taxpayers and tax practitioners are reminded that Revenue's On-Line Service (ROS) is available for the making of returns and payments. For further information on ROS contact the ROS desk at 1890 201106 or e-mail: [ros@revenue.ie](mailto:ros@revenue.ie). ■

## INTEREST ON TAX OVERDUE

### Computation of Interest on Tax Overdue

Section 129 Finance Act 2002 introduced a daily rate of interest on tax overdue and applied that daily rate from 1 September 2002. Prior to that interest on tax overdue was charged on a monthly basis.

Some tax practitioners had expressed doubts about the Revenue approach to computing interest relating to tax arrears. Revenue, having considered the legislation fully, has recently confirmed to practitioners, that interest on tax overdue due should be calculated at the following rates:

- ◆ A rate of 1.25% for each month or part of a month up to, and including, March 1998
- ◆ A rate of 1% for each month or part of month of delay between April 1998 and August 2002 inclusive, and
- ◆ A rate of 0.0322% for each day or part of a day of delay from 1 September 2002. ■

## THIRD PARTY BENEFITS

Revenue has received a number of queries from practitioners in relation to the income tax treatment of benefits provided to directors and employees by a third party (i.e. by a person other than his or her direct employer). While each case has to be examined on its merits having regard to the facts and circumstances of the case, the following is Revenue's position vis a vis income tax on what are colloquially known as 'third party benefits'.

### (a) Cash / perquisites provided by third parties

If the 'benefit' is in the form of cash or is in the nature of a perquisite [i.e. that which can be turned to pecuniary account] or profit of whatever nature (e.g. vouchers, bonds, assets, etc.) and if such 'benefit' can be held to be from the employment or office, then it is Revenue's view that such 'benefit' is within the charge to income tax under Section 112 TCA 1997.

### (b) The use of cars & vans provided by third parties

A charge to income tax will arise under Section 121 or 121A TCA 1997 where a car or van is, by reason of the employee's employment or the director's office, made available (including by third parties) to the employee or

director by a third party and is available for his or her private use.

### (c) Benefits other than (a) or (b) above provided by third parties

Where a benefit other than (a) or (b) above is provided by a third party to a director or employee, a charge to income tax will not arise where:

- ◆ The provider of the benefit and the employer of the individual are not connected, either directly or indirectly, in any way, and
- ◆ There is no reciprocal arrangement or scheme in place between the third party and the employer or anyone connected with the employer, and
- ◆ The employer of the individual has not incurred, either directly or indirectly, any expense in relation to the benefit.

Revenue will, of course, challenge any tax avoidance schemes that seek to avoid or mitigate tax through the provision of benefits to employees and directors via third parties. ■

## SUPPLY AND INSTALLATION OF GOODS VAT

### Introduction

Section 8(1A)(f) VAT Act 1972, as amended was introduced with effect from 28 March 2003. The subsection provides for a charging mechanism for VAT payable on goods, which are installed or assembled in the State by a non-established supplier.

Under the previous legislation (Section 5(6)(c)(iv)) non-established suppliers who installed or assembled goods were obliged to register and account for VAT at 21% in the State. This new provision makes the business customer liable for the VAT due on a reverse charge basis and effectively treats these goods in the same way as any other goods received by a business customer from abroad. There is no extra VAT payable by the customer in these circumstances. Private consumers are not affected by the provision and non-established foreign contractors/suppliers of installed or assembled goods to a private person must continue to register and account as heretofore.

### The Provision's Parameters

**Install** is normally taken to mean the placing in position of equipment or machinery.

**Assemble** is taken to mean the fitting or the gathering together of parts of equipment or of a machine.

For the reverse charge to apply the contract must essentially be for the supply of goods being equipment or machinery which includes installation and or assembly as part of the supply. A typical example of such contract would be where a supplier of studio equipment has a contractual agreement to supply the equipment and also to install it, and where the installation charge is included in the price of the goods. Other examples of qualifying goods subject to the reverse charge might involve the

installation or assembly of the following:

- Exhibition Stands
- Moveable Shop Counters
- Car Parking Equipment
- Computer Systems, e.g. time management systems
- Electrical Generators/Transformers.

Where a non-established foreign contractor/supplier supplies and installs goods under one composite supply contract, the supply is regarded as a supply of goods. However if a non-established foreign contractor supplies installation services in isolation or by way of a separate contract to the supply of goods, the supply of these installation services would be regarded as a supply of services in the Member State concerned. Similarly where the non-established foreign supplier supplies only the goods and has no involvement in the installation/assembly, the supply is regarded as an Intra-Community supply and acquisition in the Member States concerned.

Where a non-established foreign contractor/supplier whilst supplying and installing/assembling goods under one composite supply contract, incurs VAT in the course of his activities in Ireland, he is entitled to a deduction for any such VAT under the terms of the 8th or 13th Directives. Any queries for such claims should be directed to:

VAT Repayments (registered) Section  
Government Offices  
Kilrush Road  
Ennis  
Co. Clare

Telephone: 1890 202 033  
E-mail: [regvat@revenue.ie](mailto:regvat@revenue.ie)

### Example

An Irish utilities company agrees to purchase a new generator from a German supplier for €1m. The contract stipulates that the goods are to be supplied and installed in Ireland and to be tested by the German company before being handed over to the Irish utilities company. The German company provides two technicians to install the goods over a number of weeks in Ireland and incurs some expenses in Ireland. On 10 June 2004 the German Company transfers the goods to Ireland. On 20 June the German Company pays an Irish supplier €10,000 plus VAT €2,100 for spare parts used in connection with the installation of the goods. On 30 June the German company gives a final bill to the Irish utilities company for €1,000,000 as agreed and is paid for the goods.

The transaction is taxed in Ireland by allowing the German non-established foreign contractor/supplier to charge the Irish utility company for the contract price without any additional VAT. The Irish utilities company reverse charges the VAT due of €210,000 (€1m @ 21%) in the appropriate VAT return. Deductibility is of course available to the Irish utility company as it is engaged in a fully taxable economic activity.

The German company can claim a refund of the VAT of €2,100 incurred in the course of its activities (in Ireland where it is making the supply) under the terms of the 8th Directive.

**The provisions of Section 8(1A)(f) do not apply to the supply and installation of goods where the goods become fixtures. In such instances the supplier is obliged to register for VAT in Ireland and charge VAT at 13.5% subject to the two-thirds rule. ■**

## PENSION PRODUCTS - EMPLOYER OBLIGATIONS P35 2005

### Employer Obligations relating to Pension Contributions

Section 86 Finance Act, 2004 provides that certain information, relating to pension contributions, must be returned by employers. This information will be required to be returned in the **2005 P35** return. The details required will refer to three main pension products and these are listed below. Employers need to be aware of this change to put procedures in place to ensure that recording of these details takes place throughout 2005. This will then facilitate employers to more easily complete the return. The details required are:

### Retirement Benefits Scheme

- Number of employees who contributed to retirement benefits schemes by way of

deduction from payroll during the year.

- The total amount contributed by employees to retirement benefit schemes by way of deduction from payroll which qualify for tax relief.
- Number of employees for whom the employer made contributions to retirement benefit schemes.
- The total amount contributed by the employer to retirement benefits schemes on behalf of employees during the year.

### PRSA Products

- Number of employees who contributed to PRSA products by way of deduction from payroll during the year.
- The total amount contributed by employees to PRSA products by way of deduction from payroll

during the year which qualify for tax relief.

- Number of employees for whom the employer made contributions to PRSA products during the year.
- The total amount contributed by the employer on behalf of employees to PRSA products during the year.

### Retirement Annuity Contracts (RAC)

- Number of employees who contributed to retirement annuity contracts by way of deduction from payroll during the year.
- The total amount contributed by employees to retirement annuity contracts by way of deductions from payroll during the year which qualify for tax relief. ■

## GREENHOUSE GAS EMISSION ALLOWANCE TRADING VAT



### VAT Treatment of Greenhouse Gas Emission Allowance Trading

#### Background

The European Union (EU) and its 25 Member States are signatories to the Kyoto Protocol which requires reductions in emissions of greenhouse gases by specific amounts over a period from 2008 to 2012 and beyond. The EU committed to an average reduction of greenhouse gas emissions by 8 per cent below 1990

levels. This 8 per cent reduction was apportioned among the Member States. This apportionment requires Ireland to limit the growth in emissions by the period 2008 to 2012 to 13 per cent above base year emissions. The *EU Emissions Trading Directive (Directive 2003/87/EC)* is being implemented to assist in achieving these targets. The Directive establishes an 'allowance trading scheme' for emissions to promote reductions of greenhouse gases, in particular carbon dioxide.

The Directive has been transposed into Irish law by the *European Communities (Greenhouse Gas Emissions Trading) Regulations 2004 (S.I. No. 437 of 2004)* under which the Environmental Protection Agency (EPA) has been assigned responsibility for its implementation in this State.

The EPA has been designated the 'national competent authority' with responsibility for issuing greenhouse gas emissions permits (referred to

further as 'permits') and greenhouse gas emissions allowances (referred to further as 'allowances') and for overseeing the monitoring, reporting and verification of emissions from participating organisations.

The permits grant authorisation to organisations to emit greenhouse gases. These permits are being issued by the EPA free of charge.

Permit holders are those organisations carrying out activities specified in *Schedule I of S.I. No. 437 of 2004*. These activities include: power generation; cement and lime production; and, large energy consumption.

The allowances are issued to permit holders. Each allowance covers the emission of one tonne of carbon dioxide. Permit holders are required to monitor and report on their emissions on an annual basis. They are required to surrender allowances equal to their reported emissions

*Continued on page 16*

## GREENHOUSE GAS EMISSION ALLOWANCE TRADING **Contd.**

(Continued from page 15)

each year. If they cannot reduce their emissions to the level of allowances allocated to them during the course of a year, they must buy extra allowances from organisations that have overachieved their targets anywhere in the EU. Failure to buy the extra allowances will result in a fine (€40 per tonne from 2005 to 2007; €100 per tonne from 2008 to 2012) and an obligation to surrender the excess amount of allowances in the following year.

On the direction of the Government, the allowances will be issued by the EPA in the following manner:

- At least 97 per cent will be issued over the three year period from 2005 to 2007 inclusive, free of charge, to organisations who obtain permits by 31 March 2004 (Issuance will be in three roughly equal tranches, each tranche being issued at the beginning of each of the three years).
- 1-2% will be issued, free of charge, to organisations who obtain permits after 31 March 2004 (but before 31 December 2007).
- The remainder - up to 1% - will be issued by means of an auction to defray the costs of administering the allowance trading scheme (While the details

are yet to be decided, it is possible that this will be done by way of a single auction which might take place in late 2005 or early 2006).

### VAT treatment

For VAT purposes, the allowances are treated as intangible assets. The transfer of these allowances is regarded as a supply of a service, as defined by *Section 5(1) VAT Act, 1972*.

On the basis that the EPA is considered to be the State, the position is that the issue by the EPA of both the permits and the allowances will be treated as being outside the scope of VAT. The charging of fines by the EPA will also be treated as being outside the scope of VAT.

Where the allowances are being transferred by a taxable person in this State in the course or furtherance of business to another person within the State, such transfers will be regarded as supplies of services which are subject to VAT in this State at the standard rate (21 per cent).

Where they are being transferred by a taxable person in this State in the course or furtherance of business to a taxable person in another Member State, such transfers will be regarded as supplies of services falling within *paragraph (i) of the Fourth Schedule to the VAT Act, 1972*. Accordingly, the

place of supply of the service is deemed to be the other Member State. This means that Irish VAT is not chargeable on the supply; it is the customer in the other Member State who is liable to pay the VAT, on the reverse charge basis.

Similarly, where such allowances are transferred by a taxable person in another Member State in the course or furtherance of business to a taxable person in this State, the place of supply of the service is deemed to be this State. This means that it is the customer in this State who is liable to pay the VAT, on the reverse charge basis. Accordingly, even persons engaged in 'VAT-exempt' activities, such as universities and hospitals, who are not registered for VAT in respect of their normal supplies, are obliged to register and account for VAT in respect of the receipt of these allowances from outside the State.

VAT incurred by taxable persons on the purchase of such allowances in the course or furtherance of business is deductible, in accordance with *Section 12 VAT Act, 1972*.

### Further Information

For further information on the allowance trading scheme, see the EPA's website at [www.epa.ie](http://www.epa.ie). ■

## REVENUE NEWS

### New Leaflets and Guides

#### Taxes Consolidation Act 1997 - Guidance Notes

Taxes Consolidation Act 1997 (as amended by subsequent Acts up to and including the Finance Act, 2004) Guidance Notes are available on the Revenue Website and can be downloaded in PDF and MS Word.

### VAT Issues for Milk Production Partnerships

A new information leaflet - VAT No. 1/04, **VAT Issues for Milk Production Partnerships**, has been published. The purpose of this information leaflet is to outline the principal features of the Value-Added Tax (VAT) system as it relates to farmers establishing and registering a Milk Production Partnership under regulation 8 of

the European Communities (Milk Quota) Regulations 2000. Any farmers thinking about establishing a Milk Production Partnership might find it useful to read this information leaflet in conjunction with Revenue's information leaflet, **Taxation Issues for Milk Production Partnerships**, which deals with the Income Tax, Capital

## UPDATE