



STATUTORY INSTRUMENTS.

S.I. No. 651 of 2011

INCOME TAX AND CORPORATION TAX (RELEVANT CONTRACTS
TAX) REGULATIONS 2011

(Prn. A11/2327)

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INCOME TAX AND CORPORATION TAX (RELEVANT CONTRACTS TAX) REGULATIONS 2011

The Revenue Commissioners, in exercise of the powers conferred on them by sections 530B, 530C, 530D, 530F, 530J, 530K, 530M, 530R and 530S of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following regulations:

PART 1

GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the Income Tax and Corporation Tax (Relevant Contracts Tax) Regulations 2011.

(2) These Regulations shall come into operation on 1 January 2012.

Interpretation

2. (1) In these Regulations—

“Act” means the Taxes Consolidation Act 1997 (No. 39 of 1997);

“deduction summary” has the meaning assigned to it in section 530(1) of the Act;

“line item” has the meaning given to it by Regulation 7(2);

“payment notification” has the meaning given to it by Regulation 5(1);

“PPS number”, in relation to an individual, means that individual’s personal public service number within the meaning of section 262 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005);

“principal” has the meaning assigned to it in section 530(1) of the Act;

“RCT service” means the electronic system made available by the Revenue Commissioners to allow principals to fulfil their obligations under sections 530A to 530V of the Act and under these Regulations and to allow for electronic communication between the Revenue Commissioners, principals, subcontractors and others pursuant to obligations under those provisions and includes any enhancements or other changes made to that system and any replacement system for that system;

“relevant contract” has the meaning assigned to it in section 530(1) of the Act;

“relevant operations” has the meaning assigned to it in section 530(1) of the Act;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th December, 2011.*

“relevant payment” has the meaning assigned to it in section 530(1) of the Act;

“return period” has the meaning assigned to it in section 530(1) of the Act;

“Revenue officer” has the meaning assigned to it in section 530(1) of the Act;

“subcontractor” has the meaning assigned to it in section 530(1) of the Act;

“technology systems failure” means circumstances in which the RCT service is not functioning or is not functioning properly at any particular time such that a person is unable to comply with an obligation under sections 530A to 530V of the Act or under these Regulations, or circumstances where a person is unable to use the RCT service at any particular time because of a general or partial systems failure of an internet service provider or of an electricity service provider, occurring in the general locality of the person’s place of business;

“tax reference number” means—

- (a) in the case of an individual, that individual’s PPS number or his or her registration number for the purposes of value-added tax, or
- (b) in the case of a company, the reference number stated on any return of profits or notice of assessment issued to that company, or the registration number of the company for the purposes of value-added tax.

PART 2

REGISTRATION

Register of principals

3. (1) Each principal required to register under section 530J(2) of the Act shall do so before providing the information and declaration required under section 530B(1) of the Act and Regulation 4.

(2) For the purposes of paragraph (1), each principal shall provide the Revenue Commissioners with all particulars required by the Revenue Commissioners for the purposes of registering the person as a principal.

(3) A person who ceases to be a principal to whom section 530A of the Act applies shall notify the Revenue Commissioners of such cessation by written or electronic means and shall specify in the notification the date of the cessation.

(4) Where, in the opinion of a Revenue officer, a person has ceased to be a principal to whom section 530A of the Act applies, the Revenue officer shall by written or electronic means notify that person of the intention to cancel that person’s registration as a principal and such cancellation shall be effected as on and from 21 days from the date of the notification unless, within that period, the person satisfies the Revenue officer that he or she is still a principal.

(5) Where—

- (a) a person has made a notification under paragraph (3), or

- (b) a person's registration under section 530J of the Act has been cancelled under paragraph (4),

requirements in relation to any future registration under section 530J shall apply as if that person had never previously been registered as a principal.

PART 3

NOTIFICATIONS TO REVENUE

Contract notification and declaration by principal

4. (1) The information and declaration required to be provided by a principal to the Revenue Commissioners under section 530B(1) of the Act shall be provided using the appropriate portal of the RCT service.

(2) Information in relation to the identity of a subcontractor as required under section 530B(1)(a)(i) shall include the name and tax reference number of the subcontractor.

(3) (a) Before providing the information and declaration referred to in paragraph (1), a principal shall be satisfied as to the identity of the subcontractor concerned.

(b) For the purposes of subparagraph (a), a principal shall require documentary evidence of identity from the subcontractor and shall make and retain a copy of the documentary evidence provided, or record and retain relevant details from the documentary evidence given.

(4) Information in relation to the estimated contract duration shall include the estimated start date and estimated end date of the contract.

(5) Where the Revenue Commissioners are unable to verify the identity of a subcontractor by reference to the name and tax reference number supplied by a principal, the RCT service shall require the principal to inform the subcontractor in writing within 7 days or before making a relevant payment to the subcontractor, whichever is the earlier, that—

(a) the Revenue Commissioners were unable to verify the identity of the subcontractor,

(b) tax at 35 per cent will be deducted from payments to the subcontractor, and

(c) the subcontractor should contact Revenue with a view to clarifying his or her identity.

(6) On receipt of the information referred to in paragraph (1), the RCT service shall provide an acknowledgement to the principal, which communication shall be deemed to be an acknowledgement issued by the Revenue Commissioners. The acknowledgement shall include, for information purposes only, the rate of tax last notified to the subcontractor concerned under section 530I

of the Act. This rate shall not be taken as the rate of RCT applicable to payments to be made under the contract concerned.

(7) Where the information referred to in section 530B(1)(a) changes in relation to—

- (a) the estimated contract value,
- (b) the contract duration, or
- (c) the location or locations at which relevant operations under the contract are to take place,

the principal shall, using the appropriate portal of the RCT service, notify the Revenue Commissioners of each such change to the contract.

Notification of relevant payment by principal

5. (1) A notification (“payment notification”) under section 530C(1) of the Act of a relevant payment shall be made to the Revenue Commissioners using the appropriate portal of the RCT service.

(2) For the purposes of paragraph (1) and subject to paragraph (3), details of the following matters shall be included in the payment notification:

- (a) the identity of the subcontractor, including name and tax reference number;
- (b) identification of the contract to which the payment relates;
- (c) such other information as may be required by the RCT service.

(3) Where a principal has entered into more than one relevant contract with a subcontractor, the principal shall—

- (a) where the payment to be made is in respect of a single contract, in giving a payment notification, identify the contract in respect of which the payment will be made, and
- (b) where the payment to be made is in respect of more than one contract with that subcontractor, give separate payment notifications each identifying only that part of the payment that refers to the related contract.

(4) Where a principal anticipates that a relevant payment is not going to be made before the end of the return period in which the payment notification was given, the principal shall, before the end of the return period, cancel the payment notification using the appropriate portal of the RCT service, and the payment notification concerned shall be deemed not to have been given.

(5) Where, due to a persistent technology systems failure, a principal is unable to give notification to the Revenue Commissioners under section 530C and has

no option but to make a relevant payment without complying with the requirements of that section, section 530F(2) shall not apply to that payment if the principal—

- (a) deducts tax from that payment at the rate last notified to the principal in respect of the subcontractor concerned, or if there was no such notification, deducts tax at a rate of 35 per cent from that payment,
 - (b) immediately upon rectification of the technology systems failure notifies the Revenue Commissioners, using the appropriate portal of the RCT service, that the payment has been made,
 - (c) provides all details in relation to the payment that the Revenue Commissioners may require, and
 - (d) pays the tax deducted in accordance with subparagraph (a) to the Revenue Commissioners on or before the due date for the making of a return for the period within which the principal notifies the Revenue Commissioners under subparagraph (b).
- (6) Where a principal complies with the provisions of paragraph (5)—
- (a) the principal shall be deemed to have deducted tax from a relevant payment in accordance with the terms of a valid deduction authorisation, and
 - (b) for the purposes of section 530K, the payment shall be deemed to have been made in the period in which the principal notifies the Revenue Commissioners under paragraph (5)(b).
- (7) A principal shall, on request, provide the Revenue Commissioners with information in relation to the circumstances and details of a persistent technology systems failure under paragraph (5).

PART 4

DEDUCTION AUTHORISATIONS AND DEDUCTION SUMMARIES

Deduction authorisations

6. (1) For the purposes of issuing a deduction authorisation under section 530D(1) of the Act, the Revenue Commissioners shall cause the RCT service to make available a deduction authorisation to the principal concerned.

- (2) A deduction authorisation shall only be valid until the earliest of—
- (a) the making by the principal concerned of the payment concerned,
 - (b) the due date relating to the return period within which the deduction authorisation was issued,
 - (c) the making by the principal concerned of the return for the return period within which the deduction authorisation was issued, and

- (d) the cancellation of the related payment notification in accordance with Regulation 5(4).
- (3) A deduction authorisation shall be valid only in respect of the subcontractor named on it and the relevant payment to which it relates.
- (4) On accessing a deduction authorisation, the principal concerned shall examine its contents to ensure that the subcontractor named on the deduction authorisation is a party to the relevant contract to which it relates.
- (5) The Revenue Commissioners may, by electronic or other means, make available to a subcontractor details of the information contained in deduction authorisations relating to that subcontractor.
- (6) Where a principal arranges for the following details from the deduction authorisation to be given to the subcontractor by written or electronic means the giving of such details shall be deemed to satisfy the requirement of section 530F(4) of the Act:
 - (a) the name and tax reference number of the principal;
 - (b) the name and tax reference number of the subcontractor;
 - (c) the gross amount of the payment, including the amount of any tax deducted;
 - (d) the amount of tax deducted;
 - (e) the rate at which any tax was deducted;
 - (f) the date of the payment;
 - (g) the unique reference number issued by the Revenue Commissioners on the related deduction authorisation.

Deduction summaries

7. (1) For the purposes of section 530D(3) of the Act, the Revenue Commissioners shall, at the end of each return period, cause the RCT service to issue a deduction summary to a principal.

- (2) A deduction summary in respect of a return period shall include—
 - (a) details in relation to all relevant payments, if any, notified by that principal, which are the subject of a valid deduction authorisation at the time of issue of the deduction summary (in these Regulations the details on a deduction summary in relation to each such relevant payment shall be referred to as a “line item”),
 - (b) details of any relevant payment of which, during the return period, the principal has notified the Revenue Commissioners under Regulation 5(5),

- (c) details of any relevant payment to which Regulation 8(5) relates,
- (d) the aggregate amount of tax that is, based on the details in the deduction summary, payable by the principal in respect of the return period, and
- (e) information on how to accept, amend or supplement the information in the deduction summary for the purpose of making a return referred to in Regulation 8.

PART 5

RETURNS AND ADJUSTMENT TO LIABILITY

Returns

8. (1) A return required under section 530K(1) of the Act and a return referred to in sections 530M(1) and 530N(7)(a)(ii) of the Act shall only be made using the RCT service.

(2) Where a deduction summary is issued to a principal under section 530D(3) of the Act and the details on that deduction summary do not accurately reflect all relevant payments made by the principal relating to the return period concerned or the liability of the principal to tax on those payments, the principal shall ensure that all relevant payments relating to the return period and the associated tax liability are accurately reflected on the return required under section 530K(1) of the Act, and paragraphs (3) to (8) of these Regulations shall apply.

(3) Subject to paragraph (4) and Regulation 5(4), where a payment notified to the Revenue Commissioners during a return period under section 530C of the Act is not made by the earlier of—

- (a) the due date relating to the return period within which it was notified, and
- (b) the making by the principal concerned of the return for the return period in which the payment was notified,

the principal shall cancel the line item concerned and reflect the fact that the payment has not been made on the return for that return period.

(4) Where a payment is made to a subcontractor for relevant operations in respect of which a payment notification is given under section 530C of the Act, and the amount of the payment differs from the amount specified in the payment notification due to exceptional circumstances unforeseen at the time of the notification, the principal shall, if the principal has deducted tax from the full amount of the payment at the rate specified on the related deduction authorisation, amend the line item concerned and declare the correct amount of the payment on the return to be made for the return period concerned.

(5) (a) Where a payment is made, in accordance with the terms of a valid deduction authorisation, in the return period following the return period during which that deduction authorisation was issued and before the making or deemed making of the return by the principal in respect of the return period, the principal shall ensure that this fact is reflected on the return for the return period during which that deduction authorisation was issued.

(b) The liability of a principal relating to payment under subparagraph (a) shall be a liability of the return period following the return period in which the deduction authorisation concerned was issued.

(6) All line items on a deduction summary which are not cancelled under paragraph (3), or amended under paragraph (4), or to which paragraph (5) does not apply, shall form part of the return under section 530K(1) of the Act.

(7) A principal shall not be entitled to—

(a) cancel a line item under paragraph (3),

(b) amend a line item under paragraph (4), or

(c) take action under paragraph (5)

after a principal makes a return in respect of a return period, or is deemed to have made such a return in accordance with section 530K(2) of the Act.

(8) A principal shall declare the aggregate amount of all relevant payments to which section 530F(2) of the Act applies, but excluding any payments referred to in paragraph (4), on the return for the return period during which the payments were made.

Adjustment to liability

9. (1) In submitting details under section 530F(3)(a) of the Act in respect of a relevant payment, the principal shall—

(a) identify the subcontractor concerned in the manner required by the RCT service, and

(b) provide such detail in relation to the relevant payment as may be required by the RCT Service.

(2) The Revenue Commissioners shall cause the RCT service to notify a principal under section 530F(3)(b) of the Act of whether any adjustment arises as a result of the application of section 530F(3)(a) of the Act.

(3) The rate of tax referred to in section 530F(3)(a) of the Act shall be the rate of tax last notified to the subcontractor concerned under section 530I of the Act, before the submission of the details referred to in paragraph (1).

PART 6

MISCELLANEOUS

Partnerships, etc.

10. (1) The details to be given to the Revenue Commissioners under section 530R(2) of the Act shall be given by using the appropriate portal of the RCT service or, where the person concerned cannot access the RCT service for reasons other than a technology systems failure, the details shall be given in writing.

(2) On receipt of details referred to in paragraph (1), the Revenue Commissioners shall cause each member of the gang, group or partnership concerned to be notified in writing or by electronic means of the amount of income tax or corporation tax treated as having been paid by him or her.

Records

11. (1) A principal shall keep and maintain records in relation to—

- (a) the information and declaration required to be provided to the Revenue Commissioners under section 530B of the Act,
- (b) relevant payments which are required to be notified to the Revenue Commissioners under section 530C of the Act, including the tax deducted from each such payment,
- (c) registration details required under section 530J of the Act,
- (d) the details included on a return made or required to be made under Chapter 2 of Part 18 of the Act,
- (e) the details required to be included on a return under Chapter 2 of Part 18 of the Act, and
- (f) tax due and payable under Chapter 2 of Part 18 of the Act.

(2) Records required to be kept or retained by virtue of section 530S of the Act and paragraph (1) shall—

- (a) (i) be kept in written form in an official language of the State, or
 - (ii) subject to section 887(2) of the Act, be kept by means of any electronic, photographic or other process, and
- (b) be retained by the person required to keep the records—
 - (i) for a period of 6 years after the completion of the transactions, acts or operations to which they relate, or
 - (ii) in the case of a person who fails to comply with section 530K(1) of the Act, until the expiry of a period of 6 years from the end of the return period in which a return has been delivered.

(3) Where a principal, acting in accordance with any provision of Chapter 2 of Part 18 of the Act or these Regulations, creates or causes to be created any record, including records as defined in section 886 of the Act, the obligation of that principal to keep or retain that record, or cause that record to be kept or retained, shall exist notwithstanding the fact that a similar or identical record may be kept by the Revenue Commissioners.

Revocation

12. (1) The Income Tax (Relevant Contracts Tax) Regulations 2000 (S.I. No. 71 of 2000) are revoked.

(2) Notwithstanding such revocation, a payment (within the meaning of Regulation 2 of those Regulations) made before 1 January 2012 shall be dealt with under those Regulations as if those Regulations had not been revoked.

GIVEN under my hand,
15 December 2011.

MICHAEL O'GRADY,
Revenue Commissioner.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to facilitate commencement of the modernised e-based scheme of relevant contracts tax (RCT) from 1 January 2012. The Regulations set out the detailed provisions governing operation of the scheme, the legislative framework for which is contained in sections 530A to 530V of the Taxes Consolidation Act 1997.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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