



STATUTORY INSTRUMENTS.

S.I. No. 615 of 2016



CUSTOMS (MANDATORY ELECTRONIC FILING) (SPECIFIED
PERSONS) REGULATIONS 2016

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The Revenue Commissioners, in exercise of the powers conferred on them by section 917EA (inserted by section 164 of the Finance Act 2003 (No. 3 of 2003)) of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following regulations:

1. (1) These Regulations may be cited as the Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2016.

(2) These Regulations come into operation on 31 December 2016.

2. In these Regulations—

“capacity” means sufficient access to the Internet by which a specified return may be made by electronic means and, in the case of an individual, also means not prevented by reason of age or mental or physical infirmity from making a specified return by electronic means;

“Commissioners” means the Revenue Commissioners;

“specified person” means a person specified under Regulation 3.

3. A person obliged to make a return under the provisions of the Acts referred to in the Customs (Electronic Filing of Returns) Order 2016 (S.I. No. 614 of 2016^{*}) is specified for the purposes of paragraph (a) of subsection (3) of section 917EA of the Taxes Consolidation Act 1997 (No. 39 of 1997) to deliver that return to the Commissioners by such electronic means as are required by the Commissioners.

4. (1) A specified person may, by notifying the Commissioners in writing, request to be excluded from the requirements of Regulation 3 on the grounds that the specified person does not have the capacity to make a specified return by electronic means. The notification shall include all information relevant to the consideration of the request by the Commissioners.

(2) Where the Commissioners receive a notification from a specified person in accordance with paragraph (1) or where the Commissioners otherwise consider it appropriate, they may exclude the specified person from these Regulations only if they are satisfied that, in all of the circumstances, the specified person could not reasonably be expected to have the capacity to make a specified return by electronic means.

^{*}SI No to be inserted on the Customs (Electronic Filing of Returns) Order 2016 is given a number.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th December, 2016.*

(3) A decision to exclude a specified person from these Regulations by the Commissioners in accordance with paragraph (2) may be made at any time, but where a notification has been received from a specified person in accordance with paragraph (1) the decision shall be made within 30 days from the receipt of the notification, and the Commissioners shall, in all cases, notify the specified person in writing of the decision.

5. (1) A specified person aggrieved by a failure of the Commissioners to exclude the specified person from these Regulations in accordance with Regulation 4(2) may, by notice in writing to the Appeal Commissioners before the end of the period of 30 days beginning with the day on which notice of the decision was given to the specified person, apply to have the specified person's request to be excluded from these Regulations heard and determined by the Appeal Commissioners.

(2) On the hearing of an appeal under this Regulation, the Appeal Commissioners shall have regard only to those matters to which the Commissioners may or are required to have regard under these Regulations.

6. (1) If, at any time after a decision by the Commissioners in accordance with Regulation 4(2) or a determination by the Appeal Commissioners in accordance with Regulation 5(1) to exclude a specified person from these Regulations, the Commissioners decide that, due to a material change in all of the circumstances, the specified person should not be so excluded, they shall notify the specified person in writing of that decision.

(2) The decision referred to in paragraph (1) is deemed to be a failure to exclude the specified person from these Regulations and Regulation 5 applies accordingly.

7. The Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2014 (S.I. No. 475 of 2014) are revoked.

GIVEN under my hand,
15 December 2016.

LIAM IRWIN,
Revenue Commissioner.

EXPLANATORY NOTE

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

These Regulations are made by the Revenue Commissioners under the provisions of section 917E of the Taxes Consolidation Act 1997 and will come into force on 31 December 2016.

The Regulations are to be read in conjunction with the Customs (Electronic Filing of Returns) Order 2016.

The Regulations and the Order underpin Revenue's requirement that a return must be provided by electronic means in respect of a vessel or an aircraft entering or departing the State under section 9 or 11 respectively of the Customs Act 2015.

The Revenue Commissioners may, on application, exclude a person from the obligation to file electronically if they are satisfied that the person does not have the capacity to do so, and in this context "capacity" is taken to mean sufficient access to the Internet and in the case of an individual is not prevented by reason of age, physical or mental infirmity from filing electronically. A person aggrieved at a failure by the Revenue Commissioners to exclude them from the requirements may appeal that failure to the Appeal Commissioners. An excluded taxpayer may, if circumstances change, have that exclusion revoked and that decision may also be appealed to the Appeal Commissioners.

The Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2014 (S.I. No. 475 of 2014) are revoked.

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