

Guidelines for Caseworking

Foreign Cases including Mutual Assistance (Outgoing Cases)

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1. Introduction

1.1 This guideline advises caseworkers on how to:

- a) Initiate enforcement proceedings against a taxpayer who is not based in this jurisdiction i.e. a foreign case.
- b) Refer cases for enforcement where the taxpayer is based in Ireland but has assets in another EU Member State.

A foreign case is a taxpayer that has a liability to Irish taxes but has **no** assets in this jurisdiction. Foreign cases can register for ROS, MyAccount/MyEnquiries only when they have an Irish PPSN.

A taxpayer with a base of operations in Ireland is not a foreign case. *

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2. Working a Foreign Case

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- 2.6 Every foreign sub-contractor working in Ireland must provide International Claims Unit, Nenagh with a Certificate of Residency from the Tax Authority in their country of residence, as part of the refund process. The form is called an IC1 for individuals and IC3 for Companies and is valid for a period of 3 years from the date of certification. It confirms that the relevant Tax Authority is aware that the sub-contractor is operating in Ireland and paying their taxes in their own jurisdiction. It will also show their foreign tax reference number which is very useful information to provide to the foreign Tax Authority in the event of a debt recovery request.

- 2.7 Compliance Branch 3, Business Division (Dublin City Centre/North City) deal with Relevant Contracts Tax claims for foreign sub-contractors who are registered in Ireland for Income Tax or Corporation Tax. Under eRCT, refunds for cases registered for Income Tax or Corporation Tax are dealt with when the liability for the year in question has been satisfied. If the foreign sub-contractor is not compliant the case worker should increase the RCT rate to 35%. The Principal Contractors within the jurisdiction can be attached.

3. Response Received to Demand

- 3.1 In many cases, the taxpayer will respond to a final demand. Taxpayers whose records show no response to the final demand and when contacted, state that they have already submitted the return and/or payment, should be asked to email proof that the relevant returns and/or details of the payments have been made.
- 3.2 It may be that GIRO/EFT payments have not been allocated to a taxpayer's record as a result of the bank not including the relevant PPS number with the payment transfer.

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- 3.3 Taxpayers who contact the caseworker requesting a Phased Payment Arrangement to discharge the outstanding liability by Instalments/Direct Debit, must be advised that they are required to have an Irish bank account.

4. Mutual Assistance

Please note that Member States can take up to six months to respond to a request for Mutual Assistance.

- 4.1 Mutual Assistance is an option available to countries within the European Union under EU Directive 2010/24/EU. It involves the cross-border collection of outstanding taxes between tax administrations and to ensure, among other things, the correct application of a country's domestic tax legislation.
- 4.2 Under the Directive, Mutual Assistance may also request information on a taxpayer from another Member State. If an up-to-date address cannot be found then an information request can be made to the relevant EU Member State.

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5. Role of Mutual Assistance Unit in Mutual Assistance Referrals

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6. Outside the EU

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7. What happens if an EU Member State collects the outstanding liability?

Payments collected by EU Member States on our behalf are remitted to Revenue via Electronic Fund Transfer. The EU Member State will also advise this office by secure mail of payments transmitted so they can be assigned appropriately.

8. Placing a Judgment Mortgage on a foreign property of an Irish based taxpayer.

The Directive provides for exceptions to the rule whereby Courts in one State can enforce a request from another State to enforce a judgment or administrative sanction relating to taxes and levies.

An enquiry should be made to the intended requested Member State as to whether its laws would permit an Irish judgment to be registered against property in that jurisdiction.

Under Article 12 of the Directive the judgment in question or, if there is no judgment, the appropriate legal documents should be sent to the requested Member State.

Under Article 13 the requested Member State shall make use of its powers and procedures under its laws, regulations and administrative provisions, applying them when placing a judgment mortgage on the property.

A more recent version of this manual is available.

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