

[18.2.1] Relevant Contracts Tax

1. Introduction

Relevant Contracts Tax (RCT) applies to payments made by a **principal contractor** to a **subcontractor** under a **relevant contract** i.e. a contract for the carrying out of, or the supply of labour for the carrying out of, **relevant operations** in the construction, meat processing and forestry industries. With effect from 1 January 2012 RCT operates as an electronic system and all interaction between the principal contractor and Revenue is through Revenue's Online Service (ROS).

It is important to note that RCT applies only where the relevant operations are performed under a relevant contract with a principal as defined in the RCT legislation. For example if a private householder engages a builder to build an extension this is technically a relevant contract. The builder is working as a contractor for the householder and carrying out a relevant operation in the construction industry. However, because the householder is not a "chargeable principal" i.e. a principal within the terms of the legislation as set out in Section 530A Taxes Consolidation Act, 1997, RCT does not apply to any payments made to the builder. However where the builder engages subcontractors to carry out some of the work, the builder is obliged to operate RCT on payments these subcontractors.

2. Key Features of RCT from 1 January 2012

The key features of the new RCT system are:

Contract Notification: The principal contractor must notify Revenue online of each individual relevant contract entered into online. Before notifying the contract, the principal contractor must be satisfied as to the identity of the subcontractor.

Payment Notification: The principal contractor must notify Revenue of all relevant payments online *before* they are made. The gross payment (VAT exclusive amount if the VAT reverse charge applies) is advised to Revenue. Note that the contract must be notified to Revenue before any relevant payments under that contract can be notified.

Deduction Authorisation: Revenue will respond to the Payment Notification with a Deduction Authorisation setting out how much tax, if any, must be withheld from the payment. The rates of tax are currently set at zero, 20% or 35%. The Deduction Authorisation is sent electronically to the principal contractor. The principal contractor must provide a copy, or details, of the Deduction Authorisation to the Subcontractor if tax has been deducted. If payments are made to subcontractors without a Deduction Authorisation penalties apply.

Deduction Summary/Return: At the end of the return period, a Deduction Summary is made available electronically to the principal contractor detailing all the payments notified to Revenue during the return period. The principal contractor should check the Deduction Summary for accuracy and amend or add to, if necessary. Otherwise the Deduction Summary is deemed to be the return on the return filing date.

Payment of RCT due: The principal contractor must pay any RCT deducted before the due date which is the 23rd of the month following the end of the month/quarter if paying electronically and the 14th of the month following the end of the month/quarter if paying manually.

Prior to 2012, a principal contractor

- Deducted tax at 35% from payments to subcontractors for whom he/she did not hold an RCT 47, and
- Maintained a record of payments to all subcontractors regardless of whether he/she held an RCT47 for them.

A list of RCT Forms used under the old system is available at Appendix 2

3. What are relevant operations?

Relevant operations are defined in Section 530 Taxes Consolidation Act, 1997 and consist of the following:

Construction operations:

“Construction operations” means operations of any of the following descriptions:

- (a) **the construction, alteration, repair, extension, demolition or dismantling of buildings or structures**

This definition includes the erection of “structures” such as gates, traffic lights, road signs, parking meters and garden sheds. It also includes the repair of such structures and the repair of any part of a building or of any system that has become a part of the fabric of the building. It does not include routine maintenance contracts. Contracts for repair work or for repair *and* maintenance would be included but not contracts for maintenance only. Repair includes the replacement of constituent parts e.g. the repair of a window by installing a new pane of glass or the repair of a tiled floor by replacing one or two broken tiles. This definition also includes works to alter a building or structure e.g. painting walls, replacing doors windows or kitchen presses but the alteration must be “material” to bring the work within the definition. Minor changes such as painting one wall or replacing one door in a building would not be considered sufficient.

- (b) **the construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, road works, power lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage**

This definition includes work relating to telecommunication apparatus but this only extends to masts, underground cabling, telephone poles etc. For other aspects of the telecommunications industry see paragraph (ca). The installation of water meters on a pipeline or a mains is considered to be the alteration of the pipeline or water mains and therefore a construction operation.

Also included is the building of new roads and footpaths and repairs to existing ones. However routine road maintenance, clearing blocked drains and cleaning of roads and paths (including the removal of

chewing gum) would not be included. Payments by builders to ESB Networks to facilitate the connection of newly built properties to the electricity network do not come within RCT as there is no construction operation involved in this transaction.

- (c) **the installation, alteration or repair in any building or structure of systems of heating, lighting, air-conditioning, soundproofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection**

This paragraph applies to the installation, alteration or repair of *systems*, it would not cover the installation, alteration or repair to “add-ons” or stand alone packages to systems already in place in a building or structure. For example, while the installation of a fire alarm system would be covered, the placing of a few fire extinguishers in a building would not be. Any alteration or repair work to a fire alarm system or a system of water supply (including the installation of a meter on such a system) would, of course, be considered a construction operation.

- (ca) **the installation, alteration or repair in or on any building or structure of systems of telecommunications**

This paragraph covers the installation, alteration or repair of systems that facilitate two-way communication by phone, whether mobile, landline or via the internet. As with paragraph (c) it only applies to *systems*. The installation, alteration or repair of equipment which is added on or attached to a telecommunications system and which would not be capable of providing telecommunications on its own without being connected to an existing system would not be considered to be a construction operation. Examples of this type of equipment would include equipment to monitor internet usage, to block viruses or to provide back up data for security purposes.

As ‘systems of telecommunications’ will continue to evolve over time, this provision is designed to accommodate this evolution.

- (d) **the external cleaning of buildings (other than cleaning of any part of a building in the course of normal maintenance) or the internal cleaning of buildings and structures, in so far as carried out in the course of their construction, alteration, extension, repair or restoration**

Cleaning is only a construction operation when it takes place in the context of an overall construction operation i.e. the cleaning that is necessary after a building or structure is erected, altered, repaired etc. Normal routine cleaning operations are not construction operations nor are specialist cleaning jobs such as the removal of graffiti from buildings or structures. However if the removal of the graffiti involves a repair to the building or structure this repair would be a construction operation.

- (e) **operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described in paragraphs (a) to (d), including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection**

of scaffolding, site restoration, landscaping and the provision of roadways and other access works

This paragraph brings a whole range of activities within the definition of construction operations. Not just the specific activities mentioned in the legislation are covered but any activities that could be considered to be integral to an overall construction project. For example the hire of a crane with a driver, or where the subcontractor erects and dismantles the crane, would be covered by this definition, as would the erection of scaffolding and the hire of skips to remove waste material related to construction activity. The hire of plant and machinery such as JCB's with an operator is a relevant construction operation as this is specialised machinery for use as an integral part of an overall construction operation. Such machinery would generally be provided with an operator and would only be provided without one where the builder doing the hiring has a special licence to operate the machinery. The hire of machinery without an operator is not a construction operation and hire payments made in these circumstances are not subject to RCT.

Site investigation operations, except where these are imposed on the builder by regulation (such as archaeological investigations or environmental impact studies) would normally be considered to be construction operations where they involve a considerable degree of labour intensive fieldwork. If the investigations carried out are such that without them the design/construction of the building (leaving aside investigations which are imposed on the contractor by regulation) could not actually proceed, these investigations are considered to be an integral part of, or preparatory to, the construction operation. Work that is ancillary to the project or imposed on the contractor would not be considered construction operations. If the work is more of a professional services nature and the fieldwork is a very minor part of the investigations then RCT would not apply to any part of the contract. Where there is a significant amount of fieldwork (i.e. drilling, excavation etc) involved and the activity is integral, or preparatory, to the construction operation then RCT charge will apply to the full consideration where a single invoice is issued for the fieldwork and professional services.

Examples of site investigations:

Archaeological digs are not considered an integral part of, or preparatory to the construction operation and are therefore not subject to RCT.

Geo-technical work involving excavation, drilling and other fieldwork to provide information necessary for the design and/or construction of a building or structure would generally be considered an integral part of, or preparatory to, construction. A contract for geo-technical services may involve significant fieldwork with some laboratory work and consultancy. Where the fieldwork is the significant part of the contract the full contract is subject to RCT.

A number of other activities also come within this definition. Where a new building is under construction or an existing building is being refurbished all the activities necessary to render the building complete would be considered to be construction operations. These would include plastering, painting, fitting kitchens and bathrooms, tiling, laying carpets and the installation of certain types of fitted blinds. Some of these activities would not necessarily be considered to be construction operations if they took place outside the context of “rendering complete” for example certain painting jobs and the installation of blinds.

It should be noted that landscaping is only a construction operation when it is carried out as part of rendering complete a construction project. Contracts for landscaping work entered into by principals such as local authorities where the landscaping is not part of an overall construction project are not within the RCT remit.

- (f) operations which form an integral part of, or are preparatory to, or are for rendering complete, the drilling for or extraction of minerals, oil, natural gas or the exploration for, or exploitation of, natural resources**

This paragraph is similar to paragraph (e) above. It brings within the definition of construction operations activities that are a necessary part of drilling for and extracting minerals etc for example site investigation, earth moving, site clearance, erection of scaffolding etc.

- (g) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the construction operations referred to in paragraphs (a) to (f)**

This paragraph includes all haulage operations related to the construction industry carried out by self-employed haulage operators. It includes the transportation of construction materials and machinery or plant used in construction operations. It would extend to the haulage of raw materials such as sand or gravel from sandpits to a production plant. The delivery of ready to pour concrete to a building site by an employee of the manufacturer or distributor (irrespective of where or how it is placed at the site) is not considered to be a construction operation. It is considered to be the supply of building materials. However, where either the supplier or the builder hires a self-employed haulier to deliver the concrete, this operation is considered to be a construction operation.

Forestry operations:

“Forestry operations” means operations of any of the following descriptions:

- (a) the thinning, lopping or felling of trees in woods, forests or other plantations,
- (b) with effect from the 6 October 1997, the planting of trees in woods, forests or other plantations,

- (c) with effect from the 6 October, 1997, the maintenance of woods, forests and plantations and the preparation of land, including woods or forests which have been harvested, for planting,
- (d) the haulage or removal of thinned, lopped or felled trees,
- (e) the processing (including cutting or preserving) of wood from thinned, lopped or felled trees in sawmills or other like premises,
- (f) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the operations referred to in paragraphs (a) to (e);

Meat processing operations:

“Meat processing operations” means operations of any of the following descriptions:

- (a) the slaughter of cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,
- (b) the catching of domestic fowl, turkeys, guinea fowl, ducks or geese,
- (c) the division (including cutting or boning) sorting, packaging (including vacuum packaging), rewrapping or branding of, or the application of any other similar process to, the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,
- (d) the application of methods of preservation (including cold storage) to the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese, (payments for cold storage facilities in respect of meat products fall within the RCT scheme)
- (e) the loading or unloading of the carcasses or part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese at any establishment where any of the operations referred to in paragraphs (a), (c) and (d) are carried on,
- (f) the haulage of the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese from any establishment where any of the operations referred to in paragraphs (a), (c) and (d) are carried on,
- (fa) the rendering of the carcasses or any part of the carcasses of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,
- (g) the cleaning down of any establishment where any of the operations referred to in paragraphs (a), (c) and (d) are carried on,
- (h) the grading, sexing and transport of day-old chicks of domestic fowl, turkeys, guinea-fowl, ducks or geese,
- (i) the haulage for hire of cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese or of any of the materials, machinery or plant for use, whether used or not, in any of the operations referred to in paragraphs (a) to (h).

RCT only applies where the principal contractor and subcontractor operate **in the same industry**. For example, a meat processor who contracts a builder to construct or extend his meat processing factory need not operate RCT on payments to that builder. RCT does not apply to professionals such as architects, surveyors etc.

4. Relevant Operations carried out in the State

RCT applies to all relevant operations carried out in the State, even where

- both parties to the contract are non-resident or are not liable to tax in the State in respect of those operations.
- the contract is executed outside the State, and
- payments under the contract are made outside the State.

Where relevant operations are performed wholly abroad, RCT does not apply.

RCT will be regarded as applying where the relevant operations are performed in the State. For this purpose, the State is taken to include the territory of Ireland and its territorial waters. RCT does not apply where relevant operations are carried on outside of the State's 12 mile territorial waters. This has particular relevance to relevant operations carried out in designated areas of the Continental Shelf. These relevant operations are not carried on within the State and are therefore not subject to RCT.

However, contracts are sometimes performed partly in the State and partly outside. Where the performance abroad is merely incidental to the performance in the State, RCT should be regarded as applying to the full contract.

In all other cases, RCT need only be applied to the part of the contract that is performed in the State. Where there is a single price for the entire contract, payments may be apportioned on a basis agreed in advance with the Inspector of Taxes. For example, payment for construction of a gas pipeline to the UK might be apportioned on the basis of the retrospective lengths of the pipeline in the State and in the UK.