

Relevant Contracts Tax for Subcontractors

Part 18-02-05

This document should be read in conjunction with section 530 to 530V of the Taxes Consolidation Act 1997

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1. Introduction

This manual explains the main aspects of Relevant Contracts Tax (RCT) as they apply to subcontractors:

- There are three rates of deduction for subcontractors for RCT: zero, 20% (standard rate) and 35%. The rate that will apply will be based on the subcontractor's compliance record. A subcontractor has a right to appeal against the rate that Revenue has determined.
- Subcontractors will receive details from Revenue of contracts notified by principal contractors. Subcontractors will also be notified by Revenue when their rate changes.
- When a principal notifies Revenue of a payment to a subcontractor, 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 deduction authorisation will set out the gross payment, net payment, RCT rate and the amount of RCT to be deducted. The principal contractor must provide a copy of the deduction authorisation or the details on the deduction authorisation to the subcontractor if tax has been deducted.
- Revenue will automatically credit any tax deducted by the principal to the subcontractor's tax record. However repayments of RCT deducted can only be made after the end of the tax year.
- While principal contractors are obliged to engage with Revenue electronically in the new system, subcontractors, who are not also principal contractors, unless they are obliged under the Mandatory eFiling Regulations, do not have to register for the Revenue Online Service (ROS). Subcontractors who use ROS can view all transactions on their RCT account online and correspondence from Revenue will be available in ROS.

2. Contract notifications

Principal contractors upon entering into a contract with a subcontractor are obliged to electronically provide information (see Tax and Duty Manual [Part 18-02-04](#)) regarding the contract to Revenue.

Subcontractors are required to give the principal sufficient details to enable the principal to engage with Revenue including, in particular, their "official" name and tax reference number. The "official" name of a subcontractor is the name that is recorded on Revenue's record (this is the name used in letters and other documentation issued by Revenue).

A principal is required to satisfy themselves as to the identity of the subcontractor concerned and requires documentary evidence of identity from the subcontractor. The principal must also make and retain a copy of the documentary evidence provided or record and retain relevant details from the documentary evidence given.

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 will 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:

- The Revenue Commissioners were unable to verify the identity of the subcontractor.
- Tax at 35% will be deducted from payments to the subcontractor.
- The subcontractor should contact Revenue with a view to clarifying their identity.

3. Rates of tax and determination of rates for subcontractors

The criteria for determining the rates of tax (zero, 20% or 35%) for a subcontractor are set out in sections 530E, 530G, and 530H TCA 1997. The system is designed to use the information available to it to determine the appropriate rate for a subcontractor. As the information needed to determine the subcontractor's rate will not always be available to the system, case workers can override the determination made by the system. It should also be borne in mind that in the RCT system, real time data is available that will allow officers make informed decisions on determining the correct rate.

Where a subcontractor's rate changes a letter will issue to the subcontractor and to any principal contractor in an active contract with that subcontractor informing them of the change.

3.1 When are rates determined and how are rates changed

3.1.1 Becoming a subcontractor for the first time

When a principal notifies a contract to Revenue, the system will give the principal and indication of the subcontractor's rate:

- If the subcontractor is already registered for RCT, and has already had a rate determined the rate already determined will be retrieved.
- If the subcontractor is already registered for RCT, and has not already had a rate determined the system will carry out a rate review using the rate determination rules in the system.
- If the subcontractor is not registered for RCT, the system will automatically register the subcontractor and carry out a rate review using the rate determination rules in the system.

If the subcontractor has not supplied a valid tax reference number and name, the system will determine a rate of 35%. This rate will continue to apply until the subcontractor has made themselves known to Revenue and a rate review has been carried out.

3.1.2 Self service rate review

- Subcontractors who are registered for ROS can use the online function to view their rate or to request a rate review.
- Subcontractors who are not registered for ROS can request Revenue to carry out the review on their behalf. Where a caseworker views a subcontractor's rate and the returned rate is 20% or 35%, the reasons for the rate determination will be shown on screen to the caseworker.
- The reasons for the rate determination are viewable to the subcontractor or an agent using ROS.
- Where a rate review is requested by the subcontractor or by a caseworker, the system will use the same criteria as the rate determination rules (see Tables I, II, and III below). If, however, a caseworker has previously amended the rate and the end date has not yet passed, the subcontractor will be advised that a rate review is not available at this time and to contact their tax district for further details.
- Where the rate returned by the review is different to the rate already determined, the subcontractor/caseworker may choose whether to apply the rate or not. If the new rate is to apply, it is effective immediately.

The subcontractor will be allowed to generate a rate determination letter at their request, even if the rate has not changed. This letter is designed to facilitate subcontractors applying for public service contracts.

3.1.3 Manual interventions

As mentioned in 3.1.2. above, a subcontractor who is not registered for ROS can request Revenue to carry out the review on their behalf. The caseworker uses the "Review RCT Deduction Rate" function in ITP. The system will use the same criteria as the rate determination rules in Tables I, II, and III below. The caseworker will be given an option to update the case with the returned rate. If the returned rate is 20% or 35%, the reasons for the rate determination will be shown.

A subcontractor can specifically request that Revenue review their rate. This might arise where the subcontractor is unhappy with the rate determined, for example in a newly registered case with no IT or CT compliance history. In these circumstances the rate can be updated by the caseworker by using the "Input/Amend RCT Deduction Rate" function in ITP (see note below on inputting an end date)

Caseworkers will also come across cases during their normal day-to-day work and determine that the rate should be amended, up or down. For example, Revenue is authorised to apply the 35% rate where Revenue forms the opinion that deductions at the standard rate will be insufficient to satisfy the subcontractor's tax liability for that year. Again caseworkers should use the "Input/Amend RCT Deduction Rate" function in ITP to amend the rate.

Where a formal appeal is made against the determination, such appeals must be made within 30 days of the date of the determination and every effort should be made to resolve the issue by agreement.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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3.2 End dates

Where the caseworker decides to amend a “system” rate, they must input an end date (which can be up to a year ahead). Until this end date has passed, the rate will not be amended by a bulk rate review and the subcontractor will not be able to carry out a self-review through ROS. When the end date has passed there is no automatic rate review or work item created. The rate will stay as it is until either amended by a bulk rate review, a caseworker, or the subcontractor through ROS. The rate end date can be amended by a caseworker at any time.

3.3 New registrations

For new tax registrations, the system automatically grants a rate of 20% as a three year compliance history does not exist. However, this may be changed to zero if the subcontractor satisfies Revenue that in all the circumstances the three year compliance period ought to be disregarded. The rate of deduction should be reviewed periodically by caseworkers and, if a subcontractor who has been allocated the 20% rate meets the necessary conditions, the deduction rate should be adjusted to zero. Similarly where a subcontractor no longer meets the conditions associated with either the zero or 20% rate the deduction rate should be adjusted upwards as appropriate.

3.4 Bulk rate review

At predetermined intervals, the system will carry out a bulk rate review. The rate of every live subcontractor on record, except those with a rate end date that has not passed, will have their rate reviewed in the bulk review. The criteria that the system uses are set out in Tables I, II and III below. Again, it should be borne in mind that the system determines the rate based on the information it can access. All caseworkers should ensure that CRS records are updated on an ongoing basis where directors or partnerships change to ensure that the system has access to the latest information and to reduce the need for manual interventions.

As rates are amended, either through bulk review, manually by a caseworker or by the subcontractor through the ROS self-review facility, the subcontractor, and all principals they have contracts with, will be notified of the new rate.

3.5 What criteria are used for determining the rate?

The criteria for determining the zero rate, the 20% rate (standard rate), and the 35% rate, are set out in sections 530E, 530G and 530H TCA 1997. The following sections look at common features and distinctions between the two.

3.5.1 Criteria for the zero rate

The criteria for the zero rate can be categorised as follows:

Subcontractor subject to RCT

The contractor is or is about to become a subcontractor engaged in the business of carrying out relevant operations.

Fixed place of business

Subcontractor carries on or will carry on business from a fixed place established in a permanent building and has or will have such equipment, stock and other facilities as in the opinion of the Revenue Commissioners are required for the purposes of the business.

Record keeping

Subcontractor properly and accurately keeps and will keep any business records to which section 886(2) refers and any other records normally kept in connection with such a business.

Compliance

Subcontractor has throughout the previous 3 years complied with all the obligations imposed by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Acts, in relation to:

- The payment or remittance of taxes, interest and penalties,
- The filing of returns.
- The supply, on request, of accounts or other information to a Revenue officer, and

in the case of a person who was resident outside the State at anytime during the previous 3 years, has throughout that 3 year period complied with all the record keeping and compliance obligations (comparable to those mentioned above) in the countries in which that person was resident during the 3 year period.

Partnerships

The rate that applies to partnerships is based on the compliance of the partnership business itself and the compliance of the individual partners. The highest rate determined for the partnership and each of the partners is the rate that applies to the partnership.

Therefore, to qualify for the zero rate, the partnership business itself and the individual partners must satisfy the criteria for the zero rate. To continue to qualify for the zero rate, Revenue must be satisfied that the partnership business itself will continue to meet the relevant compliance criteria.

Companies

To qualify for the zero rate, each director of the company and any person who is either the beneficial owner of, or able, directly or indirectly, to control more than 15 per cent of the ordinary share capital of the company, must satisfy the conditions for the zero rate in relation to record keeping and compliance as set out above.

Proprietary director/employee

A person who is or was a proprietary director or proprietary employee of a company engaged in the business of carrying out relevant contracts does not qualify for the zero rate unless the company satisfies the criteria in relation to record keeping and compliance for the zero rate as set out above.

Future record keeping and compliance

To qualify for the zero rate, the Revenue Commissioners must consider that the person is likely to comply in the future with the obligations in relation to record keeping and compliance for the zero rate as set out above.

Connected persons

The legislation sets out that if relevant operations (being construction operations, forestry operations or meat processing operations, as the case may be) similar to those being carried out or to be carried out by that person were previously, or are being, carried out by another connected person as described in the legislation, then the zero rate cannot apply unless the connected person satisfies the criteria in relation to record keeping and compliance for the zero rate as set out above.

Revenue disregard

For the purposes of determining whether a zero rate should apply, the Revenue Commissioners may disregard any of the requirements of section 530G, if a person satisfies them that, in all the circumstances, any requirement or requirements which would otherwise cause the person not to qualify for the zero rate, ought to be disregarded.

3.5.2 Criteria for the standard rate (20%)

The criteria for the standard rate can be categorised as follows:

Subcontractor subject to RCT

The contractor is or is about to become a subcontractor engaged in the business of carrying out relevant operations.

Fixed place of business

Subcontractor carries on or will carry on business from a fixed place established in a permanent building and has or will have such equipment, stock and other facilities as in the opinion of the Revenue Commissioners are required for the purposes of the business.

Record keeping

Subcontractor properly and accurately keeps and will keep any business records to which section 886(2) refers and any other records normally kept in connection with such a business.

Compliance

Subcontractor has throughout the previous 3 years complied substantially with all the obligations imposed by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Acts, in relation to:

- The payment or remittance of taxes, interest and penalties.
- The filing of returns.
- The supply, on request, of accounts or other information to a Revenue officer, and

in the case of a person who was resident outside the State at anytime during the previous 3 years, has throughout that 3 year period complied with all the record keeping and compliance obligations (comparable to those mentioned above) in the countries in which that person was resident during the 3 year period.

The “extent to which any non-compliance is being addressed” can be taken into account.

Partnerships

The rate that applies to partnerships is based on the compliance of the partnership business itself and the compliance of the individual partners. The highest rate determined for the partnership and each of the partners is the rate that applies to the partnership.

To continue to qualify for the standard rate, Revenue must be satisfied that the partnership business itself will continue to meet the relevant compliance criteria.

Revenue disregard

For the purposes of determining whether the standard rate should apply, the Revenue Commissioners may disregard any of the requirements of section 530H, if a person satisfies them that, in all the circumstances, any requirement or requirements which would otherwise cause the person not to qualify for the standard rate, ought to be disregarded.

3.5.3 Application of the 35% rate

Determination

The 35% rate will apply where the Revenue Commissioners have determined that the subcontractor does not qualify for the zero or 20% rate.

Registration

The subcontractor must provide to the Revenue Commissioners whatever information is required by them to register the person for tax purposes (otherwise case is “unknown” and 35% applies).

Adequacy of payments

If the Revenue Commissioners form an opinion that deductions from relevant payments at the standard rate of tax for the year of assessment will be insufficient to fully satisfy the income tax liability of the person for that year, then the 35% rate applies.

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Table III

Criteria for 35% rate, sections (530E, 530G, and 530H):

Specifics	System Check?	What the system checks?	Manual Check (if necessary)
Neither section 530G or 530H apply	Yes	Whether section 530G or 530H criteria apply	
Fixed Place of Business	No		Fixed Place of Business is a requirement under both sections 530G and 530H in the legislation. If it is not disregarded under those sections 35% rate applies.
Record Keeping	No		The extent of the record keeping may only become apparent in the course of an intervention. If proper and accurate records are not being kept and it is not disregarded under sections 530G or 530H, 35% rate applies.
Compliance Individuals	Yes	System checks the qualifying compliance criteria for zero and standard rates, including partners and fellow directors. If neither applies, by default, case is at 35%. In addition, where the subcontractor has one or more returns outstanding for 12 months or more the 35%	

Compliance Partnerships	Yes – the partnership business and the individual partners.	rate will be applied.	
Compliance Companies	Yes - the company and each individual director		
Compliance Non-residents	No		If a non resident company cannot produce satisfactory evidence of compliance or substantial compliance, then 35% applies unless it is disregarded under sections 530G or 530H
Provided Revenue with registration information	Yes	If not registered with Revenue 35% rate applies.	These are the “unknown to Revenue” cases. Every effort should be made to have these cases regularise their affairs.
Adequacy of payments	No		If the Revenue Commissioners form an opinion that deductions from relevant payments at the standard rate of tax for the year of assessment will be insufficient to fully satisfy the income tax liability of the person for that year, then the 35% rate may be applied. This provision can be used where there is a risk of the

			<p>enterprise going out of business before its Revenue debt has been cleared.</p> <p>This type of case will be identified through normal caseworking.</p>
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3.6 Appeals against rate determinations

Under section 530I(3), on receipt of a notification from Revenue of a rate determination, a subcontractor may by notice in writing, within 30 days of the date of the determination, appeal to the Appeal Commissioners, by completing and submitting a 'Notice of Appeal'. The 'Notice of Appeal' form, which is available on the Tax Appeal Commission's website www.taxappeals.ie, contains the address to which an appeal is to be sent. A copy of the notification from the Revenue Commissioners must be submitted with the 'Notice of Appeal'. The Tax Appeal Commission can be contacted by email at info@taxappeals.ie.

Pending the determination of an appeal, Revenue may issue a valid deduction authorisation to a principal contractor and the principal is obliged to comply with the terms of the deduction authorisation.

Revenue is not obliged to make a new rate determination for a subcontractor if an appeal is awaiting determination.

4. Payment notifications

Immediately before a principal makes a relevant payment to a subcontractor, the principal, under the provisions of section 530C TCA 1997, must notify Revenue of their intention to make such a payment

The following information is included in the payment notification:

- The identity of the subcontractor, including name and tax reference number.
- Identification of the contract to which the payment relates.
- The gross payment amount.

Where a principal cancels a payment notification the Revenue Commissioners will, by electronic or other means, notify the subcontractor of the cancellation of the payment notification by the principal.

5. Deduction authorisations

On submission by a principal of a payment notification, a deduction authorisation is instantaneously issued by Revenue to the principal via ROS. The deduction authorisation specifies the rate of tax (including as appropriate zero) to be deducted from the payment and authorises the principal to deduct a specified amount of tax from the relevant payment.

The deduction authorisation is valid until the earliest of:

- The making of the payment by the principal.
- The due date relating to the return period within which the deduction authorisation was issued.
- The making of the return by the principal for the return period within which the deduction authorisation was issued.
- The cancellation of the payment notification by the principal.

The deduction authorisation is only valid for the subcontractor and the relevant payment to which it relates, the principal should therefore check that the subcontractor named on the deduction authorisation is the correct person to whom the contract and the payment notification relate.

When a principal makes a payment to a subcontractor from which tax is deducted the principal must provide the subcontractor with a copy of the deduction authorisation. Alternatively, the principal may arrange for the following details from the deduction authorisation to be given to the subcontractor by written or electronic means:

- The name and tax reference number of the principal.
- The name and tax reference number of the subcontractor.
- The gross amount of the payment.
- The amount of tax deducted.
- The rate at which tax was deducted.
- The date of the payment.
- The unique reference number issued by Revenue on the deduction authorisation.

6. Deduction summary/return

Section 530K obliges the principal to make a return to the Collector-General of all relevant payments made during the return period. At the end of each return period Revenue issue a deduction summary to each principal for the period. The deduction summary is created by Revenue based on the payment notifications made by the principal contractor during the return period. Depending on the principal contractor's filing frequency (monthly or quarterly) the deduction summary will cover one or three months.

The deduction summary will list all of the payments notified by the principal contractor to Revenue (one line item for each payment notified). It will also identify the total tax due for the period.

Where required, amendments should be made to the relevant line item(s) by the principal before the due date for the return, this can include:

- The cancelling of payments previously notified which were not made within the return period.
- The amendment of the payment amount to a subcontractor where the payment differs from the amount specified in the payment notification due to exceptional circumstances unforeseen at the time of the notification.

Where a principal amends a line item(s) on a deduction summary, Revenue will notify the relevant subcontractor of details of the amendment.

7. Partnerships

Where relevant operations are performed by a gang or group of persons (including partnerships) notwithstanding that any payment or part of payment is made by a principal to one more of the gang or group or to some other person, then this payment is regarded as having been made to the individual members of the gang or group in the proportions in which the payment was to be divided amongst them.

Except where a separate payment to each member is made by the principal, a person authorised by the group or in the case of a partnership the precedent partner, must in respect of the tax deducted from the payments give to the Revenue Commissioners:

- (a) The name, address and tax reference number of every person in the group.
- (b) Details of the proportion of the tax deducted to which each person is entitled.

On receipt of these details Revenue will notify each member of the group, in writing or by electronic means, the amount of income or corporation tax as having been paid by them.

8. Treatment of tax deducted

Under the provisions of section 530P, where a principal deducts tax from a payment to a subcontractor, the tax will be treated as a payment on account by the subcontractor of either income tax for the basis year in which the tax was deducted or of corporation tax for the accounting period of the company in which the tax was deducted.

After the tax for the period in which the RCT credit occurred has been finalised, in the first instance, any credit remaining is available for preliminary tax liability for the following period; then, any remaining credit after preliminary tax is now available for offset by Revenue against any other tax liabilities for the subcontractor. In effect, this means that no repayment of RCT may be made to a subcontractor during the year in which the tax was deducted until such time as their tax return (Form 11 or CT1) has been filed, a notice of assessment has issued and all liabilities for income tax or corporation tax and other taxes have been discharged. Repayments are not dealt with automatically by the system but instead are processed manually by Revenue.

When RCT credit is offset against other tax liabilities, Revenue will issue a Statement of Account to the subcontractor. In addition, subcontractors can view all transactions regarding RCT and offsets online if they are registered for ROS.

9. RCT deducted in liquidation, receivership or examinership cases

Tax law provides no exemption from the operation of RCT in the case of liquidation, receivership or examinership. Revenue takes the view that all aspects of RCT law – including deduction by the principal contractor and offset by Revenue of RCT against outstanding taxes – must be applied as normal, notwithstanding the fact that a liquidator, receiver or examiner has been appointed to the subcontracting company.

As such, any RCT deducted from a company in liquidation, receivership or examinership and remitted to Revenue will be offset against outstanding taxes in the order statutorily provided for, with any balance being repaid to the liquidator, receiver or examiner.

There is however, distinguish between RCT deducted on foot of a contract entered into by a company prior to receivership or liquidation and new contracts entered into by the receiver/liquidator in his capacity as receiver/liquidator of the company. In such cases, if the contract, which gave rise to the RCT deduction, was entered into by the liquidator/receiver following their appointment, the RCT deducted should be offset only against liabilities of the post-appointment period, with any balance being repaid to the liquidator/receiver.

It should be noted that where a company successfully exits examinership and tax has been written off in line with the court-approved scheme of arrangement, these taxes cannot be subsequently written back in for the purposes of offset.

10. Record keeping

Each subcontractor is required to keep and maintain a record of all relevant payments received and the record must include for each payment, the date of the payment, the amount of the payment, the amount of RCT if any deducted and the name of the person who made the payment. The subcontractor must also keep a record of each deduction authorisation or copies of the details on a deduction authorisation supplied by a principal.

Any person who has made or received a relevant payment must produce to a Revenue officer for inspection, all documents and records relating to the relevant payment which have been requested by the Revenue officer.

11. Non-resident subcontractors

Where a non-resident subcontractor has had RCT deducted from a relevant payment made by a principal, applications for a repayment of the RCT should be submitted to:

International Claims Section,
Office of the Revenue Commissioners,
Collector General's Division,
Government Offices,
Nenagh,
Co. Tipperary,
Ireland.

Telephone: +353 (0) 67 63400

Fax: +353 (0) 67 44182

e-mail: intclaims@revenue.ie

Individual applicants must complete a claim Form IC1. Company applicants must complete a claim Form IC3. These forms are available from International Claims Section upon request.

The completed claim form must be certified by the Tax /Revenue authorities of the country of residence for tax purposes for the relevant tax year. While certification currently covers a period of three years please note that Revenue can request certification in respect of a claim at any time. It should also be noted that the current three year period is subject to review.