

### [38.3.3] Third Party Returns

#### Requirement to report information automatically.

##### 1. Introduction:

Under the provisions of **Part 38, Chapter 3, TCA 1997** information returns required under certain specified provisions must be made on a self-assessment basis (generally referred to as "automatic reporting").

The specified provisions are:

- \* **Section 888(2)(d), TCA 1997** - any person who, as an agent, manages premises or is in receipt of rents or other payments arising from premises.
- \* **Section 889, TCA 1997** - any person carrying on a business or activity who makes payments for services rendered.
- \* **Section 890, TCA 1997** - persons who receive income belonging to others.
- \* **Section 891, TCA 1997** - financial institutions paying or crediting interest to Irish residents without deduction of tax.
- \* **Section 892, TCA 1997** - persons who are nominee holders of securities.
- \* **Section 893, TCA 1997** - persons who are intermediaries in relation to UCITS.

In addition **Section 895, TCA 1997** has extended the automatic return making requirement to persons who act as intermediaries in, or in connection with, the opening of foreign deposit accounts. [SP-IT/1/92](#)

To clarify the return making requirements under the various headings, the Revenue Commissioners have prepared a Statement of Practice, [SP-IT/1/92](#). The Statement of Practice should be read in conjunction with this instruction. Staff should particularly note the limits and commencement date for the automatic reporting. It should also be noted that a return may be made by non-company taxpayers by reference to an accounting period.

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#### 2. Explanatory Leaflet

Explanatory leaflet [IT 16](#) advises taxpayers of the requirement to make returns in relation to payments for services rendered and also to alert them to the possibility that they may have obligations in relation to other areas of Third Party Returns.

#### 3. Issue of Returns in respect of Payment for Services:

Two forms will be used for the making of returns in respect of **payments for services**:

- \* Form 46G for the non-company cases, and,
- \* Form 46G (Company) for company cases.

All companies, trusts, partnerships and all self employed individuals making a 46G Return are required to file the Returns electronically. The 46G Return can be completed online or can be completed offline by downloading the Revenue offline version of the Return. Alternatively the 46G Return facility (spreadsheet) can be used.

The 46G spreadsheet and instructions may be requested by sending an email to [46Gspreadsheet@revenue.ie](mailto:46Gspreadsheet@revenue.ie) and indicating whether Income Tax or Corporation Tax is required. The spreadsheet converts the 46G Return information into an XML document that can be uploaded to ROS using the same mechanism used to upload a tax return created using the ROS offline application.

#### 4. Other Areas Subject to Automatic Reporting:

Automatic returns must also be made under the provisions of **Part 38 Chapter 3 TCA 1997** by the following: -

- Any person who, as an agent, manages premises or is in receipt of rents or other payments arising from premises.
- Financial institutions paying or crediting interest to Irish residents without deduction of tax.
- Persons who receive income belonging to others– refer to Appendix III for more information.
- Persons who are nominee holders of securities.
- Persons who are intermediaries in relation to UCITS.
- Persons who act as intermediaries in, or in connection, with the opening of foreign deposit accounts.

The issue of returns is targeted at those who are likely to have to make a return.

**5. Forms:**

A full list of the forms, which will be used for third party returns is included in **Appendix 1**. Please also consult [Third Party Returns](#).

**6. Return Date:**

**Individuals**

For individuals and other persons (other than companies) the return is required in respect of payments up to 31 December each year or, if more convenient, up to the date on which accounts of the trade, etc. are normally prepared. Third Party Returns must be made annually before 31 October following the end of the tax year to which the return is prepared.

**Companies**

For companies, the final return date is not later than 9 months from the end of the relevant accounting period.

**7. Notice By Inspector:**

The Inspector is not precluded by the automatic return making requirements from the giving of a notice requiring a return under any of the specified provisions in respect of matters and amounts which, are excluded, from automatic return making by the Statement of Practice.

**8. Included at Appendix II is some supplementary information, which may be useful in dealing with queries.**

## APPENDIX 1

**Forms to be used for automatic reporting of Third Party Information:**

- |                    |   |  |
|--------------------|---|--|
| Form 46G           | - | return of payments made by individuals, partnership and Government bodies for services rendered. (Sec. 889, TCA 1997).                 |
| Form 46G (Company) | - | return of payments made by companies for services rendered (Sec. 889, TCA 1997).   |
| Form 8-2           | - | return by persons in receipt of income belonging to others – refer to Appendix III for more details (Sec. 890, TCA 1997).              |
| Form 8B-A          | - | return by financial institutions paying or crediting interest without deduction of tax. (Sec. 891, TCA 1997)                           |
| Form 8B-B          | - | return by intermediaries who act in or in connection with the opening of Foreign Accounts with Deposit Holders (Sec. 895 TCA 1997)     |
| Form 8D            | - | return by intermediaries who provide relevant facilities in relation to offshore products (Sec 896 TCA 1997 as amended by 232 FA 2001) |
| Form 8F            | - | return of particulars of transactions in tangible moveable property for a consideration in excess of €19,050 (Sec 914(6) TCA 1997)     |
| Form 8-3           | - | return by letting agents and managers of premises. (Sec. 888(2)(d), TCA 1997).   |
| Form 21R           | - | return by nominee shareholders. (Sec. 892, TCA 1997).  |

## APPENDIX II

### Supplementary Information

#### 1. Payments for Services Rendered:

- (a) Returns are required in respect of payments for services listed in **Appendix I** of the Statement of Practice [SP-IT/1/92](#). Such payments made on behalf of others must also be returned.
- (b) Traders (including farmers) professionals and other persons carrying on a business, as well as non-trading/non-profit making organisations and bodies of persons (including Government Departments and statutory bodies such as Health Boards) are required to make returns automatically. This includes bodies with exempt status, charitable status and religious orders.
- (c) Payments from which tax is deductible need not be returned e.g. payments subject to withholding tax, payments from which PAYE has been deducted.
- (d) Payments by a registered principal to a subcontractor need not be returned as these are all input to the eRCT system by the principal contractor.
- (e) Payments which are made from an office account e.g. by a solicitor on behalf of a client, must be returned.
- (f) The limit of €6,000 applies to the period of the return. It is not apportioned.

#### 2. V.A.T and Two-Thirds Rule:

The provisions in the Statement of Practice both in relation to supplying information on a "V.A.T. exclusive" basis and to the exclusion of payments where goods exceed two-thirds of the total charge are limitations to the strict wider requirement. They were included to facilitate taxpayers generally.

Where there are difficulties in isolating the V.A.T. exclusive figure, the "V.A.T. inclusive" figure will be accepted once it is made clear that it is V.A.T. inclusive.

Similarly, where there are difficulties in isolating payments for services in which the value of goods exceeds two-thirds of the total charge, a return which includes such payments will be accepted.

**3. Reference Number:**

The Statement of Practice states that payers should ensure that the tax reference should be obtained.

It should be stressed to taxpayers that, legally, the tax reference number should be quoted on all invoices.

Every effort should be made to ascertain the tax reference number but where this cannot be ascertained by the recipient of services the full name and address of the payee should be ascertained.

**4. Categories of Services/Activities:**

The heading "entertainment" refers to payments to entertainers/artistes etc. rather than "business entertainment."

**5. Nature of services and period over which the services were provided:**

(I) A general description of the nature of services is acceptable where a variety of services were provided during the period of the return.

(II) Where there are difficulties in providing the precise commencement and end dates for the period over which services are provided a general indication as to the period will suffice.

**Example**

ABC Ltd. is in the Plant Hire business

ABC Ltd. hired out machinery to XYZ Ltd. from 1.1.08 to 15.1.08

From 3.3.08 to 6.3.08

From 3.4.08 to 4.4.08

ABC Ltd. provided the servicing of the machines on 7.1.08

the repairing of the machines on 7.3.08

XYZ Ltd. may return these services as follows:

<b>Nature of Services</b>	Plant Hire
<b>Period over which services were provided</b>	Year ended 31/12/08

**6. Resident/Non-Resident:**

A non-resident company with a permanent establishment (e.g. a branch) in the State must make a return in respect of payments for services made by the permanent establishment.

Generally, payments for services made to foreign suppliers need not be returned. However, if the payment is made in respect of services provided in the State by a permanent establishment of a foreign supplier, the payments should be returned.

Payments for services rendered by a foreign supplier who has no presence in this country need not be returned e.g. a foreign transport company delivering a machine here.

**7. Groups of Companies:**

The returns for all the companies in a group of companies may be made by any one of the companies provided that each of the companies in the grouping accepts responsibility for its return.

**8. Information required and computer returns:**

**Appendix II** of Statement of Practice sets out the headings under which the information will be required under each return-making category.

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#### 9. Banks, Insurance, Stockbrokers:

(a) Returns of interest paid without deduction of tax by one bank to another bank are not required.

(b) Premiums on insurance policies collected by: -

- employers under staff deduction schemes
- insurance brokers

need not be returned.

(c) Stockbrokers are not required to make a return of interest from Government Securities received by them which belongs to others.

Where Government Securities are registered in the stockbrokers' names, they must however include these in the nominee shareholders return.

(d) Receipt of income belonging to others - the responsibility, for the making of the return of income handled by more than one person on its way to the person who is beneficially entitled to it, rests with the final person in the chain e.g. Insurance Company B receives a cheque from Insurance Company C on behalf of client X in settlement of a claim for loss of earnings. B passes the cheque to X's solicitor. The onus is on X's solicitor who is in receipt of income on which X is chargeable to income tax to make the return.

There is no obligation on B.

#### 10. Nominee Shareholders:

A vendor, who disposes of shares of which he was the registered **and beneficial owner**, need not make a return as registered shareholder **on behalf of the beneficial owner** in the interval between the changing of the registered shareholder's name in the company's register occurs before the shares are registered in the purchaser's name.



**Appendix III – Additional Information on Form 8 – 2 - Persons who receive income belonging to others:**

Section 890 of the TCA 1997 states that persons, receiving income or other amounts belonging to another person from third parties, are required to submit a return of these details, in the prescribed form (Form 8 – 2) to Revenue. The person to whom the income or other amounts belong must be chargeable to tax on the income or other amounts.

Form 8 - 2 should include details of total payments made to any one person which exceed €3,810 for the period of the return. The return is required in respect of payments made up to 31 December each year or, if more convenient, up to the date on which accounts of the trade, etc. are normally prepared. It should be filed within nine months of the end of the accounting year applicable to the filer.

The return should be filed on a self-assessment basis without prior notification from Revenue. Typically, Form 8 – 2 has been used to report interest paid to solicitors, under the terms of a late closing clause in a contract for sale, which is passed on to the client. It has also been used in circumstances where amounts are paid to solicitors on behalf of clients which include specific amounts for loss of earnings or profits or other income amounts.

It should be noted that the filing requirement also applies to any person collecting monies on behalf of another person. This includes the likes of intermediary internet websites where the host is collecting monies, directly through the website or through other means, on behalf of persons using such services for business purposes.

The filing requirement does not apply to payments from the sale of land, or capital sums awarded by the Courts for damages or personal injuries. Neither does it apply to income which has already been subjected to deduction of tax when received, e.g. deposit interest from which Deposit Interest Retention Tax (DIRT) has already been deducted.

Form 8 – 2 can be downloaded in spreadsheet format from the [Revenue website](#) and should be filed using the ‘My Enquiries’ facility on [www.revenue.ie](http://www.revenue.ie). Business customers who have a ROS digital certificate can access ‘MyEnquiries’ through their ROS account. Business customers who do not have an active ROS digital certificate can either register for ‘myAccount’ or register for ROS in order to use the ‘MyEnquiries’ service.

Further details are available on the Revenue website. It should be noted that the obligation on letting agents to file a similar return should be reported on Form 8 -3 only.

Queries in relation to 3<sup>rd</sup> party returns can be sent to the following email address:- [3rdpartyreturns@revenue.ie](mailto:3rdpartyreturns@revenue.ie)