

[38.3.4] Third Party Returns Requirement to Report Information Automatically

Special arrangements in respect of solicitors

Reviewed - March 2017

1. Introduction

Instructions in relation to third party returns and the requirement to report information automatically are contained in [Tax Instruction 38.3.3](#).

This instruction gives details of:

- the different return forms for the different categories of payments and transactions which must be reported (Paragraph 2)
- the adaptation of the third party return requirements in relation to solicitors "clients' Accounts" (Paragraph 3) and
- the obligations of personal representatives of deceased persons (Paragraph 4)
- a number of adaptations (outlined in Paragraph 3) which have general application (Paragraph 5).

2. Forms

2.1 Forms 46G

Forms 46G are submitted by persons (individuals, partnerships, bodies of persons), who make payments for services provided, including fees, commissions and payments for copyright, where the total to any person exceeded €6,000 in the year of the return.

Forms 46G (Company) are sent by Revenue to companies with a Corporation Tax Return (Form CT1) in the month following the end of the accounting period. Where the company makes any payment(s) during the year of the return to any person for services provided, including fees, commissions and payments for copyright exceeding €6,000, they are obliged to return the details to Revenue. Forms CT1 and 46G must be returned not later than nine months from the end of the company's accounting period.

It should be noted that any Form 46G returned by a solicitor must include relevant payments made on behalf of clients to third parties. The identity of the client need not be disclosed but the identity of the recipient of any relevant payment must be disclosed.

Further guidelines in relation to solicitors' client accounts can be found in [Tax Instruction: 38.3.11](#).

2.2 Other forms

The full list of forms is highlighted in [Tax Instruction 38.3.3](#), Appendix 1. Alternatively, the [Third Party Return Forms](#) section on the Revenue website may be consulted.

3. Special arrangements in respect of solicitors

In addition to the normal activities involved in the running of any enterprise ("office account"), solicitors, in the ordinary course of business, make payments on behalf of clients and receive income, which beneficially belongs to clients ("client account").

3.1 In applying the Statement of Practice ("**Returns of Certain Information - Third Party Returns** - [SP-IT/1/92](#)"), the following rules are to apply to solicitors in relation to matters dealt with on behalf of clients (i.e. "client account" items as distinct from "office account" items):

- (a) The reporting provisions will not apply to payments made to or on behalf of clients which relate to the period prior to 1 September 1993. (The Statement of Practice date 1 January 1993 will apply where relevant to all transactions on solicitors' "office accounts").
- (b) A minimum limit of €127 will apply to genuine individual client payments for aggregation purposes (i.e. individual payments of less than €127 need not be aggregated). For this purpose a transaction should not be regarded as genuine if it is split to keep the value below €127. (This limit does not apply to "office account" items).
- (c)
 - (i) Rents reflected in apportionment accounts on the closing of sales or rents collected (whether initial rent or a deposit) on the drawing up of new leases need not be reported.
 - (ii) Ground rent collections which are less than €635 in aggregate for a client in a return period need not be reported.
- (d) Payments made towards the maintenance of a child or his/her parent (e.g. in circumstances which might have given rise to an affiliation or maintenance order being granted against the payer) need not be reported.

- (e) Debts collected need not be reported in the following circumstances:-
 - (i) Debts collected which are incidental to the main services provided for a client.
 - (ii) Debts collected on behalf of:
 - any of the persons listed in **Schedule 13 TCA 1997** (Accountable Persons - Withholding Tax).
 - PLCs, and
 - Building Societiesand their subsidiaries.
 - (iii) Debts collected for a client which do not exceed €3,810 in aggregate for a return period.

3.2 The cost of special software to facilitate third party returns reporting requirements may be treated as a revenue item rather than a capital item.

3.3 An error in a third party return will not automatically trigger a Revenue audit. Where a problem arises, the solicitor should be asked to reconsider the return and rectify the matter. Where this fails, a certificate from the solicitor's accountant will be requested. Where audits are carried out full regard must be given to client confidentiality.

In cases subject to full audit, compliance with the third party reporting requirement should form part of the normal checks carried out. Where, exceptionally, it is considered necessary to audit a third party return on its own, approval must first be obtained from the Assistant Secretary in charge of the relevant Region.

4. Personal representatives of deceased persons

Where a solicitor or other professional acting as a personal representative is a chargeable person, either in respect of pre or post death income, the question of a third party return in respect of that income will not arise. (In very limited circumstances, e.g. executor trading, a third party return in respect of payments made by the executor in that capacity would arise in the normal way.)

As regards specific legacies or where, in accordance with existing practice, the date of death is regarded as the date of ascertainment of the residue for

residuary legatees and income is attributed accordingly to the beneficiaries, a third party return will not be required provided the Inspector is advised regarding the estate, how the assets and income are being distributed etc.

Members of the public acting as personal representatives are not generally required to automatically make third party returns (see paragraph 4.7 of the [Statement of Practice](#)).

5. Paragraphs 3.1 (c) (i), 3.1 (e) (ii) and (iii), and 3.2 (of this **Tax Instruction 38.3.4**) have general application to all persons required to make third party returns.