



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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eWHT Hub
Joint Public Consultation by Department of Finance & Revenue

via email - ewht@revenue.ie

HSE tax ref: 9984032I

Dear Sir/Madam,

The Health Service Executive (HSE) wishes to participate in the Public Consultation on the implementation of e-Withholding Tax (eWHT).

As you are aware, the Health Service Executive (HSE) is both a Principal Contractor for the purposes of Relevant Contract Tax (RCT) and an Accountable Person for Professional Services Withholding Tax (PSWT). It is likely that the HSE is the largest remitter of PSWT in the State, with extensive experience in remitting both significant volumes of data and payments to Revenue in respect of PSWT. We welcome the opportunity to provide comments (and questions) in response to the consultation request.

Comments & Observations on the Published Consultation Documentation

Revenue have acknowledged that the withholding tax system needs modernisation. While we agree in principle, we also believe that failure to modernise the underlying tax legislation for both PSWT & RCT would represent a missed opportunity.

If the proposed modernisation is implemented as set out in the consultation documentation, this would merely represent a change to the collection system without addressing some key underlying issues in both RCT & PSWT. Based on our review of the Consultation documents, examples of areas of perceived difficulty and outstanding uncertainty would include:

- **PSWT Exemptions:** Currently there are specific exemptions from the application of PSWT (for example charities/other Accountable Persons for PSWT etc). Will these continue when e-WHT is implemented? Would new applications for exemption from e-WHT be required? If so, would this not give rise to additional administration (at least in the short term), contrary to the aims of e-WHT?
- **PSWT & Non Residents:** Has consideration been given to non-residents who have suffered PSWT and are required to engage with Revenue to claim refunds? Under the current system

these service providers have to prove to Revenue that they do not have an underlying liability to Irish tax in order to demonstrate that PSWT withholding was not required in the first place. Will the proposed e-WHT system include a facility that such cases will have a zero/nil e-WHT rating? Consideration might therefore be given to ensuring that in these cases, there is no requirement for deduction and eliminating the need for subsequent refund claims, thus reducing the overall burden of administration.

- **Administrative Burden on Internal Payment Functions:** The commentary indicates that the new system is to reduce the administrative burden, but also to be more reflective of actual tax liabilities. It therefore stands to reason that individuals who have consistently had PSWT withheld at 20% up to now, may face increased/decreased withholding rates, depending on their personal deduction rate (PDR) at any given time. There is an indication that the PDR will be updated by Revenue on an ongoing basis – does this mean varying withholding rates throughout the year (for example at the time of each payment)?
- **What does PDR Consist of?** Does the PDR only reflect the potential income tax liability of the individual or is it inclusive of PRSI and USC ?
- **Is PDR fully individualised?** Will the PDR reflect some fixed stepped withholding rate bands i.e. 0%, 5%, 10%, 20%, 40%? Or is it envisaged to be determined at the individual taxpayer level on an unlimited variable rate basis?
- **Managing e-WHT complexity:** My colleagues in Primary Care Reimbursement Services (PCRS) (including the GMS Schemes) believe that there will be a significant increase in complexity for the HSE as payment remitters i.e. from currently operating a consistent flat withholding tax rate for all contractors and moving to a variable individualised rate bespoke to each individual contractor for each separate payment. This increased complexity will place a very significant burden on a relatively lean payment function and will also place pressures on PCRS to build new interfaces capable of interacting with the proposed variable (and individualised) withholding tax rate for each payment.
- **E-WHT and the RCT penalty regime:** What will be the interaction between the current penalty regime for RCT in the context of implementing e-WHT?
- **Software interface:** As the indications are that the information will be transferred by interfaces from system to system, we would expect that software developers are involved in Revenue's consultations on the proposal. Will Revenue provide ongoing updates?
- **RCT observation:** Where the HSE engages a supplier for construction operations (as defined), in many instances we currently receive a 0% deduction authorisation from Revenue (i.e. the supplier receives a gross payment amount). However with the proposed introduction of a flat rate e-WHT for non-individuals, it would seem that the supplier could now suffer a tax withholding of e-WHT where none previously existed. Such a change may affect the cash-flow position of such suppliers to the HSE.

e-WHT and Schedule 13 TCA 1997 Bodies

I foresee difficulties in trying to amalgamate two separate and distinct pieces of legislation (PSWT/RCT). Based on the documentation available, at the core of e-WHT is the application of an individualised PDR to businesses (both individuals/non individuals). The application of the existing PSWT and RCT regimes consumes considerable time and resources for the HSE in ascertaining whether the tax applies or is relieved/exempted under guidance or statutory provision. Perhaps there may be an

opportunity to bring in new legislation that will apply withholding tax (as envisaged under e-WHT) to all payments from entities listed in Schedule 13 TCA 1997, regardless of whether such payments fell within the scope of PSWT or RCT. This proposal would only extend to bodies listed in Schedule 13 TCA 1997 and who receive public monies. By limiting this proposal to Schedule 13 entities, it would exclude any private sector entities who would remain principal contractors for RCT within private sector transactions.

This proposal would have a number of benefits. It is simple and clear in its administration and would help support the reduction in the administration burden. The Designated Withholder (the Sch13 entity in this case) would not have to spend time/resources determining whether a service falls into scope of PSWT (which can be complex due to outdated legislative definitions, and an insufficient level of detailed, modern and practical of guidance in TDM 18-01-04). It also supports compliance of all parties and may increase cash flow to the Exchequer by ensuring a level (or not as the case may be) of withholding tax to services not currently within scope of PSWT/RCT. It may also reduce any perceived tax leakage in those service areas.

In summary, we see benefits and opportunities of the proposal, particularly where the rate of withholding will be more reflective of the actual liability. We hold the view that significant consideration and discussions are required before the proposal is implemented.

We would welcome the opportunity for further broader discussions on this initiative which I believe would be of mutual benefit to help achieve Revenue's intended aims.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Colm Waters', written in a cursive style.

Colm Waters
Head of Tax