

# *A deeper focus*

*Understanding the changes  
in the operation of Relevant  
Contracts Tax (RCT)*

*November 2011*





## *Highlighting the key features*

“Go Live” for Principal Contractors on 5 December 2011

Immediate action needed by sub-contractors with current C2 applications

Online system only (both for tax deductions and “0%” (C2) applications)

Three Tier tax deduction regime (0%, 20%, 35%)

No “real time” repayment facility

Transitional arrangements to 31 March 2012

Significant changes are being introduced in respect of the operation of RCT. The current paper-based RCT system will be replaced on 1st January 2012 by an electronic system. From that date Principal Contractors will engage with Revenue online, submitting information, payments and returns on the RCT Service through Revenue’s Online System (ROS) There are some advance measures which Principals and subcontractors need to take in order to prepare for the new system. It should be noted that the charge to RCT will be exactly the same as before – only operational matters will change.



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# Proposed changes

## 1. Three RCT Rates

A new 20% rate is being introduced in addition to the current 0% and 35% rates. The new 20% rate will become the standard RCT rate. Revenue will advise subcontractors of their RCT rate prior to the introduction of the new system. From January 2012 the RCT rate that applies will depend on the subcontractor's tax compliance record, subject to some transitional provisions. The rates of RCT will apply as follows:

- **Zero Rate subcontractor:**

The 0% rate will apply to subcontractors who satisfy the current criteria for C2 registration. Among other conditions, full tax compliance for the previous three years is required, including that of directors and certain shareholders.

- **Standard Rate subcontractor:**

The 20% rate will apply to payments by subcontractors registered for tax with a record of substantial tax compliance. In effect, this is likely to involve subcontractors who are registered for tax but who have not sufficiently satisfied the criteria to achieve the zero rate.

- **Default Rate subcontractor:**

The 35% rate (which will be a default rate) will apply in certain limited cases where the 0% and 20% rates are not appropriate. This grouping will include subcontractors who are not known to Revenue i.e. not registered for tax in Ireland or who have an inadequate tax compliance record. In the case of foreign subcontractors it will be important to consider Irish tax registration requirements at an early stage in the project to avoid deductions at 35%.

## 2. Electronic Means

The new scheme will also involve the mandatory use of electronic means for sending information, filing returns and making payments. From 1 January 2012 all contact with Revenue will be through ROS. This will involve either the Principal or its agent registering on ROS.

## 3. Tax Repayments /Offset

The monthly repayment system on foot of RCT deduction certificates will be abolished. It will be replaced with an annual repayment facility, with potential to offset against other tax liabilities. RCT deducted from payments will be credited to the subcontractor's account with Revenue and will be repaid after the subcontractor's tax return has been filed and the tax liability is agreed.

Alternatively, rather than awaiting year end, deducted RCT may be offset against other taxes due such as VAT and PAYE. For non-resident subcontractors who do not have tax liabilities in Ireland under other tax heads, it should be possible to apply for an interim refund of RCT withheld. Such applications will be looked at on a case-by-case basis.

# Operation of the on-line RCT scheme

## Principal contractors:

Significant changes are being introduced in respect of the operation of RCT. The current paper-based RCT system will be replaced on 1st January 2012 by an electronic system. From that date Principal Contractors will engage with Revenue online, submitting information, payments and returns on the RCT Service through Revenue's Online System (ROS) There are some advance measures which Principals and subcontractors need to take in order to prepare for the new system. It should be noted that the charge to RCT will be exactly the same as before – only operational matters will change.

### 1. Contract Notification

- The Principal must notify Revenue upon entering into a relevant contract, providing Revenue with on-line details of the contract and subcontractor, including a declaration that the contract being entered into is not a contract of employment. This process will be known as "Contract Notification" in the new system. The contract notification will replace the current Form RCT1 requirement.
- Where a Principal has multiple contracts with the same subcontractor, the Principal will be required to register each contract separately, unless they are considered to be part of an ongoing contract. Revenue will then acknowledge the contract notification and will advise the Principal of the current rate of RCT to be applied to the subcontractor.

- To facilitate a smooth transition to the new system, Revenue will assist with the notification of contracts entered into before 31 December 2011 that will still be in place in 2012 by pre-populating the new system with contract information using data taken from each Principal's 2010 RCT 35 return and RCT47s. Principals should access the new system on or shortly after 5 December to confirm what contracts have been automatically notified by Revenue on their behalf.

### 2. Payment Notification

- Before making each relevant payment, the Principal must notify Revenue on line of:
  - the intention to make a payment, and;
  - the gross amount of that payment.
- It will not be possible to notify a payment on-line unless the contract has been registered.
- This process will be known as "Payment Notification" in the new system, There will be no paper RCT47s (payments cards) in the new system.

### 3. Deduction Authorisation

- On receipt of a payment notification, Revenue will immediately issue a "Deduction Authorisation" to the Principal in respect of each payment, giving the rate of tax to be deducted and authorising the Principal to deduct this tax. This authorisation relates specifically to the payment notified.

- The Principal is obliged to deduct tax in accordance with the terms of the deduction authorisation and provide a copy / details of the deduction authorisation to the subcontractor.

### 4. Deduction Summary

- As Revenue will have all details of the payments notified to them by Principals, Revenue will issue a "Deduction Summary" to each Principal at the end of each return period (either monthly or quarterly, depending on the filing frequency of the Principal), listing all the payments Revenue has been made aware of.
- If the summary is correct, the Principal needs only to arrange payment on or before the due date for the return.
- If the return requires amendment, the Principal can amend it on-line and arrange for payment on, or before, the due date.
- Principals must pay the relevant tax due on-line by 23rd of the month after the end of the period covered by the return.
- If the deduction summary is made or amended after the due date, a €100 surcharge will apply.
- This new process will replace the RCT30 return. The annual RCT35 return will no longer be required from 2012 onwards.

# *Operation of the on-line RCT scheme*

## Subcontractors:

While the new system does not require subcontractors to register on-line with Revenue, there are a number of advantages to being registered for ROS. For example, it will be possible to view all transactions on the subcontractor's RCT account online, avail of 24/7 self service options, view the RCT rate and request a RCT rate review.

Subcontractors must give sufficient information to Principals to enable them to make the online contract notification to Revenue.

While C2 cards will no longer exist, the same requirements regarding proof of tax compliance etc will be required to enable a zero rate authorisation by Revenue. This process will now take place online.

Where a Principal deducts RCT, the subcontractor will be treated as having paid the tax to Revenue. Revenue will make available to each subcontractor details of the amount of tax deducted. The deducted tax will then be treated as a payment on account of income tax or corporation tax for the chargeable period in which the tax was deducted. Deducted tax which is not required to cover an amount of preliminary tax may be reclaimed by the subcontractor following the end of the tax year/accounting period when the subcontractor's tax liability has been agreed. In the event that other tax liabilities are due e.g. VAT or PAYE, Revenue may offset RCT deducted against those other tax liabilities.

# Transitional measures



To facilitate the introduction of the on-line system some transitional rules will apply:

- The zero rate will apply to payments where the subcontractor holds a valid C2. In the case of new C2 applications Revenue have indicated that only applications processed by 26 November 2011 will be included on the online system during the initial three months of 2012.
- All other payments to subcontractors will be at a rate of 20% from 1 January to 31 March 2012.
- In circumstances where the Principal is unable to supply a tax reference number during the initial three month period a rate of 35 % will be authorised. However if the “unknown” subcontractor notifies Revenue the rate may be reduced to 20%. In this regard the Principal must alert the subcontractor that Revenue was unable to verify it’s identity and that 35 % tax will apply.
- Each new contract with the same subcontractor must be notified to Revenue by the Principal except if the contracts are part of an ongoing relevant contract with the subcontractor. However, as an interim measure, during 2012 Revenue will permit the Principal to notify them of a single contract with the same contractor, but the estimated value of all such the contracts for the year should be provided. From the beginning of 2013 all contracts must be notified separately.
- Principals may commence notifying contracts to Revenue via the RCT Service from 5 December 2011. This includes all existing contracts, which may be pre-populated by Revenue on the system.



# *Cost of non-compliance*

The cost of non-compliance in relation to the online operation of RCT is significant. In the event that Principals do not comply with the deduction authorisation for each payment, they will be liable to pay:

- a. RCT at 35%, and;
- b. a penalty of the lesser of €5,000 or 35% of the relevant payment.

The only mitigation available in respect of the tax and penalty is where the Principal submits details of the payment to the subcontractor in the return for that period and by the return date.

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## *Summary*

Avoidance of risk under the new scheme will depend on the timely supply of information by Principals to Revenue. Principals can register on the system themselves or through their agent. However “new” subcontractors, including overseas subcontractors in particular, need to engage early with their advisors with a view to avoiding RCT at 35% or to secure a zero rate authorisation. Appropriate administrative systems will need to be implemented to ensure Principals are compliant under the new system.

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# Contacts

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