

Guidance Note

Boards of Management

Relevant Contracts Tax/Value Added Tax

Boards of Management can be involved in a range of activities including: Construction Projects, Summer Works, Emergency Works, Major Devolved Projects, Additional Accommodation Schemes as well as day to day repairs that bring them within the scope of Relevant Contracts Tax (RCT) and, as a consequence, Value Added Tax (VAT).

It is important that boards are aware of and understand their obligations in relation to these taxes. This note sets out to give general guidance to boards on RCT, how it can apply to contracts entered into by the board, how RCT operates and why VAT must be accounted for by the board.

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What is Relevant Contracts Tax?

Relevant Contracts Tax (RCT) is a withholding tax system that operates in the construction, forestry and meat processing sectors. Where a principal contractor in those sectors makes a "relevant payment" to a subcontractor, RCT must be operated. There must be a principal contractor making a relevant payment before RCT can apply.

Who is a principal contractor and what is a relevant payment?

Principal Contractor

Principal contractors are defined in the legislation (Section 530A, Taxes Consolidation Act 1997 as amended). The definition includes "any board or body established by or under statute ... and funded wholly or mainly out of funds provided by the Oireachtas". As such, school Boards of Management are principal contractors for the purposes of RCT.

Relevant Payment

A relevant payment is a payment made under a contract for relevant operations as defined in the legislation. Where a principal contractor makes a "relevant" payment to a subcontractor, RCT must be operated, tax deducted if appropriate and remitted to Revenue. The whole contract is subject to RCT if any part of that contract is subject to RCT.

Construction Operations

The following are examples of the types of activities defined as "Construction Operations" in Section 530 (a) to (g) Taxes Consolidation Act 1997, as they might apply to Boards of Management:

(a) the construction, alteration, repair, extension, demolition or dismantling of buildings or structures

This paragraph includes building projects such as extensions, new buildings or additional accommodation. It also includes the erection of "structures" such as gates, traffic lights, road signs, parking meters and sheds.

Alterations

"Alteration" is not defined in the legislation. Legal opinion is that there must be an element of materiality to the change in the building or structure. Examples of alteration include painting a building, replacing all the windows or doors in a building etc.

Minor changes such as painting one wall or replacing one door in a building would not be considered sufficient.

Repairs

As "structure" is not defined in the legislation Revenue take the view that reasonably large items set in place on a permanent or semi-permanent basis are considered to be structures.

The repair of such structures and the repair of any part of a building, or of any system that has become a part of the fabric of the building, is also included and may encompass "emergency works" carried out by a Board of Management.

Maintenance

Maintenance only contracts are outside the scope of RCT. Examples of maintenance include cleaning, removal of graffiti, unblocking of drains etc.

Repair and maintenance

Contracts that are for repair work, or for repair and maintenance, are included. Repair includes the replacement of constituent parts e.g. the repair of a broken window by installing a new pane of glass or the repair of a tiled floor by replacing one or two broken tiles. Maintenance only contracts are not included.

(b) the construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, road works, power lines, telecommunication apparatus, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage

This paragraph includes work relating to telecommunication apparatus but this only extends to masts, underground cabling, telephone poles etc. For other aspects of the telecommunications industry see paragraph (ca) below.

Also included is the building of new roads and footpaths and repairs to existing ones. However routine road maintenance, clearing blocked drains and cleaning of roads and paths (including the removal of chewing gum) would not be included.

(c) the installation, alteration or repair in any building or structure of systems of heating, lighting, air-conditioning, soundproofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection

This paragraph applies to the installation, alteration or repair of systems in a building or structure.

Alterations (the installation of "add-on" or stand alone packages to systems already in place) must be "material" to bring the work within the definition.

If a contract to service a system includes a liability to carry out repairs, then the contract is within the scope of RCT. Otherwise it is purely a maintenance contract and not subject to RCT.

(ca) the installation, alteration or repair in or on any building or structure of systems of telecommunications

This paragraph covers the installation of systems to facilitate two-way communication by phone, whether mobile, landline or via the internet. As with paragraph (c) it only applies to systems.

As 'systems of telecommunications' will continue to evolve over time, the provision is designed to accommodate this evolution.

(d) the external cleaning of buildings (other than cleaning of any part of a building in the course of normal maintenance) or the internal cleaning of buildings and structures, in so far as carried out in the course of their construction, alteration, extension, repair or restoration

Cleaning is only a construction operation when it takes place in the context of an overall construction operation i.e. the cleaning that is necessary after a building or structure is erected, altered, repaired etc.

Routine cleaning

Normal day-to-day routine cleaning operations are not construction operations. Specialist cleaning jobs such as the removal of graffiti from buildings or structures are not construction operations. However if the removal of the graffiti involves a repair to the building or structure this repair would be a construction operation.

(e) operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described in paragraphs (a) to (d), including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works

This paragraph brings a whole range of activities that can be encountered on a building project within the definition of construction operations. Any activities that could be considered to be integral to an overall building project, not just the specific activities mentioned in the legislation, are covered. For example the hire of a crane with a driver, or where the subcontractor erects and dismantles the crane, would be covered by this definition, as would the erection of scaffolding and the hire of skips to remove waste material related to construction activity.

Site investigations

Site investigation operations, except where these are imposed on the builder by regulation (such as archaeological investigations or environmental impact studies) would normally be considered to be construction operations where they involve a considerable degree of labour intensive fieldwork. If the investigations carried out are such that without them the design/construction of the building (leaving aside investigations which are imposed on the contractor by regulation) could not actually proceed, these investigations are considered to be an integral part of, or preparatory to, the construction operation.

Work that is ancillary to the project or imposed on the contractor would not be considered construction operations. If the work is more of a professional services nature and the fieldwork is a very minor part of the investigations then RCT would not apply to any part of the contract. Where there is a significant amount of fieldwork (i.e. drilling, excavation etc) involved and the activity is integral, or preparatory, to the construction operation then a charge to RCT will apply to the full consideration where a single invoice is issued for the fieldwork and professional services.

Archaeological digs

Archaeological digs are not considered an integral part of, or preparatory to the construction operation and are therefore not subject to RCT.

Excavation, drilling and fieldwork

Geo-technical work involving excavation, drilling and other fieldwork to provide information necessary for the design and/or construction of a building or structure would generally be considered an integral part of, or preparatory to, construction. A contract for geo-technical services may involve significant fieldwork with some laboratory work and consultancy. Where the fieldwork is the significant part of the contract the full contract is subject to RCT.

Rendering complete

A number of other activities also come within this paragraph. Where a new building is under construction or an existing building is being refurbished, all the activities necessary to

render the building complete would be considered to be construction operations. These would include plastering, painting, fitting kitchens and bathrooms, tiling, laying carpets and the installation of certain types of fitted blinds. Some of these activities would not necessarily be considered to be construction operations if they took place outside the context of "rendering complete" for example certain painting jobs and the installation of blinds.

Landscaping

It should be noted that landscaping is only a construction operation when it is carried out as part of rendering complete a construction project. Contracts for landscaping work entered into by principal contractors such as boards of management where the landscaping is not part of an overall construction project are not within the RCT remit.

(f) operations which form an integral part of, or are preparatory to, or are for rendering complete, the drilling for or extraction of minerals, oil, natural gas or the exploration for, or exploitation of, natural resources

It is assumed that this paragraph will not apply in the context of school boards of management.

(g) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the construction operations referred to in paragraphs (a) to (f)

This paragraph includes all haulage operations related to the construction industry carried out by self-employed haulage operators. It includes the transportation of construction materials and machinery or plant used in construction operations. The delivery of ready to pour concrete to a building site by an employee of the manufacturer or distributor (irrespective of where or how it is placed at the site) is not considered to be a construction operation. It is considered to be the supply of building materials. However, where either the supplier or the builder hires a self-employed haulier to deliver the concrete, this operation is considered to be a construction operation.

How does the RCT system operate?

RCT now operates as an electronic system.

Registering for Revenue's Online Service (ROS): All interaction between the principal contractor and Revenue is through Revenue's Online Service (ROS). All Boards of Management therefore should make arrangements to register for ROS, unless they have engaged a tax advisor/agent/bookkeeper to carry out all RCT functions on their behalf. Note that because of the strict security features of the ROS system, it can take up to 10 days to complete the registration process.

Further information on registering for ROS is available at <http://www.ros.ie/PublisherServlet/info/setupnewcust>.

The key features of the RCT system from a principal contractor's perspective are:

Contract Notification:

The principal contractor must notify Revenue through ROS of all relevant contracts entered into. Before notifying the contract the principal contractor must satisfy themselves as to the identity of the subcontractor.

Payment Notification:

The principal contractor must notify Revenue through ROS of all relevant payments *before* they are made. The gross payment (VAT exclusive amount if the VAT reverse charge applies) must be advised to Revenue. Note that the contract must be notified to Revenue before any relevant payments under that contract can be notified.

Deduction Authorisation:

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 rates of tax are currently set at 0%, 20% or 35%. The Deduction Authorisation is sent electronically to the principal contractor. The principal contractor must provide a copy, or details, of the Deduction Authorisation to the subcontractor if tax has been deducted. If payments are made to subcontractors without Deduction Authorisation penalties may apply.

Deduction Summary/Return:

At the end of the filing period a Deduction Summary is made available electronically to the principal contractor detailing all the payments notified to Revenue during the filing period. The principal contractor should check the Deduction Summary for accuracy and amend or add to, if necessary. Otherwise the Deduction Summary is deemed to be the return on the return filing date. Further information on checking the deduction summary is available at <http://www.revenue.ie/en/tax/rct/deduction-summary-return.html>

Payment of RCT due:

The principal contractor must pay any RCT deducted before the due date for the return (23rd day after the end of the period covered by the return). In general returns are made monthly. Businesses making total annual RCT payments of up to €28,800 may be eligible to file RCT returns and make payments on a three monthly basis. Revenue will notify you if you qualify for the reduced frequency of tax returns and payments.

Why is it necessary to register for Value Added Tax?

Where a public body, including a Board of Management, receives construction services, other than haulage for hire, it must account for Value Added Tax (VAT) on such services to Revenue. The method of accounting for VAT in such cases is known as reverse charge. In effect, the public body, which receives the services, charges itself the VAT that would otherwise be charged by the subcontractor. The public body accounts to Revenue for that VAT. Such public bodies are required to be registered for VAT. The public body should not pay any VAT over to subcontractors.

The process is that the subcontractor should invoice the public body net of VAT and the public body should calculate the VAT due on services from the subcontractor and include the VAT in the VAT 3 return.

Public bodies are generally not entitled to deductibility for VAT incurred, therefore the "VAT on Purchases" figure will be NIL. The VAT payable to Revenue will be the full amount of the VAT arising on the construction services.

(Further information is available at www.revenue.ie/en/tax/vat/property/checklist-public-bodies.pdf)

RCT should be deducted (where required) from the VAT exclusive amount. The VAT exclusive amount is the amount before any VAT is added.

A general explanation of VAT is available online:

Guide to VAT:

www.revenue.ie/en/tax/vat/guide/vat-guide-ch01.pdf

How does the VAT Reverse Charge system operate?

All Government Departments, Local Authorities, boards established by or under Statute and certain other public bodies who are in receipt of construction services are regarded as principal contractors for RCT purposes. Those providing such services are referred to as subcontractors for RCT purposes.

Where a board receives construction services, other than haulage for hire, it must account for VAT on such services to Revenue. The method of accounting for VAT in such cases is known as reverse charge. In effect, the board, which receives the services, charges itself the VAT that would otherwise be charged by the subcontractor. The board accounts to Revenue for that VAT.

Invoicing

The subcontractor should invoice to the Board of Management net of VAT, showing all the information required on a VAT invoice including the VAT number, but excluding the VAT rate and the VAT amount. The invoice should also contain the statement '**VAT on this supply to be accounted for by the Principal Contractor**'. The board should not pay any VAT over to subcontractors. The board should calculate the VAT due on services from the subcontractor and include the VAT in the VAT 3 return as VAT on Sales. The attached link provides details on VAT invoicing

<http://www.revenue.ie/en/tax/vat/charging/invoicing.html>

Treatment of non VAT registered subcontractors and non-resident subcontractors.

If a subcontractor is not VAT registered because his turnover is under the threshold he will not have a VAT number. VAT is not then due on the supply. However, where a subcontractor who is not resident in the state makes a supply to a principal contractor including for example UK VAT, VAT is due on the supply irrespective of whether the subcontractor provides an Irish VAT number and the VAT reverse charge should be applied to the amount before the UK VAT is added.

Boards of Management are not entitled to deductibility for VAT incurred, therefore the "VAT on Purchases" figure in the VAT 3 form will be NIL. The VAT payable to Revenue will be the full amount of the VAT arising on the construction services.

Supplies of goods or services other than construction services

Where a subcontractor supplies goods or services other than construction services as part of a contract, the VAT reverse charge does not apply. The subcontractor should issue a VAT invoice for the goods and services other than construction services including VAT, and account for the VAT in his VAT return. A VAT reverse charge invoice should be issued to the board, for any construction services provided as part of the contract and the board will account for the VAT on this invoice.

If the Board applies RCT to all payments made to a subcontractor, even if some of the services supplied are not construction services, what is the VAT treatment of the non-construction services?

Reverse charge should only be applied to those services that are construction operations. For example, an alarm company installs an alarm system for a Board of Management and gets the contract for the routine maintenance of the alarm. The installation of the alarm is

subject to reverse charge so the Board accounts for the VAT. The maintenance service is not subject to reverse charge and the alarm company should account for the VAT on the maintenance service. The alarm company should issue a reverse charge invoice for the installation and a VAT invoice for the maintenance.

What is the two-thirds rule?

Where the VAT exclusive cost of goods supplied in the course of providing a service exceeds two-thirds of the total VAT exclusive charge for the supply, the rate of VAT applicable is the rate that applies to the goods.

The two-thirds rule does not apply to construction services supplied by subcontractors to principal contractors; the two-thirds rule continues to apply in relation to other services.

Online Information on VAT and VAT Reverse Charge:

Vat Reverse Charge:

www.revenue.ie/en/tax/vat/property/vat-rules-contractors.html

In particular:

Short Leaflet:

www.revenue.ie/en/tax/vat/property/reverse-charge.pdf

More detailed Leaflet:

www.revenue.ie/en/tax/vat/leaflets/construction-services-new-rules.pdf

VAT Reverse Charge Frequently Asked Questions (FAQ's):

<http://www.revenue.ie/en/tax/vat/property/faqs-reverse-charge.pdf>

(VAT Reverse Charge) Principal Contractor Checklist:

<http://www.revenue.ie/en/tax/vat/property/checklist-practitioners.pdf>

Guide to VAT:

www.revenue.ie/en/tax/vat/guide/vat-guide-ch01.pdf

Example

The following example shows a step-by-step guide to the operation of RCT and VAT Reverse Charge in relation to construction services provided to Boards of Management.

Scenario

A subcontractor is engaged to carry out repairs to the school amounting to €20,000 before VAT is added. The payment is due to be made on 8th July 2012 and is regarded as a construction service subject to the VAT Reverse Charge rules.

On entering into the contract the board will notify the contract on ROS by completing the **Contract Notification** process. The attached link provides details of the information required to notify a contract in ROS. <http://www.revenue.ie/en/tax/rct/contract-notifications.html>

The Board of Management will complete the **Payment Notification** process through ROS on or before the 8th July 2012. This requires the board to select the contract previously notified and to enter the gross amount of the payment to be made. In the above scenario the gross payment to be entered should be €20,000.

A **Deduction Authorisation** will issue to the ROS inbox advising the board of the amount of RCT to be deducted from the payment (0%, 20% or 35% as appropriate). If for example the board is authorised to deduct tax at 20%, the board will make a payment of €16,000 (€20,000 less €20,000 @ 20%) to the subcontractor. The board must give a copy of the Deduction Authorisation to the subcontractor.

Shortly after the end of July, a **Deduction Summary** will be made available electronically to the board detailing all payment notifications made during the period. The board should check the Deduction Summary for accuracy. If the deduction summary is correct, the board needs only to arrange payment of €4,000 (€20,000 @ 20%) to Revenue on or before 23rd August 2012. There is no requirement to file the deduction summary in these circumstances and the return will be deemed filed by Revenue on your behalf on the return filing date (23rd August 2012). If the deduction summary is not correct, the board should make the necessary amendments, submit the deduction summary and arrange for payment of €4,000 (€20,000 @ 20%) to Revenue on or before the 23rd August 2012. Details of how to access the Deduction Summary are available at the following link

<http://www.revenue.ie/en/tax/rct/accessing-your-summary.pdf>

Details of how to amend the deduction summary are available at the following link

<http://www.revenue.ie/en/tax/rct/checking-your-summary.pdf>

The board will also need to file the VAT return and make payment of €2,700 (€20,000 @13.5%) to Revenue for the July/August VAT period on or before 23rd September 2012 through ROS.

Where can I get information on the operation of RCT?

Full information for principal contractors on the RCT system, including video guides, is available at <http://www.revenue.ie/en/tax/rct/principal-contractors.html>

Where can I get information on the operation of the VAT reverse charge for construction services?

A summary leaflet is available at www.revenue.ie/en/tax/vat/property/reverse-charge.pdf. A more detailed leaflet is available at www.revenue.ie/en/tax/vat/leaflets/construction-services-new-rules.pdf

How can I register for RCT and VAT?

Once you are registered for ROS, you can use Revenue's eRegistration service. An online demonstration is available at www.revenue.ie/en/spotlights/eregistration/index.html

Otherwise you may register by completing a Form TR1 available at www.revenue.ie/en/tax/vat/forms/formtr1.pdf

Where can I get information on Registering for ROS?

Full information is available at <http://www.ros.ie/PublisherServlet/info/setupnewcust>