

# TAX matters

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## RELEVANT CONTRACTS TAX (RCT) AND VAT NEWS FOR THE CONSTRUCTION SECTOR

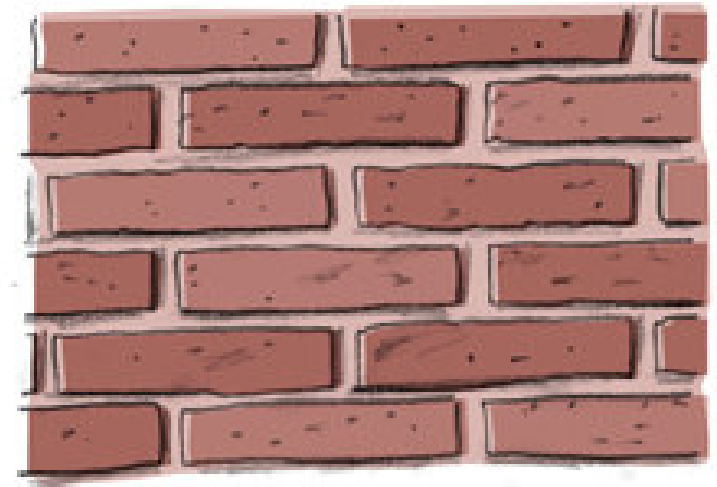
The passing of the 2008 Finance Bill and recent e-briefs issued by Revenue bring with them a number of changes which will significantly affect those operating within the construction industry.

### 1. Relevant Contracts Tax (RCT) Self-correction deadline: 15 April 2008

Revenue has said where there is an exceptional failure to deduct RCT from payments to a C2 holder without an RCT47 payments card or in excess of the specified limit on the card; they will allow a self correction to be made without the imposition of tax and interest. The main requirement is that when the 2007 RCT 35 is completed the self correction letter must be submitted to Revenue within two months after the RCT35 filing deadline (i.e. by 15 April 2008). An exceptional failure is described as:

- Very exceptional, isolated, not involving any failure to operate RCT generally or not involving suppressed receipts/payments and be one-off
- The principal must have taken adequate steps to prevent a recurrence; and
- The principal must be generally tax compliant

Revenue has said that where this self-correction facility is used, the taxpayer will be charged a fixed penalty (€950) for each breach of the Regulations.



## Changes affecting the construction industry cont/d.

### 2. RCT: Changes to connected party rules

The Finance Bill has introduced some measures which are designed to lessen the administrative burden on certain companies who are obliged to operate RCT.

The main amendment affects any **company** which is **not** carrying on a business in the construction industry but is connected to a company which is engaged in such activities. Such a company was previously obliged to operate RCT on payments made for construction operations carried out on its own business premises or land (because of the connection referred to above). Following Finance Act 2008, this obligation no longer applies to these companies.

However, where an individual is connected to a construction company, it appears that individual is still obliged to operate RCT in relation to payments for construction operations carried out on his/her private dwelling or business premises.

An individual who is not carrying on a business in the construction industry and is not connected to a construction company but is connected to a company in either the meat processing or forestry industries, is now not obliged to operate RCT in relation to payments for construction operations carried out on his/her private dwellings or business premises.

### 3. RCT: New Format C2 card

Revenue has introduced a revised version of the C2 card with effect from 1 January 2008. It will be phased in as follows:

- All new applicants from 1 January 2008 will be issued with the new card.
- C2 holders whose card expires on 31 December 2008, and who still qualify, will be issued with a new card as part of the renewal process later this year.
- C2 holders whose card expires on 31 December 2009, and who still qualify, will be issued with a new card as part of the renewal process

at the end of 2009.

As the renewal process is split across two years, there will be a transition period where authentic versions of both new and old style cards will be in circulation and may be presented to Principals until 31 December 2009. From 1 January 2010, only the new version will be in circulation. The basic card remains exactly the same in terms of layout, hologram, magnetic strip and artwork, except for the addition of some dynamic security effects, which will incorporate the Revenue Logo, Castle Gates, Harp and the legend C2.

### 4. RCT: New Form RCT1

A form RCT1 is used by a principal contractor and a subcontractor to declare that the contract they are entering into is a relevant contract and not a contract of employment.

The form has now been revised and the new version must be completed from 1 April 2008. The Finance Bill 2008 introduces a measure enabling Revenue to exclude a principal and subcontractor

from the requirement to make an RCT 1 declaration, where one of them comes within a class or classes of persons to be specified in the regulations.

Contractors whose average annual sales arising from relevant operations exceeds €6.34m in the last three years can apply for exclusion from the RCT1 process on a Form RCT 1-E. It should be completed and returned to their Revenue District. Where the contractor qualifies, he/she will be issued with a "notice of exclusion" which will be valid for up to three years. The contractor should present a notice of exclusion to a principal before entering into a relevant contract.

The new form requires additional details of the relevant contract. The principal contractor is required to submit the completed RCT1 form to Revenue within 7 days of making the declaration where any of the following apply:

- It is the first relevant contract

## Changes affecting the construction industry cont/d.

entered into by the principal and subcontractor with each other.

- The subcontractor's PPS number (or tax reference number) or VAT registered number, as appropriate, are not provided, in circumstances where they should have been entered on the form.
- The subcontractor:
  - is not registered for Income Tax or if the subcontractor is a company, Corporation Tax
  - is not registered for VAT
  - will be employing others to carry out all or part of the contract and has not supplied an Employer Registered Number
  - intends to subcontract all or part of the contract to others and is not registered with Revenue as a principal contractor.

The new Form RCT1 is available on the Revenue website.

### 5. VAT: Reverse charge basis

With effect from 1 September 2008, a subcontractor in the construction industry will no longer charge VAT on construction services supplied to principal contractors. Instead, the principal contractor is liable to self-account for the VAT due on their subcontractors' supplies of construction services, under the 'reverse charge' mechanism. Haulage services will be excluded from the new provisions.

The reverse charge procedure may result in cash flow savings involving transactions between subcontractors and their principals.

The proposed measure comes with a number of practical concerns and we expect that Revenue will embark on an advertising campaign in the coming months to explain how these difficulties can be dealt with.

This article is intended as a general guide only and should not be regarded as advice in relation to any specific circumstance or transaction. The information contained in this article is a broad summary.

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