



Indirect tax for the construction industry

Understanding the implications of Relevant Contracts Tax (RCT) and VAT

As the property market and building trade are continuing to flourish, it is opportune for businesses carrying out construction operations to remind themselves of the onus that Relevant Contracts Tax (RCT) and VAT impose on those operating in this sector.

What is RCT?

RCT is a withholding tax which applies to certain payments made by a principal contractor under a relevant contract to a subcontractor in the construction industry. A relevant contract is a contract for the carrying out of, or the supply of labour for the carrying out of, relevant operations in the construction industry.

What are construction operations for RCT purposes?

Aside from applying to the construction, alteration, repair, extension, demolition or dismantling of buildings or structures, RCT also applies to:

- the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the construction operations referred to below;
- 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, telecommunications;
- 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;
- operations which form an integral part of, or are preparatory to a number of construction activities 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;

- the construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, roadworks, power lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage; and
- 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.

What are the penalties for non-compliance?

It is imperative that all payments made by a principal contractor to its subcontractor are reported to Revenue **before the payment is made. This is the most common error made by principal contractors and it can be a costly oversight:**

The penalties for unreported payments are as follows:

Sub-contractor status	Penalty
0% deduction rate	3% of the gross payment
20% deduction rate	10% of the gross payment
35% deduction rate	20% of the gross payment
Unknown e.g. non-resident	35% of the gross payment

Fixed penalties may also apply in addition to the above tax geared penalties.

Is there a quick guide available for principals to encourage compliance?

The principal must formally notify the Revenue **within 21 days** of entering into their first relevant contract as a principal. The following steps must then be undertaken to achieve ongoing compliance:

- **contract notification:** Principal contractor provides Revenue with details regarding the contract and subcontractor.
- **payment notification:** Principal contractor notifies Revenue of all gross relevant payments (VAT exclusive amount) before payments are made.
- **deduction authorisation:** Revenue will provide a deduction authorisation which states the percentage of tax to be withheld from the payments. This depends on the tax compliance of the subcontractor:
 - 0% (up-to-date tax compliance);
 - 20% (substantially up-to-date tax compliance); or
 - 35% (poor tax compliance record, or for those who have not registered with Revenue).

The principal contractor should provide the subcontractor with this deduction authorisation as this ensures the subcontractor will issue the invoice correctly.

- **deduction/summary return:** Provided to the principal contractor detailing all payments made to Revenue during the period. Principal should review for completeness.
- **payment of RCT due:** Principal contractor pays any RCT deducted before the due date.

Does RCT affect the VAT treatment?

It is important to note that construction operations that fall within the remit of RCT are subject to VAT on a reverse charge basis. This means that invoices issued by the subcontractor to the principal contractor should not include VAT. Instead, the principal contractor should account for VAT on the reverse charge basis.

Do more lenient rules apply to non-resident contractors?

If the construction operations are being carried out in Ireland, RCT will apply regardless of the residency of the contractor. It is therefore important for non-resident contractors to be particularly vigilant as they may not be aware that the operations being carried out in Ireland bring them within the scope of RCT, and this may result in the penal consequences as outlined above.

How can Grant Thornton assist businesses to fulfil its obligations under RCT and VAT legislation?

VAT and RCT are intricate taxes. At Grant Thornton we have a dedicated team of specialists dealing with businesses in the construction industry on a daily basis.

Our services include:

- indirect tax health checks to minimise exposures and maximise VAT recovery;
- review of contracts to spot where RCT applies; and
- dealing with complex issues surrounding non-resident contractors, own-use exemption, two-thirds rule and contracts for repairs and maintenance.

Contact

At Grant Thornton, we can meet with you to discuss the key elements of indirect tax for the construction industry. If you have any further queries regarding RCT or VAT, please contact our indirect tax specialists:



Jarlath O'Keefe
Partner, Head of Indirect Taxes
T +353 (0)1 680 5817
E jarlath.okeefe@ie.gt.com



Janette Maxwell
Associate Director, Tax
T +353 (0)1 680 5779
E janette.maxwell@ie.gt.com

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.



www.grantthornton.ie



[@GrantThorntonIE](https://twitter.com/GrantThorntonIE)



[Grant Thornton Ireland](https://www.linkedin.com/company/grant-thornton-ireland/)