



Relevant Contracts Tax

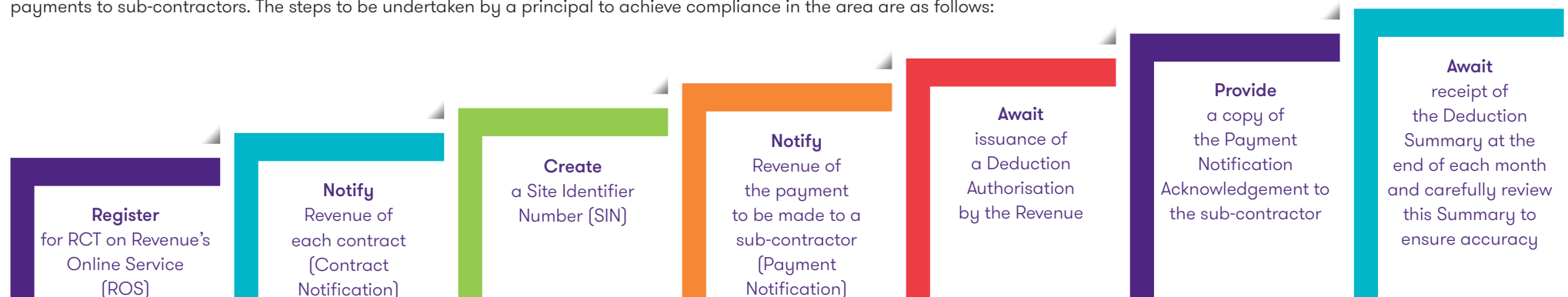
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As a principal contractor, are you ready for a potential Revenue Audit?

Given the complexity of Relevant Contracts Tax (RCT) and the heightened Revenue activity in this area, it is opportune to consider the onerous obligations placed on those who fall within the scope of a principal.

Key Administrative Steps

There are many responsibilities for principals to undertake to ensure they are fully compliant when operating RCT on payments to sub-contractors. The steps to be undertaken by a principal to achieve compliance in the area are as follows:

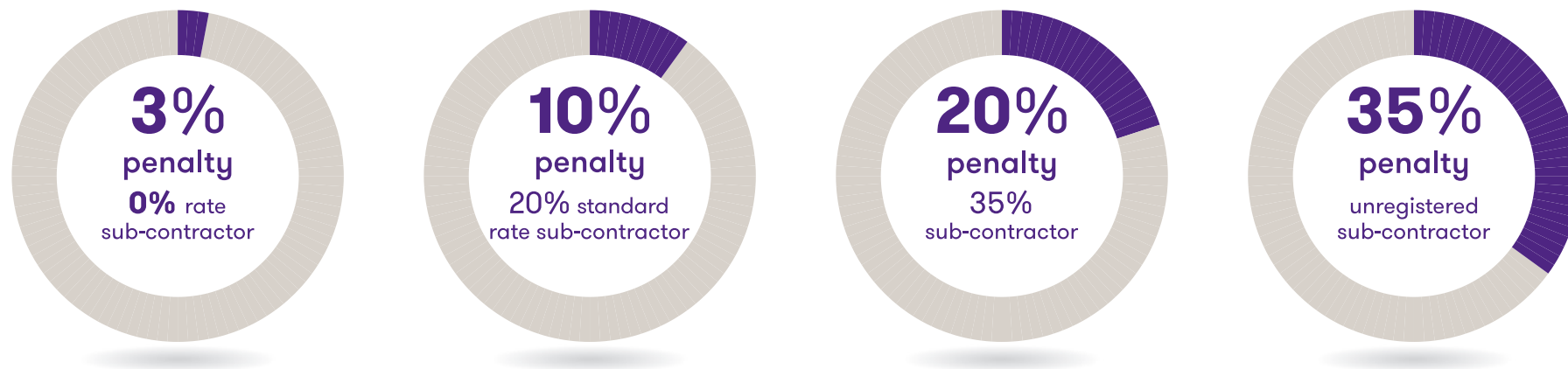


Scheme of Penalties for failure to operate RCT correctly

Severe penalties exist for principals who fail to operate RCT on payments to sub-contractors.

The most common mistake is making a payment to a sub-contractor without completing a Payment Notification.

The penalties are evidence that the consequences for non-compliance are penal:



As can be seen, non-compliance in the area of RCT can potentially be extremely costly for those in default, especially as the penalties arise from purely administrative errors. The general consensus among tax professionals is that the penalties are unduly harsh in some circumstances. Albeit there are circumstances that penalties for non-operation or incorrect operation of the RCT system may be reduced (for example the general compliance of the principal and co-operation of the principal), in practice the reduction of penalties is the exception as opposed to the norm.

The Revenue have indicated that there is no “one size fits all” formula to be applied in determining an appropriate level of mitigation by virtue of the discretionary powers of mitigation provided for in section 1065 TCA 1997. Each case will need to be reviewed taking all of the risks and factors into account on a case by case basis. However, where there is a complete and deliberate failure to operate RCT, the Revenue have emphasised that mitigation would not be appropriate.

Interaction between RCT and VAT

Another pitfall for principals may be the incorrect operation of VAT on projects falling within the scope of RCT.

Construction services which are subject to RCT are subject to VAT on a reverse charge basis. As a result, the invoice raised by the sub-contractor to the principal should not include VAT on the services provided. Whilst the invoice should present all the information which also appears on a VAT invoice, the document should also include the VAT registration number of the principal and the narrative:

“ VAT on this supply to be accounted for by the Principal Contractor. ”

As such, when the principal pays the sub-contractor for the services, this payment should not include VAT. If RCT is to be deducted it should be calculated on the VAT-exclusive amount.

In addition, the principal should ensure the transaction is correctly reflected in the VAT3 as follows:

- VAT on services received from the sub-contractor should be recorded as VAT on Sales (Box T1).
- Where entitled to do so, the principal can claim a simultaneous input credit which should be recorded as VAT on Purchases (Box T2).

Conclusion

In conclusion, a number of points are noteworthy for principals.

- There are severe consequences for non-operation of RCT, with potential penalties of up to 35%. As such, a strong understanding of the RCT regime is necessary and each principal should ensure appropriate procedures are in place to ensure the correct operation of the regime.
- There are no “special rules” for non-resident principals who unknowingly find themselves within the RCT regime. If a non-resident principal subsequently discovers that a project was within the RCT regime, they are relying on the leniency of the Revenue to reduce or waive penalties (which is rare).
- Even in circumstances where a payment for similar work was notified to the Revenue in the past, a separate Payment Notification must nonetheless be submitted to the Revenue for every payment to be made to a sub-contractor. It is critical that this aspect of the regime is adhered to because the principal must wait until the Deduction Authorisation has issued.

The Authorisation clearly shows the applicable RCT deduction rate and the amount of RCT to be deducted.

Contact a member of our RCT team to obtain a copy of our RCT Checklist so you can check if you or your business are up to date with your obligations as a principal contractor.



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