



Construction Industry

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CONSTRUCTION INDUSTRY

Introduction

While Revenue has always maintained a significant amount of compliance activity in the construction sector, in November 2005 the Chairman of the Revenue Commissioners, Frank Daly, announced that Revenue were going to escalate that activity in 2006 by committing 25% of the audit and compliance resources to a national project to monitor the sector. This pull out section of Tax Briefing is dedicated to taxation issues arising in the Construction industry, gives highlights of the Revenue plans, clarifies the procedures for the correct operation of Relevant Contracts Tax (RCT), explains the new legislative changes introduced in Finance Act, 2006 and gives details of the various customer service initiatives supporting the sector.

There is no doubt about the importance of the Construction Industry in terms of the National Economy. It is very sizeable, accounting for €30bn or nearly a quarter of the Gross National Product in 2004. The net contribution to the Exchequer by way of Taxes and Levies is about €10 billion per annum.

The latest Construction industry indicators prepared for the **Department of the Environment, Heritage and Local Government** in April 2006 show:

- For the first time, employment in the Building and Construction sector exceeded 250,000 in Quarter 4 2005. The sector now accounts for almost 13% of total employment.
- Average weekly earnings grew by 8% in the sector in 2005
- Overall fixed investment in the Industry was up by 13.1% in 2005.
- While the number of dwellings granted planning permission in 2005 was down 2.3%, it predicts the level of housing output will be c. 83,000 in 2006.
- The level of housing completions in the 12 months to February 2006 represents a building rate of almost 20 dwellings for every 1,000 persons. The Western European average is 3 dwellings per 1,000.
- Housing loans paid out in Quarter 3 of 2005 reached a high of almost €5.5bn, with the number of loans issued also at a high of 27,011.
- Private housing rents increased by 3.9% in the year to February 2006.

Why has Revenue decided to launch a national project for the sector?

Revenue has always maintained a significant presence in monitoring activities in the construction sector.

Dealing with the sector on a national basis and co-ordinating the reporting compliance activities will illustrate the extent of this monitoring activity and help dispel any impression that may have been formed that we were, in some way, neglecting the sector.

Many developers, contractors and operators in the sector operate on a national basis, if not on an international basis. In the past most operators in the sector were confined to an area within a radius of their home or centre of activities. This is no longer the case. The workforce is now highly mobile and this mobility has caused problems in ensuring that all of the activities of an operator in the sector are properly compliant from a Revenue perspective.

There are a significant number of non-nationals now engaged in the sector including many from the Accession States. This is a relatively new development and has raised particular customer service and compliance issues from a Revenue perspective. These issues are common to each of the Revenue geographic regions and thus a national approach appears the best approach.

All Revenue activities in the construction industry will be within the parameters set down in the Audit Code of Practice. However it is important to note that Revenue will not be issuing letters offering a period of unprompted self-review for those in the sector. In advance of a Revenue intervention, taxpayers are advised to make unprompted disclosures of under declarations to Revenue immediately to avail of significantly reduced sanctions. Alternatively, taxpayers are reminded that they may still avail of the voluntary disclosure option prior to the commencement of a Revenue audit but should be advised that the sanctions are significantly greater.

During March 2006, Revenue and the Institute of Taxation participated in Open Forums held in Cork, Kilkenny, Athlone and Dublin. The Forums offered Revenue an opportunity to clarify the scope and purpose of the Construction Industry Project and gave practitioners an opportunity to raise and clarify matters of concern/interest to them. At these

Forums, senior Revenue officials from the local Revenue regions made presentations of the main features of the Construction Industry Project and its

application to their region. These presentations were followed by open questions and answers sessions. Over 1,000 agents, accountants and tax advisors attended the sessions at the 4 venues, which highlighted the level of interest in the project.

What are the highlights of the national project?

In addition to the 25% resource commitment, the key points of the 2006 project, in no particular order include:

1. The establishment of a national RCT monitoring group. This is made up of staff from each of the 4 Revenue Regions who are operating on a full time basis monitoring suspect cases and sharing and disseminating intelligence.
2. Until May 2006, non-resident contractors had their tax affairs dealt with in the Revenue Districts based on where the site they are working from was located. As non-resident contractors move from site to site this led to customer service, administrative and management issues. Having the registration of non-residents managed in a central location will ease these problems. The compliance control for all non-resident contractors has been centralised in a single location. This unit is based in the Dublin City Centre District. So, no matter where the building work is located, the compliance associated with a non-resident contractor will be managed from Dublin City Centre. Dublin City Centre may of course use local staff to assist in any interventions considered necessary.
3. There is a concentration on improving returns compliance for RCT 35's (annual return) and RCT 30's (monthly return). Specific compliance campaigns are being run for these, making greater use of Revenue's enhanced IT capability to improve the effectiveness in managing non compliance for returns and payments.
4. There is a global focus on the construction industry. It is not just about RCT but also includes the ancillary activities associated with the industry. This includes construction, project management, architects, property developers, infrastructure projects, supply chain of goods and services, civil engineering etc.
5. The taxes covered are any taxes or duties associated with the sector, fiduciary taxes and direct taxes. In terms of audit activity one can expect RCT and VAT to be combined in many of the audits. All audits will take place under the terms of the Code of Practice and audit letters will be issued.
6. There are a number of changes in the Finance Act, 2006 in relation to the legislation governing the administration of Relevant Contracts Tax (RCT) aimed at tightening control and discouraging fraud. These are described in further detail on page 30.
7. More site visits are being carried out by Revenue staff and some of these are in conjunction with other State agencies or Government Departments and Regulatory bodies where it is considered appropriate. Specific attention is being placed on ensuring the correct classification of all workers on the site as either self employed subcontractors or employees (See section on Form RCT 1 on page 16). Visits will include unannounced visits, visits where uniformed Revenue staff will be used in the course of the visits, simultaneous site visits on specifically selected active sites and "high visibility" visits which will include visits to large sites by cross District teams to carry out multiple enquiries - Principals, C2 holders, employees' PPSNs, fuel testing etc.
8. Revenue is monitoring all new C2 holders within 6 months of getting the C2 certificate. Initially each new case will be reviewed from the tax office records. If further action is required, a visit may be necessary which will usually take the form of a 1 to 2 hour assurance check. The books and records being kept will be looked at, to ensure that they meet Revenue requirements. The operation of RCT/VAT/PAYE will be looked at including the RCT 1 and RCTDC procedure if appropriate. The treatment of expenses and country money will also be examined. Any non-compliance issue will be followed up. The assurance check of itself is not an audit. The checks mentioned above are not exhaustive and will vary depending on the information already available to Revenue. In some cases, a visit may not be necessary.
9. Suitable cases are being identified for investigation with a view to prosecution particularly cases involving the use of false documentation.

10. From a customer service perspective, the RCT material on the Revenue website is being updated and certain items will be displayed in a number of different languages to reflect the changing composition of the workforce involved in construction e.g. Form RCT 1 and Form TR1. New folders have been placed on the website specifically for the construction project to improve access to up to date information.
11. Every effort is being made to improve the turn around time for issuing C2 certificates and Forms RCT 47 where all the relevant documentation and conditions have been complied with.
12. Technological advances continue to support all our activities, including better identification of cases posing a risk and cross checking of all data submitted to Revenue.

Site visits are usually unannounced. The Revenue team of officers will present themselves to the person in charge, produce their identification and outline the purpose of the visit. Some may be in uniform. The number of officers on site visits will vary having regard to the size of the operation, the need to keep disruption to a minimum and the number of other Government agencies involved.

What happens on a Site Visit?

All Revenue officers visiting sites will meet the Safepass requirements. Officers will carry their Revenue identification and authorisations, together with their Safepass cards.

The visit will include a check to ensure that all RCT obligations are being complied with including the correct classification of all workers on the site as either self employed subcontractors or employees. Sight of the books and records may be requested. Other tax obligations e.g. VAT registration, employers PAYE/PRSI, fuel testing etc. may also be reviewed.

*As no formal audit letter will have issued, the normal unprompted disclosure provisions in the **Audit Code of Practice** will apply.*

Need to Register for all appropriate Taxes

As part of Revenue's site visits, audits and assurance checks, officers will seek to ensure that all contractors are registered for the appropriate taxes. It is important that contractors register for the appropriate taxes in time to avoid running up arrears and possible interest and penalty charges. Enquiries have already shown that many taxpayers have not



made timely registrations for VAT. Given the current growth in the construction sector, it is unlikely that any full-time contractor will have a turnover less than the VAT thresholds and checking VAT registrations will feature strongly in Revenue enquiries. Where it is found that a contractor should have been registered for VAT, the VAT registration may be backdated and interest and penalties may also be charged.

As stated above, Revenue will also be looking at the status of contractors on site visits etc. If it is found that employees are being engaged rather than self employed contractors, the Principal may be obliged to register for PAYE/PRSI and this registration may be backdated leading to the imposition of penalties and interest. Revenue will also be looking closely at Principals and Subcontractors who employ workers engaged in the hidden economy. Back dated registration, interest and penalties will be applied in such cases.

Information Technology Improvements to Identify Risk & Pursue Non Compliance

Revenue will be increasing its use of Information Technology to identify areas of risk in the construction sector and this will feed into the audit, site visit and assurance check programmes.

- ▼ Automated collection and compliance procedures, including the raising of estimates and automatic issue of demands, are already in place. RCTDC and RCT 46/46A details are entered into systems giving a good real time overview of RCT operations at Principal or Subcontractor level. RCTDCs' activities are tracked by Principal and Subcontractor.
- ▼ The listings with the RCT 35 returns for 2005 are being data captured which, when fed into the systems, will enable Revenue to match the data contained on those returns with the data already captured from Forms RCTDC and RCT 46s. This will greatly enhance the ability to identify, target and focus in on areas/cases that may pose a risk to Revenue. To ensure that we can make the best use of this data Revenue will be looking at how the RCT 35/35L is being completed and, where there are omissions or inaccuracies, will be insisting on properly completed forms showing all relevant data, in future.
- ▼ Revenue's new risk analysis tools will set the risk in the construction sector in the context of risks from all sectors of the economy, and allow Revenue, where necessary, to look at specific areas of the construction sector itself.
- ▼ Revenue commenced the RCT 35 2005 compliance campaign in early July. A copy of the text of these letters can be found on the construction project webpage on the Revenue website at www.revenue.ie. A feature of this year's program is that the initial letter will issue centrally, but local offices will have access to more up to date filing information together with compliance information on earlier years. This will lead to a more focussed approach to our RCT 35 compliance campaign. Persistent non-filers will be identified and pursued. Any outstanding RCT 35s should be filed as soon as possible.

- ▼ In the past where the amount shown as deducted on the RCT 35 did not match the amounts declared and remitted on the monthly RCT 30s for the year, Revenue only pursued cases where there was a perceived under-deduction of tax. In a development to be released in July, Principals will be contacted where there is an apparent overpayment of tax and will be asked to verify the information provided and correct any of the monthly returns (RCT 30s) if necessary.

Where to find information on Construction for Practitioner and Clients?

1. www.revenue.ie

Revenue has set up dedicated web pages relating to the Construction Industry Project in 2006. There are many articles/items already on these pages that will be of use to agents/advisors and their clients. In particular, registration and RCT forms will be posted there.

At present the following articles/information are available:

- An introduction to the Construction Industry Project
- Questions from the Open Forums with practitioners held in March 2006
- An explanation of the criteria for paying "country money" which includes the current agreed rates and the rates for earlier years
- The Code of Practice for determining Employment or Self -Employment status of individuals
- An explanation of the main forms used by Principals and Subcontractors and, where available, links to downloadable versions of these forms
- Issues for Principal Contractors
- Links to previous *Tax Briefing* articles on the Construction Industry
- Notes for non-resident contractors in the construction industry
- Leaflet on RCT 47 contract limit issued to Principals
- Text of RCT 35 non-compliance letters to agents and taxpayers

These pages will be updated regularly as the project progresses.

It is planned to put up a number of other items shortly including:

- ▼ Foreign language versions of Forms RCT 1 and TRI
- ▼ An "Issues for Subcontractors" article
- ▼ More questions from the Open Forums and
- ▼ Copy of the letter that will issue when the RCT 35 declaration is less than the amount paid on the RCT 30's

Agents and their clients are advised to access these web pages regularly to see the latest updates.

2. Construction Industry Federation

Revenue has had a number of meetings with the Construction Industry Federation to discuss their concerns/issues within the sector. Revenue is running a series of articles in their magazine "**Construction**" to highlight the key issues identified under the project.

3. Revenue On Line Service (ROS) Customer Information Service for RCT

The ROS Customer Information Service allows customers to view details of their Revenue account on line instantly. Customers can check their account for details of:

- ▼ Returns filed and outstanding
- ▼ Payments made
- ▼ Refunds and Repayments
- ▼ Details of tax outstanding
- ▼ The Event List which shows recent activity
- ▼ Registration details
- ▼ Items submitted via ROS

Customers can also order a Statement of Account for any of their tax registrations. The Statement of Account will be delivered to the customers ROS Inbox in 2-3 days.

Why spend time ringing/writing to Revenue for this information and then waiting for it to arrive in the post? View your clients' information in real time.

In 2005 there were over 4.2 million enquiries to our Customer Information Service. Have your clients registered for ROS?



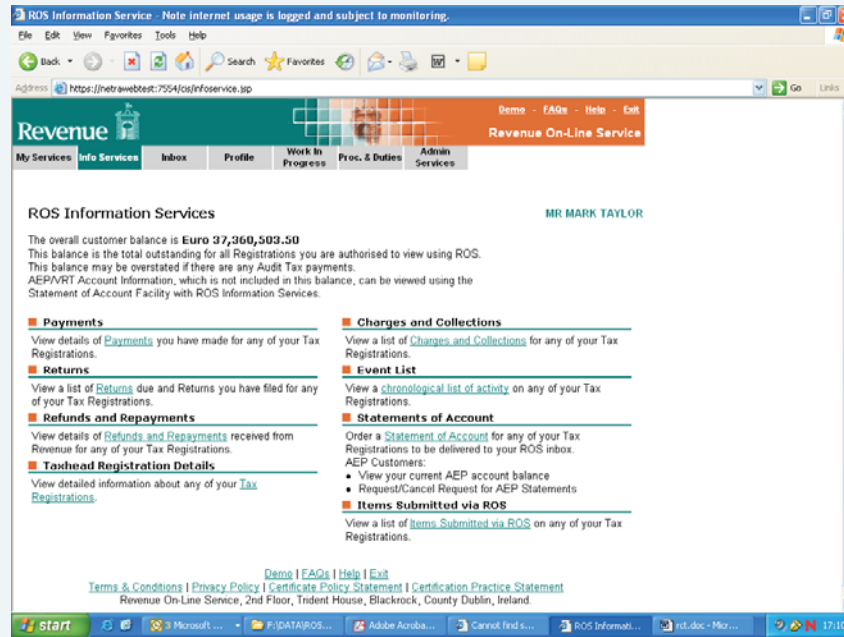
Relevant Contract Tax (RCT) on ROS

Customers can file monthly (RCT30) returns and payments on-line through the ROS service. Payments can be made by ROS Debit Instruction (RDI) or Laser Card.

The RCT 35 annual return is available in both on-line and offline versions and like all other ROS returns, it is user friendly, intuitive to complete and contains the necessary validations to assist the filer in their task. There is no payment option available with this return. However, if when completing the annual return it is discovered that a payment is due for any month, an additional payment can be made on-line by selecting the appropriate month and completing the relevant RCT 30 payment with the amount due.

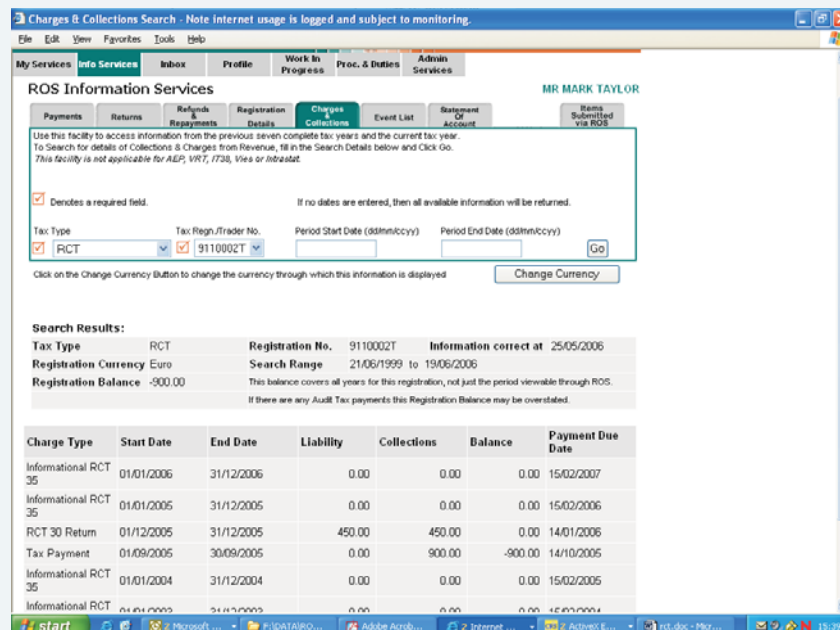
When the RCT35 return is filed on ROS, customers and their agents can then view Subcontractors' details, including payments made and tax deducted. Similar details from the Form P35 are also very relevant. In view of the focus on the sector and the increased use of information technology to "number crunch" the data submitted to Revenue, electronic access to the detailed returns made by clients is recommended. If both client and tax agent are registered for the on-line service both parties are fully aware of the "real time" compliance situation should Revenue decide to pay a visit.

A sample of the ROS Information Service screens are displayed below.
Please note that the case displayed is a dummy case for illustration purposes only.



Customers can view information for the previous 7 complete years and the current tax year. Customers can search particular periods or view all available information.

Charges and Collections



Please note that the case displayed is a dummy case for illustration purposes only.

Operation of RCT from a Construction Perspective

Legislation

Legislation governing the operation of RCT is contained in *Sections 530 and 531 TCA 1997* and *Income Tax (Relevant Contracts) Regulations 2000*. Legislation governing penalties and Revenue offences is contained in *Section 1078 TCA 1997*. *Section 531* and the regulations are listed in Columns 1 and 3 of *Schedule 29 TCA 1997*, which brings them within *Sections 1052, 1053 and 1054 TCA 1997* which also govern penalties and Revenue offences.

Registration as a Principal

Section 531(6)(ba) Regulation 7A to 7F

All principal contractors are obliged to register with Revenue. Only registered Principals will be issued with Forms RCTDC, payments cards (Forms RCT 47), monthly returns (Form RCT 30) or annual returns (Form RCT 35). This requirement was covered in ***Tax Briefing 58*** - December 2004.

If you are a Principal contractor and have not been receiving the standard forms you should register using Form P33 available on the Revenue website at the following link: www.revenue.ie/forms/p33.pdf

Finance Act 2006 puts beyond doubt the position of non-resident contractors where the relevant operations are carried out in the State; (see section on the 2006 changes on page 30). Non-resident Principal contractors are also obliged to register with Revenue.

A Principal who fails to register with Revenue and makes payments without deduction of tax, may become liable for the tax that should have been deducted. Penalties may also be applied for the non-operation of RCT.

Forms RCT 30: Every Principal must complete a declaration for each month and remit any RCT deducted in that month to the Collector-General. The Form RCT 30 must be completed even if no tax was deducted in the month.

Form RCT 35: Every Principal must complete an annual declaration. The Form RCT 35 should also be used to list all details of every Subcontractor engaged during the year, whether or not tax was deducted.

Relevant Contract between Principal & Subcontractor - Form RCT 1

Section 531(6)(b) TCA 1997 and Regulations 3 and 20(4) Income Tax (Relevant Contracts) Regulations 2000. Section 1052(1) and 1072 TCA 1997

Form RCT 1 is a declaration that is completed jointly by a Principal Contractor and a Subcontractor who are about to enter into a relevant contract even where the Subcontractor is a C2 holder. It declares that both parties to the contract have examined the criteria for determining if a contractor is self employed or an employee and that they are satisfied that the contract is **not** a contract of employment. If it is a contract of employment, PAYE/PRSI applies. If it is not a contract of employment, a declaration to that effect must be jointly signed. This declaration is the Form RCT 1. (The criteria are printed on the back of the Form RCT 1). The Form RCT 1 can be viewed at www.revenue.ie/forms/rct1.pdf

The Principal contractor must retain these forms for a period of 6 years after the end of the period to which they refer. In examining the Forms RCT 1 Revenue will look at the criteria in determining whether or not the contractor has been correctly classified as a self-employed contractor. For more information on determining the correct status go to the website at www.revenue.ie/leaflets/revdsw.pdf

Form RCT 1 should be completed for every contract, even where the subcontractor holds a C2. Where the contract is with a "gang" of persons, a separate RCT 1 must be completed for each member of the gang. As a concession, where there is a continuing contractual relationship (rolling contract) a single RCT 1, completed annually will suffice. Further details on the concession are contained in ***Tax Briefing 26***, April 1997. Penalties apply where the forms have not been completed, have been completed incorrectly or where they have not been retained.

Revenue staff will examine Forms RCT 1 as part of their site visits and audits to ensure that the proper procedures are being followed, in particular, that the Subcontractor is not an employee and that both Principal and Subcontractors have jointly signed the Forms. The legislation provides for penalties on the Principal and Subcontractor where the RCT 1 is not completed and on the Principal Contractor where the form is not retained.

Application by Subcontractor for a Certificate of Authorisation-C2

Section 531(6)(a), Section 531(11), Section 531(11A), Section 531(14), Section 531(17) TCA 1997 and Regulations 8, 9 and 10 Income Tax (Relevant Contracts) Regulations 2000.

A Certificate of Authorisation, C2 is a very valuable document in that it allows the principal to apply to Revenue for a payments card for the Subcontractor entitling payments to be made to the Subcontractor gross. (It is important to note however, that the **C2 itself does not entitle the holder to be paid gross**. The principal must hold a relevant payments card (Form RCT47) issued by Revenue before payments can be made gross).

Only those Subcontractors who meet various statutory conditions are issued with a C2.

Applicants and their agents should be aware of these conditions which are set out in *Section 531(11) & (11A) TCA 1997*.

The main areas that cause difficulty in processing applications are:

(i) **Be or about to become a Subcontractor**

Where the applicant has just commenced trading, Revenue will look for a copy of the contract. The contract will be checked to ensure that the Principal contractor is a bona fide contractor. Other information in the contract will be examined to ensure that it is not a contract of employment and to determine the nature, value and duration of the contract.

Where there is no written contract, the Principal contractor should provide a letter showing the terms of the contract. Such a letter should be on headed notepaper and include the Principal's tax reference number. Where no written contract or letter can be provided, cases will be examined on their merit.

The onus is on the applicant to satisfy Revenue that they are about to become a Subcontractor under a relevant contract and the level of examination will vary from case to case.

Where a Subcontractor has been trading as an uncertified Subcontractor for some time, they are still required to submit the contract in respect of their latest contract.

Where the award of the contract is conditional on the Subcontractor having a C2, the conditional contract or letter should be submitted.

Provision of a copy of a contract will speed up the application process.

(ii) **The applicant has the ability to carry out the contract**

The legislation specifies that the applicant's business must be carried on from a fixed place of business in a permanent building, with such equipment stock and other facilities as in the opinion of the Revenue Commissioners are required for the purposes of the business. Revenue will look at the detail in the contract relating to the nature, value and duration of the contract to determine what stock, equipment etc. are needed to fulfil the contract. Other factors such as the need for the Subcontractor to engage other Subcontractors or employees will be looked at. Evidence that the business is carried on from a fixed place of business, together with details of any leasing agreements, may also be required.



Principal Contractor Checklist

| | |
|---|---|
| ✓ | If you have become a Principal for the first time, have you registered as a Principal with Revenue? |
| ✓ | Have you registered for all appropriate taxes, such as Income Tax, Corporation Tax, Value Added Tax or Employer's PAYE/PRSI? |
| ✓ | Before taking on a Subcontractor, have you consulted the guidelines on the back of the RCT 1 and correctly determined the status of the contractor as an employee or self-employed contractor? |
| ✓ | If the contractor is not an employee, have you completed the Form RCT 1 jointly with the Subcontractor? |
| ✓ | If the contractor is a C2 holder, have you: <ul style="list-style-type: none"> ■ Checked the C2 card ■ Completed a Form RCT 46 jointly with the Subcontractor ■ Been issued with a valid payments card (RCT 47) ■ Checked the monetary limit on the Card? |
| ✓ | Have you got a valid payments card (RCT 47) for all Subcontractors you are making gross payments to? |
| ✓ | Have you issued a Form RCTDC for each Subcontractor where tax was deducted? |
| ✓ | Are you operating PAYE/PRSI on all payments made to your employees, excluding the approved agreements on "Country Money"? |
| ✓ | Are you operating the approved "Country Money" scheme correctly? |
| ✓ | Are you making your monthly return (RCT 30) on time and remitting any tax deducted to the Collector General? |
| ✓ | Have you returned your Form RCT 35 for 2005? |

Subcontractor's Checklist

| | |
|---|---|
| ✓ | Have you registered for all appropriate taxes, such as Income Tax, Corporation Tax, Value Added Tax or Employer's PAYE/PRSI? |
| ✓ | Before entering into a contract with a Principal, have you consulted the guidelines on the back of the RCT 1 and correctly determined your status as an employee or self-employed contractor? |
| ✓ | If you are not an employee, have you completed the Form RCT 1 jointly with the Principal contractor? |
| | |
| ✓ | If you are an "uncertified Subcontractor" have you received a Form RCTDC for each payment received? |
| ✓ | If you are an "uncertified Subcontractor", are you including the gross payment in your computations for Income Tax/Corporation Tax? |
| ✓ | If you are an "uncertified Subcontractor" have you submitted your Forms RCTDC to Revenue within the time limit? |
| ✓ | If you are an "uncertified non-resident Subcontractor" have you completed and submitted Form IC 1/IC 3 and the relevant questionnaire? |
| ✓ | If you are applying for a C2 have you completed Form RCT 5 and supplied all relevant documentation in good time? In particular, are your tax affairs up to date? |
| ✓ | If you are applying for a C2 have you provided a photograph and signature in the required format? |
| ✓ | If you are applying for a C2 and propose to use the nominated bank account procedure, have you provided Revenue with documentary evidence of the nominated bank account? |
| | |
| ✓ | As a C2 holder, have you completed the Form RCT 1 procedure before the contract commences? |
| ✓ | As a C2 holder who is not an employee, have you completed the Form RCT 46 in good time before the first payment is due? |
| ✓ | As a C2 holder, have you kept your tax affairs up to date? |
| | |
| ✓ | As an employer are you operating PAYE/PRSI on all payments made to your employees, excluding the approved agreements on "Country Money"? |
| ✓ | As an employer are you operating the approved "Country Money" scheme correctly? |

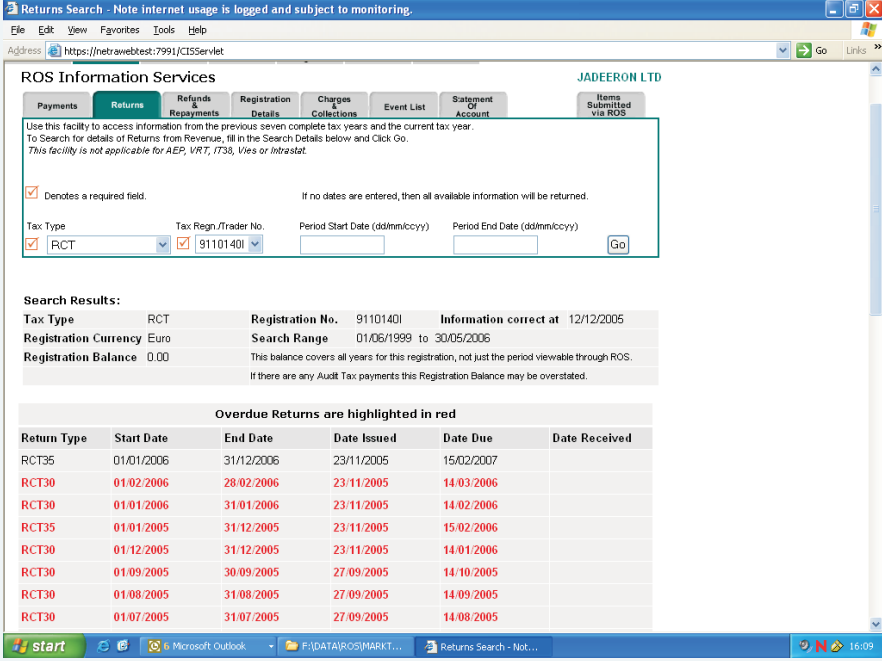
(iii) Tax Compliance of applicant and connected persons

The applicant and connected persons and entities as defined in the legislation must have kept their tax affairs, (specifically in relation to the payment of taxes, the delivery of returns and the provision of information) up to date **throughout** the qualifying period. The qualifying period is the 3 previous income tax years and the period in the current year from 1st January to the date of application. Note that the applicant and connected persons must have complied with all of their obligations throughout the qualifying period. It is not sufficient to be fully tax compliant at the time of application, although some discretion may be applied by Revenue.

Agents, or customers, who are registered for Revenue's On Line Service (ROS), can check their current compliance position using the Customer Information Service (see ROS Information Screen below). At a minimum, applicants should ensure that all of their current obligations are being met, and should offer an explanation where there have been instances of non-compliance during the qualifying period.

Returns Due - Overdue returns are shown in red

Please note that the case displayed is a dummy case for illustration purposes only.



ROS Information Services

Use this facility to access information from the previous seven complete tax years and the current tax year. To Search for details of Returns from Revenue, fill in the Search Details below and Click Go. This facility is not applicable for AEP, VRT, IT38, Vies or IntraStat.

Denotes a required field. If no dates are entered, then all available information will be returned.

Tax Type: RCT Tax Regn./Trader No.: 9110140I Period Start Date (dd/mm/yyyy): Period End Date (dd/mm/yyyy):

Search Results:

| | | | | | |
|-----------------------|------|---|--------------------------|------------------------|------------|
| Tax Type | RCT | Registration No. | 9110140I | Information correct at | 12/12/2005 |
| Registration Currency | Euro | Search Range | 01/06/1999 to 30/05/2006 | | |
| Registration Balance | 0.00 | This balance covers all years for this registration, not just the period viewable through ROS. If there are any Audit Tax payments this Registration Balance may be overstated. | | | |

Overdue Returns are highlighted in red

| Return Type | Start Date | End Date | Date Issued | Date Due | Date Received |
|-------------|------------|------------|-------------|------------|---------------|
| RCT35 | 01/01/2006 | 31/12/2006 | 23/11/2005 | 15/02/2007 | |
| RCT30 | 01/02/2006 | 28/02/2006 | 23/11/2005 | 14/03/2006 | |
| RCT30 | 01/01/2006 | 31/01/2006 | 23/11/2005 | 14/02/2006 | |
| RCT35 | 01/01/2005 | 31/12/2005 | 23/11/2005 | 15/02/2006 | |
| RCT30 | 01/12/2005 | 31/12/2005 | 23/11/2005 | 14/01/2006 | |
| RCT30 | 01/09/2005 | 30/09/2005 | 27/09/2005 | 14/10/2005 | |
| RCT30 | 01/08/2005 | 31/08/2005 | 27/09/2005 | 14/09/2005 | |
| RCT30 | 01/07/2005 | 31/07/2005 | 27/09/2005 | 14/08/2005 | |

Where an applicant has been resident outside of the State at some time during the qualifying period, they must have complied with all of the comparable obligations imposed by the laws of the country in which they were resident.

The Finance Act 2006 imposed additional requirements for C2 applicants to satisfy (see separate section on the Finance Act 2006 changes on page 30). The first of these extends the existing requirement that there be good reason to expect the applicant to keep proper books and records in future, to a similar expectation in relation to the future payment of taxes, delivery of returns and provision of information. The second measure makes provision for withholding the issue of a C2 where the applicant is carrying on, or is about to carry on, relevant operations which were previously carried on, or are being carried on, by a connected person (as defined) unless the connected person is compliant in relation to the keeping of business records, payment of taxes, delivery of returns and the provision of any information requested.

Given the extent of the checks that need to be carried out, applications should be submitted as early as possible. As much documentary evidence as possible in support of an application should also be submitted. The photocard (PC5) should have the photograph attached and the signature of the Subcontractor/nominated user in the correct places. Every effort is made to process applications as soon as possible, but there will be instances when further contact with the agent or taxpayer is necessary. As a security measure, the C2 contains a digitally engraved image of the photograph and signature and these take time to be produced.

Revenue will carry out checks after a C2 has been granted to ensure that the C2 holder is continuing to meet their obligations with a specific focus on new C2 holders.

Gross Payments to Subcontractors - Forms RCT 46/46A and RCT 47 (payments card) procedures

Section 531(1): obligation to deduct tax
Section 531(6)(c): obligation to record payments on payments cards
Section 531(12): application for a payments card, operation of nominated bank account, application where contract is ongoing at the end of the year.
Section 1078(2)(ii): an offence not to deduct tax required to be deducted.
Regulation 5: Principal liable where deduction that should have been made is not made.
Regulation 18: application for a payments card
Regulation 20: keeping of records and returns.

The payments card procedures are central to the correct operation of RCT for C2 holders. A C2 does not authorise the Principal to make gross payments

to the Subcontractor. The Principal contractor must hold a valid payments card RCT 47 before making any gross payments. If payments are made gross before the card is received, the Principal is liable to pay to Revenue the tax that should have been deducted.

Where Revenue notify a Principal that an RCT 47 has been withdrawn, any payments made after that date must be subjected to tax and the RCT 47 returned to Revenue. Otherwise the Principal is liable to pay to Revenue the tax that should have been deducted.

The Finance Act 2006 puts on a statutory footing a previously administrative procedure, i.e., the value limit on the relevant payments cards (RCT 47). (See separate section on the 2006 changes on page 30 and also the notice that is issuing to Principals with the Form RCT 30 on page 27). Where an RCT 47 contains a limit, any payments made in excess of that amount should be subjected to tax. Again, the Principal is liable to pay to Revenue any tax that should have been deducted.

A Principal who does not deduct the correct amount of tax is open to the imposition of penalties, interest and possible prosecution.

Checks before paying Gross:

A C2 should normally be presented in person to the Principal Contractor. Where a Principal engages a Subcontractor who holds a C2 card, a Form RCT 46 must be completed, signed by both and submitted to Revenue by the Principal. The following steps should be followed by the Principal before making any gross payments:

1. Examine the original C2 (certificate of authorisation), a photocopy will not suffice;
2. Check that the C2 bears the photograph of the person presenting it;
3. Check that the signature on the RCT 46 matches that on the C2;
4. Check that the Subcontractor's name on the RCT 46 is the same as that on the C2;
5. Check that the C2 is still in date;
6. If the C2 is in order, apply immediately to the local Revenue District on Form RCT 46 www.revenue.ie/forms/rct46_06.pdf for a relevant payments card for the Subcontractor. Form RCT 46 must be signed by both Principal and Subcontractor;

7. Return the C2 to the Subcontractor; and
8. Wait until the relevant payments card is issued from Revenue before making the payment. Every effort is made to issue payment cards as quickly as possible but there can be delays in issuing them as applications are subjected to Revenue's internal validation procedures. It is important, therefore, that the Form RCT 46 is completed and submitted when the contract is awarded or, well in advance of the date the first payment is due to be paid.

It should be noted that a payments card may not issue at all in non-compliant cases and tax must be deducted in these cases.

It is in the interest of the Principal contractor to ensure that the C2 details (photograph, signature etc.) are carefully checked as C2 abuse cases are liable for prosecution.

As an alternative to the above steps 1-8, a Subcontractor may nominate a bank account into which all payments made by the Principal Contractor should be lodged.

If this is the case, the Subcontractor need not present the C2 in person. Instead it will suffice to give the Principal Contractor details of the card number and the nominated bank account. (The Subcontractor should have advised Revenue of the bank account in advance.) The Principal should enter the details on the Form RCT 46 and then undertakes to make the payments due to the Subcontractor into that account only. However, the Principal still needs to have the payments card before making any gross payment.

Subcontractors should note that C2 holders are now subject to regular compliance checks and those falling into arrears run the risk of having their RCT 47 payments cards delayed, or in serious cases, having their C2 card withdrawn. It is important, then, that Subcontractors keep their tax affairs in order and up to date.

Where a contract is ongoing at the end of a year and the Principal already holds a payments card for the Subcontractor for that year, the Principal can apply to Revenue for a card for the following year by quoting the details of the Subcontractors valid C2. Form 46A is used for this purpose. Again, a Principal must deduct tax in the following year if a valid payments card has not been received for that year.

When the payment card arrives, payment can be made gross to the Subcontractor named on the card

while the card is valid (usually until the end of the year or until Revenue withdraw the card if before then), or, if applicable, until the limit shown on the card is reached. Details of each payment made should be recorded on the card at the date of payment.

Bulk request for Payments Cards:

Where contracts are ongoing at the end of a year, the Principal Contractor can apply for relevant payments cards in bulk by listing the names of the Subcontractors on a Form RCT 46A, www.revenue.ie/forms/rct46a_06.pdf without seeing the actual C2 card. However, only those contractors whose contracts are ongoing at the end of the year should be listed, and, as already stated, payments should not be made gross in the new year until the card has actually been received.

Auditors will be looking at the RCT 46/RCT 47 procedure in detail.

Notice to Principal Contractors

Section 44 of the Finance Act 2006 introduced a provision giving the Revenue Commissioners a statutory basis for imposing a limit on the amount of the payments that a Principal contractor may make, without deduction of tax, on relevant payments cards (**RCT47**) to certain subcontractors.

Where a specified limit has been applied by them for a year of assessment in relation to a relevant payments card (**RCT47**), the Revenue Commissioners, at the request of the Subcontractor named on the card, shall, as may be appropriate, amend the limit by reducing it, or if they consider it appropriate to do so in the circumstances, increasing or removing it. In such circumstances, an amended relevant payments card (**RCT47**) will be issued to the Principal contractor. Written notification of the specified limit will also be issued to the Subcontractor.

Where in the year of assessment, the total of the payments made by a Principal to a Subcontractor exceeds the specified limit, if any, imposed on the relevant payments card (**RCT47**) or the amended relevant payments card (**RCT47**), issued in respect of that subcontractor, the Principal contractor must deduct tax at 35% from such excess and pay it to the Collector-General.

Any person aggrieved by the imposition by the Revenue Commissioners, of a specified limit in relation to a relevant payments card/amended relevant payments card (**RCT47**), may appeal against the imposition of such a limit, to the Appeal Commissioners, by giving notice in writing to the Revenue Commissioners within 30 days of the issue of the relevant payments card (**RCT47**) concerned. However, the limit shall remain in place pending the decision of the Appeal Commissioners.

C2 Holding Subcontractors

Please note that you must be in possession of the appropriate Relevant Payments Card (**RCT47**), for any Subcontractor who presents a Current C2 Card, before making any payments to him without deduction of tax.

Payments to Subcontractors under deduction of Tax - RCTDC Procedures

Sections 531(1), (3), (3A), (4), (5), and (6) TCA 1997, Regulations 6, 16, and 17 Income Tax (Relevant Contracts) Regulations 2000, Section 1006A TCA 1997 Taxes (Offset of Repayments) Regulations 2001.

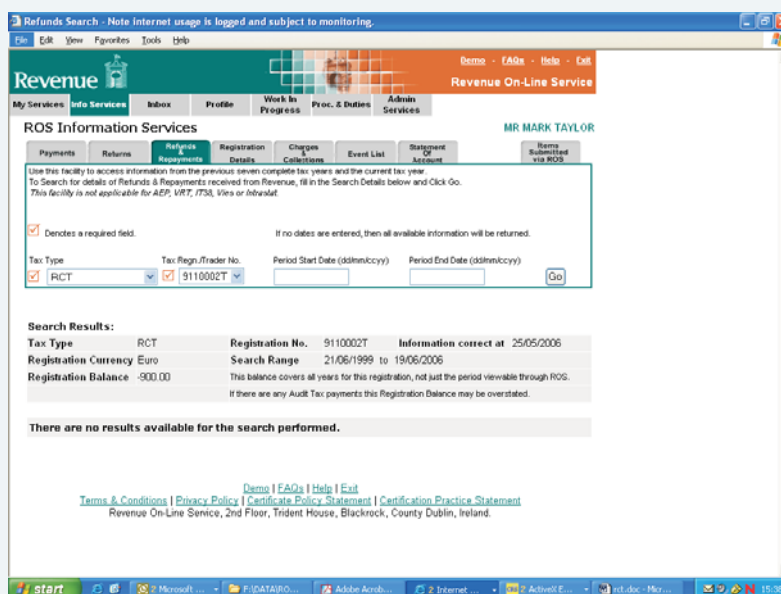
Principal contractors must apply for a Form RCTDC to deduct tax from payments being made to subcontractors. They can order supplies of these forms from their local Revenue office using the Form P33 www.revenue.ie/forms/p33.pdf. These are secure certificates that contain a unique number. That number has been recorded in Revenue's systems against the Principal Contractor to whom it was issued. RCTDCs are only issued to Principals registered with Revenue. Under no circumstances should a Principal give an RCTDC to another Principal or use an RCTDC that was issued to another Principal. All RCTDCs should be retained by the Principal in a secure environment. Where an RCTDC is lost, stolen or mislaid, the details should be reported to Revenue immediately. On ceasing to be a Principal, any unused RCTDCs should be returned to Revenue.

Details of payments made under deduction of tax should be recorded on Form RCT 48. Where a Principal has deducted tax from a payment to a Subcontractor, they must give the Subcontractor a Form RCTDC with the payment. To avoid interest and penalties, tax that was deducted, or that should have been deducted, in any month must be declared on Form RCT 30 and remitted to Revenue by the 14th of the following month.

The Subcontractor may make a claim to have the tax deducted on the Forms RCTDC offset against outstanding taxes or repaid. Where an offset is required, any declaration forms (RCT 30, VAT 3, Form 11 or CT1) should be sent in the first place to the Collector-General's Division. An agent or taxpayer may request that the offset be carried out in a particular order otherwise Revenue's computer systems are developed to offset any RCT available in accordance with the legislation on offsets. Agents and taxpayers who are registered for Revenue's On-line Service can check up on their up to date position, before submitting their claim. Any balance remaining after the offsets have been carried out is generally repaid. It should be noted that an offset can only be made where the claim is received within the four year time limit for repayments set down in *Section 865 TCA 1997*.

Refunds and Repayments

Please note that the case displayed is a dummy case for illustration purposes only.



Refunds Search - Note internet usage is logged and subject to monitoring.

Revenue On-Line Service

My Services | Info Services | Inbox | Profile | Work In Progress | Proc. & Duties | Admin Services

MR MARK TAYLOR

ROS Information Services

Payments | Returns | Refunds | Registration | Charges | Event List | Statement of Account

Use this facility to access information from the previous seven complete tax years and the current tax year. To Search for details of Refunds & Repayments received from Revenue, fill in the Search Details below and Click Go. This facility is not applicable for AEP, VRT, IT36, Vies or Inland.

Denotes a required field. If no dates are entered, then all available information will be returned.

Tax Type: RCT Tax Regn./Trader No.: 9110002T Period Start Date (dd/mm/yyyy): Period End Date (dd/mm/yyyy):

Search Results:

| | | | | | |
|-----------------------|---------|---|---------------|------------------------|------------|
| Tax Type | RCT | Registration No. | 9110002T | Information correct at | 25/05/2006 |
| Registration Currency | Euro | Search Range | 21/06/1999 to | 19/06/2006 | |
| Registration Balance | -900.00 | This balance covers all years for this registration, not just the period viewable through ROS. If there are any Audit Tax payments this Registration Balance may be overstated. | | | |

There are no results available for the search performed.

[Demo](#) | [FAQs](#) | [Help](#) | [Exit](#)
[Terms & Conditions](#) | [Privacy Policy](#) | [Certificate Policy Statement](#) | [Certification Practice Statement](#)
 Revenue On-Line Service, 2nd Floor, Trident House, Blackrock, County Dublin, Ireland.

The Finance Act 2006 puts beyond doubt that RCT repayment claims are subject to the same time limit (4-year rule) as that provided for in Section 865 TCA 1997 for repayments generally (See separate section on the 2006 legislative changes on page 30).

General Operation of PAYE/PRSI

Country Money

In relation to travel and subsistence payments, there are two unique agreements in place for employees in the construction sector:

- ▼ One for workers in the Construction industry, agreed between Revenue and the CIF, and
- ▼ One for the Electrical Contracting sector.

Both are commonly known as "Country Money". Details of the schemes are available on the Revenue website at

www.revenue.ie/revguide/const_ind_pro2006.htm.

The agreements set out expenses that can be paid tax-free once certain conditions are met.

Revenue carries out checks to ensure that all conditions relating to "country money" payments are met and that they are not being made to employees not covered by the schemes (e.g. office workers). Checks are also made to see if subsistence payments have been made to workers as payments in lieu of earnings (income replacement).



Foreign Sourced Employment Income

Employers should also note that changes in the way foreign sourced employment income is taxed came into effect on 1 January 2006. Income that is attributable to the performance of duties in the State is now chargeable to tax under PAYE. The changes deal with scenarios where employees are paid by someone other than their employer and where employees work for someone other than their employer. They also authorise the Revenue Commissioners to direct a party to a contract with an employer to make PAYE deductions. These changes apply to all sectors and are not confined to the construction industry. See also article on page 12.

Revenue recognises that the new regime in relation to the employments concerned may involve significant adjustments for the employers affected. *Revenue will not seek to penalise any employer making best efforts to implement the new regime where, despite those best endeavours, there is delay in implementing the new regime.* ■

Note that these changes apply to the Construction, Forestry and Meat Processing sectors.



Finance Act 2006 Changes - Relevant Contracts Tax

Section 43 - Non-Resident Contractors

This section clarifies the position of non-resident contractors by confirming that RCT applies where relevant operations under a relevant contract are carried out in the State. This is the case even where one or more of the following apply:

- Either or both parties to the relevant contract are non-resident or are not liable to tax in the State in respect of those operations
- The contract is executed outside the State, or
- The payments made under the contract are made outside the State.

Section 44 - Operation of Relevant Contracts Tax

This section introduced a number of changes affecting applicants for C2 certificates, Principal contractors making payments gross to certified Subcontractors and Subcontractors claiming repayment of RCT deducted by the Principal contractor.

1. Time Limit for Repayments of RCT

The legislation puts beyond doubt that where an uncertified Subcontractor claims a repayment of RCT the claim is subject to the 4 year time limit provided for in *Section 865 TCA 1997* for repayments generally.

It should be noted that an offset cannot be given in any case where a claim for repayment is out of time. No offsets are possible on foot of RCTDC's which are outside the four year time limit for repayment.



2. C2 Applicants - Additional requirements

Future compliance requirement for C2 applicants

Prior to the Finance Act 2006, existing requirements meant that a C2 applicant and certain connected persons had to have a history of tax compliance for a specified period, called the qualifying period. This is usually the three tax years prior to the tax year in which the C2 is applied for and the period from the commencement of that tax year to the date of application. The Finance Act 2006 provides that, as well as a good track record over the qualifying period, Revenue must now have good reason to expect that a C2 applicant will be compliant in future in relation to tax payments, delivery of returns and the provision of information requested. This new provision mirrors a requirement already in place in relation to the keeping of business records. Therefore, in respect of applications for C2s made on or after 2 February 2006 Revenue must have good reason to expect that the applicant will not only maintain proper business records in the future, but will also pay and remit tax and make returns on time.

How will this work in practice?

This new test is just one of a number of compliance tests that Revenue must have regard to in determining whether an applicant qualifies for a C2. The Principal test will, however, continue to be the requirement that the applicant and connected persons have been tax compliant in the qualifying period. In general, where this requirement is met, a C2 applicant should have no problem with the new test, as past compliance will be one of the main factors in Revenue forming a view on likely future compliance. The new test is most likely to come into play for a first time C2 applicant to ensure that the applicant has taken all the necessary measures to be tax compliant as a self employed person and as a prospective employer.

Appeals

C2 Applicants have the right of appeal to the Appeal Commissioners and the Courts as appropriate where a C2 is refused.

Extended "look through"

A further new provision provides for an extended "look through" procedure in relation to applications for C2s. In future, a C2 will not be issued to an applicant where similar relevant operations (i.e. construction operations, forestry operations or meat processing operations, as the case may be) to those being carried out, or to be carried out, by the applicant were previously, or are being carried out by another person who is connected (within the meaning of *Section 10 TCA 1997*) with the applicant in the circumstances outlined below, unless that other person is compliant with their obligations as regards maintenance of records, payment of tax and delivery of returns. The primary purpose of the measure is to help tackle "phoenix company" type situations. The persons who are to be considered as connected are:

- ▼ Any **company** connected with the applicant or which would have been so connected but for the fact that the company has been wound up or dissolved without being wound up
- ▼ Where the applicant is a partnership, **any company** in which a partner or partners of that partnership, is or was able, or are or were able, directly or indirectly, either on their own or with a connected person or persons, to control more than 15 per cent of the ordinary share capital of the company

- ▼ Where the applicant is a company, **any partner or partners** of a partnership who is or was able, or who are or were able, directly or indirectly, either on their own or with a connected person or persons to control more than 15 per cent of the ordinary share capital of the company

These new requirements apply in respect of applications for C2s made on or after **2 February 2006**.

3. Limit on Relevant Payments Cards

The practice whereby Revenue apply a value limit on Relevant Payments Cards has now been placed on a statutory basis. This change takes effect as respects applications for Relevant Payments Cards made on or after 2 February 2006.

In all cases where such a limit is applied Revenue must write to the Subcontractors concerned and inform them of the limit imposed. The payments card will also show the limit. Subcontractors affected may request Revenue to increase, reduce or remove the limit and where Revenue agree to any change they must inform the Subcontractor in writing of this change.

The Subcontractor has the right to appeal any limit imposed or amended to the Appeal Commissioners and to the Courts.

If the Principal contractor breaches the limit and makes payments gross in excess of the limit he or she will be accountable for the tax which should have been deducted and will be liable to pay any such amount to the Collector-General.

(See copy of the notice being issued by Revenue to all Principal contractors advising them of this change on page 27). ■

Non-resident contractors in the construction industry

The Central Non Resident Unit

As mentioned earlier, the compliance control and registration office for all non-resident contractors in the **construction** industry has been centralised in a single location. This unit is based in the Dublin City Centre District. So, no matter where the building work is located, the compliance associated with a non-resident contractor will be managed from Dublin City Centre:

*Revenue Commissioners,
RCT/VAT Section,
City Centre District,
9/10 Upper O'Connell Street,
Dublin 1.*

Telephone: 01-865 5000

This unit will

- Register all non-resident contractor/subcontractor cases for all relevant taxheads
- Process all C2 applications from these cases
- Liaise with other Revenue authorities as required

Applications for refund or offset on foot of RCTDCs will continue to be dealt with by International Claims Section (see below).

For C2 applicants, the qualifying criteria apply equally to resident and non-resident Subcontractors. In the case of an applicant who has been resident outside of the State at some time during the qualifying period, they must have complied with all of the comparable obligations imposed by the laws of the country in which they were resident. Non-resident contractors should submit their applications to the City Centre District.

Note that additional questionnaires must be completed by all non-resident applicants applying for a C2. These questionnaires are available from the above address or on the construction project webpage on the website at www.revenue.ie/revguide/const_non_res.htm

International Claims Section

International Claims Section are based in Nenagh and deal with claims for Tax Repayment or Exemption from non-residents who have suffered deposit interest retention tax (DIRT), tax withheld on dividends (DWT), professional services withholding tax (PSWT) and relevant contracts tax (RCT). The claims process generally requires certification by the tax authorities in the claimant's country of residence.

Non-resident "uncertified" Subcontractors

An uncertified Subcontractor is a contractor who does not hold a C2 or if a C2 is held, the Principal contractor has not been authorised to make payments gross. RCT is deducted from payments to these contractors and the Principal contractor must give them a certificate of deduction, Form RCTDC.

Claims for repayment or offset by non-resident Subcontractors should be submitted to:

*International Claims Section,
Office of the Revenue Commissioners,
Government Buildings,
Nenagh,
Co. Tipperary.*

Telephone: (067) 33533

Fax: (067) 32916

Individual applicants must complete a claims Form IC 1 (available on the Revenue website www.revenue.ie/forms/ic1.pdf). Company applicants must complete a claims Form IC 3 (available on the Revenue website www.revenue.ie/forms/ic3.pdf). The forms are also available from International Claims Section. The completed claim form should be certified by the tax office/revenue authorities in the country in which the Subcontractor was resident for tax purposes during the tax year in which the income was earned. The claim form can include details of any number of contracts.

Note that a questionnaire must also be completed in respect of each contract undertaken by the non-resident uncertified Subcontractor. This questionnaire is available on the Revenue website at www.revenue.ie/forms/rctqnr.doc