

2011/2012 Financial Guideline 07

The Board of Management and School Building Projects

Changes in Revenue Treatment

Introduction

Under section 20 of the Finance Act 2011, new regulations have been introduced which affect the tax treatment of payments to contractors involved in school building projects by the board of management. The regulations came into effect on January 1, 2012. If a school is commencing a building project such as emergency works, extension, new building or additional accommodation the board of management must ensure compliance with this legislative change as there are significant penalties and surcharges for non-compliance.

Relevant Contracts Tax (RCT)

Relevant Contracts Tax (RCT) is a tax regime which applies to construction contracts where the tax is deducted from payments due to a sub-contractor by the principal contractor. RCT usually applies to the main building contractor when dealing with a sub-contractor such as an electrical or plumbing sub-contractor. The rates of RCT are either 0%, 20% or 35%.

A **school board of management**, in its capacity as a body established by statute and funded wholly or mainly from funds provided by the Oireachtas, is designated as a **“Principal Contractor”**.

This means that a board of management is responsible for complying with RCT requirements and VAT returns when making payments to the building contractor. In addition, the Revenue has introduced a mandatory electronic RCT system with effect from January 1, 2012 for all principal contractors. From that date all filings and notifications to Revenue by a principal contractor must be done through the Revenue Online (ROS) system.

Board of Management as Principal Contractor

In any building project the board of management is the client or employer. As such, the board is the principal contractor for the purposes of the legislation. The board therefore has the responsibility of

- Notifying the contract to the Revenue authorities prior to commencement of construction
- Notifying each payment to the Revenue prior to making payment to the building contractor
- Deducting the appropriate RCT from the payment due to the building contractor as notified by the Revenue and paying the appropriate amount to the Revenue.

The board must obtain a Deduction Authorisation from the Revenue prior to making any payment to the building contractor. This authorisation will specify the rate of RCT to be deducted.

Any contract subject to RCT is also subject to a “reverse charge” VAT mechanism. For this reason, the board of management will have to

- Register for VAT with the Revenue on ROS
- Account for VAT on all payments made to the contractor
- Make bi-monthly VAT returns for the duration of the building project

The building contractor will invoice the board of management on a VAT exclusive basis. The board will then apply to the DES for funding to cover both the amount stated on the invoice and the VAT to be paid to the Revenue on the bi-monthly return.

Practical steps to be taken when undertaking a building project:

- Inform the Revenue at the design stage that the school is undertaking a building project and seeking confirmation that the school’s board of management will be treated as the Principal Contractor for the building/construction contract
- Register online for ROS (Revenue Online Service)
- Register for VAT as a main contractor
- Obtain a contractor’s tax reference number and proof of identity
- Prior to commencement of construction, notify the Revenue of the contract (Contract Notification)
- Notify the Revenue prior to making any payment to the building contractor (Payment Notification)
- Obtain a Deduction Authorisation from the Revenue specifying the tax to be deducted from the building contractor
- Provide the contractor with a copy of the Deduction Authorisation
- Deduct the applicable amount of tax from payments due to the contractor
- Draw down the grant from the DES for the VAT inclusive amount of each payment due to the contractor
- File RCT returns and pay the deducted amount to the Revenue
- File bi-monthly VAT returns and pay the VAT to the Revenue
- Obtain and file a Deduction Summary at the end of each return period.

Some Specific Questions and Answers

1. Q. If a school has to register for VAT in relation to a building project does this mean that a school will have to make VAT returns for all transactions and activities?

A. The regulations only apply to Construction Operations and do not apply to any other school activity.
2. Q. Do the regulations in regard to RCT and VAT apply to a small or large project where the school is providing the funding from its own resources?

A. Yes. The regulations apply to minor works if they are construction operations where the Board of Management is the client regardless of how they are funded.

3. Q. Do the regulations only apply to projects commencing after January 1st 2012?
 - A. No. The regulations apply to all projects. For projects already started, the school should seek a ruling from the local Revenue office.
4. Q. What happens if a school agrees to pay additional money to a building contractor for work done not covered by the original grant?
 - A. This is still governed by the regulations as it is a construction operation.
5. Q. Are there any additional insurance implications for the Board of Management as principal contractor?
 - A. No.

(This document has been drawn up with the assistance of and advice from Susan Bryson of Mason Hayes & Curran)

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