

CIRCULAR 44/2006: TAX CLEARANCE PROCEDURES
GRANTS, SUBSIDIES AND SIMILAR TYPE PAYMENTS

Notice to Government Departments and other public sector bodies
concerned with the payment of grants, subsidies and similar type
payments

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1 Introduction

1.1 The Minister for Finance has directed that the following revised procedures are to be followed in the operation of the tax clearance scheme for applicants for all grants and similar type payments from State and public sector bodies. **These procedures are to apply to all applications received after 1 January 2007.** Department of Finance Circular F49/13/87 of July 1991 is accordingly rescinded.

1.2 Copies of this Circular are available on the Department of Finance website (www.finance.gov.ie).

1.3 A separate circular, Department of Finance Circular **43/2006** sets out the tax clearance procedures in relation to the award of public sector contracts.

2 Scope of the Procedures

2.1 Subject to the exclusions set out at paragraph 4 below the procedures set out in paragraph 3 of this circular should be applied in the case of all grants, subsidies and similar type payments (hereafter called relevant payments) by public sector bodies. “Public sector bodies” includes all Government Departments and Offices, Local Authorities, the Health Service Executive and other Health Agencies, Educational Bodies, all State Bodies whether commercial or non-commercial (statutory or otherwise) and in general all authorities (agencies/entities/bodies) who make relevant payments out of public funds.

3 Procedures

3.1 In the case of relevant payments totaling €10,000 or more in a 12 month period the applicant will be required, for each payment, to produce either a valid tax clearance or C2 certificate¹. It will not be necessary for an applicant to obtain a tax clearance certificate if he/she holds a current C2 certificate. No relevant payments totaling €10,000 or more in a 12 month period may be made to an individual, company or other body without a current tax clearance certificate or C2 certificate. Additional requirements, relating to payments which finance construction operations, are set out in paragraph 8.

3.2 The Revenue Commissioners will, on application, issue a tax clearance certificate if satisfied that the applicant is meeting certain conditions. These conditions are set out in Section 1095 Taxes Consolidation Act, 1997 as amended (copy at Appendix 3).

3.3 As an alternative to producing a valid tax clearance certificate an applicant may authorise the public sector body to confirm electronically that he/she holds a valid tax clearance certificate using the on-line verification facility on the Revenue Commissioners’ website www.revenue.ie (see paragraph 6 for further details).

¹ A ‘C2 certificate’ is a certificate of authorisation issued by the Revenue Commissioners, in accordance with the terms of section 531(11) of the Taxes Consolidation Act 1997, to qualifying sub-contractors carrying out construction, forestry or meat processing operations as specified in that section. The certificate authorises a principal contractor to make arrangements to make payments to such sub-contractors without deduction of tax. In the absence of a C2 certificate, the principal contractor must deduct tax at the rate of 35% from payments to sub-contractors. Tenderers requiring further information on C2 certificates should contact their Local Revenue District.

4 Exclusions

4.1 The following payments are excluded from the scope of the procedures.

(i) Payments by one public sector body to another

Grant payments by Government Departments to other public sector bodies e.g. grants to Local Authorities, Health Agencies, Semi-State Bodies and such payments between public sector bodies are excluded. The grant-receiving agency in such a case is however required to operate the procedures in respect of relevant payments, which it makes to non-public sector bodies.

(ii) Social welfare type payments

All income maintenance and other related forms of social welfare payments made to individuals (insurance, or assistance or universal payment), including income maintenance payments to individuals made by the Health Service Executive, are excluded.

(iii) Payments to registered Charities

Grant payments to a body which has been granted charitable recognition by the Revenue Commissioners are excluded. Charitable bodies must quote the 'CHY' number issued to that body - local and regional constituent members of a national organisation which has a 'CHY' number in its own right may quote the 'CHY' number of the national body.

For control purposes approval should be withheld in a small proportion of cases (10 per cent) until the numbers are checked with the appropriate tax district of the Revenue Commissioners. If the number is not correct the application should be returned for correction and approval should not be granted until the correct number is given. Charitable bodies are not excluded from the requirements of paragraph 8.

(iv) Payments made under

- a. The Criminal Injuries Compensation Tribunal
- b. The Hepatitis C and HIV Compensation Tribunal
- c. The Residential Institutions Redress board

(v) Payment Threshold

Payments to individuals or bodies, which do not exceed €10,000 in a 12 month period. In the case of payments which fall under paragraph 8 the limit is €650.

5 Application for Certificates

5.1 Applicants, except for PAYE and Non-residents, should be advised that the application form (TC1) for a tax clearance certificate should be completed on-line on the Revenue Commissioners' website – www.revenue.ie. To facilitate all concerned, applicants should be encouraged to agree, on the on-line application form, to the on-line verification of any certificate issued to them (see paragraph 6). Applicants who do not have access to the internet may request an application form from their Local Revenue District. The TC1 form is also available for downloading or printing from the Revenue website.

5.2 Non-resident applicants cannot apply on-line for a tax clearance certificate but the following procedures apply:

5.2.1 Non-resident applicants who are registered for Irish tax and who do not have a permanent established place of business in the State should be advised to apply for tax clearance to Dublin City Centre Revenue District, 9/15 Upper O'Connell Street, Dublin 1.

5.2.2 Non-resident applicants who are registered for Irish tax and also have a permanent established place of business in the State should be advised to apply for tax clearance to the Revenue District in which the place of business is located.

5.2.3 Non-resident applicants who have neither an Irish tax registration nor a permanent established place of business in the State [i.e. foreign traders] should be advised to apply for tax clearance to Non-Residents Unit, Collector-General's Office, Sarsfield House, Francis Street, Limerick, fax to 00353-61-401012 or e-mail nonrestaxclearance@revenue.ie

6 On-line verification facility

6.1 The Revenue Commissioners provide an on-line verification facility to confirm an applicant's tax cleared status. This allows public sector bodies to confirm electronically that a person holds a tax clearance certificate. It also eliminates the need for a taxpayer to produce the original tax clearance certificate.

6.2 The on-line verification facility can be found on Revenue's website at www.revenue.ie. The facility is secure and can only be accessed with the permission of the applicant who holds the tax clearance certificate. The applicant gives permission to confirm his/her tax-cleared status by quoting the customer number and tax clearance certificate number, which appears on the certificate. This allows public sector bodies to access the secure facility to confirm the position. On-line confirmation that an applicant is in possession of a tax clearance certificate can be accepted and there is no need for the applicant to produce the original certificate.

7 The Issue of Certificates

7.1 The issuing of tax clearance certificates is the responsibility of the Revenue Commissioners. Successful applicants will be issued with a tax clearance certificate, valid for payments from any public sector body, where the Revenue Commissioners are satisfied that the applicant has met certain conditions. These conditions are set out in section 1095 of the Taxes Consolidation Act, 1997 as amended (copy at Appendix 3).

7.2 The applicant will retain his/her tax clearance certificate but before making a payment each authority must either confirm the contractor's tax clearance status through the Revenue Commissioners' website or see the original tax clearance certificate or an authorised duplicate. A printout of the website screen or a copy of the original certificate, as appropriate, must be kept by the State or public sector body for its own record. The Revenue Commissioners will issue duplicate certificates to an applicant where this is considered necessary and appropriate. On expiry, tax clearance certificates can be renewed on-line on the Revenue Commissioners' website, or by post.

7.3 In normal circumstances, the Revenue Commissioners will issue a tax clearance certificate to applicants whose affairs are in order within six working days from the receipt of the application for a certificate. In exceptional cases, e.g. where the taxpayer has not quoted proper references or their tax affairs are not up to date, the process will take longer.

7.4 Successful applicants will be issued with a single tax clearance certificate valid for payments made by any public sector body. Normally, the tax clearance certificate will be valid for 12 months.

8 Payments which finance construction operations

8.1 In addition to the other requirements of this circular, special arrangements as follows will apply, where payments which finance construction operations as defined in section 530 of the Taxes Consolidation Act, 1997 (as amended) (copy at Appendix 2), exceed €50:

- (i) Each grant applicant will be required to provide the following details in respect of each contractor who will be employed on the grant-aided work:
 - (a) the name, address, tax reference number and tax district of each contractor,
 - (b) the C2/tax clearance number of each contractor, and
 - (c) the expiry date(s) of the C2/tax clearance certificate(s)
- (ii) For control purposes approval should be withheld in a small proportion (ten per cent) of such applications for grants between €50 and €10,000, until the information quoted at (i) has been checked with the relevant local Revenue District of the Revenue Commissioners.
- (iii) For grants of €10,000 or more the information at (i) above should be checked in every case before the grant is approved using where appropriate either the on-line verification facility or contacting the Revenue Commissioners directly.

8.2 Where authorised by the contractor the information relating to a tax clearance certificate can be verified through Revenue's website (see paragraph 6). Otherwise the appropriate addresses of the local Revenue Districts, for checking information in accordance with 8.1(ii) and 8.1(iii) above are available on the Revenue Website (www.revenue.ie) and in the State Directory section of the Eircom phonebook.

8.3 It should be noted that these requirements are fully applicable to a payment to a registered charity excluded under paragraph 4.1(iii) from the procedures set out in paragraph 3, where that payment is used in full or in part to finance construction operations.

9 Grants for educational assistance

9.1 In the case of grants to full-time students for assistance towards the costs of education, where the income or circumstances of the applicant's parent(s) or guardian(s) is a factor in qualifying for the grant, the procedure set out in paragraph 3 should operate as if the grant application was made by the parent(s) or guardian(s).

10 Non-residents

10.1 The procedures set out in this circular apply equally to relevant payments to residents and non-residents.

11 Multi-payments

11.1 In general the thresholds referred to in paragraph 3 relate to payments over a 12 month period. It is however a feature of certain relevant payments that, following approval, payment is made in a number of instalments over an extended period. Where it is not known at approval stage what the total payment will be, public sector bodies should closely monitor the level of payment and ensure that once the threshold of €10,000 is reached a tax clearance certificate is requested. In addition, if any instalment is €10,000 or more, a check should be made before payment that the tax clearance certificate held by the beneficiary is a current one. If it has expired the beneficiary should be requested to produce a new certificate before payment is authorised. The issue of the new certificate may be confirmed electronically as set out in paragraph 6.

12 Implementation of this circular

12.1 All application forms for payments affected by this circular should be drafted so as to require the following information

- (i) Name, address and tax reference number of applicant
- (ii) For cases which fall within the scope of paragraph 8, space must be provided for the particulars at 8.1 (i) of that paragraph.

12.2 This information should be available on the front of the form so as to minimise compliance work.

12.3 When an application is being checked under paragraph 8 a copy of the completed application form, or of so much of it as shows:

- (i) The information required in paragraph 8
- (ii) The nature of the payment being claimed

should be forwarded to the applicant's tax district together with form TC10, a sample of which is attached to this circular at Appendix 4.

D.McNally
Second Secretary
21 December 2006

Appendix 1 – Contact Information

Contact Information

- (i) Tax clearance application forms are available on Revenue’s website www.revenue.ie. Further information in relation to C2 certificates can also be found on that site. Tax clearance certificates are issued by the relevant local Revenue District. The contact addresses and telephone numbers are available on the Revenue Website at www.revenue.ie, and are also available in the State Directory section of the Eircom phonebook. Forms and certificates for use by non-resident applicants are issued in accordance with paragraph 5.2 of this circular which also contains the contact details for non-resident applicants.

- (ii) Implementation and operational queries in relation to tax clearance governed by this circular should be directed to the local Revenue District or in the case of non-residents, the procedures set out in paragraph 5.2 of this circular should be followed. As above at (i), the contact addresses and telephone numbers are available on the Revenue Website at www.revenue.ie and are also available in the State Directory section of the Eircom phonebook.

- (iii) Policy queries in relation to the tax clearance procedures covered by this circular should be directed to Tax Clearance Section, Department of Finance, Merrion Street, Dublin 2, Tel: (01) 6767571 ext 5597.

Appendix 2 – Definition of ‘Construction Operations’ in Section 530 of Taxes Consolidation Act 1997

‘Construction operations’ means operations of any of the following descriptions:

- (a) The construction, alteration, repair, extension, demolition or dismantling of buildings or structures;
- (b) The construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, road-works, power-lines, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage;
- (c) The installation in any building or structure of systems of heating, lighting, air-conditioning, sound-proofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection;
- (d) The external cleaning of buildings (other than cleaning of any part of a building in the course of normal maintenance); the internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, extension, repair or restoration;
- (e) Operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described above, 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;
- (f) 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 or exploitation of natural resources;
- (g) The haulage for hire of materials, machinery or plant for use, whether used or not, in any of the aforesaid construction operations;

Appendix 3 – Section 1095 Taxes Consolidation Act

Taxes Consolidation Act, 1997. [No. 39.]

1095. Tax clearance certificates: general scheme.

(1) In this section—

‘the Acts’ means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts, and
- (c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,

and any instruments made thereunder;

‘licence’ has the same meaning as in section 1094;

‘tax clearance certificate’ shall be construed in accordance with subsection (3).

(2) The provisions of this section shall apply in relation to every application by a person to the Collector-General for a tax clearance certificate other than an application for such a certificate made—

- (a) in relation to a licence, or
- (b) pursuant to the requirements of —
 - (i) the Standards in Public Office Act 2001, or
 - (ii) Regulation (6) of the Criminal Justice (Legal Aid) (Tax Clearance Certificate) Regulations 1999 (S.I. No. 135 of 1999).

(3) Subject to this section, where a person who is in compliance with the obligations imposed on the person by the Acts in relation to—

- (a) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts, and
- (b) the delivery of any returns to be made under the Acts,

applies to the Collector-General in that behalf the Collector-General shall issue to the person a certificate (in this section referred to as a ‘tax clearance certificate’) stating that the person is in

compliance with those obligations.

(4) A tax clearance certificate shall not be issued to a person unless—

- (a) that person and, in respect of the period of that person's membership, any partnership of which that person is or was a partner,
- (b) in a case where that person is a partnership, each partner, and
- (c) in a case where that person is a company, each person who is either the beneficial owner of, or able directly or indirectly to control, more than 50 per cent of the ordinary share capital of the company,

is in compliance with the obligations imposed on the person and each other person (including any partnership) by the Acts in relation to the matters specified in paragraph (a) and (b) of subsection (3).

(5) Where a person who applies for a tax clearance certificate in accordance with subsection (3) (in this section referred to as 'the first- mentioned person') carries on a business activity which was previously carried on by, or was previously carried on as part of a business activity by, another person (in this section referred to as 'the second-mentioned person') and—

- (a) the second-mentioned person is a company connected (within the meaning of section 10 as it applies for the purposes of the Tax Acts) with the first- mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,
- (b) the second-mentioned person is a company and the first-mentioned person is a partnership in which—
 - (i) a partner is or was able, or
 - (ii) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company, or

- (c) the second-mentioned person is a partnership and the first-mentioned person is a company in which—
 - (i) a partner is or was able, or
 - (ii) where more than one partner is a shareholder, those partners together are or were

able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company,

then, a tax clearance certificate shall not be issued by the Collector-General under subsection (3) to the first-mentioned person unless, in relation to that business activity, the second-mentioned person is in compliance with the obligations imposed on that person by the Acts in relation to the matters specified in paragraphs (a) and (b) of subsection (3).

(6) Subsections (5) to (9) of section 1094 shall apply to an application for a tax clearance certificate under this section as they apply to an application for a tax clearance certificate under that section.

Appendix 4 – Copy of Form TC10

Copy of Form TC10

Inspector of Taxes

Issuing Office Ref.

Re: Name: _____

Address: _____

Tax Reference No. _____

The attached copy of an application for a relevant payment is submitted to you in accordance with Department of Finance Circular **44/2006** to check that the tax reference number quoted above (as stated on the application form) is correct.

_____ Date

Entire form to be returned to issuing office

To [Appropriate Govt. Dept.]
[or Public Sector Body]

I confirm that the tax reference number quoted is correct

The tax reference number quoted is not correct. The correct tax reference number is

The tax reference number is not correct. I am unable to locate correct tax reference number for this applicant. I am returning copy of application accordingly.

_____ Inspector

_____ District

Form TC 10

_____ Date