



STATUTORY INSTRUMENTS.

S.I. No. 223 of 2011

TAX RETURNS AND PAYMENTS (MANDATORY ELECTRONIC
FILING AND PAYMENT OF TAX) REGULATIONS 2011

(Prn. A11/0716)

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FILING AND PAYMENT OF TAX) REGULATIONS 2011

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*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 17th May, 2011.*

SCHEDULE 3

CERTAIN RELIEFS, ALLOWANCES AND DEDUCTIONS WHICH MAY BE CLAIMED IN A
SPECIFIED RETURN FOR THE PURPOSES OF REGULATION 5

TAX RETURNS AND PAYMENTS (MANDATORY ELECTRONIC
FILING AND PAYMENT OF TAX) REGULATIONS 2011

The Revenue Commissioners in exercise of the powers conferred on them by section 917EA (inserted by section 164 of the Finance Act 2003 (No. 3 of 2003)) of the Taxes Consolidation Act 1997 (No. 39 of 1997) make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2011.

(2) These Regulations come into operation on 1 June 2011.

Interpretation and general

2. (1) In these Regulations—

“capacity” means sufficient access to the Internet, by which either or both a specified return or the payment of any specified liabilities may be made by electronic means and, in the case of an individual, also means not prevented by reason of age, or mental or physical infirmity from either or both making a specified return or paying any specified liabilities by electronic means;

“Commissioners” means the Revenue Commissioners;

“Principal Act” means the Taxes Consolidation Act 1997;

“return” has the same meaning as it has in section 917D of the Principal Act;

“Regulations of 2008” means the Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2008 (S.I. No. 341 of 2008);

“tax year” means a year of assessment.

(2) (a) Any return which a person is or may be required by the Acts to make to the Commissioners and which is specified for the purposes of Chapter 6 of Part 38 of the Principal Act by order made by the Commissioners under section 917E of that Act is specified as a specified return.

(b) Any liabilities to tax, including interest on unpaid tax, arising under any provision of the Acts, the payment of which is or will be accounted for, directly or indirectly, in a specified return, including any payment which is treated under the Acts as a payment on foot of, or on account of, any liabilities to tax, are specified as specified liabilities.

- (c) Each person to whom these Regulations relate, other than the Commissioners, an officer of the Commissioners or the Appeal Commissioners, is specified as a specified person for the purposes of paragraphs (a) and (b) of subsection (3) of section 917EA of the Principal Act and these Regulations.

Persons required to make returns and payments by electronic means from 1 June 2011

3. (1) Subject to Regulation 6, where, on or after 1 June 2011, any specified return is required to be made by or on behalf of a specified person referred to in Schedule 1, that specified return shall be made by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Where, on or after 1 June 2011, a payment of any specified liabilities falls due to be made by or on behalf of a specified person referred to in Schedule 1, the payment shall be made by such electronic means as are required by the Commissioners.

High income individuals required to make returns and payments by electronic means from 1 June 2011

4. (1) Where any specified person is required to make a specified return in accordance with section 485FB(3) of the Principal Act for the tax year 2009 or any subsequent tax year, that specified person shall, on and from—

(a) 1 June 2011, or

(b) such later date by which that specified return is required to be made,

make that specified return and any other specified return that is required to be made by or subsequent to that date, by or on behalf of that specified person, by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Where, on or after the date from which paragraph (1) applies to a specified person, a payment of any specified liabilities falls due to be made by or on behalf of the specified person, the payment shall be made by such electronic means as are required by the Commissioners.

Persons in receipt of certain foreign income or claiming certain property-based reliefs, required to make returns and payments by electronic means from 1 June 2011

5. (1) Where any specified person, other than a specified person to which Regulation 4 applies, is required to make a specified return in accordance with section 951 of the Principal Act for the tax year 2009 or any subsequent tax year, being a specified return which includes either or both—

(a) income or gains to which any provisions of the Principal Act referred to in Schedule 2 applies, and

(b) a claim to any relief, allowance or deduction, or any amount which is deemed to have been received as rent under any provisions of the Principal Act referred to in Schedule 3,

that specified person shall, on and from—

- (i) 1 June 2011, or
- (ii) such later date by which that specified return is required to be made,

make any specified return that is required to be made by or subsequent to that date, by or on behalf of that specified person, by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Where, on or after the date from which paragraph (1) applies to a specified person, a payment of any specified liabilities falls due to be made by or on behalf of the specified person, the payment shall be made by such electronic means as are required by the Commissioners.

Companies subject to section 889 or 894 of the Principal Act, required to make returns by electronic means from 1 June 2011

6. Notwithstanding Regulation 3 and the Regulations of 2008, where any specified person, being a company within the meaning of section 4 of the Principal Act, is required to make a specified return in accordance with section 889 or 894 of the Principal Act as respects—

- (a) any accounting period, or
- (b) any other period specified in a notice referred to in section 889 of that Act,

that specified return shall be made by or on behalf of that specified person by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act, only as respects a period ending on or after 1 January 2011.

Other persons subject to section 889 or 894 of the Principal Act, required to make returns and payments by electronic means from 1 June 2011

7. (1) Where, from any date arising on or after 1 June 2011, any specified person, other than a specified person to whom the Regulations of 2008 apply or Regulation 3, 4, 5 or 6 of these Regulations applies, is required to make a specified return in accordance with section 889 or 894 of the Principal Act, that specified person shall make that specified return and any other specified return that is required to be made by or subsequent to that date, by or on behalf of that specified person, by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Where, on or after the date from which paragraph (1) applies to a specified person, a payment of any specified liabilities falls due to be made by or on behalf of the specified person, the payment shall be made by such electronic means as are required by the Commissioners.

Persons required to make returns and payments by electronic means from 1 October 2011

8. (1) Where any specified person, other than a specified person to whom the Regulations of 2008 apply or Regulation 3, 4, 5, 6 or 7 of these Regulations applies, is required to make a specified return referred to in Regulation 31 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) for the year 2010 or any subsequent year and where that specified return relates to 10 or more employees, that specified person shall, on and from—

(a) 1 October 2011, or

(b) such later date by which that specified return is required to be made,

make any specified return that is required to be made by or subsequent to that date, by or on behalf of that specified person, by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Where, on or after the date from which paragraph (1) applies to a specified person, a payment of any specified liabilities falls due to be made by or on behalf of the specified person, the payment shall be made by such electronic means as are required by the Commissioners.

Exclusion of certain specified persons

9. (1) A specified person may, by notifying the Commissioners in writing, request to be excluded from the provisions of these Regulations on the grounds that the specified person does not have the capacity to make a specified return or pay the specified tax liabilities by electronic means and the notification shall include all information relevant to the consideration by the Commissioners of the request.

(2) Where the Commissioners receive a notification from a specified person in accordance with paragraph (1) or where the Commissioners otherwise consider it appropriate, they may exclude the specified person from the provisions of these Regulations only if they are satisfied that, in all of the circumstances, the specified person could not reasonably be expected to have the capacity to make a specified return or to make a payment of specified tax liabilities by electronic means.

(3) A decision to exclude a specified person from the provisions of these Regulations by the Commissioners in accordance with paragraph (2) may be made at any time but where a notification has been received from a specified person in accordance with paragraph (1) shall be made within 30 days of receipt of the notification, and the Commissioners shall, in all cases, notify the specified person in writing of the decision.

Right of appeal to the Appeal Commissioners

10. (1) A specified person aggrieved by a failure of the Commissioners to exclude the specified person from the provisions of these Regulations in accordance with Regulation 9(2) may, by notice in writing to the Commissioners before the end of the period of 30 days beginning with the day on which notice of the

decision was given to the specified person, apply to have such specified person's request to be excluded from the provisions of these Regulations heard and determined by the Appeal Commissioners.

(2) On the hearing of an appeal under this Regulation, the Appeal Commissioners shall have regard only to those matters to which the Commissioners may or are required to have regard under these Regulations.

Provisions to amend exclusions

11. (1) If, at any time after a decision by the Commissioners in accordance with Regulation 9(2) or a determination by the Appeal Commissioners in accordance with Regulation 10(2) to exclude a specified person from the provisions of these Regulations, the Commissioners decide that, due to a material change in all of the circumstances, the specified person should not be so excluded, they shall notify the specified person in writing of that decision.

(2) The decision referred to in paragraph (1) shall be deemed to be a failure to exclude the specified person from the provisions of these Regulations and Regulation 10 shall apply accordingly.

Time at which payments made by electronic means are taken to be made

12. For the purpose of these Regulations, the time at which a payment of any specified liabilities by or on behalf of a specified person shall be taken as having been made shall be the later of the due date for that payment and the time at which the Commissioners receive authorisation to debit the amount of the payment from the account of the specified person in a financial institution.

Presumptions

13. For the purposes of any dispute arising as to the time at which a payment of any specified liabilities to which these Regulations apply is to be taken as having been made, a certificate signed by an officer of the Commissioners which certifies that he or she has examined the relevant records and that it appears from them that the time at which the payment is to be taken as having been made, is the time so specified in the certificate, shall be evidence until the contrary is proven that the payment was made at the time so certified.

SCHEDULE 1

SPECIFIED PERSONS FOR THE PURPOSES OF REGULATION 3

1. A company, within the meaning of section 4 of the Principal Act, other than a company to which the Regulations of 2008 apply.
2. A partnership other than a partnership to which the Regulations of 2008 apply.
3. A trust other than a trust to which the Regulations of 2008 apply.
4. A collective investment undertaking, within the meaning of section 734 of the Principal Act, other than one to which paragraph 2 or 3 applies.
5. A grouping within the meaning of section 1014 of the Principal Act.

SCHEDULE 2

PROVISIONS OF THE PRINCIPAL ACT WHICH RELATE TO
CERTAIN INCOME OR GAINS IN A SPECIFIED RETURN FOR THE
PURPOSES OF REGULATION 5

Foreign Life Policies

Section 730H

Section 730I

Section 730J

Section 730K

Offshore Funds

Chapter 4 of Part 27

Other Offshore Products

Section 896

SCHEDULE 3

CERTAIN RELIEFS, ALLOWANCES AND DEDUCTIONS WHICH
MAY BE CLAIMED IN A SPECIFIED RETURN FOR THE PURPOSES
OF REGULATION 5

Part 1

RESIDENTIAL

1. Any deduction to which the person is entitled under the following provisions of the Principal Act:

(a) section 372AP or 372AR,

(b) section 372AP or 372AR, as either section is applied by section 372AU.

2. Any excess deficiency over any surplus, which may be carried forward in accordance with section 384(2) of the Principal Act and which is referable to any relief to which the person may be entitled under section 372AP of the Principal Act.

3. Any amount that is deemed to have been received as rent under section 372AP(7) of the Principal Act.

Part 2

INDUSTRIAL AND COMMERCIAL

4. Any area-based capital allowance, within the meaning of section 409F of the Principal Act, including any balancing allowance, within the meaning of that section, made under section 274 of the Principal Act.

5. Any specified capital allowance, within the meaning of section 409F of the Principal Act.

GIVEN under my hand,
11 May 2011.

MICHAEL O'GRADY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2011

These Regulations are made by the Revenue Commissioners under the provisions of section 917EA of the Taxes Consolidation Act 1997. This section was inserted by section 164 of the Finance Act 2003 and was made subject to a commencement order by the Minister for Finance. This order was signed on 28 July 2008.

These Regulations provide for mandatory electronic filing of certain tax returns and payment of tax liabilities by certain categories of taxpayers. The provisions are introduced in 2 stages.

With effect from 1 June 2011 the following categories of taxpayers are obliged to file their returns electronically:

- All companies, trusts, partnerships, collective investment undertakings and European Economic Interest Groupings.
- Individuals subject to the high earners restriction for the tax year 2009 or any subsequent tax year.
- Self-assessed individuals benefiting from or acquiring Foreign Life Policies, Offshore Funds, other offshore products or claiming any of the property or area-based incentive reliefs for the tax year 2009 or any subsequent tax year.
- Self-assessed individuals filing a return of payments to third parties.

With effect from 1 October 2011 employers with more than 10 employees are required to file their returns electronically.

In all cases, the payment of any tax liability, which arises after the obligation to e-file returns commences, must be made electronically and in these circumstances this must continue for all subsequent returns and payments.

The Revenue Commissioners may, on application, exclude a person from the obligation to pay and file electronically if they are satisfied that the person does not have the capacity to do so and in this context “capacity” is taken to mean sufficient access to the Internet and in the case of an individual is not prevented by reason of age, physical or mental infirmity from filing and paying electronically. A person aggrieved at a failure by the Revenue Commissioners to exclude them from the requirements may appeal that failure to the Appeal Commissioners. An excluded person may, if circumstances change, have that exclusion revoked and that decision may also be appealed to the Appeal Commissioners.

Provision is also made to determine the time at which payments made by electronic means are to be taken as having been made.

BAILE ÁTHA CLIATH
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