

Life Assurance Companies - Return of Payments

Part 26-06-02

This document should be read in conjunction with Section 891B of the Taxes Consolidation Act (TCA) 1997 and the [Return of Payments \(Insurance Undertakings\) Regulations 2011 \(S.I. No. 641 of 2011\)](#)

Document last reviewed April 2022



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Introduction

Section 891B TCA 1997 (as introduced by section 125 of the Finance Act 2006) provides for the making of regulations by the Revenue Commissioners, with the consent of the Minister for Finance, to require financial institutions such as banks and insurance companies to make automatic annual returns electronically to Revenue in respect of payments made in relation to life assurance policies.

This Tax and Duty Manual (TDM) is intended to provide guidance for Life Assurance Companies on how to operate certain aspects of the [Return of Payments \(Insurance Undertakings\) Regulations 2011 \(S.I. No. 641 of 2011\)](#) on the return of certain payments to Revenue.

1 Overview

The substantive provision is contained in Regulation 4, which provides for the making of annual returns to Revenue by “specified persons” who make a “relevant payment” to a “payee” in a tax year. The return is to be made within the time specified in Regulation 5 and is a return of the aggregate of all such relevant payments in respect of that investment made in the tax year. There are also obligations on specified persons to seek and provide tax reference numbers for new investments made on or after 1 January 2013 and these provisions are contained in Regulation 6. Inspection of the books and records of an assurance company by an authorised Revenue officer in connection with the reporting regime is dealt with in Regulation 7.

1.1 Specified Persons

A specified person is required to make a return. Schedule 1 to the Regulations lists provides that a specified person is an assurance company (within the meaning of section 891B) that also meets the definition of an insurance company (within the meaning of these Regulations). Section 891B defines an “assurance company” as -

- An assurance company within the meaning of section 3 of the Insurance Acts 1936,
- A person that hold an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994), or
- A person that hold an authorisation within the meaning of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015), in respect of insurance of a class listed in Schedule 2 to those regulations.

Payments to non-Irish residents as detailed in Schedule 2 of the Regulations are not required to be returned so international insurers based in Ireland are likely to be affected by the Regulations only if they have customers living in Ireland. Insurers carrying on business into Ireland on a Freedom of Services basis are not subject to these Regulations. However care should be taken to ensure that all requirements under the Foreign Account Tax Compliance Act (FATCA), the Common Reporting Standard (CRS) and the Directive on Administrative Co-operation (DAC) are complied with¹.

¹ More information can be found at: <https://www.revenue.ie/en/companies-and-charities/international->

The definition of “insurance undertaking” in the Regulations provides that a person who comes within the definition as a result of holding an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No.360 of 1994) only comes within the scope of reporting in respect of its business which comes within the classes I, III, V and VI of Part A of Annex 1 to the 1994 Regulations, i.e.

- Class I - Life assurance and contracts to pay annuities on human life but excluding Classes II and III.
- Class III – Assurances which are linked to investment funds.
- Class V – Tontines.
- Class VI – Capital Redemptions.

Accordingly, contracts of insurance providing for a sum on marriage or birth (Class II), Permanent Health Insurance (Class IV) and managed group pension funds (Class VII) are outside the scope of the Regulations. In addition, Pensions business coming within section 706 TCA 1997 (including annuities) is also excluded, as are pure protection policies such as term assurance or mortgage protection policies which do not acquire a surrender value. (See also “Excepted Payments” at [paragraph 1.3](#) below for payments that have a mixture of protection and investment).

1.2 Relevant Payment

The term “relevant payment” defines the payments to be reported. This is essentially any payment, other than an “excepted payment”, made by an assurance company in respect of an investment.

1.3 Excepted Payments

There are certain payments that are not regarded as relevant payments for the purposes of the regulations. These are set out in Schedule 2 of the regulations and can be summarised as follows:

- Payments where the specified person is in possession of a Life Assurance Exit Tax (LAET) non-resident declaration, which was made by the person who made the investment. This will be treated as satisfied where a declaration is held at the end of the year.
- Payments to certain persons where the assurance company is not in possession of an LAET non-resident declaration, as listed in Paragraph 2 of Schedule 2 to the Regulations –
 - A person in respect of whom the specified person is in possession of written approval from the Revenue Commissioners under s.730D(2A) TCA 1997, and which has not been withdrawn,
 - A bank that is not tax resident in the State,
 - A building society, which is not tax resident in the State but which is tax resident in another EU Member State,

- A company or other entity quoted on a recognised stock exchange outside of the State, where the specified person is satisfied that the company or entity is not tax resident in the State,
 - Bodies listed in Appendix V to [TDM 08-04-11](#), where the bodies concerned are tax resident in a territory with which Ireland has a Double Taxation Agreements, and the specified person is satisfied that the body concerned is not tax resident in the State, and the investment will be for a period of less than 3 months.
- Payments made by reason of death or disability but only in relation to the portion of such payment relating to protection. This is to deal with payments which have both a protection and investment element. Accordingly, only the payment relating to the investment is reportable. If this cannot be separately identified, then the full amount of the payment should be reported together with the “Protection Policy Indicator” to show that part of the payment relates to protection. (Note that this indicator should not be selected where the protection element is insignificant e.g. where the total payment is 101% of the surrender value).
 - Payments in respect of certificates of deposit or commercial paper, which qualifies for the treatment provided for under section 246A TCA 1997 (interest in respect of wholesale deposits paid gross of tax) where the payment would not already have been included in a return to Revenue under section 891 TCA 1997.
 - Payments in respect of medium-term notes subject to the conditions set out in Appendix IV of [TDM 08-04-11](#).
 - Payments made to certain resident entities, as provided in Paragraph 6 of Schedule 2 of the Regulations. These entities include pension schemes, ARFs and AMRFs, PRSA providers, resident banks, building societies, credit unions, Post Office Savings Bank, the NTMA, NAMA and the National Pensions Reserve Fund.

Payments to the NTMA under the Unclaimed Life Assurance Policies Act 2003 are also excepted payments but any subsequent claim on the policy should be returned.

Payments where policies are assigned to such entities would not be treated as an excepted payment. Neither would payments from one assurance company to another assurance company, unless as policyholder (although payments in respect of the transfer of a pension fund or the purchase of an annuity are exempt as pensions business).

Payments made by an insurer for administrative purposes (e.g. reinsurance, commercial investments, remittance of exit tax) are also outside the scope of the Regulations.

- Payments made in respect of a debt on a security issued by a bank and listed on the stock exchange.
- Payments by branches outside the State.

Any payment referred to in 1, 2, 3 or 6 above will only be an excepted payment if the assurance company is satisfied that the person to whom the payment is made is beneficially entitled to the payment (other than in cases where the beneficial owner will never be the

policyholder). Also, any payment referred to in Schedule 2 will not be excluded if the assurance company is unable to identify from its electronic records the payment as falling within that Schedule. This may arise where, for example, the payment is a mixture of protection and investment.

2 Reporting Obligations

Regulation 4 is the core of the reporting regime. A specified person (see [paragraph 1.1](#)) is required to report certain details about a payee to whom they make a relevant payment. Certain details are also required in relation to the relevant payments being reported. Each separate policy on which a payment is made must be reported separately. If there are no relevant payments made by an assurance company, there is no requirement to make a return for that year. However, it would be of assistance to Revenue if the specified person notified the Accountant General's and Strategic Planning Division accordingly (e.g. by email to 3rdpartyreturns@revenue.ie).

Details of the precise format of reports are contained in the Revenue file specification². For international insurers with few Irish resident customers and a low level of reporting, the information, which must be sent electronically, may be shown on a spreadsheet, and then converted accordingly into a format suitable for submission.

2.1 Information relating to a specified person

The following information should be included in the report:

- The name of the specified person (i.e. the assurance company making the report),
- The address of its registered office,
- The tax reference number of the assurance company, and
- The specified person's contact details.

2.2 Information relating to the payee

The payee will generally be the policyholder (see [paragraph 2.7](#) for further detail). What must be reported to Revenue in such cases will depend on whether the payee is an individual and whether the investment was made on or after 1 January 2013. [Paragraph 3.1](#) gives further detail on this latter point.

The following is a general summary of the details to be reported for each payee:

- Name of the payee,
- If the payee is an individual, the residential address as recorded by the assurance company and his/her date of birth if on record (there is no requirement for the company to verify this date),
- If the payee is a company or other payee, the registered office (if required by law to maintain this) or, if not on the record, the payee's address as determined for the

² <https://www.revenue.ie/en/companies-and-charities/documents/file-specifications-for-assurance-companies.pdf>

purposes of section 32 of the Criminal Justice Act 1994 (the previous Money Laundering provisions) or of Chapter 3 of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010,

- Relevant payment details (see [paragraph 2.3](#)),
- Tax reference number data –
 - For companies and charities there is a requirement to report the tax reference number or the charity number, if readily available, in all instances for all years,
 - If the payment is in respect of an investment opened on or after 1 January 2013, the payee's tax reference number (including the PPSN if an individual) or the charity number if a charity, or in the absence of these numbers, an indicator to that effect (see [section 3](#) for obligations in this regard).
- All other relevant indicators i.e. –
 - No verified tax reference number (for investments made on or after 1 January 2013),
 - Policies with joint policyholders together with the apportionment of the payment between the parties, if applicable,
 - Beneficial owner,
 - Protection payment.

As a general point, the information that is required to be reported is what is held in a defined field on the computer system of the assurance company making the report. This, in particular, will apply to the date of birth data reporting requirements. The address field is what is held in the computer system when the report is being made.

2.3 Relevant Payment details

The details here relate to the relevant payment, or the aggregate of the relevant payments if more than one was made, on the investment during the year. These are –

- The policy number, which should also include any code if it is part of the investment. If there is no policy number, information capable of identifying the investment must be provided. This would generally be the serial or other identifying number.
- The amount of the payment, or payments where more than one. This is the gross amount disregarding any LAET or other tax that has been deducted.

2.4 Type of Payments to be reported on

The payment to be reported will be any amount in respect of an investment (e.g. on maturity, or on a surrender in whole or in part). All such payments are regarded as relevant for the purposes of the regulations and any reference to payments in these guidance notes should be regarded as including all these items unless they are specifically excluded. Where a customer instructs an insurer to transfer funds payable under a policy directly to a new policy with the same insurer then this should be treated as a payment under the original policy and reported in the normal way.

2.5 Joint investments

Where an investment is made by two or more people (i.e. joint policyholders), then a report is then required for each party to the investment irrespective of the individual entitlement. If the entitlement is not known, then the life assurance company should attribute the full payment to each policyholder.

The following details are to be included in the return for each party –

- Where the company is aware of that person's entitlement that amount should be shown but in the normal course of events the insurer should treat everyone as entitled to the total payment(s) and report on that basis.
- An indicator as to whether the amount shown is the total for the investment or just that person's respective entitlement.
- An indicator that it is a joint assessment.
- The number of persons who are party to the investment, if known.

It is acceptable to report only the year-end parties to an investment even if other parties existed during the course of the year. In the case of client accounts what is to be reported is the name of the customer as it appears on the account in the computer record and all that customer's related details.

In the case where there is a joint investment held by parties some of whom are resident and some of whom are non-resident, all parties should be reported (unless a party is in receipt of an excepted payment under Schedule 2 in which case he/she can be excluded from the report under the Regulations).

The customer in the case of a joint investment, which is a client account, is the party that appears as the policyholder on the computer system of the assurance company concerned and this is the person who is to be reported.

2.6 Partnership investments

For investments opened by partnerships, it will be sufficient to report only the partner details that are recorded on the computer system of the assurance company concerned. It is sufficient also to only report the tax reference number of the partnership in such cases. The names and addresses to be returned for such an investment are those recorded on the computer records of the company concerned for that partnership investment.

2.7 Non-beneficial owners / Intermediaries

There will be instances where payments are made to persons who are not, necessarily, the beneficial owner. Examples of these are policies assigned to a bank as security for a loan or payments on death to executors. In such instances the return should only include the details for the person shown on the policy. Where a policy has been absolutely assigned and the original policyholder is no longer entitled to the policy, details of the new policy owner should be returned. In cases where the payment is made to the beneficial owner who is known to be so by the assurance company, an indicator to that effect should be included in the return.

2.8 Time limits for the delivery of returns

Regulation 5 provides that the return must be made by 31 March in the year following the year for which the return is made.

All returns are to be made electronically. Any issues in regard to the delivery of information should be addressed to:

Information Management,
Accountant General's and Strategic Planning Division,
Revenue Commissioners,
Bishop's Square,
Dublin 2.

Email: 3rdPartyReturns@revenue.ie

3 Other obligations

3.1 Obligation to seek tax reference numbers when opening new investments on or after the 1 January 2013

Regulation 6 sets out the need for assurance companies to make all reasonable efforts to seek a tax reference number from any customer who takes out a new investment (i.e. policy) on or after the 1 January 2013. It is important to note that the customer in this instance is the person in whose name the investment is held and not the beneficial owner of the funds. While there is a requirement in Regulation 6(4)(a) to seek the tax reference number of the beneficial owner of the funds (if known), this is only to apply where the customer and the beneficial owner are one and the same person.

3.2 Tax reference number

Application forms for opening new investments should provide for the tax reference number. The tax reference number collected can only be used for the purpose of making a report to Revenue (see [paragraph 3.10](#) and [paragraph 3.11](#) as regards penalties for any breaches of this provision). Only Irish Tax reference numbers should be reported. If the entity opening the investment does not have a tax reference number no entry should be made in that field on the return. There is no requirement to obtain tax reference numbers for excepted payments (listed in [paragraph 1.3](#)). It should also be noted that, where a non-resident customer becomes Irish resident on or after 1 January 2013, this is not considered to be a new investment and, accordingly, there is no obligation on the assurance company to seek a tax reference number.

3.3 Verification

There is a need to seek documentation from the customer to verify the tax reference number and a copy of such documentation should be retained (see [paragraph 3.6](#) regarding acceptable documentation). The verification documentation is also acceptable to verify the address for money laundering purposes provided this would otherwise be acceptable and provided the customer agrees to this.

3.4 Retaining documents

When a new investment is made, the documents used to verify the tax reference number must be held for 5 years after the relationship between the assurance company and the customer has ended (see [paragraph 3.6](#) on verification of tax reference numbers). They can be stored in electronic format and [paragraph 3.5](#) outlines storage and search guidelines. There are no penalties where a customer does not supply a tax reference number. The obligations of an assurance company will be regarded as fulfilled if an indication to that effect is included in the return or where a company makes a suspicious transaction report under Chapter 4 of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 provided all the surrounding circumstances suggest that such an approach is necessary (see [paragraph 3.12](#) on Suspicious Transaction Reporting).

3.5 Storage of tax reference number data

All tax reference number data (including the PPSN) may be stored at customer level. However, it should not be possible to search using the tax reference number as the search criteria or part of the search criteria.

In addition, the tax reference number should not be shown as part of the customer's standard data. However, occasions where it can be shown include

- (a) at investment opening,
- (b) if the tax reference number is being corrected,
- (c) during verification of the tax reference number,
- (d) where a scanned image of either the investment opening form (or similar documentation) or the tax reference number verification documentation is being viewed, and
- (e) areas involved in reporting.

Subject to the above, an assurance company may retain tax reference number and related documentation in its computer records and there is only a need to get such data once. This tax reference number and verification documentation can be used again by a company when opening another new investment for the same customer in the future.

3.6 Tax reference number verification

The following documentation (original or copy) may be used to verify the tax reference number as required under regulation 6(5)(a):

- Employment Detail Summary
- Revenue Statement of Liability
- Payslip (where employer is identified by name or tax number)
- Drug payment scheme card
- European health insurance card
- Tax Assessment
- Tax Return Form
- PAYE Notice of Tax Credits

Child Benefit Award Letter /Book Pension Book

In addition, any printed documentation issued by the Revenue Commissioners or by the Department of Social Protection which contains the person's name, address and tax reference number will also be acceptable.

There is no expiry period for any of the above documentation.

All tax reference numbers (verified and unverified) should be included in the return. If the system can readily identify whether the tax reference number is verified or not, the indicator should also be included as appropriate.

The address on the investment does not have to match the address contained in the documentation that is used to verify the tax reference number. The format of a tax reference number is seven numbers followed by either one or two letters (check characters).

3.7 Existing tax reference numbers already supplied for other tax purposes

Tax reference number data for individuals should only be reported for new investments made on or after 1 January 2013. Under no circumstances should the tax reference number be provided for individuals for investments that were made prior to that date.

Where an existing customer commences a new investment on or after the above date, the tax reference number can be stored at customer level but it can only be included in a report for that new investment - not for investments already made prior to 1 January 2013.

Under no circumstances should a tax reference number that was collected for other tax purposes be used in connection with these current regulations. See [paragraph 3.11](#) on misuse of data collected.

3.8 Intermediaries and tax reference numbers

The regulations require that an intermediary who acts for an assurance company, but who does not hold investments, should seek the tax reference number from a customer when commencing a new investment – a customer is any person who makes an investment with an assurance company and is the person to whom the funds will be given when the policy is surrendered or matured. In such circumstances, the intermediary should pass on the tax reference number information to the assurance company.

3.9 Change of policy number

In general, a change of policy number will be regarded as a new investment. However, where a policy number changes in the process of the company upgrading its Information Systems or in other necessary circumstances, it is not to be treated as a new investment. Therefore, in such circumstances, there is no need to seek tax reference number details.

3.10 Penalties

Section 891B(7) TCA 1997 contains a number of penalty provisions which relate to the specified person (i.e. the assurance company). In general, penalties are applied in three broad categories of issues, which are:

- Failure to deliver a return or when an incorrect or incomplete return is made,
- Failure to comply with any requirements of the regulations, or
- Non-compliance with a Revenue officer in the exercise or performance of that officer's powers or duties.

3.11 Misuse of data collected

Particular attention is drawn to the need to ensure that no misuse of any data collected for reporting purposes by an assurance company occurs. This is of particular importance in the context of the PPSN data that will be collected on and after 1 January 2013 and, in this context, it is important to note the provisions of Regulation 6(8) which states that a specified person shall only use the tax reference number obtained under the regulation for the purpose of including it in a return to be made under Regulation 4 and for no other purpose. If Revenue auditors detect abuses in the exercise of their powers under Regulation 7 to inspect the books and other records of an assurance company, then the provisions of Section 891B(7) TCA 1997 will be applied as required.

3.12 Suspicious Transaction Reporting

Under money laundering regulations, designated bodies and persons must report to An Garda Síochána and the Revenue Commissioners any suspicion that a money laundering offence has been, or is being, committed in relation to their business (including the laundering of the proceeds of tax evasion). Suspicious Transaction Reports ("STR") are submitted to Revenue via the Revenue Online Service (ROS). A guide to making an STR can be found [here](#) on the Revenue website.

3.13 Revenue Office for receipt of returns

For issues concerning the secure transfer of data and to submit the electronic annual return please contact:

Information Management,
Accountant General's and Strategic Planning Division,
Revenue Commissioners,
Bishop's Square,
Kevin Street,
Dublin 2.

Email: 3rdPartyReturns@revenue.ie