

Return of Values - Investment Undertakings

Part 27-06-01

This document should be read in conjunction with section 891C of the Taxes Consolidation Act (TCA) 1997 and with [Return of Values \(Investment Undertakings\) Regulations 2013 \(S.I. No. 245 of 2013\)](#)

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1 Introduction

Section 891C TCA 1997 (as introduced by section 121(e) of the Finance Act 2012) provides for the making of regulations by the Revenue Commissioners, with the consent of the Minister for Finance, to require certain investment undertakings, to make automatic annual returns electronically to Revenue of the value of the investments held by certain unit holders. Regulations under [S.I. No. 136 of 2008](#) entitled Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) Regulations 2008 were made on 6 May 2008 and provide for banks, building societies, credit unions and savings banks to report appropriate details to the Revenue Commissioners of interest or similar payments made to customers. Regulations under [S.I. No. 254 of 2009](#) entitled Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) (Amendment) Regulations 2009, were made on 3 July 2009 to also include EU financial institutions operating in Ireland. Regulations under [S.I. No. 273 of 2011](#) entitled Return of Payments (Government Departments and Other Bodies) Regulations 2011 were made on 10 June 2011 and Regulations under [S.I. No. 641 of 2011](#) entitled Return of Payments (Insurance Undertakings) Regulations 2011 were made on 13 December 2011.

This Tax and Duty Manual (TDM) is intended to provide guidance for investment undertakings in complying with the Return of Values (Investment Undertakings) Regulations 2013 on the making of an annual return to Revenue, by investment undertakings, of the value of investments held by certain unit holders. This TDM does not have the force of law, does not affect any person's legal rights nor does provide, in all instances, a full statement of the law.

2 Overview

The substantive provision is contained in Regulation 3, which provides for the making of annual returns to Revenue by certain "investment undertakings" of the value of the investments in a tax year, held by certain unit holders. The return is to be made within the time specified in Regulation 4. There are also obligations on investment undertakings to seek and provide tax reference numbers for new investments made on or after 1 January 2014 and these provisions are contained in Regulation 5. Inspection of the books and records of an investment undertaking by an authorised Revenue officer in connection with the reporting regime is dealt with in Regulation 6.

2.1 Investment Undertaking

Investment undertakings that are required to make reports to Revenue under these regulations, are those that come within the definition of "investment undertaking" in section 891C TCA 1997.

2.2 Value of investment

The term "value of investment" defines the investment amount to be reported. This is computed on the basis of the redemption or repurchase price calculated under the provisions of regulation 110(3) of The European Communities (Undertakings for

Collective Investment in Transferable Securities) Regulations 2011 (S.I. No.352 of 2011). However, where the unit is not priced as at the 31 December, the latest available price nearest to that date may be used. In the case of closed-ended funds with no redemption during the life of the fund, the latest available NAV per unit may be used.

2.3 Excepted unit holder

There is no requirement under these regulations to make a return in respect of certain types of unit holder. These are –

Unit holders	TCA 1997 ref
The following resident entities from which the investment undertaking (IU) has obtained a duly completed resident entity declaration:	
Pension schemes	s. 739D(6)(a)
Companies carrying on a Life Assurance business	s. 739D(6)(b)
Another investment undertaking	s. 739D(6)(c)
An investment limited partnership	s. 739D(6)(cc)
Special investment schemes	s. 739D(6)(d)
Unit trusts to which section s. 731(5) applies	s. 739D(6)(e)
Charities	s. 739D(6)(f)
Certain IFSC companies	s. 739D(6)(g)
ARFs; AMRFs	s. 739D(6)(h)
PRSA providers	s. 739D(6)(i)
Credit Unions	s. 739D(6)(j)
Companies, where the IU is a money market fund	s. 739D(6)(k)
NAMA	s. 739D(6)(ka)
NTMA or a Fund Investment vehicle of which the Minister for Finance is the sole beneficial owner, or the State acting through the NTMA	s. 739D(6)(kb)
Section 110 companies	s. 739D(6)(m)
Unit holders where the IU, immediately before a chargeable event, holds a non-resident declaration made by the person who made the investment; or, where the IU has put in place equivalent measures with the written approval of the authorised Revenue officer	s. 739D(7); s. 739D(7B)
A unit holder who holds units which are held in a recognised clearing system	s.739B(1)(d)(ii)(III); s.739G(3)

3 Reporting Obligations

Regulation 3 is the core of the reporting regime. The investment undertaking is required to report certain details about a unit holder. Certain details are also required in relation to the investment being reported. If there are no unit holders for which a report has to be made, then there is no requirement to make a return for that year. However, it would be of assistance to Revenue if the investment undertaking notified Planning Division accordingly (e.g. by email).

Details of the precise format of reports are contained in the Revenue file specification.

3.1 Information relating to an investment undertaking

The following information should be included in the report:

- The name of the investment undertaking;
- The address of its registered office;
- The tax reference number of the investment undertaking; and
- The contact details.

3.2 Information relating to the unit holder

What actually has to be reported to Revenue will depend on whether the unit holder is an individual and whether the investment was made on or after 1 January 2014.

Paragraph 3.1 gives further detail on this latter point.

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

- Name of the unit holder;
- If the unit holder is an individual, the residential address as recorded by the investment undertaking and his/her date of birth if on record (there is no requirement for the investment undertaking to verify this date);
- If the unit holder is a company or other non-individual, the address of the registered office (if required by law to maintain this) or, if this address is not on the record, the unit holder's address as determined for the 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,
- Where the registered unit holder is an intermediary, reporting obligations under the regulations may be carried out on the basis that the intermediary is the unit holder. For these purposes, intermediary has the same meaning as in s739B(1) TCA 1997.
- Investment details (see paragraph 3.3);
- Tax reference number data:
 - If the investment is made on or after 1 January 2014, the unit holder's tax reference number (or the PPSN if an individual), or, in the absence of these numbers, an indicator to that effect (see paragraph 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 2014;
- Investments with joint unit holders together with the apportionment of the entitlement between the parties, if applicable,
- Beneficial owner.

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 investment undertaking 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.

3.3 Information relating to the investment

The details here relate to the value of the unit holder's investment at 31 December (or if not available, the latest available price, closest to that date) in the tax year under report, or, at the date of first redemption if earlier in that tax year. These are:

- The investment number, which should also include any identifier code if it is part of the investment. If there is no investment number, information capable of identifying the investment must be provided. This would generally be the serial or other identifying number.
- The value of the investment as outlined in paragraph 2.2 above.

3.4 Joint investments

Where an investment is made by two or more people, then a report is required for each party to the investment irrespective of the individual entitlement. If the entitlement is not known then the investment undertaking should attribute the total value of the holding to each unit holder. The following details are to be included in the return for each party:

- Where the investment undertaking is aware of that person's entitlement that amount should be shown. If not, that person should be treated as being entitled to the whole of the investment and the reporting should be done on this 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 investment,
- The number of persons who are party to the investment, if known.

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

3.5 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 investment undertaking concerned. It is sufficient also to report only 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 investment undertaking concerned for that partnership investment. In the situation where there is no record of the tax reference number of the partnership, then the details of the individual partners may be returned.

3.6 Time limits for the delivery of returns

The schedule for submission of the returns is as follows:

Tax Year	Due Date
2012	30 September 2013
2013 onwards	31 March in the following year

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

Information Management,
Planning Division,
Revenue Commissioners,
Bishop's Square,
Dublin 2.

Email: 3rdPartyReturns@revenue.ie

4 Other obligations

4.1 Obligation to seek tax reference numbers (including PPSNs)

Regulation 5 sets out the need for investment undertakings to make all reasonable efforts to seek a tax reference number from any unit holder who makes a new investment on or after 1 January 2014.

Application forms for opening new investments should provide for the tax reference number. The tax reference number collected can be used only for the purpose of making a report to Revenue (see paragraphs 4.6 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 under these regulations to obtain tax reference numbers for excepted unit holders. It should also be noted that, where a non-resident unit holder (excepted unit holder) becomes Irish resident on or after 1 January 2014 this is not considered to be a new investment and, accordingly, there is no obligation on the investment undertaking to seek a tax reference number.

There is a need to seek documentation from the unit holder to verify the tax reference number and a copy of such documentation should be retained (see paragraph 4.2 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 investor agrees to this.

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 investment company and the customer has ended. They can be stored in electronic format and paragraph 4.2 outlines storage and search guidelines. There are no penalties where a unit holder does not supply a tax reference number. In this regard, it should be noted that the failure to provide a PPSN or a document verifying a PPSN at account opening, should not prevent the completion of the account opening process. Revenue suggests that to minimise the incidences of returns with no PPSN or an unverified PPSN, one reminder letter requesting the appropriate documentation should be sent. The obligations of an investment undertaking in relation to an account will be regarded as fulfilled if it is indicated that no PPSN or an unverified PPSN is included in the return or where the undertaking 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 3.7 on suspicious transaction reporting).

4.2 Storage of tax reference number data

All tax reference number data (including the PPSN) may be stored at unit holder 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 unit holder'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) in areas involved in reporting.

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

4.3 Tax reference number verification

The following documentation (original or copy) may be used to verify the tax reference number as required under Regulation 5(4)(a):

P60

P45

P21 Balancing Statement

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

Social Services Card

Public Services Card

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.

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, an indicator to this effect should also be included.

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, until recently, has been seven numeric characters followed by one or, sometimes, two alpha characters (check characters). With effect from 1 January 2013, the format of new PPSNs has changed. PPSNs issued from that date consist of nine characters, seven numeric characters and two alpha characters. The validity of PPSNs issued before 2013 is unaffected by this change.

4.4 Existing tax reference numbers already supplied for other tax purposes

Tax reference number data for unit holders should be reported only for new investments made on or after 1 January 2014. Under no circumstances should the tax reference number be provided for unit holders' investments 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 should be included only in a report for that new investment – not for investments already made prior to 1 January 2014.

Under no circumstances should a tax reference number that was collected for other tax purposes be used in connection with these regulations.

4.5 Intermediaries and tax references numbers

The regulations require that an intermediary, who acts for a unit holder but who does not hold units, should seek the tax reference number from the unit holder when commencing a new investment. In such circumstances, the intermediary should pass on the tax reference number information to the investment undertaking.

4.6 Penalties

Section 891C (5) TCA 1997 imports the penalty provisions from section 891B(7). In general, penalties are applied where there is —

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

Particular attention is drawn to the need to ensure that no misuse of any data collected for reporting purposes by an investment undertaking occurs. This is of particular importance in the context of the PPSN data that will be collected on and after 1 January 2014 and, in this context, it is important to note the provisions of Regulation 5(7) which states that an investment undertaking shall use the tax reference number obtained under the regulation only for the purpose of including it in a return to be made under Regulation 3 and for no other purpose. If Revenue auditors, in the exercise of their powers to inspect the books and other records of an investment undertaking, detect abuses, then the provisions of Section 891C(5) TCA 1997 will be applied as required.

4.7 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).

4.8 Revenue Office for receipt of returns

The annual return is to be submitted electronically to Revenue via ROS (Revenue OnLine Service). For further information please contact:

Information Management,
Planning Division,
Revenue Commissioners,
Bishop's Square,
Dublin 2.
Email: 3rdPartyReturns@revenue.ie