Return of Payments - Banks, Building Societies, Credit Unions and Savings Banks

Guidance Notes for Financial Institutions

Part 38-03-34

This document should be read in conjunction with Chapter 4, Part 8 and section 891B of the Taxes Consolidation Act (TCA) 1997, Statutory Instrument No. 136 of 2008, Statutory Instrument No. 254 of 2009 and Statutory Instrument No. 56 of 2015

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

Table of Contents

1 Executive Summary

The purpose of this Manual[1] is to provide guidance for financial institutions in respect of their reporting obligations under section 891B TCA 1997 and Regulations[2] made under the provisions of section 891B TCA 1997 by the Revenue Commissioners.

General information on Third Party Returns is available on the Third Party Returns section of the Revenue website and contained in Tax and Duty Manual 38-03-13 – 'Third Party Returns: Requirement to Report Information Automatically'.

2 Overview

2.1 Return of Payments

Regulation 5 – 'Return of payments' of Statutory Instrument No. 136 of 2008 [S.I. No. 136 of 2008] provides for the making of an annual return to Revenue by a "specified person" who makes a "relevant payment" to a "payee" in a tax year.

In general, there is an annual reporting threshold of €300[3] provided for in Regulation 4 – 'Reporting thresholds' of S.I. No. 136 of 2008 and any payment that does not exceed this amount need not be reported.

There is, however, an account-splitting provision which requires that the relevant payment of interest, in respect of an account, is to be reported regardless of the amount of the payment.

2.2 Specified Person

A specified person is a financial institution that is required to make a return to Revenue.

The definition of specified person is contained in Schedule 1 of S.I. No. 136 of 2008 and relates back to the definition of "financial institution" in section 891B of the Taxes Consolidation Act 1997.

The specified persons required to report include:

- persons who hold, or have held, a licence under section 9 of the Central Bank Act 1971 or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under section 9 of the Central Bank Act 1971,

[1] This Manual incorporates previous guidance contained in "Guidance Notes for Financial Institutions on Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) Regulations 2008 (S.I. No. 136 of 2008) and Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) (Amendment) Regulations 2009 (S.I. No. 254 of 2009)" published by Revenue on the 9th July 2009.

[2] Statutory Instrument No. 136 of 2008, Statutory Instrument No. 254 of 2009 and Statutory Instrument No. 56 of 2015

[3] This threshold was previously €635 and was reduced to €300, as and from the 16th February 2015, by Paragraph 2(a) of S.I. 56 of 2015.

- a person referred to in section 7(4) of the Central Bank Act 1971. This would include a building society, credit union and the Post Office Savings Bank, and
- a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) which has been authorised by the Central Bank of Ireland to carry on business of a credit institution.

2.3 Relevant Payment

The term "relevant payment" defines the payments to be reported, by whom and for what years.

These are any payments of interest and includes dividend payments made by credit unions.

For the purpose of the reporting regulations, the tax year is the same as the calendar year.

2.4 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 S.I. No. 136 of 2008 and can be summarised as follows:

1. Payments made to non-residents where the financial institution holds a DIRT non-resident declaration 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.
2. Payments to certain persons where the financial institution is not in possession of a DIRT non-resident declaration. These relate mainly to non-resident entities such as banks, building societies and companies in certain circumstances together with bodies listed in Appendix V[4] of Tax and Duty Manual 08-04-11 – 'Deposit Interest Retention Tax ("DIRT") – Manual for Deposit Takers'.
3. Payments in respect of certificates of deposit or commercial paper, which qualify 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.
4. Payments in respect of medium-term notes subject to certain conditions as outlined in Appendix IV[5] of Tax and Duty Manual 08-04-11 - 'Deposit Interest Retention Tax ("DIRT") – Manual for Deposit Takers'.
5. Payments made to certain resident entities i.e. to other banks, building societies, credit unions, Post Office Savings Bank, NTMA, Central Bank, the Investment Compensation Company and the Pension Reserve Fund.

[4] This was previously Appendix III, paragraph 11.2 of the Revenue DIRT Guidance Notes effective from January 2006 referenced in Schedule 2, Paragraph(3)(d) of Statutory Instrument No. 136 of 2008.
[5] This was previously Appendix III, paragraph 11.1 of the Revenue DIRT Guidance Notes effective from January 20062006 referenced in Schedule 2, Paragraph(5) of Statutory Instrument No. 136 of 2008.

6. Payments made in respect of a debt on a security issued by a bank and listed on a stock exchange.
7. 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 financial institution is satisfied that the person to whom the payment is made is beneficially entitled to the payment.

Payments referred to in Schedule 2 of S.I. No. 136 of 2008 will not be excluded if the financial institution is unable to identify, from its electronic records, that the payment falls within Schedule 2.

3 Reporting Obligations

3.1 Reporting

The reporting obligations of financial institutions are set out in Regulation 5 – 'Return of payments' of S.I. No. 136 of 2008.

A financial institution that is required to make a return is called a "specified person" in the Regulations. The specified person is required to report certain details about a payee to whom they make a relevant payment.

Details are also required in relation to the relevant payments being reported.

Each separate investment (account) on which interest is paid must be reported separately.

If there are no relevant payments made by a financial institution, there is no requirement to make a return for that year.

3.2 Reporting Threshold

The requirement to apply a threshold to any relevant payment to be reported is set out in Regulation 4 – 'Reporting thresholds' of S.I. No. 136 of 2008.

All accounts and investments that pay interest of more than €300[6] in aggregate in a year are to be reported and the amount to be included is the full amount of the interest payment rather than just the excess.

This limit applies to each account or investment that a customer holds with a financial institution.

In the case of joint accounts, the threshold applies to the aggregate payments on the account rather than the share to which each of the parties involved is entitled.

Once the threshold is exceeded, a report will then be required for each party irrespective of the individual entitlements (see also paragraph 3.7 on joint accounts).

[6] This threshold was previously €635 and was reduced to €300 on the 16th February 2015 by S.I. 56 of 2015.

If the payments are in a foreign currency both the threshold and the amount of such payments should be based on the rate of exchange applying at the year-end.

The threshold of €300 is also subject to an account-splitting provision requiring any interest paid or credited on all new accounts to be reported in the first year that any relevant payment is made. The report in such cases should show the aggregate payments made in that year regardless of the amounts involved.

3.3 Information relating to a specified person

The following information, in relation to a specified person, should be included in the report[7]:

- The name of the specified person (i.e. the financial institution making the report),
- The address of its registered office,
- The tax reference number of the financial institution, and
- Contact details.

3.4 Information relating to the payee

The payee is the person to whom the relevant payment is made. This is generally the customer of the financial institution, including a child**,** whose name appears on the account.

What actually has to be reported to Revenue in such cases will depend on whether the payee is an individual and whether the account was opened on or after 1 January 2009 (1 August 2009 in respect of EU passported financial institutions). Paragraph 4.1 gives further detail on this.

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 institution and his/her date of birth if on record (there is no requirement for the financial institution 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 by the relevant AML / KYC identification and verification documents,
- Relevant payment details (see paragraph 3.5),
- Tax reference number data:

[7] File specifications for Financial Institutions are available on the Third-Party Return section of the Revenue website.

- For companies and charities there is a requirement to report the tax reference number or the charity number in all instances (this requirement does not apply to other entities e.g. Pension Schemes).
- If the payment is in respect of an account or investment opened on or after 1 January 2009 (1 August 2009 in respect of EU passported financial institutions), 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 4 for obligations in this regard),

- All other relevant indicators i.e.
  - Amount of first relevant payment,
  - No verified tax reference number,
  - DIRT deducted,
  - Joint accounts together with the apportionment between the joint account holders if applicable,
  - Non-beneficial owner.

As a general point, the information that is required to be reported is what is held as a record on the computer system of the financial institution making the report.

3.5 Relevant Payment details

The details to be reported in relation to the relevant payment, or the aggregate of the relevant payments if more than one was made, on the account or investment during the year are as follows:

- The International Bank Account Number (IBAN) of the investment. In the case of a Credit Union, this field can instead include the account number or other identifying information in place of the IBAN. Sub-accounts should be treated as one account.
- Bank Identifier Code (BIC).
- The amount of the payment, or payments where more than one. This is the gross amount disregarding any DIRT or other tax that has been deducted.
- Where DIRT has been deducted for all or part of the year, an indication that a DIRT deduction has been made.

3.6 Type of Payments to be reported on

The payment to be reported will be any return on an investment in the nature of interest or any amount paid in consideration of the making of an investment, including building society and credit union dividends.

All such payments are regarded as interest for the purposes of the Regulations and any reference to interest in this manual should be regarded as including all these items unless they are specifically excluded.

Where interest is posted to an account less frequently than annually, then DIRT is calculated in accordance with section 260 TCA 1997. However, notwithstanding this, the interest to be reported in such instances is the amount that is actually paid or credited to the account in any particular year. Accordingly, interest accrued but not paid or credited to an account should not be reported for that tax year.

Exceptionally, interest on an investment may accrue on one account but be posted to another account. In such cases the account number to be reported is the one on which the interest has accrued.

In the instance where sub-accounts of an account exist then all payments for the sub-accounts and the account itself should be aggregated when making a report for a year or when considering whether the €300 threshold has been exceeded [sub-accounts here relates only to situations where the financial institution has control over the movement of funds between these accounts without reference to the account holder – otherwise it is a separate account].

3.7 Joint accounts/investments

Where an investment is made by two or more people (i.e. a joint account) then the threshold of €300 will apply to the aggregate payments made on the account in a year rather than to the share to which each of the parties involved is entitled.

Once the threshold is exceeded, a report is then required for each party to the joint account irrespective of the individual entitlement (even if €300 or less).

If the entitlement is not known, then the financial institution should attribute the full payment to each account holder.

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

- Where the financial institution is aware of that person's entitlement that amount should be shown. Otherwise, it 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 account or just that person's respective entitlement.
- An indicator that it is a joint account/investment.
- The number of persons who are party to the investment if known.

It is acceptable to report only the parties to an account as at year end even if other parties were account holders in 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 account held by parties some of whom are resident and some of whom are non-resident all parties should be reported except where the non-resident parties are already being reported under section 891F TCA 1997 or

under section 891A TCA 1997 in respect of interest payments made by companies to non-residents.

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

3.8 Partnership account

For accounts opened by partnerships, it will be sufficient to report only the partner details that are recorded on the computer system of the financial institution 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 account are those recorded on the computer records of the financial institution concerned for that partnership account.

3.9 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 accounts held on a nominee basis or denominated as “trust”, “executor” or other similar accounts.

In such instances the return should only include the details for the person shown on the account and include an indicator to this effect if known. It is not necessary to give separate details of the beneficial owner.

3.10 Time limits for the delivery of returns

A return is required to be made by 31 March of the following year [i.e. by 31 March 2024 in respect of the 2023 calendar year].

All returns are to be made electronically via the Revenue Online Service (ROS), using the secure file upload system.

The return must be in the format that Revenue requires.

Details of the return format are contained in the file specifications for Financial Institutions.

Any issues regarding the delivery of information to Revenue should be addressed to:

3rdPartyReturns@revenue.ie

4 Other Obligations

4.1 Obligation to seek tax reference numbers

Regulation 7 – 'Obligation to provide and seek Tax Reference Numbers' of S.I. No. 136 of 2008 provides that specified persons are to make all reasonable efforts to seek a tax reference number from any customer who opens a new account on or after 1 January 2009 (1 August 2009 for EU passported financial institutions).

It is important to note that the customer in this instance is the person in whose name the account is held and not the beneficial owner of the funds.

While Regulation 7(4)(a) imposes an obligation on specified persons to obtain 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.

4.2 Application Forms

Application forms for opening new accounts should provide for the capture of a tax reference number.

The tax reference number collected can only be used for the purpose of making a report to Revenue (see paragraphs 4.10 and 4.11 as regards penalties for any breaches of this provision).

However, reference can be made on the account opening application form to ask the customer, if a company, whether the tax reference number provided can be used to apply for a DIRT exemption.

Only Irish tax reference numbers should be reported. If the entity opening the account 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 2.4.

4.3 Verification of tax reference number

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.

Paragraph 4.6 sets out what would be considered to be acceptable documentation.

The verification documentation is also acceptable to verify the address for AML / KYC purposes provided this would otherwise be acceptable and provided the customer agrees to this.

4.4 New Accounts

When a new account is opened, the documents used to verify the tax reference number must be held for 5 years after the relationship between the financial institution and the customer has ended.

The documents can be stored in electronic format and paragraph 4.5 outlines storage and search guidelines.

There are no penalties where a customer does not supply a tax reference number. The obligations of a financial institution will be regarded as fulfilled if an indication to that effect is included in the return or where a financial institution makes a suspicious transaction report under the Criminal Justice (Money Laundering/ Terrorist Financing) Act 2010 as amended provided all the surrounding circumstances suggest that such an approach is necessary (see paragraph 4.12 on suspicious transaction reporting).

4.5 Storage of tax reference number data

All tax reference number data (including the PPSN) may be stored at customer account 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:

- at account opening,
- if the tax reference number is being corrected,
- during verification of the tax reference number, and
- where a scanned image of either the account opening form (or similar documentation) or the tax reference number verification documentation is being viewed.

The tax reference number can also be visible in areas involved in the preparation and reporting of interest payments.

Subject to the above, a financial institution may retain tax reference numbers 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 financial institution when opening another new account for the same customer in the future.

4.6 Verification of tax reference number

The following documentation (original or copy) may be used to verify the tax reference number as required under Regulation 7(5)(a) of S.I. No. 136 of 2008:

- Employment Detail Summary
- End of Year Statement of Liability
- Payslip (where employer is identified by name or tax number)

- Drug payment scheme card
- European health insurance card
- Income Tax Assessment
- PAYE Notice of Tax Credits
- Child Benefit Award Letter
- 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.

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

Existing procedures for corporate bodies (i.e. companies, charities) to determine DIRT exemption may continue to apply and the tax reference number given should be treated as verified for the purpose of the reporting regulations.

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 account 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 one or, in some instances, two letters (check characters).

4.7 Existing tax reference numbers already supplied for other tax purposes

Tax reference number data for individuals should only be reported for new accounts opened on or after 1 January 2009 (1 August 2009 for EU passported financial institution).

Under no circumstances should the tax reference number be provided for individuals for accounts that were opened prior to those dates. In the circumstances where an existing account, for example a current account which was opened prior to 1 January 2009 (1 August 2009 for EU passported financial institution), subsequently commences to pay interest there is no requirement for the financial institution to seek or report a tax reference number for such an account.

Where an existing customer opens a new account on or after the above dates, the tax reference number can be stored at customer level but it can only be included in a report for that account - not for pre 1 January / 1 August 2009 accounts.

Under no circumstances should a tax reference number that was collected for other tax purposes (such as DIRT-exempt accounts for over 65's) be used in connection with these regulations. Tax reference numbers collected in such circumstances should only be used for the purposes for which they were intended.

4.8 Intermediaries and tax reference numbers

The Regulations require that an intermediary who acts for a financial institution, but who does not hold deposits themselves, should seek the tax reference number from a customer when opening a new account – a customer is any person who makes an investment with a financial institution and is the person to whom the funds will be given when the account is closed.

In such circumstances the intermediary should pass on the tax reference number information to the financial institution.

4.9 Change of account number

In general, a change of account number will be regarded as a new account.

However, where an account number changes in the process of the bank upgrading its Information Systems or in other necessary circumstances, it is not to be treated as a new account.

Therefore, in such circumstances, there is no need to seek tax reference number details. In addition, the €300 threshold rule can be applied as if the account number had not changed.

4.10 Penalties

Section 891B(7) TCA 1997 contains a number of penalty provisions which relate to the specified person (i.e. the financial institution). 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 the requirements of the Regulations, or
- Non-compliance with a Revenue officer in the exercise or performance of that officer's powers or duties.

4.11 Misuse of data

Particular attention is drawn to the need to ensure that no misuse of any data collected for reporting purposes by a financial institution occurs.

This is of particular importance in the context of the PPSN data that will be collected on and after 1 January 2009 (1 August 2009 for EU passported financial institutions) and, in this context, it is important to note the provisions of Regulation 7(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 5 and for no other purpose.

4.12 Suspicious Transaction Reporting

The Criminal Justice (Money Laundering/Terrorist Financing) Act 2010, as amended, provides that designated bodies and persons must report to An Garda Siochana and the Revenue Commissioners if they know, suspect, or have grounds to suspect 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).