



STATUTORY INSTRUMENTS

S.I. No. 341 of 2008

TAX RETURNS AND PAYMENTS (MANDATORY ELECTRONIC
FILING AND PAYMENT OF TAX) REGULATIONS 2008

(Prn. A8/1334)

TAX RETURNS AND PAYMENTS (MANDATORY ELECTRONIC
FILING AND PAYMENT OF TAX) REGULATIONS 2008

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TAX RETURNS AND PAYMENTS (MANDATORY ELECTRONIC
FILING AND PAYMENT OF TAX) REGULATIONS 2008

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 2008.

(2) These Regulations come into operation on 1 September 2008.

Interpretation and general

2. (1) In these Regulations—

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

“capacity” means access to the technology, including both hardware and software, by which either or both a specified return or the payment of any specified tax liabilities may be made by electronic means;

“Commissioners” means the Revenue Commissioners;

“Large Cases Division” means the division of the Office of the Revenue Commissioners known as Large Cases Division;

“Principal Act” means the Taxes Consolidation Act 1997;

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

(2) (a) Any return which a person is or may be required by the Acts to give 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, is specified as specified tax liabilities.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 29th August, 2008.*

- (c) Each person referred to in Schedules 1 and 2 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 January 2009

3. (1) Subject to paragraph (3), where, on or after 1 January 2009, any specified return falls due to be made by or on behalf of a specified person to whom Schedule 1 relates, then the return shall be made by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Subject to paragraph (3), where, on or after 1 January 2009, a payment of any specified tax liabilities falls due to be made by or on behalf of a specified person to whom Schedule 1 relates, then the payment shall be made by such electronic means as are required by the Commissioners.

(3) Where the specified person is a person to whom paragraph (1) or (2) relates and is a person whose tax affairs are dealt with by Large Cases Division, then the provisions of these Regulations shall only apply where the person has been notified in writing to that effect by the Commissioners.

Persons required to make returns and payments by electronic means from 1 January 2010

4. (1) Subject to paragraph (3), where, on or after 1 January 2010, any specified return falls due to be made by or on behalf of a specified person to whom Schedule 2 relates, then the return shall be made by electronic means and in accordance with Chapter 6 of Part 38 of the Principal Act.

(2) Subject to paragraph (3), where, on or after 1 January 2010, a payment of any specified tax liabilities falls due to be made by or on behalf of a specified person to whom Schedule 2 relates, then the payment shall be made by such electronic means as are required by the Commissioners.

(3) The requirements placed by paragraphs (1) and (2) upon a specified person to whom paragraph 2 of Schedule 2 relates shall continue to apply, notwithstanding that the obligation on that person to append audited accounts to its annual return (under any provision of the Companies Acts) may no longer apply.

Repayment of tax by electronic means

5. Where a repayment of any specified tax liabilities falls due to be made by the Commissioners—

- (a) on or after 1 January 2009 to a specified person referred to in Schedule 1, or
- (b) on or after 1 January 2010 to a specified person referred to in Schedule 2,

the repayment shall be made by electronic means.

Exclusion of certain specified persons

6. (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 person does not have the capacity to make a specified return or to 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 person from the provisions of these Regulations only if they are satisfied that, in all of the circumstances, the person could not reasonably be expected to have the capacity to make a specified return or to make a payment in respect 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) shall be made within 30 days of receipt of the notification from the specified person, and the Commissioners shall notify the specified person in writing of the decision.

Right of appeal to the Appeal Commissioners

7. (1) A person aggrieved by a failure of the Commissioners to exclude such person from the provisions of these Regulations in accordance with Regulation 6(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 person, apply to have such person's request to be excluded from the provisions of these Regulations heard and determined by the Appeal Commissioners.

(2) The Appeal Commissioners shall hear and determine an appeal made to them under paragraph (1) as if it were an appeal against an assessment to income tax, and the provisions of the Income Tax Acts relating to appeals shall apply accordingly.

(3) On the hearing of an appeal made 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

8. (1) If, at any time after a decision by the Commissioners in accordance with Regulation 6(2) or a determination by the Appeal Commissioners in accordance with Regulation 7(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 7 shall apply accordingly.

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

9. For the purpose of these Regulations—

- (a) the time at which a payment of any specified tax 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 or 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, and
- (b) the time at which a repayment of any specified tax liabilities to a specified person shall be taken as having been made shall be the time at which the Commissioners give authorisation to credit the amount of the repayment to the account of the specified person in a financial institution.

Presumptions

10. For the purposes of any dispute arising as to the time at which either or both a payment or a repayment of any specified tax 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 or the repayment 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 or the repayment was made at the time so certified.

SCHEDULE 1

SPECIFIED PERSONS FOR THE PURPOSES OF REGULATION 3

1. A Minister of the Government.
2. The Attorney General.
3. The Comptroller and Auditor General.
4. The Revenue Commissioners.
5. The Public Appointments Service.
6. The Commissioners of Public Works in Ireland.
7. The Houses of the Oireachtas Commission.
8. A company or other body whose tax affairs are dealt with by Large Cases Division at any time on or after 1 January 2009.

SCHEDULE 2

SPECIFIED PERSONS FOR THE PURPOSES OF REGULATION 4

1. A person referred to in Schedule 13 to the Principal Act, other than one referred to in Schedule 1 to these Regulations.
2. A company which, at any time on or after 1 January 2010, is required under any provisions of the Companies Acts to append audited accounts to its annual return, other than one referred to in Schedule 1 to these Regulations.

GIVEN under my hand,
22 August 2008

MICHAEL O'GRADY
Revenue Commissioner.

EXPLANATORY NOTE

Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2008

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.

The Regulations provide for mandatory electronic filing and paying of certain tax returns and tax liabilities by Government Departments and Offices, State Bodies and larger companies. These obligations are being introduced in 2 phases. Government Departments, certain named Government Offices and bodies whose tax affairs are dealt with by Large Cases Division of the Revenue Commissioners come within phase 1, with effect from 1 January 2009, while all other State agencies and companies who are obliged under the Companies Act to produce audited accounts come within phase 2, with effect from 1 January 2010.

In essence, any tax return to be made to the Revenue Commissioners, which can be made electronically under the provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997, is covered by these Regulations as well as the payment of all associated tax liabilities. Companies in phase 2 will continue to be obliged to pay and file electronically even if they subsequently become exempt from the obligation to produce audited accounts.

The Regulations also provide that, in all cases where a repayment is due to be made by the Revenue Commissioners, it will be made electronically.

The Revenue Commissioners may, on application, exclude a person from the obligations 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 defined to mean access to the requisite technology, both hardware and software. 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.

Finally, provision is made to determine the time at which payments and repayments made by electronic means are to be taken as having been made.

The bodies to which these Regulations apply are set out in Schedules 1 and 2 to these Regulations.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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