

Revenue Response to ITI Submission on RCT to TALC Direct and Capital Taxes Sub-Committee

In the notes to the Agenda for the TALC Direct and Capital Taxes Sub-Committee Meeting of 11 September 2025, the ITI included a submission dated 3 September regarding published Revenue guidance on the application of RCT to a contract which includes both construction operations and other activities or supplies that would not be considered relevant operations (i.e., mixed contracts).

The submission refers to, the now archived Note for Boards of Management Relevant Contracts Tax/Value Added Tax Boards of Management Guidance Note, stating this guidance document contains material regarding “mixed contracts” which is at variance with the position outlined by Revenue at the TALC sub-committee and the material published in Tax and Duty Manual 18-02-01. Revenue accepts that there was a variance and can confirm that the Tax and Duty Manual contains the official position on the question of “mixed contracts”. The guidance note for Boards of Management is an old document which contained incorrect information, that document predates the Tax and Duty Manuals which are the means by which the definitive Revenue position on matters is published. It is for this reason that the Board of Management guidance document has been archived.

Legislation and Revenue guidance

The submission refers to the RCT legislation referencing sections 530, 530B and 530C of the TCA stating “There is no reference in these sections to notifying the value of the payments which refer to 'relevant operations'”. Revenue do not accept this interpretation of the legislation. Section 530 defines a relevant payment as a payment relating to a relevant contract and a relevant contract is defined in the same section as relating to the carrying out of relevant operations which in this context are construction operations. Section 530B sets out details of the obligations on principals in regard to the submission of contract notifications. Subsection (1) states “Upon entering into a relevant contract.....” a principal shall provide certain details to Revenue including the “estimated contract value”. Since the only contract referenced in the RCT legislation is a relevant contract, the estimated contract value is clearly the estimated value of the relevant contract. Section 530C sets out the obligations on principals in relation to the notification of relevant payments to Revenue. As outlined above a relevant payment is defined as a payment for a relevant contract (i.e. construction operations). In summary, the legislation restricts the application of RCT to relevant operations and makes no provision to apply RCT to services which are not included in the definition of construction operations (or meat processing and forestry operations as the case may be).

It is important to note that paragraph (e) of the definition of construction operations in section 530 brings within the scope of RCT operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described in paragraphs (a) to (d). In effect certain operations may be within the scope of RCT or outside the scope of RCT depending on the circumstances including whether they are carried out as part of wider construction contract. This paragraph of the definition of construction operations does bring certain “mixed contracts” within the scope of RCT. However, it would not bring all the mixed contracts such as those which related to sale of a site and the provision of construction services within the scope of RCT.

Feedback regarding Revenue practice in relation to mixed contracts

The submission includes a number of examples which were received by the ITI from members regarding recent interactions with Revenue on RCT issues. The full facts of these cases are not available to the Revenue representatives on the sub-committee. Furthermore, for confidentiality reasons it would not be appropriate for Revenue to engage with the ITI on specific cases. Should a practitioner have an issue with the application of RCT by a Revenue Operational Division, they should contact the relevant Division referencing the recent update to TDM 18-02-01.

Conditional contracts

Conditional contracts are raised in the submission, stating that these were not addressed in the recent TDM update. The issue of these type of contracts was not raised before in any of the submissions to TALC or at any of the TALC meetings. Neither have these type of contracts been raised with RLS via RTS. Contrary to what is stated in the submission, RLS has not issued any opinions on this type of contract. The previously stated position that RCT only applies to construction operations and that each contract would need to be examined on its own merits would also apply in this situation.

Apportionment of consideration

A request is included in the submission for Revenue to provide guidance on the apportionment of the consideration where a contract provides for a single consideration to cover both the construction services and the sale of the land. How the apportionment should be done is a matter for the principal. Each contract will be different, with land values differing depending on location and size of the land. Similarly, constructions cost will be different in each case, depending on the type of property being built. It is simply not possible or appropriate for Revenue to provide guidance on this matter and Revenue would expect that as part normal business processes and due diligence that a principal should be in a position to carry out the apportionment without too much difficulty.

Guidance in Boards of Management Guidance Note which is omitted from the updated TDM Part 18-02-01

It is noted from the submission that the Boards of Management guidance note was still available on the website of the FSSU. Revenue have met with the FSSU and the guidance note has been removed from their website.

The submission references the sectoral specific examples and guidance that was included in the Boards of Management guidance note and requests that this material be included in the TDM. Given the broad scope of the construction sector, not to mention meat processing and forestry sectors, it is not possible or sustainable to include detailed sectoral specific material in the RCT TDM.

Conclusion

As previously stated, it is the Revenue position that RCT should only be operated on payments in scope of the definition of relevant operations and that the consideration in respect of mixed contracts must be apportioned. The submission raises a number of points that the ITI consider should be addressed as a matter of urgency.

- The ITI consider that it would be appropriate for a prospective date to be applied to the changed Revenue approach to the application of RCT to mixed contracts.

Revenue response: Revenue do not regard this as being necessary as the guidance in the TDM is line with the legislation.

- Revenue should proactively engage with principals and subcontractors regarding these important changes given the significant penalties that could apply where there is unintentional non-compliance.

Revenue response: Section 530F sets out the penalty to be applied where a principal makes a payment to a subcontractor which is not in accordance with a deduction authorisation issued by Revenue. The potential scenario being raised here is that Revenue would apply a penalty where an excessive amount (i.e., the payment included an amount that was not within the scope of RCT) was included on a payment notification and RCT was deducted in accordance with a payment notification. It is not the intention of Revenue that a penalty would apply in such circumstances.

- It is important that there is clear communication of the updated position across Revenue's operational divisions to ensure there is consistency in the RCT treatment of mixed contracts.

Revenue response: An Operational Instruction was issued to all staff at same time that the Tax and Duty Manual was published. This Operational Instructed highlighted the changes made to the manual. In addition, RLS have issued a reminder to the Branch Managers of the relevant operational Branches.

- Guidance should be provided in TDM Part 18-02-01 regarding the practical issues associated with apportioning consideration where one single fixed contract price is in place.

Revenue response: As stated above, it is simply not possible or appropriate for Revenue to provide guidance on this matter.

- In addition, consideration should be given to the requirement for an amendment to the RCT legislation to remove the ambiguity that exists.

Revenue response: Revenue do not accept that any ambiguity exists and do not see a need for a legislative change on this matter.