



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH  
TAX APPEALS COMMISSION

28TACD2025

Between

[REDACTED]

**Appellant**

and

**The Revenue Commissioners**

**Respondent**

---

**Determination**

---

## **Contents**

Introduction .....	3
Background.....	4
Legislation and Guidelines .....	4
Submissions .....	6
Appellant’s submissions .....	6
Respondent’s submissions .....	7
Material Facts .....	7
Analysis .....	8
Determination .....	10
Notification .....	10
Appeal .....	10

## Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) pursuant to and in accordance with the provisions of section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”) brought on behalf of [REDACTED] (“the Appellant”) in relation to a Relevant Contracts Tax (“RCT”) Contract Confirmation (“the notification”) letter, dated **5 July 2024**, that issued by the Revenue Commissioners (“the Respondent”), in accordance with section 530I of the Taxes Consolidation Act 1997 (“the TCA 1997”). The correspondence that issued by the Respondent outlined that the Appellant’s RCT deduction rate was determined to be 35%.
2. In accordance with the provisions of section 949U TCA 1997, and by agreement with the parties, this appeal is adjudicated without a hearing in accordance with the provisions of section **949U TCA 1997**.
3. The Appellant submitted a Notice of Appeal and accompanying documentation in support of its appeal. No Statement of Case was submitted by the Appellant, rather the Appellant, on 18 October 2024, submitted the following in response to the Commission’s request for a Statement of Case:

*“I’m not sure why this has become so complicated or involved but the facts are as follows.*

*[REDACTED] hire contractors [REDACTED] on a “Labour supply only” basis.*

*For this service we invoice [REDACTED]*

*Because of the fact that at no point during the supply these contractors are under the direction, supervision or control of [REDACTED] are never viewed as a sub contractor.*

*[REDACTED] invoice another [REDACTED] and any profit resulting from the transaction is reported to [REDACTED].”*

4. The Commissioner has received a Statement of Case from the Respondent. Both the Appellant’s Notice of Appeal and the Respondent’s Statement of Case and have been considered in this Determination.

## Background

5. On **5 July 2024**, the Respondent wrote to the Appellant to inform it that the Respondent deemed the Appellant a subcontractor, as per information the Respondent received from the Principal Contractor. The Appellant's RCT deduction rate was determined by the Respondent to be 35%.
6. In its Notice of Appeal dated **9 October 2024**, the Appellant submitted that it provided a "*labour supply only*" service to their client [the Principal Contractor] and the Appellant was not a subcontractor on any of the projects. Hence, the Respondent's correspondence, that the Appellant was a subcontractor on [the Principal Contractor's] project, was incorrect.
7. The Respondent submitted that [the Principal Contractor] was deemed to be a Principal Contractor for the purposes of **section 530 TCA 1997** and the nature of the works qualify for RCT.
8. Furthermore, the Respondent submitted that if the Appellant registers for RCT, the amount withheld will be available for refund, once all else is in order. The Respondent stated that this includes the completion of the RCT Questionnaire, in addition to furnishing the Respondent with bank details, in order that the repayment can be made to the Appellant.
9. On **9 October 2024**, the Appellant duly appealed to the Commission.

## Legislation and Guidelines

10. The legislation relevant to this appeal is as follows:
11. Section 530 TCA 1997, Interpretation (Chapter 2), provides *inter alia* as follows:

*"the principal" has the meaning assigned to it by the definition of "relevant contract";*

*"relevant contract" means a contract (not being a contract of employment, or a contract between NAMA and a NAMA group entity or a contract between a NAMA group entity and another NAMA group entity) whereby a person (in this Chapter referred to as "the contractor") is liable to another person (in this Chapter referred to as "the principal")—*

- (a) *to carry out relevant operations,*
- (b) *to be answerable for the carrying out of such operations by others, whether under a contract with the contractor or under other arrangements made or to be made by the contractor, or*
- (c) *to furnish the contractor's own labour or the labour of others in the carrying out of relevant operations or to arrange for the labour of others to be furnished for the carrying out of such operations,*

*“relevant payment” means a payment made by a principal to whom section 530A applies in respect of a relevant contract;*

*“relevant operations” means construction operations, forestry operations or meat processing operations, as the case may be;*

*“subcontractor” means the contractor under a relevant contract where the principal under that contract is a person to whom section 530A applies;*

12. Section 530A TCA 1997, Principal to whom relevant contracts tax applies, provides *inter alia* as follows:

- (1) *Subject to subsections (2) and (3), this section applies to a principal who is—*
  - (a) *in respect of the whole or any part of a relevant contract, the contractor under another relevant contract,*
  - (b) *a person—*
    - (i) *carrying on a business that includes the erection of buildings or the development of land (within the meaning of section 639(1)) or the manufacture, treatment or extraction of materials for use, whether used or not, in construction operations,*

13. Section 530F TCA 1997, Obligation to deduct tax, provides *inter alia* as follows:

- (1) *A principal to whom a deduction authorisation is issued under section 530D shall deduct tax from the relevant payment concerned only in accordance with the terms of the deduction authorisation.*

14. Section 530I TCA 1997, Determination of rates, provides *inter alia* as follows:

- (1) *For the purpose of establishing the rate of tax referred to in section 530E(1), the Revenue Commissioners shall, from time to time, determine whether a subcontractor is a person to whom section 530G applies, a person to whom section 530H applies or a person to whom neither section 530G nor 530H applies.*
- (2) *Following a determination under subsection (1), the Revenue Commissioners shall notify the subcontractor of the determination and the rate of tax resulting from such determination.*

- (3) (a) A subcontractor aggrieved by a determination of the Revenue Commissioners made under subsection (1) in respect of that subcontractor may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that determination.

## **Submissions**

### *Appellant's submissions*

15. The Commissioner sets out hereunder a summary of the submissions made by the Appellant, as set out in the Appellant's Notice of Appeal and subsequent correspondence:-

*"Thank you for your letter dated July 5th, received on July 12th (enc)*

*I write to advise you of an error in your letter namely that [the Appellant] were a 'subcontractor' on [the Principal Contractor] ██████████ project"*

*[The Appellant] provide a 'labour supply only' service to their client [the Principal Contractor] and are not a subcontractor on any of their projects.*

*[The Appellant] engage with and invoice ██████████ ██████████ on any resultant profit.*

*If you require any further detail or information, please do not hesitate to contact me on the details provided below.*

.....

*[The Appellant] hire contractors to [the Principal Contractor] on a "Labour supply only" basis.*

*For this service we invoice [the Principal Contractor] for the supply*

*Because of the fact that at no point during the supply these contractors are under the direction, supervision or control of [the Appellant], [the Appellant] are never viewed as a sub contractor.*

*[The Appellant] invoice another ██████████ ([the Principal Contractor]) and any profit resulting from the transaction is reported to ██████████ ██████████"*

*Respondent's submissions*

16. The Commissioner sets out hereunder a summary of the submissions made by the Respondent, as set out in its Statement of Case:-

*"The Appellant received a Relevant Contracts Tax (RCT), Contract Confirmation letter from Revenue, on 05/07/2024. The letter outlined that they are deemed a subcontractor as per information received from Principal Contractor, and their RCT deduction rate was determined by Revenue to be 35%.*

*In their appeal dated 09 October 2024, the appellant states that they do not believe the works carried out constitute subcontracting activity and so RCT should not apply.*

*The legislation covering this matter is Section 530A and 530F of the TCA 1997. This sets out who is considered a principal contractor for RCT purposes and their obligations to deduct tax on relevant contracts.*

*Section 530A subsection 1(b)(i) states:*

*(1) Subject to subsections (2) and (3), this section applies to a principal who is—*

*(i) carrying on a business that includes the erection of buildings or the development of land (within the meaning of section 639(1)) or the manufacture, treatment or extraction of materials for use, whether used or not, in construction operations,*

*The principal in this case, [REDACTED], are deemed to be a principal contractor for the purposes of S530 and the nature of the works as described qualify for RCT.*

*A further description of Revenue's application of this legislation can be found in the Tax and Duty Manual – Relevant Contracts Tax: Relevant Operations Part 18-02-01*

*The appellant needs to register for RCT and the amount withheld will be available for refund, once all else is in order. This includes the submission of the RCT Questionnaire and providing Revenue with bank details so that monies can be transferred"*

**Material Facts**

17. Having read the documentation submitted by the parties in this appeal, the Commissioner makes the following findings of material fact:

- 17.1. On 5 July 2024, the Appellant received the notification letter from the Respondent, in relation to RCT.
- 17.2. The correspondence outlined that the Respondent deemed the Appellant a subcontractor, as per the information it received from the Principal Contractor.
- 17.3. The Respondent determined that the RCT deduction rate in respect of the Appellant was 35%.

## Analysis

18. The appropriate starting point for the analysis of the issues is to confirm that in an appeal before the Commission, the burden of proof rests on the Appellant, who must prove on the balance of probabilities that an assessment to tax is incorrect. This proposition is now well established by case law; for example in the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49 at paragraph 22, Charleton J. stated:

*“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”.*

19. The Commissioner also considers it useful herein to set out paragraph 12 of the Judgement of Charleton J. in *Menolly Homes*, wherein he states that:

*“Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. Tax is not payable unless the circumstances of liability are defined, and the rate measured, by statute...”*

20. The Appellant’s appeal related to the notification, dated **5 July 2024**, issued by the Respondent, in accordance with section 530I TCA 1997. The notification stated that the Appellant’s rate of RCT as a subcontractor was determined to be 35%. Furthermore, the notification informed the Appellant that *“this rate of tax will apply to relevant payments made to you..... by all principal contractors.....”*

21. The Appellant contended that the Appellant hired contractors to [the Principal Contractor] on a *“Labour supply only”* basis and *“at no point during the supply these contractors are under the direction, supervision or control of [the Appellant], [the Appellant] are never viewed as a sub contractor.”* The Appellant submitted that it invoices another entity [REDACTED]. The Respondent submitted that the Appellant was a subcontractor for the purposes of RCT.



22. Section 530 TCA 1997 provides that “*subcontractor*” means the contractor under a relevant contract, where the principal under that contract is a person to whom section 530A applies and “*the principal*” has the meaning assigned to it by the definition of “relevant contract”. Moreover, “*Relevant contract*” means a contract whereby a person (referred to as “*the contractor*”) is liable to another person (referred to as “*the principal*”), to carry out relevant operations.
23. The Respondent is of the view that the nature of the works qualify for RCT, such that they are relevant operations in accordance with section 530 TCA 1997. In the course of its submissions, the Respondent referred the Commissioner to its **Tax and Duty Manual entitled “Relevant Contracts Tax: Relevant Operations”, Part 18-02-01**. The Commissioner has considered the manual in the course of determining this appeal.
24. The Commissioner noted the introductory paragraph wherein it stated that: “*RCT applies to payments made by a principal contractor to a subcontractor under a relevant contract i.e. a contract for the carrying out of, or the supply of labour for the carrying out of, relevant operations in the construction, meat processing and forestry industries.*” Moreover, the Commissioner observed that paragraph 4 entitled “Relevant operations carried out in the State” provided that: “*RCT applies to all relevant operations carried out in the State.....*”
25. In accordance with the principles espoused by Charleton J. in *Menolly Homes*, the burden of proof in a tax appeal is on the Appellant who must show on the balance of probabilities that the tax is not payable. Having considered the documentation and submissions furnished by the parties in this appeal, the Commissioner is satisfied that the Appellant has not shown on balance that the Respondent was incorrect to issue the notification dated 5 July 2024, to the Appellant in respect of RCT. The Commissioner is satisfied that the Appellant has produced no documentary evidence to establish that the Respondent was incorrect in its decision in relation to RCT. Hence, the Commissioner is satisfied that the Appellant has failed to establish that it was not a subcontractor for the purposes of RCT.
26. Accordingly, the Commissioner finds that the Respondent was correct to issue the notification, which determined the Appellant’s rate of RCT as a subcontractor to be 35%.
27. Nonetheless, the Commissioner noted that the Respondent submitted that the amount withheld was available for refund once certain administrative matters were resolved. The Commissioner would urge the Appellant to engage with the Respondent in this regard, and to resolve the outstanding repayment to the satisfaction of the parties.

## Determination

28. As such and for the reasons set out above, the Commissioner determines that the Appellant has not succeed in its appeal and has not shown on the balance of probabilities that the Respondent was incorrect to issue the notification, dated 5 July 2024, in accordance with section 530I TCA 1997.
29. This Appeal is determined in accordance with Part 40A TCA 1997 and in particular section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) TCA 1997.

## Notification

30. This determination complies with the notification requirements set out in section 949AJ TCA 1997, in particular section 949AJ(5) and section 949AJ(6) TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ TCA 1997 and in particular the matters as required in section 949AJ(6) TCA 1997. This notification under section 949AJ TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

## Appeal

31. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.



Claire Millrine  
Appeal Commissioner  
4 December 2024