

[38.3.2] Returns to be made by Intermediaries in the Financial Services Area¹

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¹ Originally covered in *Tax Briefing, Issue 23 (September 1996)*

Introduction

Section 895 TCA 1997 requires persons who act in the State as intermediaries in, or in connection with, the opening of a foreign bank account to provide certain details of the transaction to the appropriate Inspector. It should be noted that the requirement is not confined to financial institutions. Self-assessment principles apply, i.e. the intermediary must provide the details whether or not requested to do so by an Inspector.

Who is affected?

The intermediaries affected are:

- Persons who act as intermediaries in, or in connection with, the issue of a life assurance policy or the making of a deferred annuity contract by a company which is not resident in the State or not chargeable under Case III in respect of the income from the investment of its life assurance fund (**Section 594 TCA 1997**);
- Persons who act as intermediaries in or in connection with the acquisition of a material interest in an offshore fund (**Section 896 TCA 1997**).

A material interest in an offshore fund is defined in **Section 743 TCA 1997**. Briefly, it is an interest in an investment vehicle, which is either a non-resident company, a unit trust the trustees of which are not resident in the State, or an arrangement under the laws of a foreign territory, which creates rights in the nature of co-ownership.

Although the income tax charge which applies in relation to the disposal of a material interest in an offshore fund applies only to non-distributing funds, the reporting requirement applies to acquisitions of material interest in all offshore funds.

Return filing

The relevant form is [Form 8B-B](#).

The return requirement, in such cases, applies to services provided in the year where the intermediary is within the charge to Income Tax and to accounting periods where the intermediary is within the charge to Corporation Tax.

To whom should the return be made?

The return must be made to the “appropriate Inspector”, who is defined in **Section 895 TCA 1997** as:

- the Inspector who has last required the intermediary to deliver a return of income
- or
- where there is no such Inspector, the Inspector to whom the intermediary usually delivers such a return.

Form 8B-B can be downloaded in a spreadsheet format from the Revenue website and should be sent to 3rdPartyReturns@revenue.ie using the 'My Enquiries' facility on www.revenue.ie. Queries in relation to filing of third party returns may also be directed to that email address.

Business customers who have a ROS digital certificate will be able to access 'MyEnquiries' through their ROS account. Business customers who do not have an active ROS digital certificate can either register for 'myAccount' or register for ROS in order to use the 'MyEnquiries' service.

Further details are available on the Revenue website at <http://www.revenue.ie/en/online/myenquiries.html>.

Persons likely to be intermediaries

An intermediary for the purposes of the legislation is a person who provides services as an intermediary in the ordinary course of a trade carried on in the State.

It should be noted that the definition of intermediary is very wide. It is not necessary that the intermediary be involved in the opening of a foreign account or the acquisition of the foreign life policy etc. All that is required is that the intermediary acts in connection with the transaction. Nor is the section confined to recognised providers of financial services. Any person who in the ordinary course of a trade carried on in the State provides a service as an intermediary may be obliged to make a return. For example, auctioneers and accountants who provide an investment service as an ancillary service to their core business would be considered to be intermediaries for the purposes of the legislation.

Intermediaries should ensure, when providing such services, that they obtain the information necessary to make a full return (name, address and tax reference number of the client etc.). The legislation obliges the client to supply this information to the intermediary (**Section 895(3) TCA 1997**).

Statutory penalties

These apply for:

- the failure to make a return,
- the making of a false return, or
- helping to make a false return.

Further information

Return forms are available on our website at www.revenue.ie under Taxes & Duties, Corporation Tax, Leaflets, Third Party Returns, or at the following link: [Form 8B-B](#).

Any other queries in relation to filing requirements should be addressed to the relevant local Revenue office or by email to 3rdPartyReturns@revenue.ie.