

## Taxation of Non-Irish Resident Landlords

### Part 45-01-04

This document should be read in conjunction with sections 25, 238, 1034, 1041 and 1046 Taxes Consolidation Act 1997

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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.

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## Introduction

This Manual sets out the procedures to be followed in circumstances where a property in the State is rented out by a landlord who is not resident in the State.

The Manual outlines the position -

- where the rent is paid directly to the non-Irish resident landlord (paragraph 1);
- where the rent is paid to a person resident in the State who acts on behalf of the non-Irish resident landlord in the collection of rent (a “collection agent”) (paragraph 2);
- where an individual who was previously resident becomes non-Irish resident and is letting a property in the State (paragraph 3); and
- the tax charge where the non-Irish resident landlord is a company (paragraph 4).

Operational details about the Non-resident Landlord Withholding Tax (NLWT) system are outlined in Tax and Duty Manual [45-01-04a](#).

## 1 Rent paid directly to a non-Irish resident landlord

### 1.1 Obligations of a person paying rent directly to a non-resident landlord

- Where rents are paid directly by a tenant or other direct payer, such as a local authority<sup>1</sup> or a housing body<sup>2</sup>, to a person whose usual place of abode is outside the State (a non-resident landlord), the tenant or other direct payer is obliged to deduct income tax at the standard rate from the payment and remit it to Revenue (sections 238(2) and 1041(1) Taxes Consolidation Act 1997 (TCA)). The standard rate of income tax is currently 20%.
- The obligation to deduct and remit tax from payments to non-resident landlords applies to residential and non-residential (commercial) tenancies.
- Payment into a bank account in the landlord's name is treated as payment directly to the landlord, even if the bank account is within the State.
- Up to 30 June 2023, direct payers were, strictly speaking, obliged to account for the tax immediately after it was deducted from a payment. However, Revenue permitted direct payers to remit the tax deducted from the rent, along with a copy of the form R185, when filing a return of income for the tax year (Form 11 for chargeable persons or Form 12 for non-chargeable persons). For persons whose sole income was subject to PAYE, recovery of the tax deducted could have been achieved by adjustment of tax credits. The direct payer was required to provide the non-resident landlord with a certificate of the tax deducted on Form [R185](#) (Certificate of Income Tax Deducted).
- On 1 July 2023, a new non-resident landlord withholding tax (NLWT) system came into operation. This system allows direct payers to remit tax deducted from rental payments online and requires such payers to make rental notifications (RNs), providing certain information concerning the non-resident landlord, the rental property and the rental income on which the tax is being withheld online using the new NLWT system.
- The non-resident landlord is entitled to claim relief for expenses allowed in arriving at the rental profit (see Part 4 Chapter 8 TCA and the pages on [Irish rental income](#) on the Revenue website) and may be entitled to a proportion of personal allowances (see Tax and Duty Manual [Part 45-01-01](#)).
- The obligation to deduct tax on payment of rents does not make the tenant or other direct payer a chargeable person (section 959B TCA<sup>3</sup>).

<sup>1</sup> A local authority for the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014) and includes a body established under the Local Government Services (Corporate Bodies) Act 1971

<sup>2</sup> A housing authority within the meaning assigned to that term by the Housing (Miscellaneous Provisions) Act 1992

- Payments of this nature are not charges on income. The tax that a direct payer is required to deduct and pay by virtue of section 1041 TCA cannot be offset against the direct payer's own income tax liability. However, as noted above, the tax due on the payments can in some cases be collected by amending a direct payer's income tax credits.
- Tenants or other direct payers may not be aware of their obligation to deduct tax from payments to a non-Irish resident landlord. This can occur either because the tenants are unaware that the landlord is resident abroad or because they are unaware of the obligation to deduct tax when making payment to such a landlord. Once the tenant becomes aware of this obligation, they should deduct tax from all future payments to the landlord unless and until the landlord appoints an Irish resident "collection agent".
- A Revenue assessment can be made on the landlord, at their foreign address, and where necessary powers of attachment under section 1002 TCA can be used to enforce collection of any balance of tax due.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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## 1.2 Information to be provided about the tenancy

The direct payer should provide the following details regarding the tenancy and rent paid as part of making an RN:

- the non-resident landlord's name and address;
- the address of the rental property, including the Eircode;
- the non-resident landlord's property's Local Property Tax (LPT) ID;
- the non-resident landlord's email and phone number;
- the gross amount of rent paid and the date it was paid;
- the amount of tax withheld from the payment and remitted to Revenue.

Operational details about NLWT can be found in Tax and Duty Manual [45-01-04a](#).

## 1.3 Landlord

A non-Irish resident landlord who is an individual or natural person is chargeable to income tax and the Universal Social Charge (USC); a non-resident company which is a landlord is chargeable to corporation tax. Any enquiries should be submitted via the secure "MyEnquiries" service available in myAccount or ROS. The non-Irish resident landlord can claim the tax deducted by the tenant or direct payer against their Irish

<sup>3</sup> Section 959B (1)(c) excludes from the definition of "chargeable persons" someone who is chargeable to tax for the tax year by reason only of section 238 TCA.

tax liability. The landlord is required to file an Irish tax return (Form 11 for an individual or Form CT1 for a company).

Credit for tax deducted from rents should be confined to the tax actually deducted and remitted to Revenue by the tenant or other direct payer.

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[...]

*This manual is currently subject to review and may not reflect up-to-date position. Most recent version.*

## 2 Rent paid to Irish collection agent of non-Irish resident landlord

A variety of entities may be nominated to act on behalf of a non-Irish resident landlord in the collection of rent; for example, an estate agent, a management company, a solicitor, or a relative or friend whom the non-Irish resident landlord has nominated to act on her/his behalf. The phrase “collection agent” is used in this Manual to cover anyone subject to the requirements of section 1034 TCA<sup>4</sup>.

### 2.1 Tenant or other rent payer

If a tenant or other party paying rent is paying an Irish collection agent of a non-Irish resident landlord, rather than directly to the landlord, the rent payer is **not** obliged or entitled to deduct withholding tax from the rent.

### 2.2 Landlord and collection agent

#### 2.2.1 Landlord assessable in collection agent's name

A landlord may be assessable and chargeable to income tax or corporation tax in the name of the Irish collection agent (section 1034 TCA). In this case, the collection agent should be set up under a new tax registration number for the collection activity.

The Irish collection agent is not entitled to deduct tax from the rent on payment to the landlord and should **not** issue a Form R185 (up to 30 June 2023) or an RN (from 1 July 2023) to the landlord. However, the collection agent may retain a sufficient portion of the rents to satisfy the tax payable on the rents (section 1046(2) TCA). This should be paid to Revenue when filing the tax return.

While the assessment is in the name of the Irish collection agent, the tax to be charged is the amount which would be charged if the non-resident landlord was assessed in their own right. This means what should be assessed to tax is the rental profit, after claiming any allowable deductions. For information on calculating rental income please refer to Part 4, Chapter 8, TCA (Taxation of rents and certain other payments) and the pages on [Irish rental income](#) on the Revenue website.

A non-Irish resident landlord who is an individual may also be entitled to personal credits, even when chargeable and assessable in the name of the collection agent. Please refer to Tax and Duty Manual [Part 45-01-01](#) for details of tax credits which a non-resident individual may be entitled to claim.

A “collection agent” who is chargeable and assessable by virtue of section 1034 TCA is a chargeable person for the purposes of the self-assessment provisions in Part 41A

<sup>4</sup> Section 1034 TCA: “A person not resident in the State ... shall be assessable and chargeable to income tax in the name of any trustee, guardian or committee of such person, or of any factor, agent, receiver, branch or manager, whether such factor, agent, receiver, branch or manager has the receipt of the profit or gains or not ...[.]”

TCA (section 1046 (1) TCA). Interest, penalties, and surcharges, as appropriate, will apply in cases where collection agents fail to meet their obligations.

### 2.2.2 Collection agent using the NLWT system

From 1 July 2023, a collection agent may be relieved of the obligation of being assessable and chargeable to tax for the rental income of the non-resident landlord. Section 1041(1B) TCA removes that obligation where the collection agent deducts and remits tax at the standard rate of income tax on the rental payments and provides certain information about the non-resident landlord, the property, the payment and the tax deducted to Revenue, and submits an RN using the new NLWT system.

To use the NLWT system a collection agent must provide the following information as part of the RN:

- the non-resident landlord's name and address;
- the address of the rented property including the Eircode and the property's Local Property Tax (LPT) ID;
- the landlord's Tax Reference Number (TRN) and tax type (income tax or corporation tax);
- the gross amount of the rent payment due and the date the payment is due to be made;
- the amount of tax withheld from the payment and remitted to Revenue.

Operational details about NLWT can be found in Tax and Duty Manual [45-01-04a](#).

### 3 Landlord becoming non-Irish resident

An individual who leaves the State may still have a property which they let and for which they receive rent. (An Irish resident company might also change its residence but retain an Irish property for which it receives rent.) When this happens:

- a tenant or other person paying rent directly to the landlord has the obligations outlined in paragraph 1 above; or
- where the rent is not paid directly to the landlord, an Irish resident collection agent has the obligations outlined in paragraph 2 above.

Any enquiries should be dealt with using the secure “MyEnquiries” service available in myAccount or ROS.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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## 4 Tax charge for non-Irish resident corporate landlords

### **Prior to 1 January 2022**

Where the landlord was a non-resident company, the company was chargeable to income tax, rather than corporation tax, unless it carried on a trade in the State through a branch or agency. If it carried on such a trade, it was chargeable to corporation tax in respect of all the profits attributable to the branch or agency.

### **From 1 January 2022**

Following the enactment of section 25(2A) TCA, for accounting periods commencing on or after 1 January 2022, where a landlord is a non-Irish resident company, the company is chargeable to corporation tax in respect of rental income arising in the State to which Case V of Schedule D applies.

Where a company was chargeable to income tax in respect of its rental income and becomes chargeable to corporation tax from 1 January 2022 because of section 25(2A) TCA, the rules outlined in the following paragraphs apply.

#### **4.1 Losses arising prior to 1 January 2022**

Case V losses carried forward by a non-Irish resident company as at 31 December 2021 under section 384(2) TCA (the income tax provision) are treated as an amount of Case V losses carried forward under section 399(2) TCA (the equivalent corporation tax provision).

#### **4.2 Unused capital allowances prior to 1 January 2022**

Excess Case V capital allowances carried forward by a non-Irish resident company as at 31 December 2021 under section 305(1)(a) TCA (the income tax provision) are treated as an amount of excess Case V capital allowances carried forward under section 308(3) TCA (the equivalent corporation tax provision). Any balancing allowance or charge made to or on a non-Irish resident company, in respect of a capital allowance made to the company in a chargeable period ending on or before 31 December 2021, is adjusted such that the value of the balancing charge does not exceed the value of the capital allowance given and the value of any balancing allowance in respect of such allowances is given at the 20% tax rate (the standard rate of income tax, which applied prior to 1 January 2022 to Irish rental income in the hands of non-Irish companies not trading in Ireland through a branch or agency).

#### **4.3 Registration**

Where the non-Irish resident company is in receipt of rental income to which Case V applies, the company must register for corporation tax with effect from 1 January 2022. If applicable, the registration for income tax should be cancelled – this may not be applicable to every case as some companies may have other income tax liabilities, so this will be decided by each company on a case-by-case basis. Once registered for corporation tax, normal ‘pay and file’ rules for companies will apply.

Where a company has paid preliminary tax in respect of the year of assessment 31 December 2022 under income tax, the Collector General's Division should be contacted to arrange the transfer of the payment from preliminary income tax to preliminary corporation tax.

#### 4.4 Losses and capital allowances forward

Where a company has an amount of unused losses or excess capital allowances at the end of the year of assessment ending on 31 December 2021, those losses or capital allowances may be claimed on the corporation tax return for the first accounting period ending after 1 January 2022.

#### 4.5 Collection agent acting for a company

As with collection agents for non-resident individuals, a collection agent for a non-resident landlord can either be chargeable and assessable for the landlord's tax liability on the Irish rental income, or can operate the new NLWT system and remit withholding tax to Revenue.

Operational details about NLWT can be found in Tax and Duty Manual [45-01-04a](#).

Where a collection agent was registered for income tax in respect of tax due by a non-Irish resident corporate landlord, by virtue of section 1034 TCA (see paragraph 3 above) that agent must now register for corporation tax under the same tax reference number.