

Deposit Interest – Whether a Trading Receipt

Part 02-02-07

This document should be read in conjunction with section 18 of the Taxes Consolidation Act 1997.

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Introduction

The purpose of this Manual is to clarify Revenue's position in relation to deposit interest arising to companies generally and, in particular, to specific classes of financial services companies. Revenue considers that the views expressed in this Manual are in line with the relevant case law on this subject, including *J. A. Browne (Inspector of Taxes) v Bank of Ireland Finance Ltd.* 3 ITR 644 and *Nuclear Electric v Bradley* 68 TC 670.

1 General Rule

The general position in relation to deposit interest is that it is prima facie passive income and is assessable as Case III/Case IV income. In order for an alternative treatment to apply, there is a very high burden of proof on the taxpayer.

Exceptions

Revenue accepts that deposit interest arising in the following specific circumstances is assessable as Case I income: -

1.1 Regulatory Capital Requirement

Where a company is required by Irish or foreign regulatory authorities, e.g. the Financial Services Regulatory Authority, to retain a certain level of permanent capital in the business, any deposit interest which derives from the investment of such regulatory capital is assessable Case I. This includes capital in excess of the minimum capital requirement where the amount concerned has been agreed by a regulatory authority as being appropriate to a particular company, provided that the amount is reasonable and is not excessive.

1.2 Capital which is integral to the trade

Deposit interest arising from deposits held by banks and insurance companies (life and non-life, including reinsurance) is chargeable as Case I income on the grounds that such deposits are integral to the trades of banking and insurance.

The same treatment applies to deposits held by the following classes of financial services companies: -

- Agency treasury company
- Standalone treasury company
- Captive finance company
- Asset finance company (where deposits are an integral part of the financing arrangement)
- Leasing company (where deposits are an integral part of the lease arrangement)
- Investment trader.

In the case of managers of financial services and other similar type companies, deposit interest on deposits held will not be regarded as arising in the course of the company's trading operations and will be taxable at the full rate of corporation tax unless the company can satisfy the very high burden of proof that the deposits are integral to its trade. In this regard, the company must be able to demonstrate that the holding of the deposit is an essential part of the business of the company and that they are necessarily held in the course of that business. The funds on deposit must be actively employed and at risk in the business.

Examples of managers of financial services and other similar type companies are: -

- Insurance Manager/Reinsurance Manager
- Insurance broking company
- Fund management/administration company
- Trustee/Custodian company
- Agency treasury manager/Captive finance company manager.

2 Other Points

1. Where deposit interest is regarded as trading income assessable under Case I rules, it will be regarded as such for all of the purposes of the Taxes Acts.
2. In considering the question of the tax treatment of interest income, Revenue will look at each case on the facts and circumstances of that case. Account will not be taken of the fact that a company is part of a larger group nor will Revenue have regard to the activities of the group but will make its determination solely on the basis of the specific circumstances surrounding the placement of funds on deposit by the company itself.
3. Revenue will not, under any circumstances, regard deposit interest which arises from the proceeds of a sinking fund for potential future liabilities, as trading income even where the liabilities being provided for relate to a future occurrence or event such as the replacement of a wasting asset or, providing for changes to computer equipment arising from (say) the "millennium bug".
4. Where part of the deposit interest arising to a company is regarded as trading income and part is regarded as non-trading income, the total of such interest income may be apportioned on a suitable basis e.g. the proportion of regulatory capital to total capital invested.

3 Effective Date

The above rules apply for accounting periods commencing on or after 1 January 2001.

This Manual replaces any previous practices which were applied in dealing with this matter.

4 Further Information

Any person who has a query on the application of this information notice or requires an opinion in relation to a particular set of circumstances should contact the local Revenue Technical Services Officer.

A more recent version of this manual is available.