

Exemption of certain income arising to specified non-commercial State-sponsored bodies with charitable tax exemption

Part 07-03-03

This Manual should be read in conjunction with sections 227 and 207 of the Taxes Consolidation Act 1997

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Introduction

This Manual clarifies the interaction between section 227 Taxes Consolidation Act 1997 (TCA), which exempts specified non-commercial State-sponsored bodies (NCSBs) from tax on non-trading income, and section 207 TCA, which exempts charities from tax on certain income.

Tax and Duty Manual [Part 07-03-04](#) deals with the application of section 227 generally.

1. Income tax/corporation tax exemption of specified NCSBs

Section 227(4) TCA provides an exemption from tax for income arising to specified NCSBs which would, but for the provisions of that section, have been chargeable to tax under Case III, Case IV or Case V of Schedule D.

The proviso to subsection (4) restricts the exemption by providing that an NCSB which has had deposit interest retention tax (DIRT) deducted from deposit interest on an account is not entitled to a repayment of that DIRT. (See pars. 2.1 and 4 of TDM 07-03-04).

The NCSBs affected by section 227 are specified in Schedule 4 TCA.

2. Charitable tax exemption

Bodies which have charitable tax exemption under section 207 TCA are exempt from tax on deposit interest arising to them (section 207(1)). Some NCSBs have been granted exemption under the section.

A charity can receive deposit interest without deduction of tax if it makes a declaration that it has charitable tax exemption to a “relevant deposit taker” (that is, a financial institution) in accordance with section 266 TCA¹. A charity which does not make such a declaration will have DIRT deducted from deposit interest, but is entitled under section 267(2) to repayment of the DIRT.

Accordingly, in the case of an NCSB which qualifies for charitable tax exemption under section 207, there is an apparent conflict between section 227(4), which precludes any repayment of DIRT to an NCSB and the provisions of section 266, which allow such repayment to charities.

¹This would mean that the account is not a “relevant deposit” for the purposes of DIRT since, by virtue of section 207(1)(b) TCA, the interest is exempt from either income tax or corporation tax, as appropriate. The charity must provide its CHY number to the “relevant deposit taker” (see section 266 TCA and paragraph (h) of the definition of “relevant deposit” in section 256 (1) TCA).

3. Treatment of deposit interest arising to NCSBs which have charitable tax exemption

In Revenue's opinion, section 227(4) does not apply to deposit interest arising to NCSBs which are also entitled to charitable tax exemption, since that provision applies only to income arising to NCSBs "which would, but for the provisions of this section have been chargeable to tax under Case III, Case IV or Case V of Schedule D". The income in question here (deposit interest payable on an account beneficially owned by a charity) is not "chargeable to tax but for" section 227 TCA, it is exempted from tax by another provision (section 207 TCA).

Since section 227(4) does not apply to deposit interest payable to NCSBs which have charitable tax exemption, deposit interest arising to such bodies is treated in the same way as deposit interest arising to all other bodies which have charitable tax exemption. As outlined in paragraph 2 above, the interest can be paid without deduction of tax, if the NCSB with charitable status has provided the "relevant deposit taker" with a declaration under section 266 TCA; or in the absence of such a declaration, any DIRT deducted can be refunded.