

Peer to Peer Lending

Part 08-03-05

This document should be read in conjunction with section 246 TCA 1997

Document reviewed March 2020

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Introduction

As a general rule Section 246 TCA 1997 requires the deduction of income tax at the standard rate from annual interest paid by:

- companies, or
- any person to another person whose usual place of abode is outside the State.

The purpose of this manual is to set out:

- the withholding tax obligations, under the provisions of Section 246 TCA 1997, for companies paying interest on finance raised via Peer to Peer lending or Crowd Funding and,
- the taxation treatment of interest earned by a company or individual lending to companies or non residents via Peer to Peer lending or Crowd Funding.

1. Obligations of the borrower

A company who pays interest on finance that was raised via Peer to Peer lending or Crowd Funding is obliged, under the provisions of Section 246(2) TCA 1997, to withhold income tax at the standard rate of tax on interest payments made on the finance raised.

1.1 Procedures to be followed by the borrower

The company that has received the finance must -

1. withhold tax, at the standard rate of tax, on any interest payments being made;
2. issue a Form R185, in respect of each interest payment, to the lender (the loan agreement between the lender and borrower will have to be looked at to determine who the lender is and to whom the Form R185 is to be issued); and
3. the company is required to account for the withholding tax deducted on its annual Form CT1 Pay and File Corporation Tax Return. The amount of withholding tax deducted should be entered in the Recovery of Income Tax on Payments panel of the Form CT1 and remitted to Revenue.

1.1.1 Direct lending structures

If the loan agreement is between the company and the individual lender the Form R185 should be issued to each individual lender. While a Form R185 is required to be issued in respect of each interest payment, in order to ease the administrative burden on the company in receipt of funding via Peer to Peer Lending Company / Crowd Funding, Revenue will accept a Form R185 that covers multiple interest payments in the one year to the same lender as follows:

- Interest payments made from the date of the first payment in any year to the 31st December in the same year
- Interest payments made from the 1st January to the 31st December of the same year, or

Interest payments made from the 1st January to the date of the last payment in the same year.

Example:

Fundsneeded Limited borrowed €24,000 in Peer to Peer Lending finance on 1st March 2018. The finance is repayable over 24 months and the first repayment [of both capital and interest] on the loan is to be made on the 31st March 2018.

The loan agreements, while facilitated by the Peer to Peer Lending Company, are between Fundsneeded Limited and 12 individual investors.

Fundsneeded Limited should issue 12 Forms R185 to each of the individual investors as follows -

- on the 31st December 2018 in respect of interest payments paid in the period 31st March 2018 to the 31st December 2018
- on the 31st December 2019 in respect of interest payments paid in the period 1st January 2019 to the 31st December 2019
- on the 28th February 2020 in respect of interest payments made in January and February 2020.

1.1.2 Indirect lending structures

If the loan agreement in the above example was between Fundsneeded Limited and the Peer to Peer Lending Company, with a separate loan agreement between Peer to Peer Lending Company and the individual investors then:

- one Form R185 should be issued to the Peer to Peer Lending Company / Crowd Funding Company
- and one Form R185 should be issued by the Peer to Peer Lending Company / Crowd Funding Company to each of the investors

on each of the dates above.

1.2 Exemptions from the general rule to withhold tax under Section 246

Section 246(3) TCA 1997 contains an extensive range of exemptions from the general rule to withhold tax under the provisions of section 246(2) TCA 1997¹. While these exemptions are not available in respect of interest payments made to an individual resident in the State the exemptions can be allowed automatically in respect of other interest payments and do not require prior approval from Revenue.

A company must be clearly able to demonstrate why a particular exemption was utilised.

¹ As these are unlikely to be of relevance in a crowd funding or Peer to Peer lending situation they are not dealt with in this manual. They are covered in [Tax and Duty Manual Part 08-03-06](#) which deals with section 246 in detail.

2 Obligations of the underlying lenders

The underlying lenders to a Peer to Peer Lending Company / Crowd Funding Company are liable to pay income tax:

- under Schedule D Case IV on any interest they earn on which withholding tax has been suffered,
- under Schedule D Case III on any interest they earn that has not suffered withholding tax.

This applies in respect of interest earned on money lent to either an Irish or foreign Peer to Peer Lending Company / Crowd Funding Company.

2.1 Procedures to be followed by the underlying lenders

The underlying lenders must declare the interest received on their annual return of income.

2.1.1 If the underlying investor is an individual

The gross interest payment, before withholding tax has been deducted, should be included on the individual's annual return of income. The type of return you must complete depends on whether you are registered for self-assessment or a Pay As You Earn (PAYE) worker.

- If you are self-assessed:
You should include the interest on your Form 11 and claim a credit for the withholding tax suffered. Use Revenue Online Service (ROS) to submit your Form 11.
- If you are a PAYE worker:
Where you earn less than €5,000 from non-PAYE sources² you should include the interest on your Form 12 and claim a credit for the withholding tax suffered. Use myAccount to submit your Form 12 online through PAYE Services.

The above applies to both Irish and foreign sourced interest. If there is no foreign withholding tax suffered the gross amount of interest received should be returned.

Unlike deposit interest, which is specifically exempted from the Universal Social Charge, the interest earned will also be liable for the Universal Social Charge.

In certain circumstances Pay Related Social Insurance (PRSI) may also be payable on the interest received.

2.1.2 If the underlying investor is a company

The gross interest payment, before withholding tax has been deducted, should be included on the annual Form CT1 Pay and File Corporation Tax Return and a credit claimed for the withholding tax suffered.

² If you earn more than €5,000 from non-PAYE sources (including interest on these loans) then you will be required to register as a self-assessed taxpayer. Refer to [Tax and Duty Manual Part 41A-01-01](#) for more details on who must file a tax return.