

Part 8, Chapter 4 TCA 1997 - Sections 256 - 267 TCA 1997

Deduction of tax from interest payments by certain Deposit takers

1) Introduction

Chapter 4 Taxes Consolidation Act, 1997 introduced the “deposit interest retention tax scheme” (DIRT) whereby “**relevant deposit takers**” must deduct tax from “**relevant interest**” paid or credited by them on “**relevant deposits**”.

This instruction sets out the principal features of the legislation insofar as it has general application to the taxation of **depositors**.

Deposit Interest Retention Tax (D.I.R.T.), at the rate of 41% (from the 1st January 2014) is deducted at source by “relevant deposit takers” from interest paid or credited on deposits of Irish residents.

The above D.I.R.T. rate was:

- 33% for the period 1st January 2013 to the 31st December 2013
- 30% for the period 1st January 2012 to the 31st December 2012
- 27% for the period 1st January 2011 to the 31st December 2011
- 25% for the period 8th April 2009 to the 31st December 2010
- 23% for the period 1st January 2009 to the 7th April 2009 and
- 20% for the period 1st January 2002 to the 31st December 2008.

D.I.R.T. does not apply to

- Interest on deposits beneficially owned by non-residents,
- Deposits of Companies within the charge to Corporation Tax,
- Deposits of Revenue approved Pension Schemes, and
- Deposits of persons who are entitled to charitable exemption from tax.

A higher D.I.R.T. rate applied to interest earned on a deposit where the interest cannot be calculated annually or more frequently and the interest cannot be determined until it is paid. This higher D.I.R.T. rate has been abolished, as and from the 1st January 2014, and the D.I.R.T. rate of 41% applies to any interest paid or credited on these deposits on or after the 1st January 2014.

The higher D.I.R.T. rate was:

- 36% for the period 1st January 2013 to the 31st December 2013

- 33% for the period 1st January 2012 to the 31st December 2012
- 30% for the period 1st January 2011 to the 31st December 2011
- 28% for the period 8th April 2009 to the 31st December 2010
- 26% for the period 1st January 2009 to 7th April 2009 and
- 23% for the period 1st January 2002 to the 31st December 2008

2) Relevant deposit takers

All of the following are relevant deposit takers: -

- a licensed bank of any of the EU Member States,
- a building society of any of the EU Member States ,
- a trustee savings bank,
- the Post Office Savings Bank,
- a credit union (with effect from the 1st January 2002).

3) Relevant interest

Relevant interest is any interest paid or credited in respect of a relevant deposit whether that interest is paid annually or at less or more frequent intervals. In certain instances (e.g. tracker bonds), the interest payable may be linked or determined by changes in a stock exchange or other financial index.

DIRT is a final liability tax. This means that the individual has no further tax liability in respect of the relevant interest but the individual may be liable to PRSI in certain circumstances.

The Universal Social Charge (USC) does not apply to relevant interest.

4) Certificates of relevant interest

Where DIRT has been deducted, the deposit taker must issue a certificate of relevant interest. All such certificates, including those issued by building societies, must show:-

- the gross amount of the interest paid or credited.
- the tax deducted.
- the net amount of the interest.
- the date of payment.

The form of the certificate will indicate whether or not the interest is relevant interest from which tax has been deducted

5) Relevant deposit

A deposit is a sum of money paid to a relevant depositor which is wholly or partly repayable. A “relevant deposit” is defined as any deposit held by a relevant deposit-taker other than certain specified exceptions. Some, but not all, of the exceptions are conditional on the completion of a prescribed or authorised declaration.

In general, Inspectors dealing with the affairs of depositors need not concern themselves as to whether or not a deposit is a relevant deposit. It is for the bank to satisfy itself that a deposit is or is not a relevant deposit and Inspectors should act in accordance with the certificate of interest given by the bank (paragraph 4). The only circumstances in which Inspectors are likely to be concerned with deposits which are not relevant deposits are deposits beneficially owned by non-residents, deposits beneficially owned by charities, deposits made on or after 1 January 1993 beneficially owned by a company within the charge to CT in respect of the interest and deposits made by an exempt approved pension scheme.

6) Exceptions conditional on a declaration

These exceptions relates to deposits made by

- Non Residents (Section 263 TCA 1997) where **all** of the interest on the deposit is beneficially owned by a person or persons ordinarily resident outside the State (e.g. a joint account owned by an Irish resident and a foreign resident would be subject to the retention tax system). The declaration forms are supplied by the relevant deposit taker. Inspectors are entitled to examine declarations forms, and in certain circumstances, notices of non-residence under **Section 891 Taxes Consolidation Act, 1997**).
- An individual, his or her spouse or civil partner, aged 65 or over during the year, where their total income for the year (including their spouses or civil partners, if appropriate) will be below the annual exemption limit. (Section 263A TCA 1997 with effect from the 2nd April 2007 i.e. the date of the passing of the Finance Act 2007.)
- Permanently incapacitated individuals, his or her spouse or civil partner, provided the deposit taker obtains a notification from the Revenue Commissioners to the effect that interest can be paid gross of DIRT (Section 263B TCA 1997 with effect from the 2nd April 2007 i.e. the date of the passing of the Finance Act 2007.)

7) Exceptions not conditional on a declaration

Section 256 TCA 1997 and other specific legislative provisions provide that DIRT should not be deducted from interest paid on any deposit which is:

- made by, and the interest on which is beneficially owned by
 - another relevant deposit taker,
 - the National Treasury Management Agency,
 - a Fund investment vehicle (within the meaning of section 37 of the National Treasury Management Agency (Amendment) Act 2014) of which the Minister for Finance is the sole beneficial owner,
 - the State acting through the National Treasury Management Agency,
 - the National Asset Management Agency,
 - the State acting through the National Asset Management Agency;
 - the Strategic Banking Corporation of Ireland or a subsidiary wholly owned by it or a subsidiary owned by any such subsidiary,
 - the Central Bank of Ireland,
 - the Investor Compensation Company Limited,
 - Icarom PLC,
 - a Real Estate Investment Trust (REIT) or a member of a group REIT,
 - the National Pensions Reserve Fund Commission or the State acting through the National Pensions Reserve Fund Commission.¹
- a debt on a security issued by the relevant deposit-taker and listed on a stock exchange;
- held by the deposit-taker outside the State;
- denominated in foreign currency and made prior to specified dates in 1991 and 1993;
- held by a company or pension scheme provided that their tax reference number has been provided to the deposit taker. In the case of a pension scheme with no such tax number, the number assigned to the employer to whom the pension scheme relates should be provided to the deposit taker;

¹ Section 5(1) and Schedule 1 of the National Treasury Management Agency (Amendment) Act 2014 provides for the dissolution, by Ministerial Order, of The National Pensions Reserve Fund Commission. The Ministerial Order has not been signed as of yet.

- held by a charity provided the charity (CHY) reference number has been provided to the deposit taker;
- an asset of a special investment scheme (Section 737 TCA 1997);
- an asset of an Undertaking for Collective Investments, as defined in Section 738 TCA 1997 which is not a company;
- an asset of an investment undertaking to which the provisions of Chapter 1A of Part 27 apply;
- an asset of an exempt unit trust to which the provisions of Section 731(5)(c) apply;
- an asset of a Special Savings Incentive Account as defined in Section 848B; or
- an asset of an approved retirement fund as defined under Section 784A.

8) Revenue Practices

Revenue practices allow for interest to be paid gross, without the deposit-taker obtaining a declaration of non-residence that would otherwise be required under Section 263, in the following circumstances:

- interest paid by a bank in the State to a non-resident bank;
- interest paid to a non-resident corporate (together with its 100% owned subsidiaries) or other entity quoted on a recognised foreign stock exchange, where the deposit-taker paying the interest is satisfied that the payee is the beneficial recipient of the interest, and is non-resident;

[Note: for this purpose a recognised foreign stock exchange is any stock exchange operating in another country which is recognised by the appropriate regulatory authorities in that other country, and has substantially the same level of recognition in that country as the Irish Stock Exchange has in this country.];

- interest on certain deposits in the form of Medium Term Notes (MTN), provided that certain conditions are met;
- interest on short-term deposits paid to certain bodies, resident in countries with which Ireland has Double Taxation Agreements, where the deposit-taker is satisfied as to their non-resident status. (This practice applies only to a deposit where it is clear from the outset that it will be for a period of less than three months. It does not, for example, apply to all deposits or interest bearing current accounts of indeterminate duration. Furthermore, it does not apply to clients who

have an ongoing relationship with the bank and who roll over short-term accounts.)

Sources such as stock exchange listings, registers that are kept by Central Banks or Government Departments or listings that are held by commercial information providers such as Bloomberg's or the Bankers Almanac should be used to validate the status claimed by such depositors.

9) Repayment of tax

To qualify for a repayment of tax deducted under the retention tax system a taxpayer must be -

- a company within the charge to corporation tax,
- a registered charity,
- a person who or whose spouse or civil partner is 65 years of age or more at any time during the year of assessment, or
- a person who or whose spouse or civil partner was throughout the year of assessment or became during the year of assessment permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself.

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