

Underpayment of preliminary Corporation Tax: waiver of interest where underpayment arises solely due to movements in the exchange rate of the functional currency

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Background

Companies doing business from Ireland may not have a Euro currency focus to the business they transact from Ireland. This manual outlines the circumstances in which Revenue will waive interest charges arising where a company fails to comply with preliminary tax obligations due solely to a fluctuation in currency exchange rates.

1 Review of interest charge

In the case of a company with a functional currency within the meaning of section 402(1) Taxes Consolidation Act 1997 (TCA) other than the Euro, Revenue will review the circumstances presented by the company and may waive any charge to interest arising, where this charge arises **solely** by virtue of the Euro value of preliminary tax payments (made after 29 May 2009) being insufficient due to movements in the relevant exchange rate.

2 Conditions to be satisfied

For the practice outlined above to apply, the following conditions must be satisfied:

1. All requirements of section 959AR, section 959AS or section 959AT¹ TCA, as appropriate, in relation to the minimum amount payable as an
 - initial instalment of preliminary tax,
 - final instalment of preliminary tax,
 - relevant initial balance or
 - relevant final balance

would be satisfied if those requirements had been applied by reference to

- the corporation tax being a functional currency amount, that would have been due if the corporation tax were to be computed as a percentage of the functional currency profits, and
- the functional currency values that were equivalent to the Euro payments made by the company (see next paragraph).

For the purposes of applying this condition, the functional currency values equivalent to the Euro payments made are to be determined by reference to the representative rate of exchange within the meaning of section 402(1) TCA for either the day on which the payment was made or the most recent day, for which such a rate was recorded, before the day of payment.

¹ Section 958 TCA for accounting periods starting before 1 January 2013.

2. The company must make a written claim, providing full details of both the functional currency values and Euro values of all corporation tax due and corporation tax payments made by it for the accounting period and the rates of exchange used, to the Collector-General's Division within one month of the notification of the interest charge. The officer to whom the claim should be directed will be named on the interest notification.

Example

A company with a functional currency other than the Euro makes profits of \$9.2 m. Its corporation tax (CT) liability is \$1.15m, equivalent to €1m at an average exchange rate of 1.15. It pays an initial CT instalment of €445,000 and a final instalment of €447,000. Its CT liability in the previous period was €4m.

	€m	Representative rate of exchange	Functional currency equivalent \$m
Profits in functional currency			9.2
Corporation tax due in functional currency.			1.15
Corporation Tax Due in Euro based on average exchange rate of 1.15	1.000		
Corporation Tax Due in Euro for previous accounting period.	4.000		
Initial instalment of preliminary tax	0.445	1.2	0.534
Final instalment of preliminary tax	0.447	1.17	0.523
Balance	0.108		

- The initial amount is not 50% of the corporation tax for the previous accounting period.
- Based on Euro amounts, the initial instalment is not 45% of the final liability.
- Based on Euro amounts, the initial and final instalments are not 90% of the final liability.
- Interest would be due in respect of both instalments.
- However, the initial instalment is greater than 45% ($0.534 \times 100 / 1.15 = 46\%$) of the final liability based on functional currency.
- The initial and final instalments, taken together are greater than 90% ($[(0.534 + 0.523) \times 100 / 1.15 = 92\%]$) of the final liability based on functional currency.
- The company may apply to the Collector-General's Division for a waiver of interest. The company should clearly state that the failure to comply with preliminary tax provisions is due solely to currency fluctuations.

3 Role of the Collector-General's Division

The Debt Management Task Force (DMTF) in the Collector-General's Division manages applications for waivers of the interest charged on the underpaid preliminary corporation tax, due to currency fluctuations. Any such application is reviewed by the DMTF, which will waive the interest charged in circumstances where the conditions set out above are met.