

Taxation of Non-Resident Landlords

Part 45-01-04

This document should be read in conjunction with section 1041 Taxes Consolidation Act 1997

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Introduction

Where rents are paid directly to a person whose usual place of abode is outside the State, the tenant is obliged to deduct income tax at the standard rate from the payment (section 1041 TCA 1997). The tenant then gives the landlord a certificate of the tax deducted on Form R185 (Certificate of Income Tax Deducted). The landlord is entitled to claim relief for expenses which are usually allowed in arriving at the rental profit and may be entitled to a proportion of personal allowances. **Note: For the purposes of section 1041, payment into a bank account in the name of the landlord is payment directly to the landlord.**

Where rents are paid to a person whose usual place of abode is in the State, for example to an Irish based estate agent acting on behalf of a non-resident landlord, the tenant is not obliged or entitled to deduct income tax. The non-resident landlord is chargeable in the name of the Irish agent. The Irish agent is not entitled to deduct tax from the rent on payment to the landlord but may retain a sufficient portion of the rents to satisfy the tax payable on the rents (section 1046(2) TCA 1997). The agent should **not** issue a Form [R185](#) to the landlord.

1 Rent paid direct by a tenant to a non-resident landlord:

1.1 Tenant:

The tenant should deduct tax from the rent at the standard rate and account for this tax to Revenue. Strictly, the tenant should account for the tax in question immediately after it is deducted. In practice, tenants should submit to Revenue their annual return of income (a Form 11 for chargeable persons, or a Form 12 for non-chargeable/PAYE workers) for the tax year. The return of income should be accompanied by a remittance for the tax deducted from the rent, or, in PAYE cases, recovery of the tax deducted can be achieved by adjustment of tax credits.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Note:

- **The obligation to deduct tax on payment of rents does not make the tenant a chargeable person (section 959A TCA 1997).**

- **Payments of this nature are not charges on income. Taxed or other income cannot be regarded as covering these payments.**

1.2 Residential lettings

In the case of residential lettings, tenants may not be aware of their obligation to deduct tax. This can occur either because the tenants are unaware that the landlord is resident abroad or because the tenants are unaware of the obligation to deduct tax when making payment to such a landlord.

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[...]

In this scenario, the tenant should be asked to provide the following details as regards the landlord:

- Name and address
- Details of the bank account into which rent is paid (name and address of the bank and the account number into which the payments are made)
- Details of the rents paid to the non-resident landlord for all years for which the landlord was resident abroad.

An assessment can be entered on the landlord, at his or her foreign address, and where necessary powers of attachment under section 1002 TCA 1997 can be used to enforce collection of the tax due.

The tenant should be advised to deduct tax from all future payments to the landlord.

Where a claim for rent allowance (section 473 TCA 1997) is received in respect of rent and there are indications that the landlord is resident abroad, the tenant should be advised of the obligation to deduct tax from payments direct to the landlord, including payments into a bank account of the landlord. Where the tenant claims to have been unaware of the obligation to deduct tax, any repayment under section 473 need not be restricted where the tenant provides the information relating to the landlord as set out above.

Exempt Material The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

1.3 Non-residential lettings

In general, the tenant is more likely to be aware of the obligation to deduct tax. Where a tenant of a non-residential property claims not to have been aware of the obligation, the details set out in **paragraph 1.2** in respect of residential lettings should be obtained.

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[...]

1.4 Landlord:

The landlord is a chargeable person and should be dealt with in the District in which the landlord's property is situated. The landlord is chargeable to Income Tax and the Universal Social Charge (USC).

Note: Credit for tax deducted from rents should be confined to the tax actually deducted by the tenant.

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[...]

2 Rent paid to Irish agent of non-resident landlord:

2.1 Tenant:

The tenant is not entitled to deduct income tax from the rent. Where the tenant wishes to claim relief under section 473 TCA 1997 in respect of the rent, he or she should include the name and address of the landlord in the claim. The tax reference number under which the Irish agent of the landlord is assessed in respect of the rent will suffice as the tax reference number of the landlord.

2.2 Landlord:

The landlord is assessable and chargeable to income tax in the name of the Irish agent (section 1034 TCA 1997). The agent should be set up under a new PPS number. While the assessment is in the name of the Irish agent, the tax to be charged is the amount which would be charged if the non-resident landlord was assessed in his or her own right. Accordingly, as well as assessing only the profit rent, relief should be given for any personal tax credits to which the non-resident landlord is entitled. Tax and Duty Manual [45-01-01](#) refers.

3 Landlord becoming non-resident:

Frequently, an individual who emigrates to take up employment may let his or her residence in this country. Where the landlord was formerly dealt with in a PAYE District, the case should normally be transferred to the income tax area in the same District, as soon as it becomes known that the individual is in receipt of rents arising in the State. Where there is more than one property located in different Districts, and where there is no collection agent appointed, the case should be dealt with in the Revenue District where the first rental property bought by the landlord is located.

4 Scope

This instruction applies in relation to landlords who are individuals or companies. Where the landlord is a non-resident company, it will be chargeable to income tax, rather than Corporation Tax, unless it carries on a trade in the State through a branch or agency. If it carries on such a trade, it will be chargeable to Corporation Tax in respect of all of the profits attributable to the branch or agency.