

## Taxation of Non-Irish Resident Landlords

### Part 45-01-04

This document should be read in conjunction with sections 25, 1034, 1041 and 1046  
Taxes Consolidation Act 1997

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## Introduction

This Manual sets out the procedures to be followed in circumstances where a property in the State is rented out by a landlord who is not resident in the State.

The Manual outlines the position -

- where the rent is paid directly to the non-Irish resident landlord (sections 1 and 2 below);
- where the rent is paid to a person resident in the State who acts on behalf of the non-Irish resident landlord in the collection of rent (a “collection agent”) (section 3);
- where an individual who was previously resident becomes non-Irish resident and is letting a property in the State (section 4); and
- the tax charge where the non-Irish resident landlord is a company (section 5).

## 1 Rent paid directly by a tenant to a non-Irish resident landlord

### 1.1 Obligations of the tenant

- Where rents are paid directly by a tenant 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 (sections 238(2) and 1041 Taxes Consolidation Act 1997 (TCA)). The standard rate of income tax is currently 20%.
- Payment into a bank account in the landlord's name is treated as payment directly to the landlord, even if the bank account is within the State.
- Strictly, the tenant should account for the tax immediately after it is deducted. However, Revenue will allow tenants to remit the tax deducted from the rent when filing a return of income for the tax year, which is Form 11 for chargeable persons or Form 12 for non-chargeable persons. For persons whose sole income is subject to PAYE, recovery of the tax deducted can be achieved by adjustment of tax credits.
- The tenant 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 allowed in arriving at the rental profit (see Part 4 Chapter 8 TCA and the pages on [Irish rental income](#) on the Revenue website) and may be entitled to a proportion of personal allowances (see Tax and Duty Manual [Part 45-01-01](#)).
- The obligation to deduct tax on payment of rents does not make the tenant a chargeable person (section 959B TCA<sup>1</sup>).
- Payments of this nature are not charges on income. The tax that a tenant is required to deduct and pay by virtue of section 1041 TCA cannot be offset against the tenant's own income tax liability.

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<sup>1</sup> Section 959B (1)(c) excludes from the definition of "chargeable persons" someone who is chargeable to tax for the tax year by reason only of section 238 TCA.

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

[...]

## 1.2 Residential property lettings

Tenants renting a residential property may not be aware of their obligation to deduct tax from payments to a non-Irish resident landlord. This can occur either because the tenants are unaware that the landlord is resident abroad or because they are unaware of the obligation to deduct tax when making payment to such a landlord. Once the tenant becomes aware of this obligation, s/he should deduct tax from all future payments to the landlord unless and until the landlord appoints an Irish resident “collection agent”.

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

### **Rent allowance/rent tax credit**

If a claim for rent allowance/rent tax credit (section 473 TCA) 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 TCA need not be restricted where the tenant provides the information relating to the landlord as set out above.

No claim for rent allowance/tax credit can be made for tax years after 2017 (see section 473 TCA and Tax and Duty Manual [Part 15-01-11](#)).

### 1.3 Commercial property (non-residential) lettings

A tenant renting commercial or non-residential property is also obliged to deduct tax from payments to non-Irish resident landlords. Where a tenant of a non-residential property claims not to have been aware of the obligation, the tenant will be informed of the obligations outlined in **paragraph 1.1** and, as set out in **paragraph 1.2**, the tenant should deduct tax from all future payments to the landlord unless and until an Irish resident collection agent is appointed.

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### 1.4 Landlord

The non-Irish resident landlord is either chargeable to income tax and the Universal Social Charge (USC), or to corporation tax where the non-Irish resident landlord is a company. Any enquiries should be dealt with using the secure "MyEnquiries" service available in myAccount or ROS. The non-Irish resident landlord can claim the tax deducted by the tenant, recorded on the form R185, against her/his Irish tax liability. The landlord is required to file an Irish tax return.

Credit for tax deducted from rents should be confined to the tax actually deducted and remitted to Revenue by the tenant.

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## 2 Rents paid by a local authority or other body directly to a non-Irish resident landlord

Rent may be paid directly to a non-Irish resident landlord by persons other than a tenant – for example, by a local authority<sup>2</sup> or housing authority<sup>3</sup>. Such cases are also subject to section 1041 TCA and the authority or body should deduct tax from the rent at the standard rate of income tax and return of this tax to Revenue, as detailed in paragraph 1.1 above.

## 3 Rent paid to Irish collection agent of non-Irish resident landlord

A variety of entities may be nominated to act on behalf of a non-Irish resident landlord in the collection of rent; for example, an estate agent, a management company, a solicitor, or someone the non-Irish resident landlord has nominated to act on her/his behalf. The phrase “collection agent” is used in this Manual to cover anyone subject to the requirements of section 1034 TCA<sup>4</sup>.

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<sup>2</sup> A local authority for the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014) and includes a body established under the Local Government Services (Corporate Bodies) Act 1971.

<sup>3</sup> A housing authority the meaning assigned by the Housing (Miscellaneous Provisions) Act 1992.

<sup>4</sup> Section 1034 TCA: “A person not resident in the State ... shall be assessable and chargeable to income tax in the name of any trustee, guardian or committee of such person, or of any factor, agent, receiver, branch or manager, whether such factor, agent, receiver, branch or manager has the receipt of the profit or gains or not ...[.]”

### 3.1 Tenant

If a tenant is paying rent to an Irish collection agent of a non-Irish resident landlord, rather than directly to the landlord, the tenant is **not** obliged or entitled to deduct income tax from the rent. Where the tenant wishes to claim relief under section 473 TCA in respect of the rent, he or she should include the name and address of the landlord in the claim. As noted in paragraph 1.2 above, rent tax credit does not apply to tax years after 2017. The tax reference number under which the Irish collection agent of the landlord is assessed in respect of the rent will suffice as the tax reference number of the landlord.

### 3.2 Landlord and collection agent

The landlord is assessable and chargeable to income tax or corporation tax in the name of the Irish collection agent, as applicable (section 1034 TCA). The collection agent should be set up under a new PPS number for the collection activity.

The Irish collection agent is not entitled to deduct tax from the rent on payment to the landlord and should **not** issue a Form R185 to the landlord.

However, the collection agent may retain a sufficient portion of the rents to satisfy the tax payable on the rents (section 1046(2) TCA). This should be paid to Revenue when filing the tax return.

While the assessment is in the name of the Irish collection agent, the tax to be charged is the amount which would be charged if the non-resident landlord was assessed in her or his own right.

This means what should be assessed to tax is the rental profit, after claiming any allowable deductions. For information on calculating rental income please refer to Part 4, Chapter 8, TCA (Taxation of rents and certain other payments) and the pages on [Irish rental income](#) on the Revenue website.

The non-Irish resident landlord may also be entitled to personal credits, even when chargeable and assessable in the name of the collection agent. Please refer to Tax and Duty Manual [Part 45-01-01](#) for details of tax credits which a non-resident individual may be entitled to claim.

A "collection agent" who is chargeable and assessable by virtue of section 1034 TCA is a chargeable person for the purposes of the self-assessment provisions in Part 41A TCA (section 1046 (1) TCA). Interest, penalties, and surcharges, as appropriate, will apply in cases where collection agents fail to meet their obligations.



## 4 Landlord becoming non-Irish resident

An individual who leaves the State may still have a property which s/he lets and for which s/he receives rent. (An Irish resident company might also change its residence but retain an Irish property for which it receives rent.) When this happens:

- a tenant or other person paying rent directly to the landlord has the obligations outlined at section 1 and 2 above, or
- where the rent is not paid directly to the landlord, any Irish resident collection agent has the obligations outlined at section 3 above.

Any enquiries should be dealt with using the secure “MyEnquiries” service available in myAccount or ROS.

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[...]

## 5 Tax charge for non-Irish resident corporate landlords

### **Prior to 1 January 2022**

Where the landlord is a non-resident company, the company is 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 the profits attributable to the branch or agency.

### **From 1 January 2022**

Following the enactment of section 25(2A) TCA, for accounting periods commencing on or after 1 January 2022, where a landlord is a non-Irish resident company, the company is chargeable to corporation tax in respect of rental income arising in the State to which Case V of Schedule D applies.

Where a company was chargeable to income tax in respect of its rental income and becomes chargeable to corporation tax from 1 January 2022 as a result of section 25(2A) TCA, the rules outlined in the following paragraphs apply.

### 5.1 Losses arising prior to 1 January 2022

Case V losses carried forward by a non-Irish resident company as at 31 December 2021 under section 384(2) TCA (the income tax provision) are treated as an amount of Case V losses carried forward under section 399(2) TCA (the equivalent corporation tax provision).

### 5.2 Unused capital allowances prior to 1 January 2022

Excess Case V capital allowances carried forward by a non-Irish resident company as at 31 December 2021 under section 305(1)(a) TCA (the income tax provision) are

treated as an amount of excess Case V capital allowances carried forward under section 308(3) TCA (the equivalent corporation tax provision). Any balancing allowance or charge made to or on a non-Irish resident company, in respect of a capital allowance made to the company in a chargeable period ending on or before 31 December 2021, is adjusted such that the value of the balancing charge does not exceed the value of the capital allowance given and the value of any balancing allowance in respect of such allowances is given at the 20% tax rate (the standard rate of income tax, which applied prior to 1 January 2022 to Irish rental income in the hands of non-Irish companies not trading in Ireland through a branch or agency).

### 5.3 Registration

Where the non-Irish resident company is in receipt of rental income to which Case V applies, the company must register for corporation tax with effect from 1 January 2022. If applicable, the registration for income tax should be cancelled – this may not be applicable to every case as some companies may have other income tax liabilities, so this will be decided by each company on a case by case basis. Once registered for corporation tax, normal 'pay and file' rules for companies will apply.

Where a company has paid preliminary tax in respect of the year of assessment 31 December 2022 under income tax, the Collector General's Division should be contacted to arrange the transfer of the payment from preliminary income tax to preliminary corporation tax.

### 5.4 Losses and capital allowances forward

Where a company has an amount of unused losses or excess capital allowances at the end of the year of assessment ending on 31 December 2021, those losses or capital allowances may be claimed on the corporation tax return for the first accounting period ending after 1 January 2022.

### 5.5 Collection agent acting for a company

Where a collection agent is registered for income tax in respect of tax due by a non-Irish resident corporate landlord, by virtue of section 1034 TCA (see paragraph 3 above) that agent must now register for corporation tax under the same tax reference number.