

Unpaid Remuneration –

Section 996 Taxes Consolidation Act 1997

Part 42-04-23

This document should be read in conjunction with section 996 of the Taxes Consolidation Act (TCA) 1997

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1. Introduction

Under the PAYE system, tax is deductible by an employer on the payment of remuneration. The employer is liable to remit the tax so deductible within 14/23 days from the end of the income tax month in which it was deductible. Where the employer fails to remit the tax, an assessment under section 990 TCA 1997, may be made to recover the tax not remitted. In addition, interest under section 991 TCA 1997 may arise on the late payment of income tax.

This manual is effective from 1 January 2019. All references to Section 989 TCA 1997 (estimation of tax due for income tax months – which was deleted with effect from 1 January 2019 by section 77/Schedule 1 of Finance Act 2017) have been deleted.

2. Unpaid Remuneration

Under Section 996 TCA 1997, unpaid remuneration is remuneration which had not been paid to the employee but is deductible as an expense in computing the profits or income of a trade or profession for an accounting period, or period of account, for the purposes of Schedule D and is deemed to accrue from day to day during the period of accrual.

Chapter 4 of Part 42 TCA 1997 (the PAYE system) and the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018) made thereunder impose a legal obligation on all employers to make deductions at source under the PAYE system from the payment of emoluments to an employee, and employers are required to report their employees' pay and deductions to Revenue on or before they are paid. Chapter 4 of Part 42 TCA 1997 also applies to unpaid remuneration. Section 996 TCA 1997 applies as if the unpaid remuneration had in fact been paid on the relevant dates. Sections 990 and 991 TCA 1997 may apply in respect of such remuneration.

An 'accounting period' is defined as:

- (i) a period of 12 months ending on the date up to which the accounts of a trade or profession are usually made up or
- (ii) where accounts of a trade or profession are not made up, such period not exceeding 12 months as the Revenue Commissioners may determine.

A 'period of account' is defined as any period, other than an accounting period, for which the accounts of a trade or profession have been made up.

A 'period of accrual' is defined as the period beginning on the later of:

- the first day of an accounting period or period of account, and
- the date of commencement of the office or employment,

and ending on the earlier of:

- the last day of an accounting period or period of account, and
- the date of cessation of the office or employment.

Unpaid remuneration is deemed to have been paid on each relevant date in respect of remuneration which accrued from:

- (a) the day following the preceding relevant date (or, where there was no preceding relevant date, the beginning of the period of accrual) up to -
- (b) the relevant date or, if earlier, the date of cessation of the employment.

A 'relevant date' is defined as:

- (a) the last day of an accounting period or period of account, and
- (b) each 31 December within a period of account of more than 12 months.

Section 996 TCA 1997, does not apply to:

- (a) emoluments to which **Section 984 TCA 1997** applies (i.e. emoluments which are to be taken into account in computing the profits of a trade or profession)
and
- (b) unpaid remuneration which is paid before:
 - (i) the date of expiry of six months after the date on which it is deemed to have been paid,
or
 - (ii) in relation to a period of account of more than 12 months, the date of expiry of 18 months from the first day of that period of account if that date of expiry is later than the deemed date of payment.

Example

Accounts are made up for a period of account of 36 months from 1/4/2018 to 31/3/2021. Remuneration amounting to €36,000 covering the period of account was unpaid as at 31/3/2021. This remuneration is deemed to have been paid as follows:

Relevant Date	Amount of unpaid remuneration deemed to have been paid	Latest date for payment of remuneration for s 996 TCA not to apply	If s. 996 TCA applies, year for which tax is to be included in estimate under s 990 TCA
	€		
31/12/2018	9,000	30/9/2019	2018
31/12/2019	12,000	30/6/2020	2019
31/12/2020	12,000	30/6/2021	2020
31/03/2021	3,000	30/6/2022	2021

Note – As the unpaid remuneration is deemed to accrue from day to day, it is spread evenly over the period of account – in the example, at €1,000 per month over 36 months. As there are nine months between the beginning of the accounting period and the first relevant date (1/4/2018 to 31/12/2018), and there are 36 months in the period of account, 9/36 of the unpaid remuneration, equal to €9,000, is deemed to have been paid on the first relevant date.