

Encashment Tax

Schedule 2 TCA 1997

This document should be read in conjunction with Sections 32-51 and 60-63, and Schedule 2 Taxes Consolidation Act (TCA) 1997

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Introduction

Encashment tax is system that requires a “chargeable person” (as defined in Schedule 2 TCA 1997) who makes a payment of “specified dividend income” to deduct and account for income tax at the standard rate from the payment.

The purpose of this manual is to outline the operation of that system.

1. Rules

The rules and regulations for encashment tax are contained in:

Sections 32-51	public revenue dividends – assessed Schedule C
Sections 60-63	foreign dividends – assessed Schedule D
Schedule 2 Parts 1-5	assessment, charge, payment and collection of tax

Since the 25th March 2005 a Bank that merely clears a cheque or arranges for the clearing of a cheque on behalf of a customer is not obliged to deduct Encashment Tax.

2. Practice

The Revenue Commissioners have the power under **Schedule 2 Part 5 TCA 1997** to relieve a chargeable person of the obligation to deduct encashment tax on foreign dividends payable to Irish residents in circumstances where they deem it appropriate.

Relief under Schedule 2 Part 5 TCA 1997 is granted by way of authorisation in letter form signed by an Assistant Secretary of the Revenue Commissioners absolving the chargeable person of the obligation to deduct encashment tax in respect of a particular account owned by a particular person.

Applications for exemption are made in letter form to:

The Office of the Revenue Commissioners,
Collector Generals Division,
Services and Transaction Taxes Unit (STTU),
Government Offices,
Mill Lane,
Listowel,
Co Kerry.

Relief under Schedule 2 Part 5 TCA 1997 has been granted to:

- Sterling Dividends of British commercial companies¹,
- Revenue approved charities²,
- Revenue approved pension schemes³,
- ARF's, AMRF's & PRSA's as defined in Sections 784A, Section 784C and Section 787A TCA 1997,⁴
- Investment undertakings within the meaning of Section 739B TCA 1997⁵,
- Banks, Building Societies and Life-Assurance Companies⁶,
- Credit Unions as defined in Sec 219A TCA 1997⁷, and
- A "qualifying company" within the meaning of Section 110 TCA 1997^{8 9}.

The above exemptions can be allowed automatically by the chargeable person and the information used to determine if an exemption is due must be capable of being provided to Revenue if requested.

The chargeable person is still obliged to give the details required on Statement No. 4 on the annual Foreign Dividends Return if one of the above exemptions has been availed of. Failure to include the details on the return may render the exemption void.

¹ Granted by Assistant Secretary letter in 1923.

² Granted by Assistant Secretary letter in 1991.

³ Granted by Assistant Secretary letter in 1991.

⁴ Granted by Assistant Secretary letter in 2002.

⁵ Granted by Assistant Secretary letter in 2000.

⁶ Granted by Assistant Secretary letter in 2000.

⁷ Granted by Assistant Secretary letter in 2003.

⁸ Granted by Assistant Secretary letter in 2009.

⁹ The chargeable person must be satisfied that the person to whom the payment is made is a "qualifying company" within the meaning of Section 110 of the Taxes Consolidation Act, 1997. Since 1 January 2010 Revenue have issued an acknowledgement letter upon receipt of Form S.110. Collection and retention of a copy of that acknowledgement letter can be used to satisfy this condition.

3. More than one paying agent

In some cases it may be necessary for an Irish based custodian to appoint another Irish based custodian as its sub-custodian for the holding of foreign stock on behalf of client funds. In these circumstances the obligation to deduct encashment tax on receipt of foreign dividend and interest income lies with the sub-custodian. However, the Revenue Commissioners are prepared to enter into an arrangement whereby the custodian may receive this income gross of encashment tax from the sub-custodian on the basis that the custodian is prepared to act as the person entrusted with the payment of the income and undertakes to accept responsibility in relation to encashment tax as imposed by Part 3, Chapter 1 or Part 4, Chapter 2 and Schedule 2 TCA 1997.

4. Non-Resident Declarations

Encashment Tax does not apply to “specified dividend income” that is beneficially owned by a non-resident provided that the beneficial owner of the income gives a declaration of non-residence [Form 1FD] to the chargeable person.

Where there are no data protection issues, information collected in satisfaction of the requirements of anti-money laundering, know your client, Savings Directive, CRS, DAC II, or FATCA may be used by the chargeable person to determine the residence of the of the beneficial owner without the need to obtain the non-residence declaration. This is likely to be of relevance to corporate accounts and the information used to determine residence must be capable of being provided to Revenue if requested.

The chargeable person is still obliged to give the details required on Statement No. 4 on the annual Foreign Dividends Return if a payment of “specified dividend income” has been made to a non-resident without the deduction of encashment tax.