

## Interpretation of Corporation Tax Acts

### Part 01-00-02

This document should be read in conjunction with sections (4), (1014), (76), (207) (208) and (609) of the Taxes Consolidation Act 1997

This document was last updated in March 2020

#### Definition of company

“Company” is defined in section 4(1) of the Taxes Consolidation Act 1997. Only companies are subject to corporation tax.

“Company” means any body corporate but does **not** include:

- the Health Service Executive,
- a grouping within the meaning of section 1014 TCA 1997 (a European Economic Interest Grouping),
- an education and training board,
- a committee of agriculture established under the Agriculture Act, 1931, or
- 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.

#### Body Corporate

A **body corporate** is a group of persons which has had conferred on it by law a separate identity from the members comprising it. All companies established under the Companies Acts with or without limited liability, and those limited by share capital or by guarantee would be included.

Also included are:

- societies registered under the Industrial and Provident Societies Acts such as cooperative societies and friendly societies,
- companies established by **statute** or incorporated by charter (whether in Ireland or abroad) e.g. the Electricity Supply Board, Bord na Móna, Radio Telefís Éireann, Shannon Free Airport Development Company Ltd.

A body corporate does **not** include an unincorporated society or other body, i.e. a group of persons, whether specially recognised by law or not, which has no identity separate from its members (and which is consequently not a company) e.g.

- (i) an association formed for some social or charitable object which has not formed itself into an incorporated company;
- (ii) sporting clubs which have not formed themselves into incorporated companies,
- (iii) a trade union,
- (iv) an unregistered friendly society,
- (v) partnerships and other similar associations.

## Charities

Charities may be established in the form of trusts, societies or limited liability companies. A charity which is not a company within the definition in section 4(1) TCA 1997 is outside the scope of corporation tax and, unless specifically exempted, remains chargeable to income tax. The TCA 1997 does not contain a definition of a charitable company nor are any specific provisions set down.

### Charitable purposes

In deciding what constitutes “charitable purposes” the principles laid down by Lord Mac Naughton in *Special Commissioners of Income Tax V Pemsel (3 TC 33)* are the guiding factors (e.g. relief of poverty, the advancement of religion or education, or other purposes of benefit to the community).

The general regulation of charities, including monitoring of the activities of individual charities, is a matter for the Charities Regulatory Authority (CRA), which is an independent body set up under the terms of the Charities Act 2009.

Since the establishment of the CRA, all applications to register as a charity must now be submitted to the CRA under section 39 of the Charities Act 2009. Once charities have been registered with the CRA they can apply to Revenue’s Charities and Sports Exemptions Unit for charitable tax exemption.

For information in relation to the registration and regulation of charities, please contact the Charities Regulator, whose contact details are:

**Address:** 3 George's Dock, IFSC, Dublin 1, D01 X5X0.

**Phone:** 01 633 1500

**Email:** [info@charitiesregulator.ie](mailto:info@charitiesregulator.ie)

### **Tax exemptions**

A charity is defined in section 208(1) TCA 1997 as, “**any body of persons or trust established for charitable purposes only**”. This definition applies for both income tax and (by virtue of section 5(1) TCA) capital gains tax.

Under section 207 TCA 1997 charities are exempt in respect of rental income, interest and dividends received where the income is applied solely to charitable purposes.

Section 208 TCA 1997 grants exemption from income tax chargeable under Schedule D Case I(b) for profits or gains from lands owned and occupied by a charity; and from tax chargeable under Schedule D for trades carried on by charities where the profits are applied solely to the purpose of the charity and the trade is exercised in carrying out the primary purpose of the charity or the work in connection with the trade is mainly carried on by beneficiaries of the charity.

Under section 76(6) TCA 1997 the income tax provisions providing exemptions (including exemptions relating to charities) or imposing a charge to tax are carried over into corporation tax.

Section 78 TCA 1997 ensures that capital gains accruing to a charity, which is a company, are exempt from corporation tax to the extent that those gains would be exempt from capital gains tax under section 609 TCA 1997.

### **Contact details for Revenue Charities Section and Sports Exemption Unit**

All written correspondence should be sent through the My Enquiries service available in my Account or ROS.

Phone: 01 7383680

Tax and Duty Manual 07-01-06 [Charity Exemption](#) refers.

### **Clubs and Trade Associations**

Tax and Duty Manual 36-00-05 [Companies carrying on a mutual business or not carrying on a business](#) refers.