

Withholding Tax on interest payments by companies and to non-residents [section 246 TCA 1997]

Part 08-03-07

This document should be read in connection with section 246 TCA 1997 and [Tax and Duty Manual \(TDM\) Part 04-01-16](#)

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Introduction

This manual sets out how the provisions relating to the operation of withholding tax apply to interest which arises under:

1. [Prompt Payments Act 1997](#)
2. [S.I. No. 388 of 2002 European Communities \(Late Payment in Commercial Transactions\) Regulations 2002](#)
3. [S.I. No. 580 of 2012 European Communities \(Late Payment in Commercial Transactions\) Regulations 2012](#)

1 Prompt Payment of Accounts Act 1997

Interest paid under the Prompt Payment of Accounts Act 1997 is yearly interest. Accordingly, section 246 TCA 1997¹ (deduction of tax at the standard rate) applies where penalty interest is paid by:

- A company* to a person whose usual place of abode is in the State.

or

- Any person to another person whose usual place of abode is outside the State.

Where section 246 applies, the person by or through whom the payment is made must deduct and remit to Revenue tax at the standard rate in force at the time the payment is made.

* “Company” in this context means any body corporate. A body corporate is a succession or collection of persons having in the estimation of the law an existence and rights and duties distinct from the individual persons who form it from time to time [Murdoch, Dictionary of Irish Law]. Examples of bodies corporate are companies registered under the Companies Acts, government departments and local authorities.

¹ Refer to [TDM Part 08-03-06](#) for more details on the operation of section 246.

2 S.I. No. 388 of 2002 European Communities (Late Payment in Commercial Transactions) Regulations 2002

Unlike interest paid under the Prompt Payment of Accounts Act, 1997, interest paid under these regulations is not yearly interest. Accordingly, section 246 TCA 1997 does not apply where penalty interest is paid.

S.I. No. 388 of 2002 European Communities (Late Payment in Commercial Transactions) Regulations 2002 were repealed on the 13 March 2013 by S.I. No. 580 of 2012 European Communities (Late Payment in Commercial Transactions) Regulations 2012. As a transitional measure, the 2002 Regulations continue to apply to a contract which was made prior to, and is still in force after, the coming into operation of the 2012 Regulations.

3 S.I. No. 580 of 2012 European Communities (Late Payment in Commercial Transactions) Regulations 2012 (as amended)

[TDM Part 04-01-16](#) sets out the tax treatment of interest and compensation paid under S.I. No. 580 of 2012 European Communities (Late Payment in Commercial Transactions) Regulations 2012 (as amended) and provides that:

Withholding tax on interest payments by companies and to non-residents:

Interest paid under the 2012 Regulations is not yearly interest. Accordingly, section 246 TCA 1997 does not apply where penalty interest is paid.

Tax treatment of compensation paid under S.I. No. 580 of 2012:

The tax treatment of compensation paid under the 2012 Regulations is the same as interest paid under the Regulations as outlined above, with the exception that the issue of the application of section 246 TCA, 1997 does not arise.