

Registration of tenancies with the Residential Tenancies Board (interest deduction from rental income)

Part 04-08-10

This document should be read in conjunction with section 97(2) and 97(2I) of the Taxes Consolidation Act 1997

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1. Introduction

Entitlement to a deduction for interest paid on borrowed money employed in the purchase, improvement or repair of a rented residential property is provided for in section 97(2)(e) Taxes Consolidation Act 1997 (TCA). The deduction is conditional on compliance with the registration requirements of the Residential Tenancies Act 2004 (the 2004 Act) in respect of all tenancies which exist in relation to the property in the year of assessment or accounting period in question.

The statutory basis for the registration of tenancies is contained in Part 7 of the 2004 Act.

2. Persons who are required to register

The 2004 Act applies to the vast majority of private rented dwellings situated in the State. Dwellings outside the State are outside the scope of the Act.

Landlords are generally required to register details of their residential tenancies with the Residential Tenancies Board (RTB – previously the Private Residential Tenancies Board) including, for example, where the tenancy relates to a self-contained residential unit in the landlord's own residence. However, the requirement to register a tenancy does not apply where the landlord and tenant are sharing the same self-contained unit. Section 3 of the 2004 Act lists the types of dwellings that are excluded and in respect of which there is no requirement to register tenancies. The main exclusions include:

- business premises;
- former rent-controlled dwellings;
- a dwelling occupied under a shared ownership lease;
- a tenancy where the landlord and tenant share the same self-contained unit;
- a dwelling in which the spouse, parent or child of the landlord is resident and where there is no written lease or tenancy agreement;
- holiday lettings;
- a dwelling let by, or to, a public authority.

The onus is on a landlord to ascertain whether they are excluded from the requirement to register tenancies.

3. Registration requirements

Landlords are obliged to register details of **all** their tenancies with the Residential Tenancies Board (RTB). All tenancies must be registered within one month of the commencement date and each year after that on the anniversary of the date the tenancy began.

Landlords can register tenancies by completing the RTB1 form online at the [Residential Tenancies Board website](#) or can request a paper RTB1 Tenancy Registration Application Form by contacting the Board at 0818 30 30 37 or 01 702 8100. Paper forms can be downloaded [here](#) and can be returned by post to Residential Tenancies Board, PO Box 47, Clonakilty, County Cork, or can be scanned and emailed to registrations@rtb.ie.

The RTB now require all tenancies being registered, to have the correct Eircode applied to the address of the property.

4. Revenue requirements

The registration requirements outlined in Paragraph 3 above must be met for **all** of a landlord's tenancies. If all the tenancies in a dwelling are not registered for a particular year, all interest relief in respect of that dwelling will be lost for the year. There is no provision for apportionment where only some of the tenancies are registered.

The registration requirements must be complied with in respect of all tenancies in a particular dwelling in the chargeable period for which the interest deduction is claimed. If a tenancy commences at any time within the last month of the chargeable period, the registration requirements will be regarded as complied with if the tenancy is registered within a month of the commencement date even though the month may finish in the next chargeable period.

An interest deduction is claimed under the normal self-assessment system. A landlord is required to state in the annual return of income that they have complied with the registration requirements. Revenue regards the registration requirements for a chargeable period to have been complied with if they are met by the return filing date for that period. Evidence of registration need not be submitted with the return of income but should be retained for inspection in the event of a compliance intervention.

For Revenue compliance intervention purposes, written confirmation of the registration of a tenancy from the RTB will be accepted as evidence of compliance with the registration requirements for that tenancy. In the case of an exempt dwelling, the onus will be on the landlord to show that they are not required to comply with the registration requirements. Landlords claiming interest relief in respect of properties situated outside of the State must be able to show that the interest paid relates to that property.

If it is discovered that a landlord has failed to comply with the registration requirements for a chargeable period, any interest relief that has been claimed will be withdrawn. Such a withdrawal of interest relief may result in an underpayment of tax and expose the landlord to interest and penalties.

4.1 Late registration

While new tenancies should be registered within one month of their commencement, provision is also made in the 2004 Act for late registration at double the normal registration fee. An acknowledgement from the RTB confirming the late registration of a tenancy will be accepted by Revenue as evidence of compliance with part 7 of the 2004 Act. However, a person claiming an interest deduction on their annual tax return must be able to indicate compliance with the Part 7 requirements at the time of making the return.

Interest relief that has been denied for a particular chargeable period because a tenancy was not registered by the return filing date for that period can subsequently be restored if the landlord avails of the late registration facility, subject to the usual four-year time limit on claims for repayment of tax.

5. Use of management companies

5.1 Provisions of Residential Tenancies Act 2004

The 2004 Act is primarily concerned with the obligations of landlords and the protection of tenants' rights in residential tenancy situations. It does not cater specifically for the use of management companies, other than where a management company is the company in which functions are vested with respect to the management of an apartment complex. The use of an agent authorised by the landlord to act on their behalf is, however, envisaged. The 2004 Act defines a tenant as the person who is entitled to the occupation of a dwelling. A management company cannot, therefore, be a tenant as it does not actually occupy the dwelling. A tenancy includes a sub-tenancy and thus the sub-tenancy between the management company and the ultimate tenant is covered. The person who is entitled to receive the rent is the owner of the dwelling, whether or not they have authorised an agent to act on their behalf.

5.2 RTB registration via management company

Under section 97(21) TCA the evidence required to show compliance with the requirements of Part 7 of the 2004 Act for interest deduction purposes is a written communication from the RTB to the person chargeable (that is, the person assessable in respect of the rental income) confirming registration of a tenancy.

Revenue regards the owner of the dwelling as having the obligation to register all the tenancies created in respect of their particular property. A management company may, as the owner's agent, deal with the actual registration process. However, where the management company fails to ensure that the registration requirements are complied with, it is the owner, and not the management company, that will suffer the loss of an interest deduction.

This obligation on the owner of the dwelling applies even where the owner lets the dwelling to a management company that, in turn, lets the dwelling to the tenants. The Revenue view is that the use of a management company does not remove the obligation on an owner to register tenancies of their dwellings entered into by the management company. The owner is the person who will be claiming an interest deduction and will not be entitled to such a deduction if they merely register, as a tenancy, the lease arrangements with a management company.

6. Student accommodation

As stated in paragraph 2 above, a dwelling let by, or to, a public authority is excluded from the registration requirements of the 2004 Act. A "public authority" includes a recognised educational institution. Where student accommodation is owned by an educational institution, there is no requirement for that educational institution to register the tenancies with the students. The exemption applies whether the accommodation is let directly by the educational institution or through a management company.

Certain student accommodation may qualify for residential rental tax relief (previously known as 'section 23' type tax relief). Where such accommodation is owned by private persons, those persons must register the tenancies with the students, unless they let the accommodation directly to a third level college for onward letting to students. Tenancies in dwellings that are let directly to students, or to a management company, must be registered. As the obligation to register a tenancy is triggered by the commencement of a tenancy it is not necessary to register the lease between the investor and the management company.

As outlined in paragraph 5.1, the tenant is the person who is entitled to occupy the dwelling, in these cases, the student. Where a management company on-leases the property to students, either the owner or the management company must register those tenancies. However, as outlined in paragraph 5.2, it is the owner who has the responsibility for registering the tenancies and where they fail to do so they will suffer the loss of an interest deduction.

7. Exchange of data between Revenue and RTB

Data available to Revenue

When a landlord registers a tenancy, the data that the RTB requires is as follows:

- Address of tenancy
- Capacity (number of rooms, beds)
- Description
- Rent payable
- Frequency of payment
- Date tenancy commenced
- Details of landlord including PPSN
- If landlord is a company, registered company details
- Agent details if relevant
- Tenant name and PPSN (not mandatory)

Revenue is entitled to this information on a case-by-case basis by supplying the “identification number” of the landlord in question. An “identification number” is the PPSN in the case of an individual landlord or a Company Registration Number in the case of a company. If an agent has registered on behalf of a landlord, the landlord’s name and the agent’s “identification number” are required.

Revenue has requested and obtained information from the RTB on registrations. This information has been useful in a number of contexts, including:

- cross-referencing the number of registered tenancies with the RTB with the number of rental properties on Form 11, Form 12 and CT1 tax returns;
- determining a landlord’s entitlement to claiming mortgage interest relief on rental property loan interest;
- confirming data in Department of Social Protection (DSP) rent subsidy files;
- identifying undeclared rental properties;
- cross-referencing information provided by tenants claiming the Rent Tax credit.

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

8. RTB contact details and further information

Information about the 2004 Act and the registration requirements is available at www.rtb.ie. **Enquiries about the registration requirements should be addressed to the RTB and not to Revenue.** The RTB can be contacted at:

Residential Tenancies Board

PO Box 47

Clonakilty

Co. Cork

Tel: 0818 303037

E-mail: registrations@rtb.ie

Website: www.rtb.ie