

爱尔兰税收居民身份认定规则

一、个人

税收居民身份

个人税收居民身份的认定取决于该个人在一个纳税年度内于爱尔兰境内的停留时间。个人在一天中任意时间停留在爱尔兰境内，按全天停留在爱尔兰境内计算。对于个人在2008年及以前年度的停留时间计算而言，仅当该个人在当天结束前（午夜12点前）都在爱尔兰境内，才会将当天按全天停留在爱尔兰境内计算。

满足以下条件之一的个人视为爱尔兰税收居民：

- 1、一个纳税年度内在爱尔兰境内停留183天或以上；
- 2、在一个纳税年度及前一个纳税年度在爱尔兰境内累计停留280天或以上（即“回顾标准”）。

上述280天的回顾标准仅当个人于一个纳税年度中在爱尔兰境内居住少于183天时才适用。如果个人一个纳税年度中在爱尔兰境内停留不超过30天，则在居民身份认定时不考虑这些天数。

依据上述居住天数标准未构成某个纳税年度的爱尔兰税收居民的个人，在某些情况下该个人也可以选择成为爱尔兰税收居民。

国内法规

1997 年颁布的综合税法第 34 章节关于税收居民个人的规定

二、实体

法律指引

税收居民身份是决定一个公司的纳税义务以及适用的税法规定的关键性因素。爱尔兰税收居民实体应对其来源于境内外的所得承担纳税义务，而不仅对来源于境内的所得纳税。爱尔兰非税收居民实体一般无需承担爱尔兰纳税义务，但其在爱尔兰境内设立分支机构或者办事处开展贸易活动的除外。

1999 年之前的情况处理

在相关法律规定出台之前，根据长期以来形成的相关基本法规，实体税收居民身份的认定取决于其管理和控制的地点。从广义上讲，上述实体的“管理和控制”标准将考量对于公司运营最高层级的控制而不是日常的常规业务活动，考量对象包括公司政策的制定、重要的投资决策、主要合同的协商与主要供应商的合作洽谈以及重大兼并、重组交易等。管理和控制的基本法规适用于所有爱尔兰公司及外国公司。

1999 年财政法修订

1999 年财政法新加入了有关反滥用条款的相关规定(1997 年颁布的综合税法第 23A 章节)。根据该规定，公司实体在某些特定情况下、公司实体如果在爱尔兰境内成立，将

被视为爱尔兰税收居民。具体而言，对于在爱尔兰境内注册成立的公司实体而言，即使其自身或其关联公司均未在爱尔兰境内开展商业活动，那么该公司仍被视为爱尔兰税收居民，依据适用的双边税收协定相关条款该公司不应被视为爱尔兰税收居民的情况除外。

如果公司实体是一家在爱尔兰境内开展商业活动的“关联公司”，或是与一个在爱尔兰开展商业活动的公司有关联，则上述成立地规则不适用。前述“关联公司”是指符合下列任一条件的公司：

1. 该公司最终控制人为欧盟税收居民（包括爱尔兰）或与爱尔兰签订双边税收协定的税收辖区的税收居民；

2. 该公司（或与其关联的公司）的主要股份在欧盟成员国或签订双边税收协定的税收辖区认可的一个或多个证券交易所内大量定期的公开交易；

第 23A 章节规定，根据税收协定视为其他税收辖区税收居民的实体不是爱尔兰的居民，不应视为爱尔兰税收居民。该规定综合考虑了大多数税收协定包含的加比规则条款，当公司实体根据缔约国各自的法律均可视为各国的税收居民时，该实体视为其实际管理机构所在辖区的税收居民。根据“OECD 协定范本注释”，公司实体的实际管理机构所在地是指对于实体商业运营至关重要的管理和商业运作做出实质性决定的地点。

2013 年财政法修订

2013 年颁布的财政法对综合税法第 23A 章节进行了修订：如果由于与税收协定缔约辖区在税收居民身份认定问题上出现错配的情况（即在爱尔兰境内成立的实体既不视为爱尔兰税收居民，也不视为缔约辖区的税收居民）时，则该实体应被视为爱尔兰税收居民。该条修订解决了管理和控制职能在爱尔兰税收协定缔约国内实施但在爱尔兰境内注册的实体不被视为任何税收辖区税收居民的错配情况。上述错配情况由以下原因导致：

1. 公司未在税收协定缔约国境内注册成立，导致其不被视为该税收辖区的税收居民；

2. 对公司的管理和控制发生在爱尔兰境外，导致其也不被视为爱尔兰税收居民。

上述修订可以确保在爱尔兰境内注册成立的公司的税收居民身份归属不会由于爱尔兰公司的居民身份认定规则与其缔约伙伴国的居民规则的错配问题而导致“无国籍”情况的产生。

2014 年财政法修订

2014 年颁布的财政法对综合税法第 S23A 章节有关公司居民身份认定的内容进行了重大修订。2014 年财政法第 43 章节取代了原第 23A 章节，并做出规定：在爱尔兰境内注册成立的公司实体视为爱尔兰税收居民。同时还规定，公司税

收居民身份的认定须与双边税收协定的规定一致，即根据税收协定视为其他税收辖区税收居民而非爱尔兰税收居民的公司，在国内法体系下也不应视为爱尔兰税收居民。

上述判定在爱尔兰境内注册成立的公司实体是否为爱尔兰税收居民的 43 章节的新注册地规则适用于在 2015 年 1 月 1 日或以后注册成立的公司。对于在该日期之前注册成立的公司实体，在 2020 年 12 月 31 日前作为过渡期，在过渡期内将继续沿用原来的第 23A 章节规定，但该公司实体的所有权、公司业务性质和活动发生重大变化的除外。

对于在境外注册成立但其主要管理和控制职能在境内实施的公司而言，2014 年财政法对税收居民认定引入的新规则并不妨碍将该些公司认定为爱尔兰税收居民。对于这些公司而言，普通法中关于主要管理和控制实施地的判定规则将继续沿用。因此，在爱尔兰境外注册成立但主要管理和控制在爱尔兰境内实施的公司实体仍应被视为爱尔兰税收居民。

国内法规：

1997 年颁布的综合税法第 23A 章节关于税收居民实体的规定

三、不视为税收居民的实体

目前尚未出台该类实体的清单，如有疑问可以向爱尔兰税务主管当局进行咨询。主管当局的联系方式详见第四部分。

四、联系方式

税收居民身份相关问题涉及税务当局多个部门。如果个人或实体对其居民身份不确定，应直接联系爱尔兰税务主管当局，有关部门将对相关的疑问做出回应。爱尔兰主管当局的联系方式如下：

International Tax Division

Revenue Commissioners

New Stamping Building

Dublin Castle

Dublin 2

Ireland

爱尔兰纳税人识别号编码规则

一、纳税人识别号介绍

个人

爱尔兰境内使用的个人纳税人识别号，一般不在官方文件中显示。该纳税人识别号是个人公共服务号码，由社会保障部门发放，也被税务机关作为纳税人识别号使用。

个人公共服务号在爱尔兰幼儿出生登记时自动生成。其他个人须向社会保障部办公室申请获得个人公共服务号。该号码一经发放，终身不会改变。

实体

爱尔兰境内使用的实体纳税人识别号有两种：纳税编号和 CHY 号码。纳税编号在实体进行税务登记时由税务当局发放，并用于识别实体纳税人。上述“实体”一般包括公司、合伙企业、信托和非法法人团体。纳税编号不在官方文件中显示。

CHY 号码由税务当局根据 1997 年颁布的综合税法第 207 章节的规定向符合有关慈善税务豁免条件的机构发放。豁免机构范围包含以下 4 大类：教育、宗教、扶贫和社区福利。

是否自动为所有税收居民发放纳税人识别号

个人	是	实体	否
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个人

社会保障部门为出生于爱尔兰境内的所有个人自动发放纳税人识别号。1971 年及之后出生于爱尔兰境内的个人，或于 1979 年 4 月之后在爱尔兰境内工作的个人，都应有由当局自动发放的纳税人识别号。

实体

实体（例如公司、合伙企业、信托和非法人团体等）不会自动获得纳税人识别号。目前，只有在实体向税务当局登记并完成TR1或TR2表格后，才会取得纳税人识别号。

（近期公司注册程序将会有所改变，税务当局将发挥更为积极的作用：自 2016 年 6 月起，税务当局将主动与尚未向税务当局登记的已成立的公司实体联系，要求从未且也不打算开展商业活动的公司实体前往公司注册处进行登记。另外上述实体之外的公司也将接受指导，与税务当局进行登记联系。）

二、纳税人识别号编码规则

个人和实体的纳税编号结构示例：1234567T 或 1497955KA

编码规则：7 位数字+1 或 2 位字母。

每个号码最后可以附带 1 或 2 位字母，字母的使用不设限制。

实体的 CHY 号码结构示例：CHY1234

编码规则：字母 CHY 加上一至五个数字。

三、如何找到纳税人识别号

纳税编号

纳税编号一般不显示在官方文件中，纳税人在纳税登记后可在纳税申报单上找到纳税编号，如下图所示：

纳税编号

纳税登记通知



个人公共服务号码或纳税人识别号

四、国内网站信息

更多个人纳税编号相关信息参见: www.welfare.ie。尚无实体纳税编号的相关信息。

纳税编号线上查验: 无

CHY 号码信息:

享受相关慈善税收豁免的机构清单及其 CHY 号码可在税务当局网站查询:

http://www.revenue.ie/en/about/publications/charities_alpha.xls

五、联系方式

纳税编号:

Revenue Commissioners, Planning Division, 1st floor,
Bishop's Square, Redmond Hill, Dublin 2, D02 TD99, Ireland.

CHY 号:

Revenue Commissioners, Collector-General's Division,
Charities Section, Government Offices, Nenagh, Co. Tipperary.

电话: +353 67 63377

本地拨打: 1890 666333

六、法律声明

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资料来源：

爱尔兰税收居民身份认定规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/Ireland-Tax-Residency.pdf>

爱尔兰纳税人识别号编码规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/Ireland-TIN.pdf>

Ireland - Information on residency for tax purposes

Section I - Criteria for Individuals to be considered a tax resident

Residence

An individual's Irish tax residence is determined by the number of days he or she is present in the State during a tax year. An individual is present for a 'day' for residence purposes if he or she is present in the State at any time during a day. For 2008 and previous years an individual was only deemed present in the State for a day if he or she was present in the State at the end of the day i.e. midnight.

An individual is resident in the State where he/she is present in the State:

- for 183 days or more in a tax year, or
- for 280 days or more in total in the tax year and the preceding tax year (“look back test”).

The 280 day test only comes into play where an individual is present in the State in a tax year for less than 183 days. If the individual is present in the State for periods of 30 days or less in a tax year such days are ignored in determining residence.

An individual who is not tax resident for a tax year on the basis of days spent in the State can elect to be tax resident in certain circumstances.

Domestic Legal Provision: Taxes Consolidation Act 1997, Part 34 Provisions Relating to the Residence of Individuals

Section II - Criteria for Entities to be considered a tax resident

Guidance

Residence is a material factor for companies in determining tax liability and for the purpose of applying many provisions of tax legislation. A company resident in the State is liable to corporation tax on its worldwide profits, not just its Irish source profits. A company not resident in the State is not within the charge to corporation tax unless it carries on a trade in the State through a branch or agency.

Position up to 1999

Prior to the introduction of statutory provisions, company residence was determined with regard to the long established common law rules based on central management and control. Broadly speaking, the management and control test considers the highest level of control including such matters as the formulation of company policy, major investment decisions, negotiation of major contracts and acquisitions or disposals of businesses rather than normal day to day business transactions. The common law rules applied to both Irish incorporated and foreign incorporated companies.

Finance Act 1999 Changes

The common law rules were supplemented by statutory anti-abuse provisions in section 23A of the Taxes Consolidation Act 1997 (TCA), (inserted by Finance Act 1999). This section provided that in certain specific circumstances a company would, by virtue of being incorporated in the State, be regarded as resident in the State for tax purposes. Broadly, section 23A provided that where a company is incorporated in Ireland and neither it, nor any company related to it, carries on a trade in Ireland, the company would be regarded as resident in the State for tax purposes, unless it would be treated as not being so resident for the purposes of a double taxation treaty.

This specific incorporation rule did not apply where the company is a 'relevant company' that carries on a trade in the State or is related to a company that carries on a trade in the State. A 'relevant company' is a company that either:

- is ultimately controlled by persons resident in the EU (including Ireland) or in a country with which Ireland has concluded a double taxation treaty, or
- is, or is related to, a company the principal class of the shares of which is substantially and regularly traded on one, or more than one, recognised stock exchange in an EU Member State or in a tax treaty country.

Section 23A provided that a company which is regarded, for the purposes of a tax treaty, as resident in a territory other than the State and not resident in the State, was to be treated as not resident in the State for tax purposes. This provision takes account of the "tie-breaker" clause in most tax treaties whereby, in situations where a company is resident in both Contracting States under their respective laws, the residence of the company is to be treated as situated in the State where its "place of effective management" is located. According to the Commentary on the OECD Model Treaty, the place of a company's effective management is the place where key management and commercial decisions necessary for the conduct of its business are in substance made.

Finance Act 2013 Changes

TCA, section 23A was amended by Finance Act 2013 to provide that where by reason of a mismatch of residence rules with a treaty-partner country, an Irish-incorporated company would neither be resident in that country nor in the State and, accordingly, would not otherwise be resident in any country, the company would be treated as resident in the State. This change addressed a mismatch situation where an Irish-incorporated company that is managed and controlled in a treaty-partner country is not regarded as resident for tax purposes in any territory because-

- (i) the company would not be resident for tax purposes in the treaty-partner country, because it is not incorporated in that country, and
- (ii) the company would not be resident in the State for tax purposes because it is not managed and controlled in the State.

This change ensured that an Irish incorporated company could not be ‘stateless’ in terms of its place of tax residence, as a result of a mismatch between Ireland’s company residence rules and those of a treaty partner country.

Finance Act 2014 Changes

The company residence rules in TCA, S23A were fundamentally revised in Finance Act 2014. Section 43 of Finance Act 2014 substituted a new section for section 23A to provide that an Irish incorporated company will be regarded as resident for tax purposes in the State. Section 43 also provides for continuation of the alignment of company residence with the treatment of company residence in double taxation treaties. Where a company is regarded as resident in a territory other than the State and not resident in the State for the purposes of a tax treaty, the company shall be regarded as not resident in the State for tax purposes under domestic law.

The new incorporation rule for determining the tax residence of a company incorporated in the State will apply to companies incorporated on or after 1 January 2015. For companies incorporated in the State before this date, a transition period will apply until 31 December 2020 and section 23A as it was before the 2014 Finance Act amendment will continue to apply during the transition period except in circumstances where there is both a change in ownership and a major change in the nature and conduct of the business of the company.

The changes to the tax residence rules made by Finance Act 2014 do not prevent a foreign incorporated company that is centrally managed and controlled in the State being resident in the State for tax purposes. For such companies, the common law rule of company residence based upon central management and control continues to apply. Accordingly, a company that is incorporated in a foreign jurisdiction but that is centrally managed and controlled in the State will continue to be treated as resident in the State for tax purposes.

Domestic Legal Provision: Taxes Consolidation Act 1997, Section 23A: Company Residence.

Section III - Entity types that are as a rule not considered tax residents

A comprehensive list of entities is not available at this time and clarification can be sought from the Irish Competent Authority. The contact details for the Competent Authority are listed below in Section IV.

Section IV - Contact point for further information

The issue of residency spans a number of corporate units within the Revenue Commissioners. If an individual or entity is uncertain as to their residence status, they

should contact the Irish Competent Authority and their enquiry will be directed to the appropriate division. Contact details for the Irish Competent Authority are as follows:

International Tax Division

Revenue Commissioners

New Stamping Building

Dublin Castle

Dublin 2

Ireland

Ireland - Information on Tax Identification Numbers

Section I – TIN Description

Natural Persons: Ireland issues TINs, which are not reported on official documents of identification. The number used to identify taxpayers is the Personal Public Service Number (PPS No). This number is issued by the Department of Social Protection but is also used by the Revenue Commissioners to identify taxpayers.

PPS-numbers are issued automatically on birth registration for children born in the country. Anyone else must make application at an office of the Department of Social Protection. Once issued, a PPS number is never changed.

Non Natural Persons: Ireland issues two types of TINs to non natural persons – Tax Reference Numbers (TRNs) and CHY Numbers.

A TRN is issued by the Revenue Commissioners when a non-natural person registers for tax, and is subsequently used by the Revenue Commissioners to identify those taxpayers. Non-natural persons can be Companies, Partnerships, Trusts, and Unincorporated Bodies and a TRN is not reported on official documents of identification.

CHY Numbers are issued by the Revenue Commissioners to eligible bodies who qualify for a charitable tax exemption in accordance with Section 207 TCA 1997. Exemptions are granted under four broad headings: Advancement of Education; Advancement of Religion; Relief of Poverty and Benefit to the Community.

Additional information on the mandatory issuance of Tax Identification Numbers (TINs)

Question 1 – Does your jurisdiction automatically issue TINs to all residents for tax purposes?			
Individuals	Yes	Entities	No
Question 2a – If you answered no to Question 1 with respect to individuals, describe those instances where individuals are not being automatically issued a TIN.			
The Department of Social Protection automatically issues a TIN to all individuals born in Ireland. Individuals born in Ireland during or after 1971, or who started work in Ireland after April 1979 will have been automatically issued with a TIN.			
Question 2b – If you answered no to Question 1 with respect to Entities (as defined by the CRS), describe those instances where Entities are not being automatically issued a TIN.			
No, entities, i.e. companies, partnerships, trusts and unincorporated bodies, are not automatically issued a TIN. At present TINs are issued to Entities only when they			

contact the Revenue Commissioners to register themselves, typically by completing a TR1 or TR2 form.

(Recent developments in the area of registration of companies will alter this process somewhat in that Revenue will take a more active role. From June 2016 Revenue will contact incorporated companies who have not engaged with the Revenue Commissioners and will direct those companies who have never traded and do not intend to trade to back to the Company Registration Office (CRO). Remaining companies will be directed to engage with Revenue.)

Section II – TIN Structure

Format Examples TRN (both natural and non natural persons): 1234567T
or 1497955KA

Explanation: 7 digits + either 1 or 2 letters.

Comment: There can be one or two letters at the end of the digit sequence and there is no restriction on the letters used.

Format Example CHY Number (only non natural persons): CHY
1234

Explanation: The letters CHY followed by between 1 and 5 digits.

Section III – Where to find TINs

Tax Reference Numbers (TRNs)

TRNs are not reported on official documents of identification. Taxpayers are informed of their TRN following registration and they can be found on the tax return form e.g.

The image shows a sample of Form CT1, 'Pay and File Corporation Tax Return 2015'. The form is for an accounting period ending in 2015. A blue arrow points from a box labeled 'TRN of company here' to the 'Tax Reference Number' field, which is currently empty. Other fields on the form include 'Return Address', 'Taxpayer Information', and 'Declaration'. The form is partially obscured by a large watermark.



Taxpayer informed of TRN following registration



PPS No / TIN of Natural person

Section IV – TIN information on the domestic website

Information on TRN: www.welfare.ie for natural persons only. Not available for non natural persons

TRN online check: Not available

Information on CHY Numbers:

A list of bodies who have been granted a charitable tax exemption and their associated CHY Number is available on the Revenue Website at:

http://www.revenue.ie/en/about/publications/charities_alpha.xls

Section V – Contact point for further information

Contact for TRN:
Revenue Commissioners,
Planning Division,
1st floor,
Bishop’s Square,
Redmond Hill,

Dublin 2,
D02 TD99,
Ireland.

Contact for CHY Numbers:
Revenue Commissioners,
Collector-General's Division,
Charities Section,
Government Offices,
Nenagh,
Co. Tipperary.
Tel: +353 67 63377 LoCall: 1890 666333

Section VI – Legal Notice

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