



May 2018

## Peer to Peer (P2P) Lending – Withholding Tax Obligations – Borrowers (and Lenders) Beware

### Interest Withholding Tax

Section 246 of the Taxes Consolidation Act, 1997 requires the deduction of income tax at the standard rate from annual (yearly) interest paid by (i) companies; or (ii) any person to another person whose usual place of abode is outside of Ireland, subject to certain exceptions. In general, yearly interest is taken to be interest on a loan that runs, or is capable of running for a period of a year or more, and would include a loan with no period specified even where in practice the period may be significantly less than a year.

### P2P Lending

P2P Lending is a sub-set of Crowdfunding<sup>1</sup>, which involves individuals and businesses, in particular start-ups and SMEs, raising finance, usually in small monetary amounts from multiple sources, rather than by means of traditional bank finance. It is generally carried out via online platforms which match individuals or businesses seeking finance with potential investors or lenders. These online platforms also arrange for the payment and repayment of such investment.

P2P Lending generally operates on a ‘many to many’ lending model where an investor will invest a lump sum which is then broken up into small amounts and lent in small loans to many borrowers. These borrowers will approach the P2P Lending Platform for a loan which is

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<sup>1</sup> See [The Regulation of Crowd Funding](#) May 2017

then lent in small amounts from many lenders to make up the full loan that they require. One borrower may receive loans from hundreds, or even thousands, of investors to make up the total amount that they need.

With the recent influx of P2P Lending Platforms which has become an increasingly important source of funding for Irish businesses and has brought real benefits to small and medium sized business community, there is a case to be made that the withholding tax rules (which become practically very complex in a “many to many” lending model) should be amended to keep pace with changing trends in lending, similar to what has occurred in the UK.

Nevertheless, borrowers and lenders should be aware that currently Ireland’s withholding tax regime has not been amended for P2P Lending (aside the ability in certain circumstances to group payments together to the same lender in a calendar year) and in that regard the Irish Revenue Commissioners have issued a timely [Revenue eBrief](#) reminding Irish corporate borrowers (as well as lenders) of their Irish tax obligations. In particular the general obligation on an Irish corporate borrower<sup>2</sup> to, amongst other things, withhold tax on interest payments made on the finance raised, at the standard rate (currently 20%) subject to certain exceptions, most of which will not apply where the lender is an individual, regardless of where resident.

### How can Dillon Eustace help?

Should you have any queries or require any further information in respect of the tax obligations that may arise in relation to P2P Lending Platforms, please contact the author of this briefing note or your usual Dillon Eustace contact.

**Dillon Eustace**  
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<sup>2</sup> Similar rules apply to an “individual” borrower where the lender is located outside of Ireland.

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