



HM Revenue  
& Customs

# Deduction of income tax from interest: peer-to- peer lending

## **Consultation document**

Publication date: 15 July 2015

Closing date for comments: 18 September  
2015

<b>Subject of this consultation:</b>	Proposed changes to the rules for deduction of income tax at source (Part 15 of the Income Tax Act 2007), with regard to the obligation to deduct income tax from interest paid on loans made through peer-to-peer platforms.
<b>Scope of this consultation:</b>	Comments are sought on the proposed changes to the obligations of peer-to-peer platforms and borrowers of peer-to-peer loans to deduct income tax at source from interest paid.
<b>Who should read this:</b>	Peer-to-peer platforms, lenders of peer-to-peer loans, borrowers of peer-to-peer loans, representative bodies and tax professionals.
<b>Duration:</b>	The consultation period will last for nine weeks from 15 July 2015 to 18 September 2015.
<b>Lead official:</b>	Charlotte Hopwood, HM Revenue & Customs (HMRC)
<b>How to respond or enquire about this consultation:</b>	Electronic responses should be sent to: <a href="mailto:p2p.consultation@hmrc.gsi.gov.uk">p2p.consultation@hmrc.gsi.gov.uk</a> Written responses should be addressed to: Alia Islam, Room 3C/06, 100 Parliament Street, London SW1A 2BQ
<b>Additional ways to be involved:</b>	The government will engage directly with representative bodies and peer-to-peer businesses through existing customer relationships and is seeking views from individuals and businesses who lend or borrow using peer-to-peer platforms. The government also welcomes views from all other interested parties.
<b>After the consultation:</b>	A summary of responses will be published after the close of the consultation. Legislation will be drafted in light of the responses, and will be published in draft at Autumn Statement this year with a view to including final legislation in Finance Bill 2016.
<b>Getting to this stage:</b>	At Autumn Statement 2014 the Chancellor announced proposals for amendments to the existing treatment of interest received by individuals from peer-to-peer loans. One of these proposals was to consult on the development of a new set of rules on the deduction of tax on interest for the peer-to-peer sector.
<b>Previous engagement:</b>	The government has been undertaking stakeholder engagement with representative bodies and businesses in the peer-to-peer sector in order to develop these proposals.

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# 1. Introduction

1. The peer-to-peer lending sector (the P2P sector) enables individuals and businesses to lend to each other through the intermediary of an internet platform. It provides new opportunities for investors and new sources of finance to borrowers.
2. The government supports a more competitive financial sector where new banks, P2P platforms and other forms of innovative financial arrangements can thrive alongside the established players.
3. P2P platforms work by providing a connection and management service that puts lenders (the investors) in contact with borrowers; the platforms themselves are not party to the loans being made.
4. 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 platform for a loan which is 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.
5. People or businesses that borrow money through P2P platforms will make repayments on their loans through the platform. These repayments will consist of return of the capital that was borrowed and interest that is due on the loan, with additional payment of any fees charged by the platform. The platform then passes the interest and the return of capital onto the lender.
6. At Autumn Statement 2014 the Chancellor announced that the government would consult on the introduction of new rules to apply to the deduction of tax at source on interest payments made on P2P loans from April 2017.
7. At the March Budget 2015 the Chancellor also announced the introduction of the Personal Savings Allowance, an allowance for savings income (including interest) below which basic and higher rate taxpayers would not have to pay tax. Together with this announcement the government committed to discussing implementation issues arising from the Personal Savings Allowance with financial institutions and other interested groups.
8. The issues addressed in this consultation specifically deal with how the current rules apply in respect of P2P lending. Any party interested in deduction of income tax at source from P2P interest payments should also be aware of the consultation "Deduction of income tax from savings income: implementation of the Personal Savings Allowance".

## Current rules

9. The application of the current rules on deducting income tax at source from interest is not straightforward in the context of a loan made through a P2P platform.
10. Under the existing rules, which apply generally to interest other than that paid by banks or building societies on deposits:
  - Where the borrower is a company who pays interest due to an individual, the borrower (or an intermediary such as the P2P platform) is required to deduct income tax at source from the interest for payment to HMRC, and pay the interest to the lender net of tax.
  - Where the borrower is a company who pays interest due to another UK company, neither the borrower nor the P2P platform is required to deduct tax at source, and interest may be paid gross.
  - Where the borrower is an individual (including a sole trader) who pays interest to either an individual or a company resident in the UK, neither the borrower nor the P2P platform is required to tax deduct at source and interest may be paid gross.
  - However where the interest is due to a lender who is resident outside the UK, the borrower (or the P2P platform) is required to deduct income tax at source from the interest for payment to HMRC, and to pay the interest to the lender net of tax, regardless of the identity of the borrower.
11. This means that for an investor who receives interest through a P2P platform, interest received from the loans made to some borrowers will be subject to deduction of income tax, but the interest they receive from loans made to other borrowers will not.
12. In other cases, because a P2P loan can be funded by many lenders, there is a requirement for the borrower (or the platform) to deduct income tax on the interest paid by one borrower to some lenders, but not on the interest paid to others.
13. This means that the current form of the legislation is complex to apply for both the borrower and the platform, and the effect is hard to understand for the lenders.

## Proposal

14. The government proposes the introduction of specific rules on how obligations to deduct tax will apply to interest paid on P2P loans. These will be more consistent rules that can be applied easily across the P2P industry, both for those investing and borrowing via P2P platforms. That is the subject of this consultation.
15. The government announced at the March 2015 Budget that a new Personal Savings Allowance (PSA) will apply from 6 April 2016 to remove tax on up to £1,000 of the total savings income for basic rate taxpayers and up to £500 for higher rate taxpayers. Additional rate taxpayers will not receive an allowance. Interest received on P2P loans is treated as savings income, and the PSA will apply to interest received by individuals on their P2P loans as well as other savings income that they receive each year.
16. Following introduction of the PSA, from 6 April 2016 banks and building societies will no longer deduct tax from interest paid on savings accounts and deposits. In view of this, the government has also launched a separate consultation<sup>1</sup> to look at possible changes to rules on the deduction of tax at source from interest other than that paid by banks and building societies, including interest under P2P arrangements. The need for specific rules for the P2P sector may depend on the outcome of this consultation. For example, if a decision were made to abolish, wholly or partly, the deduction of tax at source regime more generally then the issues currently being faced by the P2P sector fall away or become less pressing.
17. However, it is possible that deduction of tax obligations will continue to apply, including to interest payments on P2P loans. This consultation is focused on ensuring there will be clarity and consistency of the rules going forward within the P2P context.
18. The issues addressed in this consultation specifically deal with these issues that arise from how the current rules apply in respect of P2P lending.
19. Any party interested in deduction of income tax at source from P2P interest payments should also be aware of the consultation “Deduction of income tax from savings income: implementation of the Personal Savings Allowance”.

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<sup>1</sup> The consultation document “*Deduction of income tax from savings income: implementation of the Personal Savings Allowance*” can be found on the GOV.UK website

## 2. The current legislation

20. Current legislation requires certain payments of interest to be paid subject to deduction of tax at source. The person paying the interest (or another person in the payment chain) should deduct tax at the basic rate of income tax (20%) and pay it over to HMRC.
21. The rules on deduction of income tax at source are set out in Part 15 of the Income Tax Act 2007 (ITA). The rules which apply to P2P interest payments are those in chapter 3 of Part 15 ITA 2007 which require deduction of income tax from certain payments of 'yearly interest' (broadly, interest on loans of more than 12 months' duration).
22. For the reasons explained in chapter 1 of this consultation, the application of these rules can give rise to difficulties for both P2P platforms and borrowers in determining whether interest that should have tax deducted from it. A summary of the rules is included at Annex A.

### Is the interest subject to deduction of tax at source?

23. Whether interest should have tax deducted under chapter 3 of Part 15 ITA 2007 currently depends on the following criteria:
  - the term of the loan;
  - the identity of the borrower;
  - the identity of the lender; and
  - the location of the lender.
24. These criteria can be known on a single loan basis, but are much more complex to consider when the loan is made up of many different sub loans with multiple lenders or borrowers. Each lender will be receiving interest from a number of different borrowers, and each borrower will be paying interest to many different lenders.
25. This means that for borrowers it is possible that a single interest payment may be made up of some interest on which tax should be deducted and some interest where tax should not be deducted. This makes it very complicated for a borrower to work out what their obligations are and how to comply with them.
26. In addition, in some cases the borrower will not know the identity of the lenders which fund the loan that they are paying the interest on. This is confidential customer information held by the platform.

***Q.1 – Do you agree that the rules should be amended so that a borrower should treat all of the interest they pay on a P2P loan in the same way, even when that loan is funded by investment from multiple lenders? Please explain why.***

27. The current rules also create difficulties for lenders. A lender may well receive interest from multiple borrowers, some of whom will have deducted tax from those payments and some of whom will not. If tax is deducted from some payments of the interest that they receive and not others, it can be complex for the lender to work out how much of their income has already been taxed, and how much income they have received gross.

***Q.2 – Do you agree that the rules should be amended so that a lender will receive all of the interest that they receive from their P2P portfolio in the same way? Please explain why.***

### **Who should deduct the tax?**

28. Another aspect of the current rules which can cause uncertainty is the question of who should deduct the income tax from the interest.

29. The current legislation states that if the tax should be deducted then the obligation to make that deduction and pay the tax over to HMRC falls on *either* the person who pays the interest (the borrower) *or* any intermediary (the platform).



## 3. Proposed changes

### Who should deduct the tax?

30. The current legislation states that if the interest payment is subject to deduction of tax at source, then ***either*** the person who pays the interest (the borrower) ***or*** any intermediary (including the platform) must deduct the tax and pay it to HMRC.
31. If a borrower obtains a loan from a traditional finance provider in the UK, such as a bank, building society, or funding vehicle, there are specific rules that state the borrower does not have to deduct income tax. This gives a clear position for borrowers which they do not currently have for loans obtained using P2P platforms.
32. In the case of many P2P loans, the platforms do not disclose the identities of the lenders to the borrowers. This is treated as confidential information of the customer. They are instead identified by an investor reference and only the platform will know who (or what) each investor is. This can make it very difficult, or even impossible, for the borrower to properly apply the legislation.
33. The P2P platform is the only person in the arrangement who holds all the details needed to apply the legislation correctly. Also in most cases the platform will already be aggregating all the payments the lender receives to provide them with a yearly statement, so the additional administrative burdens of calculating and deducting tax is expected to be significantly lower for the platform than it would be for the borrower.
34. As P2P platforms are the agents who will hold the necessary information on the identity of the lenders, the government proposes that any obligation to deduct tax should be placed on the platforms. The government proposes that the borrowers that pay interest through a P2P platform on a loan arranged by the platform should pay interest gross, as they would do if paying interest on a loan obtained from a traditional finance provider.

***Q.3 – Do you agree that the rules should be amended so that any deduction of tax should be made by the P2P platform and not by the borrower? Please explain why.***

35. Although the government proposes that placing the obligation to deduct income tax at source on the P2P platform is the most sensible approach, the government also appreciates that the P2P industry is experiencing rapid growth and change. For example, there are business models under development which involve intermediaries acting between investors and P2P platforms in order to provide new forms of customer service packages to investors.
36. There is a possibility that if the obligation to deduct tax is placed on the platform *only*, then this could constrain development of the market and the way that P2P loans are sold and managed.

37. A possible option could be that the borrower would always pay their interest gross (without deducting tax), and either the platform, or another intermediary who undertakes payment services on their behalf, would bear the obligation to deduct tax.

***Q.4 – Do you think that it would be appropriate for any change to the rules to also allow for any obligation to deduct tax to apply to other intermediaries? Please explain why.***

## Is the interest subject to deduction of tax?

38. Under the current rules, a single lender who has a loan portfolio with a P2P platform may well receive some payments of interest that should have tax deducted from them, and some that should not.
39. As explained in chapter 2, whether the interest paid should have tax deducted or not currently depends on:
- the term of the loan;
  - the identity of the borrower;
  - the identity of the lender; and
  - the location of the lender.
40. To identify whether the interest is subject to deduction of tax at source under the current legislation is a complex process in respect of the P2P lending model.
41. By having to consider all of the above conditions not only does the person responsible for the deduction of tax have to keep track of the status of the lender, but also consider the length of the loan and the identity of the borrower for each loan part that the lender has invested in. Because P2P lending matches each lender to many borrowers, this could mean that the lender is receiving interest from tens or hundreds of different loans, all with different durations and all with different borrowers. The result of this may generate different outcomes for different loans made by a single lender through the same platform.

## Proposals

42. Under the current rules there is only a requirement to deduct tax at source if the recipient of the interest (the lender) is overseas, or if the borrower is a company, local authority or a partnership of which at least one partner is a company. It is this link to the identity of the borrower and payer of the interest as well as the link to the lender and recipient of the interest that is one of the main sources of the differing obligations to deduct tax across the P2P sector.
43. The government proposes that the rules are amended so that whether the interest on a P2P loan is subject to deduction of tax depends only on the status of the lender. This would make the operation of the regime far simpler for the P2P lending model. It will also make the position far clearer for the investor who is receiving interest.

44. Broadly, income tax would be deducted at source if the lender was an individual, or was based overseas.
45. Under this approach the person responsible for deducting any tax from the payment will only have to keep track of the status of the lender, and will not have to consider the identity of the borrower for each loan part that the lender has invested in.

***Q.5 – Do you agree that the rules should be amended so that the test for whether tax should be deducted on P2P interest payments should only be the identity of the lender and not the identity of the borrower? Please explain why.***

46. Under the current rules there is only a requirement to deduct tax at source for any payment if the interest is 'yearly' interest', which means interest arising on a loan where the parties intend that it should last for at least 12 months. Interest paid on loans that are expected to last for less than 12 months is known as 'short interest'.
47. The government is concerned that this criteria for the loan to be for a term of 12 months or more could lead to individuals with a diverse portfolio of P2P loans continuing to receive a mixture of interest payment where some have had tax deducted and some have not.
48. If the consideration of the duration of the loan was also removed then the interest from all loan parts a P2P lender has invested in would always be treated in the same way.
49. The government is therefore considering whether for P2P loans the obligation to deduct tax is no longer linked to the duration of the loan and should apply equally to both yearly interest and short interest.

***Q.6 – Do you think that the rules should be amended so that whether tax should be deducted on P2P interest payments is no longer linked to the duration of the loan? Please explain why.***

***Q.7 – If you do not agree with these amendments [Q.4, Q.5 and Q.6], what other criteria do you think should the obligation to deduct tax should depend on? Please explain why.***

- a) Identity of the borrower***
- b) Duration of the loan***
- c) Other [please specify]***

## Collection and reporting of tax deducted

50. Chapter 15 of Part 15 of ITA 2007 sets out how and when tax deducted at source on payments of interest should be returned and paid to HMRC. The legislation states that tax deducted should be returned and paid to HMRC on a quarterly basis.
51. The government is currently in the process of considering changes to how the taxable income that individuals receive from their P2P portfolios should be calculated. These changes include the consideration of income from a P2P portfolio after deduction of 'bad debts' or loan parts that become irrecoverable over the year.
52. This proposal to calculate the interest received at a portfolio level, after consideration of these bad debts, means that the total amount of interest on which tax should be deducted may only be reconcilable at the end of the tax year.
53. Because of the additional calculations that may be needed to identify the taxable amount of P2P interest received, the government is considering whether it may be appropriate to allow P2P platforms to return and pay the tax deducted on P2P interest to HMRC on an annual rather than a quarterly basis.

***Q.8 – Would allowing the return and payment of tax deducted on P2P interest on an annual basis rather than a quarterly basis make it easier to deduct the correct amount of tax (from the total amount of interest that the lender is treated as having received from their P2P portfolio in the year)? Please explain why.***

***Q.9 – Alternatively would it be simpler if parties responsible for deduction of tax on P2P interest were subject to the same quarterly return and payment requirements as those responsible for deduction of tax from other forms of interest? Please explain why.***

## 4. Obligations for platforms

### Platforms to undertake the deduction of tax

54. Under the current legislation P2P platforms are already responsible for deducting tax on certain payments of interest that should have tax deducted as they are a 'person through whom the payment is made'.
55. In chapter 3 of this consultation the government has proposed clarifying these rules for P2P loans so that rather than both the platform **and** the borrower being responsible for any obligation to deduct tax, that obligation should only fall on the platform, or possibly another intermediary.
56. This proposed change would clarify the question of whether the platform or their borrowing customers should be fulfilling this obligation.

### Is the interest subject to deduction of tax?

57. In chapter 3 of this consultation the government has proposed amending the criteria for the obligation to deduct tax on interest paid on a P2P loan so that whether or not the interest is subject to deduction of tax is dictated by the identity of the lender, and not the identity of the borrower or the duration of the loan.
58. If the platform is responsible for deducting tax then the platform will be responsible for identifying the status of the lender and deducting tax on all interest payments that are paid to relevant lenders.
59. It is likely that this will mean that tax should be deducted from more payments of interest than under the current rules, but it will also mean that it should be much simpler to identify when that tax should be deducted.
60. In addition when payments of savings income, including interest, will be subject to deduction of tax in the future is currently a matter subject to consultation with the wider industry. Should the outcome of this consultation lead to a reduction in the number of cases where tax is deducted, then it is anticipated that these changes would apply to the P2P sector as well.
61. Any party interested in deduction of income tax at source from P2P interest payments should also be aware of the consultation "Deduction of income tax from savings income: implementation of the Personal Savings Allowance".

## 5. Impacts on lenders and borrowers

### Lenders

62. Under the current legislation a lender who holds a loan portfolio with a P2P platform may receive some interest from which tax has been deducted and some interest from which it has not. If tax is deducted from some payments of the interest that they receive and not others, it can be complex for the lender to work out how much of their income has already been taxed, and how much income they have received gross.
63. In chapter 3 of this consultation the government proposed changes that would mean a lender would receive interest that would be subject to deduction of tax depending on their own identity, not the identity of the borrower, nor the duration of loan. This should mean that each lender will receive all their interest in the same way, either after tax has been deducted, or without deduction of tax.
64. A consistent regime for lenders should also simplify the reporting obligations for those lending through P2P platforms. Currently, many individual P2P lenders are required to fill in Self Assessment returns solely to pay tax on their P2P investments (lenders who receive £2,500 or more of untaxed income in a year). If tax is deducted at source from P2P income then individual investors will not have to fill in a Self Assessment return purely because of P2P income unless they receive £10,000 or more of savings and investment income in a year.
65. It is possible that, with the introduction of the Personal Savings Allowance, some lenders will no longer be subject to tax on income they receive on loans they have made through P2P platforms. As such, they would need to reclaim any tax that had been automatically deducted by the platform (or an intermediary) as a result of the changes proposed in this consultation. This is an issue that goes beyond the P2P sector, and is being considered as part of the parallel consultation on the implementation of the Personal Savings Allowance.

### Borrowers

66. The current legislation states that if the interest payment is subject to deduction of tax, then *either* the person who pays the interest (the borrower) *or* any intermediary (the platform) must deduct the tax and pay it to HMRC.
67. If a borrower obtains a loan from a traditional finance provider in the UK there are rules in place that mean the borrower does not have to deduct tax. This gives a clear position for borrowers which they do not currently have for loans obtained through P2P platforms.
68. In chapter 3 of this consultation the government proposed that the obligation to deduct tax should be placed on either the P2P platform or possibly, where applicable, another intermediary. This would give a clear position to the borrower when obtaining finance through a P2P platform. It would also mean that there would not be obligations to deduct tax for a borrower obtaining a loan through a P2P platform where there would be none for the same borrower obtaining a loan from a traditional finance provider.

## 5. Summary of consultation questions

### Chapter 2 – The current Legislation

**Q.1 – Do you agree that the rules should be amended so that a borrower should treat all of the interest they pay on a P2P loan in the same way even when that loan is funded by investment from multiple lenders? Please explain why.**

**Q.2 – Do you agree that the rules should be amended so that a lender will receive all of the interest that they receive from their P2P portfolio in the same way? Please explain why.**

### Chapter 3 – Proposed changes

**Q.3 – Do you agree that the rules should be amended so that any deduction of tax should be made by the P2P platform and not by the borrower? Please explain why.**

**Q.4 – Do you think that it would be appropriate for any change to the rules to also allow for any obligation to deduct tax to apply to other intermediaries? Please explain why.**

**Q.5 – Do you agree that the rules should be amended so that the test for whether tax should be deducted on P2P interest payments should only be the identity of the lender and not the identity of the borrower? Please explain why.**

**Q.6 – Do you think that the rules should be amended so that whether tax should be deducted on P2P interest payments is no longer linked to the duration of the loan? Please explain why.**

**Q.7 – If you do not agree with these amendments [Q.4, Q.5 and Q.6], what other criteria do you think should the obligation to deduct tax should depend on? Please explain why.**

- a) Identity of the borrower
- b) Duration of the loan
- c) Other [please specify]

**Q.8 – Would allowing the return and payment of tax deducted on P2P interest on an annual basis rather than a quarterly basis make it easier to deduct the correct amount of tax (from the total amount of interest that the lender is treated as having received from their P2P portfolio in the year)? Please explain why.**

**Q.9 – Alternatively would it be simpler if parties responsible for deduction of tax on P2P interest were subject to the same quarterly return and payment requirements as those responsible for deduction of tax from other forms of interest? Please explain why.**

**Please note: Any party interested in deduction of income tax at source from P2P interest payments should also be aware of the consultation “Deduction of income tax from savings income: implementation of the Personal Savings Allowance”.**

## 7. The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place at stage 2 of the process. The purpose of the consultation is to seek views on the policy design, as well as considering the framework for implementation of these proposals.

### How to respond

A summary of the questions in this consultation document is included at chapter 6 of this consultation.

Responses should be sent by Friday the 18<sup>th</sup> September,

by e-mail to: [p2p.consultation@hmrc.gsi.gov.uk](mailto:p2p.consultation@hmrc.gsi.gov.uk)

or by post to:

Alia Islam  
HM Revenue & Customs,  
Room 3C/03,  
100 Parliament Street  
London  
SW1A 2BQ.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.



## Confidentiality

Information provided in response to this consultation document, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Oliver Toop, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

**Please do not send responses to the consultation to this address.**

# Annex A: Current legislation summary

Part 15 of the Income Tax Act 2007 (ITA) sets out the deduction of income tax at source rules. Peer-to-peer platforms, and the borrowers who obtain loans through them, must determine whether income tax should be deducted from interest paid under the general rules contained in chapter 3 of Part 15 ITA 2007.

The application of the rules in chapter 3 of Part 15 ITA 2007 is causing certain problems for peer-to-peer lenders and for some types of entities who arrange loans through them.

## Chapter 3 of Part 15 ITA 2007: Deduction of tax from yearly interest

Chapter 3 of Part 15 ITA 2007 only applies to payments of yearly interest, which broadly means interest arising on a loan whose term is for at least a year or it is the intentions of the parties that it should last for at least a year.

If the interest is not yearly interest then there is no obligation to deduct income tax at source.

If the interest is yearly interest then there is a possibility that income tax must be deducted at source. This will depend on the identities of both borrower and lender.

### Identity of the borrower.

Section 874(1) states that there is a duty to deduct income tax at source from payments of yearly interest if it is paid by either a;

- company;
- local authority; or
- partnership which has at least one company as a member.

### Identity of the lender.

Section 874(1) also states that there is a duty to deduct income tax at source from payments of yearly interest if it is paid to

- a person whose usual place of abode is outside the UK

However these obligations under section 874(1) can be switched off if an exclusion or exception applies.

## Chapter 3 of Part 15 ITA 2007: Excluded payments

Chapter 3 of Part 15 ITA 2007 identifies 14 types of payment that are excluded from the obligation to deduct tax at source under section 874(1). These are shown at sections 875 to 888.

These rules relate, by and large, to payments made by financial institutions in specified capacities and so are unlikely to be relevant for peer-to-peer lending.

## Chapter 11 of Part 15 ITA 2007: Exceptions for payments to certain recipients

If there is a payment of yearly interest on which the payer is obliged to deduct tax under chapter 3 of Part 15 ITA 2007, then in some cases chapter 11 of Part 15 ITA 2007 allows for exceptions so that the payer may still make the payment without deducting tax. These exceptions allow a payment of interest without deduction of tax, if the payer reasonably believes the payments are being paid to certain types of recipient within the UK

If the recipient of the interest (the lender) is one of the specified types of entity then there may be an exception from the obligation to deduct tax at source:

- UK resident companies;
- UK permanent establishments of non-resident companies;
- local authorities;
- health service bodies;
- offices or departments of the Crown;
- charities;
- bodies with charitable tax exemptions;
- scientific research organisations;
- Registered pension schemes;
- Parliamentary pension funds;
- Colonial pension funds;
  
- partnerships where the partners are all types of entity listed above, or the European Investment Fund; or
  
- PEP and ISA managers.

## Chapter 3 of Part 15 ITA 2007: Which party is obliged to deduct tax?

The rules that are summarised above consider whether there is an obligation to deduct income tax at source from a payment of interest. If there is an obligation, then then we next need to consider who has the obligation to deduct the tax.

Section 874(2) states:

The person by or through whom the payment is made must, on making the payment, deduct from it a sum representing income tax on it at the savings rate in force for the tax year in which it is made.

This means that both the person who makes the payment (the borrower), and any person through whom that payment is made (such as a platform) share the obligation to deduct tax from the payment. Once any person deducts the correct amount of tax at the correct time then the requirements are satisfied for all concerned along the payment chain.

# Annex B: Current relevant legislation

Part 15 of the Income Tax Act 2007 (Deduction of income tax at source)

The full text of this legislation can be found on the Office of Public Sector Information ([OPSI](#)) web site.

<http://www.legislation.gov.uk/ukpga/2007/3/part/15>