

Local Property Tax

LPT

Guidelines (effective November 2015 until 31/08/2017) for the Sale or Transfer of Ownership of a Relevant Residential Property



November 2015

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Application for Clearance in Respect of 'Uncrystallised' Pre-Sale Liabilities- Form LPT5

Sale of a relevant residential property

1. INTRODUCTION

Unless it is outside the scope of the local property tax (LPT) charge or is exempt from the charge, a residential property that is sold after 1 May 2013 was chargeable to LPT in respect of that liability date. Properties that are outside the scope of LPT and in respect of which Revenue does not issue a LPT return form are not included in the clearance procedures described in this note.

On 1 July 2013, any outstanding household charge (including interest and late payment penalties) automatically became a €200 fixed amount to be collected as LPT by Revenue. This means that the clearance procedures described in this note also apply to any outstanding household charge liability that existed on 1 July 2013.

This note describes the implications of the sale of a property for both the vendor and the purchaser. These can be summarised as follows:

What a vendor should do before completion of a sale

A vendor should

- Submit all outstanding LPT returns.
- Pay all outstanding tax, interest and penalties (including that representing arrears of household charge).
- Look for a certificate of exemption or waiver from the Local Government Management Agency (LGMA), where the vendor has not claimed a waiver or an exemption from the household charge to which he or she was entitled.
- Self-correct any return where there has been an under-declaration of value.
- Provide the purchaser with such information about the tax arising on the previous valuation date (including the chargeable value adopted and the basis for it, details of any exemption claimed, details of any Revenue estimate or assessment) as is relevant to the purchaser.
- Ascertain if the agreed sales price comes within **any** of the conditions in sections 4.2.1 to 4.2.4 below and, if not, whether a specific Revenue clearance is required in relation to any potential under-declared liability.

What a purchaser should do before completion of a sale

A purchaser should

- Establish if there is any outstanding tax, interest or penalties in relation to the property.
- Establish if the property is household charge compliant.
- Where the property is sold within a valuation period, consider whether the valuation declared by the vendor in relation to the preceding valuation date

appears to have been reasonably and honestly made, having obtained all relevant information and supporting documentation from the vendor.

- Ascertain from the vendor if the agreed sales price comes within **any** of the conditions in sections 4.2.1 to 4.2.4 below and, if not, whether a formal Revenue clearance has been obtained in relation to any potential under-declared liability.

Alternative arrangements apply in the case of residential properties that are purchased from local authorities. In such cases, the purchaser may assume that the particular local authority declared a reasonable chargeable value for the property and has paid any LPT that was due. Therefore, the clearance procedures described in this note do not apply and the purchaser does not need to take any action when purchasing the property.

Revenue has consulted with the Law Society in relation to potential difficulties that might be caused for conveyancing by any lack of certainty at the closing of a sale as to whether a charge on the property exists in relation to LPT. This note addresses these difficulties and sets out in sections 3 and 4.2 below the circumstances in which the parties to a sale can be satisfied that no charge exists. Revenue will not issue clearance where these circumstances apply.

Where the conditions set out in section 4.2 below are not met, Revenue will provide a specific written clearance, in addition to the standard online clearance facility described in section 3 below, at the time of a sale. It is envisaged that this specific clearance should only be required in exceptional circumstances. Unnecessary recourse to the specific clearance procedure may result in significant delay.

The provision of clearance is intended to facilitate purchasers in acquiring clean title to a property. While Revenue may agree that there will not be a charge on a property following a sale in certain circumstances by granting specific written clearance, it will, nevertheless, reserve the right to pursue a vendor for pre-sale liabilities where clearance has been obtained on the basis of false information or inadequate disclosure of the relevant facts.

The procedures described in sections 2.4 and 4 below relate to the first valuation date 1 May 2013. They came into operation on 19 August 2013 and will continue to apply until further notice.

While it is primarily concerned with sales, some parts of the note also cover changes of ownership that take place by, for example, gifts and inheritances. Therefore, where relevant, references to sales in this note should be read as including all other changes of ownership and references to vendors and purchasers as including previous and new owners, respectively. However, the type of Revenue clearance described in section 4 below only applies in the case of sales.

2. PROPERTY SOLD WITHIN A VALUATION PERIOD

2.1 Continuation of valuation until following valuation date

The general valuation rule is that the chargeable value that applies in relation to a valuation date continues to apply until the following valuation date. Thus, the chargeable

value at 1 May 2013 covers the period up to 31 October 2016¹. It is not affected by any general increase or decrease in the value of properties or improvements/repairs made to a property in that period. This rule applies even where a property is sold during a valuation period, subject to the situations described in sections 2.2, 2.3 and 2.4 below.

2.1.1 Example

A vendor values a property for LPT purposes on 1 May 2013 in the €250,001-€300,000 band (Band 5), and sells it for €305,000 in July 2014. The Valuation Band for the liability dates 1 November 2014 and 1 November 2015, on which the liability for 2015 and 2016 is based will also be Band 5. If the property had been sold on 10 July 2014 for €240,000 the Valuation Band for 2015 and 2016 would still be Band 5.

2.2. Sales of exempt property

Subject to one exception, there are no immediate implications arising from a sale of a property that was not a relevant residential property on the valuation date preceding a sale. Such a property is not potentially taxable until the following valuation date. The exception relates to the purchase of a property from a vendor who purchased the property in 2013 and who qualified for the ‘first-time buyer’ exemption provided for in section 8 of the Finance (Local Property Tax) Act 2012 (as amended) in respect of the years 2013 to 2016 inclusive. Although the intention was to restrict this exemption to first-time buyers of second-hand properties, it actually applies to **anybody** who purchases such a property during 2013 and occupies the property as a sole or main residence. This exemption does not carry through to a subsequent purchaser, unless the subsequent purchase also occurs during 2013.

2.2.1 Example

A person qualifying for relief under section 8 of the Finance (Local Property Tax) Act 2012 (as amended) purchased a second-hand property for €195,000 in March 2013. The house is sold again in April 2014 for €203,000. The purchaser in April 2014 is taxable in respect of 2015 and 2016. In accordance with the usual valuation rule, the chargeable value at 1 May 2013 continues to be the chargeable value until the following valuation date of 1 November 2016². The purchaser should, therefore, make a return based on Band 3, i.e. €150,001 - €200,000. (This band would also meet the ‘reasonableness’ test discussed in section 2.3 below)

2.3 Purchaser’s responsibilities

Before adopting a vendor’s valuation in the manner described in section 2.1 above, a purchaser is required to form a view on whether that chargeable value is one that could reasonably have been arrived at. Where the vendor self-corrects in accordance with

¹It is the stated intention of the Minister for Finance to extend the current valuation period to November 2019.

² As per Footnote 1

section 2.4 below, it is the revised chargeable value that must be considered by the purchaser. To assist the purchaser to make this judgement, the vendor is required to provide the purchaser with any relevant information or documentation in the knowledge or possession of the vendor in relation to the valuation of the property on the **immediately preceding valuation date**. This information includes the chargeable value/valuation band included in a return. (See section 5 below in relation to the implications of not providing the required information to a purchaser).

The agreed selling price when compared with the chargeable value that was declared, along with whatever information may be provided by the vendor in relation to his or her determination of that chargeable value, should indicate to the purchaser whether that chargeable value was too low. However, the purchaser should establish if an apparent under-valuation is accounted for by an increase in property prices generally in the particular locality.

Essentially, if a person values a property for LPT purposes and subsequently puts it on the market before the following valuation date at a considerably higher value, a purchaser needs to ask if the LPT valuation was reasonable considering the vendor's asking price.

Where a purchaser forms the view that the chargeable value that was declared by a vendor was too low, he or she is required to submit a revised chargeable value in relation to the liability date following a sale. Where a purchaser forms the view that the property had not been under-valued, he or she can continue to rely on the vendor's valuation until the next valuation date without submitting a revised return. (See section 5 below in relation to the implications of not submitting a revised chargeable value where this is required).

Local authorities were permitted to value all of the properties in their ownership in the valuation band zero to €100,000 in respect of the liability date 1 May 2013. Therefore, in the case of any property purchased from a local authority, a purchaser may accept this valuation regardless of the actual selling price and may continue to pay LPT based on this valuation until he or she has to re-value the property on the next valuation date.

It is important that purchasers do not interpret the legislation as requiring them, in all cases, to make their own valuation of the property at the previous valuation date, and with the benefit of hindsight. The requirement is to decide whether or not a vendor could have reasonably arrived at the chargeable value/valuation band that was returned in respect of that date. A chargeable value/valuation band that was adopted by the vendor to the best of that person's knowledge and belief may also be adopted by the purchaser for the remainder of the valuation period, notwithstanding the fact that subsequent events may cast doubt on the valuation.

For properties with a chargeable value of €1,000,000 or less, Revenue is precluded from seeking to displace a self-assessment which has been reasonably and honestly made in accordance with Revenue's published valuation guidance. This recognises that there are inherent uncertainties in valuation and that taxpayers ought not to be penalised where a valuation that was made reasonably and honestly turns out to be too low. Purchasers should have regard to Revenue's published valuation guidance in deciding whether a revised valuation is needed. This guidance is included at Annex 1 to this note.

For properties with a chargeable value in excess of €1,000,000, it may prove less easy to determine whether the chargeable value declared by the purchaser could have been reasonably arrived at. The best evidence in these circumstances is a valuation report by a professional valuer, setting out the value and how it was arrived at. If the vendor had obtained such a report in advance of the previous valuation date, the purchaser may also rely on that report. Alternatively, in cases where there is a significant gap between the chargeable value declared and the sales price which cannot be explained by, for example, movements in relevant property prices generally or improvements that have increased the value of the property, a purchaser may wish to get a professional opinion of the value at the preceding valuation date.

2.3.1 Submitting a revised chargeable value to Revenue

In strictness, a purchaser who decides that a revised chargeable value is warranted does not have to submit the revised chargeable value until the return date following the sale. However, to enable the submission of a revised chargeable value to become part of the conveyancing process, the purchaser should submit his or her own estimate of the chargeable value of the property that would have applied at 1 May 2013 to the Revenue Commissioners. It is possible for a solicitor acting for the purchaser to submit the revised chargeable value on the purchaser's behalf. The revised chargeable value should be submitted, in writing, to LPT Branch, P.O. Box 1, Limerick at the time of the sale. While there is no specific form provided for this purpose, the following details should be provided:

- Name and PPSN of purchaser
- Property ID
- Property address
- Purchaser's estimate of the chargeable value of the property that would have applied at 1 May 2013. For properties valued at less than €1m, the relevant chargeable band³ should be given and for properties valued above €1m, the actual chargeable value should be given.

2.3.2 Examples

The following examples illustrate how Revenue expects purchasers to form an opinion on whether the valuation used by the vendor is one that could not reasonably have been arrived at.

2.3.2.1 A vendor values a property for LPT purposes on 1 May 2013 in the €100,001-€150,000 band, puts it on the market for €320,000 in January 2014 and sells it for €305,000 in March 2014. The vendor has not provided any information or documentation that would explain the reason for the apparently low valuation at 1 May 2013. As the purchaser is not aware of any valid reason for such an increase in market value, he or she should submit a LPT Return form in respect of the liability date 1 November 2014 showing a revised valuation band for the property at 1 May 2013 values. This should be informed by the price paid for the property, adjusted to reflect any changes in prices

³ The relevant chargeable bands are available at www.revenue.ie in the LPT section of the website. The first band is zero to €100,000 and the bands increase by €50,000 after that (for example, €100,001 to €150,000) up to €1m.

generally in the locality between 1 May 2013 and the date of sale and any other special factors affecting the value of the property in the meantime. Thus, if prices generally had risen by, say, 5%, the purchaser should value the property in Band 5 - €250,001 - €300,000 for the November 2014 return.

2.3.2.2 A vendor values a property on 1 May 2013 in the €100,001- €150,000 band and sells it in March 2014 for €160,000. Following the opening of a new school nearby, there has been a general increase in property prices in the area of about 10%. In these circumstances, a purchaser might reasonably form the view that the property had not been under-valued and no revised valuation is needed.

2.3.2.3 A vendor values a property for LPT purposes on 1 May 2013 in the €100,001- €150,000 band, puts it on the market for €210,000 in July 2014 and sells it for €195,000 in September 2014. The vendor produces information showing that two similar houses in the area had been sold in March 2013 and April 2013 for €140,000 and €145,000. Property prices generally have risen in the area by 10%. While the difference between the valuation and the sales price cannot be explained by rising prices generally, a purchaser could form the view that the vendor could reasonably have arrived at the conclusion that the chargeable value on 1 May 2013 fell in the €100,000 - €150,000 band, given the information available about sales of comparable properties at that date. No revised valuation is needed.

2.3.2.4 A vendor values a property for LPT purposes on 1 May 2013 in the €100,001- €150,000 band, puts it on the market for €215,000 in February 2015 and sells it for €205,000 in September 2015. The vendor produces evidence that significant expenditure had been incurred on the property after the 1 May 2013 valuation date which significantly enhanced its value. The purchaser could conclude that this explained the gap between the chargeable value at 1 May 2013 and the sales price.

2.4 Vendor's responsibilities

2.4.1 Provision of information to a purchaser

As the value declared for the preceding valuation date applies for LPT purposes until the next valuation date, a vendor is required to provide a purchaser with any relevant information or documentation in the knowledge or possession of the vendor in relation to the valuation of a property on the **immediately preceding valuation date**. This information includes the chargeable value/valuation band included in a return. (See section 5 below in relation to the implications of not providing the required information to a purchaser).

2.4.2 Self-correction by a vendor

A vendor needs to consider if the valuation band/chargeable value declared in relation to the preceding valuation date was honest and reasonable having regard to the particular property, the market for that type of property at the valuation date and any objective evidence such as details from the Residential Property Price Register. If, on reflection,

and having regard to the asking price/agreed sale price, the vendor considers that the valuation band/chargeable value declared for the property as at 1 May 2013 was wrong, was not supported by objective evidence and was not carried out in line with Revenue's published valuation guidance (see Annex 1 to this note), the vendor needs to consider his or her position. In this situation, the best way to safeguard the position is to make a self-correction by submitting a revised chargeable value for the property and paying the additional liability.

Any revised valuation band/chargeable value displaces the previous valuation band/chargeable value. In relation to the Revenue clearance described in section 4 below, where a vendor self-corrects to an honest and reasonable valuation in line with Revenue's published guidance, it is the revised valuation band/chargeable value that is taken into account in determining whether the valuation band/chargeable value comes within any of the general clearance conditions specified in sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 below.

3. UNPAID 'CRYSTALLISED' LIABILITIES AND REVENUE CLEARANCE

3.1 LPT liabilities unpaid at date of sale

Before the sale of a property is completed, a vendor is required to pay up-front any unpaid LPT due in respect of a liability date falling before the date of sale, even if, in the ordinary course of events, such liability would not yet be payable. The liability that has 'crystallised' at this stage comprises unpaid LPT, accrued interest and any penalty amount that has been imposed in relation to a vendor's self-assessment or a Revenue assessment. In addition, all outstanding returns must be submitted. Any outstanding 'crystallised' liability that is not paid by a vendor before the completion of a sale is a charge on the property.

On 1 July 2013, any outstanding household charge (including interest and late payment penalties) automatically became a €200 fixed amount to be collected as LPT by Revenue, regardless of whether part of the household charge had been paid before that time. This means that this amount became part of any crystallised LPT liability to be paid to Revenue as if it were an amount of LPT.

A vendor can pay any outstanding LPT liability by-

- accessing Revenue's online system at www.revenue.ie using their PPSN/Tax Registration Number, Property ID and PIN,
- calling the LPT Helpline 1890 200 255 and paying by debit or credit card, or
- sending a cheque or postal order to Local Property Tax Branch, Revenue Commissioners, PO Box 1, Limerick, indicating where part, or all, of a payment relates to outstanding household charge and putting his or her Property ID on the back of the cheque/postal order.

A vendor who is recorded as owing household charge but who considers that he or she is entitled to an exemption or a waiver, or who has paid the household charge **in full** by 1 July 2013, should contact the Household Charge Support Centre at support@householdcharge.ie or PO Box 12168, Dublin 1 to obtain the relevant certificate.

3.2 Revenue clearance for unpaid liabilities at date of sale

To facilitate certification of title, Revenue gives clearance by confirming the LPT position at the date of a sale to a vendor, or a person acting on his or her behalf. Revenue does this by making the relevant information available online and free of charge at www.revenue.ie. Guidance on how to use the online clearance facility can be found in the LPT section of the website under the heading “Sale/transfer of ownership of residential properties”. Revenue will not give any written confirmation other than as outlined in section 4.2 below.

A vendor, or a person acting on his or her behalf, can access the online property history screen if he or she has the unique Property ID, the vendor’s PPSN and a Property Access Number [PAN] that is generated as part of the online access process. Revenue is precluded by data protection legislation from providing details of a person’s LPT liability to a third party. However, a vendor, if he or she chooses to do so, may allow a third party such as a purchaser or a solicitor to access his or her LPT record by passing on these three access numbers. Solicitors and other agents who want to access the online history screen and who are registered for ROS should log in to ROS using a ROS digital cert.

The information available on the property history screen contains a summary report of each year of the LPT liability, the amount paid, any balance outstanding and any interest or penalty that has been imposed. Where a return has been submitted, the screen displays the self-assessed valuation band/chargeable value. Where a return is outstanding, the screen displays the Revenue estimate. In relation to the amount paid and the balance due, where LPT is being paid through deduction at source from salaries/wages or from an occupational pension, the screen may not reflect the current position if the deductions have not yet been remitted to Revenue by an employer or an occupational pension provider. In such circumstances, the situation should be established with the Local Property Tax Branch by writing to Local Property Tax Branch, Revenue Commissioners, PO Box 1, Limerick.

Clearance can only be assumed where the record for the property shows that a LPT return was submitted for all years for which a return was required and the tax paid as well as any interest and penalties on record. Payment of the Revenue estimate amount is not sufficient.

Where the household charge has been paid **in full**, or a waiver or exemption has been granted, the LPT record will show the property as household charge compliant.

Properties that are outside the scope of LPT and in respect of which Revenue does not issue a LPT return form are not covered by the online clearance facility.

4. 'UNCRYSTALLISED' LIABILITIES AND REVENUE CLEARANCE

4.1 'Uncrystallised' liabilities at date of sale

There may be a potential liability at the date of sale that has not yet 'crystallised' where a vendor has under-declared the chargeable value when making his or her self-assessment. Such a liability may come to light as a result of Revenue's on-going compliance activity but possibly not until after a sale. Any 'uncrystallised' liability is a charge on the property unless a purchaser submits a revised chargeable value as described in section 2.3 above.

4.2 Revenue clearance for potential 'uncrystallised' liabilities at date of sale

Revenue does not have a charge on a property in respect of liabilities that crystallise only after a property is sold, where a purchaser submits a revised chargeable value as described in section 2.3 above. However, lack of certainty on this point could cause problems for the conveyancing process in that solicitors may be unable to confirm a 'clean' title to the property at the date of sale.

A system that requires Revenue to specifically clear every sale is neither necessary nor desirable. It would also have resource implications for Revenue, would inevitably delay many transactions and could result in increased costs for the parties to the transaction. It should be very clear to the purchaser, in most cases, if the appropriate valuation band/chargeable value was used by the vendor.

Where **any** of the conditions in sections 4.2.1 to 4.2.4 below are met, Revenue accepts that there is no charge on a property in respect of 'uncrystallised' liabilities. **This means that where at least one of these conditions applies at the date of sale, a purchaser can be assured that Revenue will accept that there is no charge on a property following a sale where it establishes after the sale that a vendor had under-declared his or her LPT liability before that sale.**

This clearance is for the benefit of the purchaser. Notwithstanding that Revenue will accept that there is no charge on a property, it will pursue a vendor in relation to any liability that is attributable to a pre-sale under-declaration.

General clearance is offered on the basis that a party to a sale of a property will accept it without referring the matter to Revenue. **Revenue will only provide the specific clearance described in section 4.3 below where the conditions in sections 4.2.1 to 4.2.4 are not met but it is otherwise satisfied that a charge is not warranted.**

4.2.1 General clearance condition 1– sales price does not exceed €300,000⁴

The condition in this section relates to the price for which a property is sold.

Where a property is sold for a price that does not exceed €300,000, general clearance applies. The chargeable value that was declared for the property is not taken into account.

⁴ This is a new condition that was inserted into this guidance note in November 2015

4.2.1.1 A property that was valued in the €100,001 to 150,000 band sells for €290,000. General Clearance applies. If the property sells for €310,000, general clearance does not apply.

4.2.2 General clearance condition 2 – allowable valuation margin

The condition in this section relates to the allowable margin by which the sales price of a property exceed the valuation band/chargeable value that was declared for the property in relation to the 1 May 2013 valuation date. Different allowable margins apply in relation to properties situated in Dublin city and county and those in the rest of the country.

Condition 2: The sales price must not exceed the upper limit of the valuation band/chargeable value or that, when it does, that any such excess must be within the allowable margin.

The allowable margins are:

- Where the sales price is not more than 25%⁵ higher than the upper limit of the band declared, and
- In the case of properties whose declared chargeable value exceed €1,000,000, where the sales price is not more than 25% higher than the chargeable value.

In the case of properties situated in Dublin city and county, the 25% allowable margin is increased to a 50%⁶ allowable margin.

Examples

4.2.2.1 A property situated in Cork that was valued in the €250,001 to €300,000 band sells for up to €375,000. General clearance applies. If the property sells for €380,000, general clearance does not apply.

4.2.2.2 A property situated in Donegal that was valued in the €350,001 to €400,000 band sells for up to €500,000. General clearance applies. If the property sells for €508,000, general clearance does not apply.

4.2.2.3 A property situated in Meath that was valued in the €950,001 to €1,000,000 band sells for up to €1,250,000. General clearance applies. If the property sells for €1,300,000, general clearance does not apply.

4.2.2.4 A property situated in Wicklow that was valued at €1,200,000 sells for up to €1,500,000. General clearance applies. If the property sells for €1,550,000, general clearance does not apply.

⁵ The allowable margin was increased from 15% to 25% in November 2015

⁶ This allowable margin was increased from 15% to 25% in October 2014 and from 25% to 50% in November 2015.

4.2.2.5 A property situated in Dublin that was valued in the €250,001 to €300,000 band sells for up to €450,000. General clearance applies. If the property sells for €455,000, general clearance does not apply.

4.2.2.6 A property situated in Dublin that was valued in the €550,001 to €600,000 band sells for up to €900,000. General clearance applies. If the property sells for €910,000, general clearance does not apply.

4.2.2.7 A property situated in Dublin that was valued in the €950,001 to €1,000,000 band sells for up to €1,500,000. General clearance applies. If the property sells for €1,550,000, general clearance does not apply.

4.2.1.8 A property situated in Dublin that was valued at €1,200,000 sells for up to €1,800,000. General clearance applies. If the property sells for €1,820,000, general clearance does not apply.

4.2.3 General clearance condition 3 – expenditure on enhancements to a property

The condition in this section relates to whether or not a vendor has enhanced the value of his or her property since the 1 May 2013 valuation date by carrying out construction/-refurbishment work.

Condition 3: Where the sales price exceeds the valuation band/chargeable value declared, that any such excess must be within the specified margins set out in condition 2, adjusted by the amount of any verifiable expenditure on refurbishment or improvement incurred since 1 May 2013, i.e. the amount by which the sales price exceeds the valuation band/chargeable value must be less than the aggregate of the specified margin and the enhancement expenditure. The specified margin set out in condition 2 is 50% in the case of properties with a chargeable value exceeding €300,000 situated in Dublin city and county and 25% for all other properties.

For the condition to apply, the vendor must be in a position to make available (if requested by Revenue) receipts verifying the type of work undertaken and the cost of the work done.

Examples

4.2.3.1 A property that was valued in the €150,001 to €200,000 band sells for €295,000. General clearance applies. If the property sells for €325,000, general clearance does not apply.

4.2.3.2 A property that was valued in the €350,001 to €400,000 band sells for €560,000. General clearance condition 2 allows for a sales price of up to 25% more than €400,000 (i.e. €500,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €120,000. General clearance applies because the gap

between the upper limit of €500,000 and the sales price does not exceed the refurbishment expenditure. If the property sells for €650,000, general clearance does not apply.

4.2.3.3 A property that was valued in the €950,001 to €1,000,000 band sells for €1,400,000. General clearance condition 2 allows for a sales price of up to 25% more than €1,000,000 (i.e. €1,250,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €200,000. General clearance applies because the gap between the upper limit of €1,250,000 and the sales price does not exceed the refurbishment expenditure. If the property sells for €1,550,000, general clearance does not apply.

4.2.3.4 A property that was valued at €1,200,000 sells for €1,600,000. General clearance condition 1 allows for a sales price of up to 25% more than €1,200,000 (i.e. €1,500,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €300,000. General clearance applies. If the property sells for €1,850,000, general clearance does not apply.

4.2.3.5 A property situated in Dublin that was valued in the €150,001 to €200,000 band sells for €295,000. General clearance applies. If the property sells for €325,000, general clearance does not apply.

4.2.3.6 A property situated in Dublin that was valued in the €350,001 to €400,000 band sells for €700,000. General clearance condition 2 allows for a sales price of up to 50% more than €400,000 (i.e. €600,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €120,000. General clearance applies because the gap between the upper limit of €600,000 and the sales price does not exceed the refurbishment expenditure. If the property sells for €740,000, general clearance does not apply.

4.2.3.7 A property situated in Dublin that was valued in the €950,001 to €1,000,000 band sells for €1,800,000. General clearance condition 2 allows for a sales price of up to 50% more than €1,000,000 (i.e. €1,500,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €350,000. General clearance applies because the gap between the upper limit of €1,500,000 and the sales price does not exceed the refurbishment expenditure. If the property sells for €1,950,000, general clearance does not apply.

4.2.3.8 A property situated in Dublin that was valued at €1,200,000 sells for €1,920,000. General clearance condition 2 allows for a sales price of up to 50% more than €1,200,000 (i.e. €1,800,000). However, after the valuation date the vendor incurred (verifiable) refurbishment expenditure of €300,000. General clearance applies. If the property sells for €2,120,000, general clearance does not apply.

4.2.4 General clearance condition 4 – sales of comparable properties

The condition in this section relates to whether or not a vendor based his or her chargeable value on the known and verifiable sales prices of comparable properties in the area.

Condition 4: The upper limit of the vendor's declared valuation band must be at least the Revenue's guidance valuation band⁷ and the vendor must have evidence of at least one comparable property sold within the period of nine months⁸ prior to 1 May 2013.

For the purposes of applying this rule, two properties are comparable if they:

- are located in the same electoral district (can be confirmed by Revenue's online interactive guide),
- are the same type of property, i.e. apartment/flat, bungalow, detached, semi-detached or terraced,
- are similar in size and
- are in a similar state of repair/condition.

In relation to being in a similar state of repair/condition, the objective test to be applied is that both properties must have been marketed as being in a similar state of repair/condition. This can be determined by comparing any marketing literature. For example, a continuum of state of repair/condition in 'auctioneer' terminology might be:

- In need of complete refurbishment and modernisation,
- Having great potential
- In need of some renovation,
- Ready for immediate occupation/turn-key condition,
- Recently refurbished and modernised throughout, and
- In excellent condition.

For the purposes of this test, the first three descriptions can be taken as representing a similar state of repair as can the latter three.

4.2.4.1 Example

A property that was valued in the €250,001 to €300,000 band sells for €460,000. The property is a terraced house in the Botanic B electoral district. This valuation band is in line with the Revenue online valuation guidance (heat map) which also puts the average value for such a property in the €250,001 to €300,000 band. A similar property was sold in January 2013 for €295,000. It was marketed by the auctioneer as having 3 bedrooms and needing modernisation. This is a similar condition to the vendor's property which also has 3 bedrooms and was marketed as needing renovation. Based on the sales price of a comparable property, general clearance applies.

⁷ An online interactive guide providing indicative property values is available on www.revenue.ie. This provides a guide to average market values of properties in a given electoral district and offers an indicative valuation band for properties depending on type, age and location. It does not provide market values for individual properties.

⁸ This period was increased from 6 months to 9 months in November 2015

4.3 Provision of specific Revenue clearance

Revenue will consider specific written clearance on request from a vendor where the conditions in sections 4.2.1 to 4.2.4 above are not met but the vendor, nevertheless, claims that the valuation at the 1 May 2013 valuation date was made in good faith.

This clearance will be separate to the standard online clearance described in section 3.2 above in relation to crystallised LPT liabilities at the date of sale. It will relate solely to potential ‘uncrystallised’ liabilities arising after a property is sold. Revenue will examine the valuation band/chargeable value that was declared in relation to the 1 May 2013 valuation date. Where it is satisfied that this was reasonable, it will confirm that there will not be a charge on the property following its sale. Alternatively, where it is not satisfied that the valuation band/chargeable value that was declared was reasonable, it will not provide clearance but will, instead, make a Revenue assessment on the vendor. The effect of making an assessment is to crystallise the liability so that it becomes part of the standard online clearance process and should be dealt with accordingly by the vendor and purchaser.

The conditions to be met before Revenue clearance is given are that:

- There must be an actual sale taking place,
- The sales price must have been agreed,
- The sales price must not come within any of the conditions described in sections 4.2.1 to 4.2.4 above,
- The request for clearance must be made in the specified (electronic) format and any supporting documentation must be included with the request,
- Revenue is satisfied that the valuation band/chargeable value declared by a vendor in relation to the 1 May 2013 valuation date was reasonable.

The following supporting documentation is required:

- A professional valuation (if one was obtained in relation to the immediately preceding valuation date),
- Information on actual selling prices obtained from the Property Services Regulatory Authority at www.propertypriceregister.ie,
- Information on the movement in house prices obtained from the Central Statistics Office at cso.ie **and** from daft.ie and myhome.ie,
- Photographs of the property that are certified as genuine by the vendor,
- The geographic coordinates of the property for use with Google Earth, and
- Any other information that the vendor considers to be relevant.

See section 5 in relation to the implications of making a false statement to Revenue.

Revenue will do its best to ensure that clearances are issued within four weeks of the receipt of a request. However, this timeframe will depend to a large extent on the quality of the information provided by a vendor/solicitor. Where this timeframe is not met, a

requester should not assume that Revenue is satisfied with the valuation band/chargeable value that was declared by a vendor.

As with the standard online clearance process, the unique Property ID, the vendor's PPSN and a personal access number (provided by Revenue to the vendor) will be required when a request is being made. It is up to the vendor or the vendor's solicitor to circulate the clearance to interested parties as they see fit.

The request must be made in the specified format by secure email⁹ with any supporting documents to be attached as a pdf file. The template for this specified format is included at Annex 2 to this note.

Requests in respect of sales where the sales price comes within one of the conditions in sections 4.2.1 to 4.2.4 above will not be dealt with by Revenue as clearance in such cases is to be taken on a self-assessment basis.

5. IMPLICATIONS OF NON-COMPLIANCE

A €500 fixed penalty may be imposed on a vendor who does not provide information to a purchaser about the chargeable value that he or she has declared to Revenue.

A vendor could also be liable to a separate penalty of the amount of the additional LPT that is payable for making a false statement to obtain a reduction in the LPT payable.

A purchaser could be liable to a penalty for failure to submit a revised chargeable value where it appears to him or her that the value that was declared to Revenue by the vendor could not reasonably have been arrived at. This penalty would be the amount of the additional tax payable as a result of the correct value being declared, subject to a maximum penalty of €3,000.

⁹To use Revenue's secure email requires pre-registration.

Revenue Valuation Guidance

The following is an extract from Revenue's guide to local property tax that was issued to liable persons with the LPT1 return form and Notice of Estimate. The guide is also available at www.revenue.ie

“10. How do I value my property?”

As LPT is a self-assessed tax, you are obliged to determine the market value of any property for which you are the liable person. The market value of your property on 1 May 2013 will form the basis of the calculation of the tax for 2013 and 2016 and will not be affected by any repairs or improvements made to your property, or any general increase in property prices, during this period. Any increase in the value of a property arising from expenditure on adaptations to make it more suitable for a disabled person will not be taken into account where the adaptations have been grant-aided under a local authority scheme. See www.revenue.ie for details on how to apply this adjustment.

The following may assist you in valuing your property:

- Property valuation guidance is available on www.revenue.ie which includes an on-line guide that provides indicative property values. If you do not have internet access, terminals are available at Revenue Information Offices and local libraries. You can also contact the Citizens Information Service for assistance: Phone Service: 0761 07 4000, Monday to Friday, 9am - 8pm or in person by calling to a Citizens Information Service near you. The valuation guidance is based on:

- The type of property e.g. detached, semi-detached, apartment etc.
- The age of the property e.g. built before the year 2000 or after.
- The average price of the type of property for the general area.

If your property has certain unique features, is smaller or larger than the average for your area, is in a significantly poor state of repair or has exceptional features, you will have to factor this into your assessment of the valuation of your property.

- The Residential Property Price Register at www.propertypriceregister.ie produced by the Property Services Regulatory Authority (PSRA) provides an actual sales price of all properties sold since January 2010.

- You may choose to obtain a valuation from a competent professional valuer. Some valuers are offering a special price for LPT valuations.

- If you have purchased your property or obtained a professional valuation in recent years, you may use this valuation and adjust for any change in values in your area since the date of this valuation.

You should also refer to other sources of information relating to local properties such as the property section of local newspapers, information from local estate agents and property websites.

Self-assessment requires you to honestly assess the value of your property. If you follow Revenue's guidance honestly, we will accept your assessment and your valuation will not be challenged. However, if you feel that the guidance is not indicating a reasonable valuation for your property, you should make your own assessment. Revenue will challenge cases where deliberate under-valuation occurred. You are responsible for ensuring that you choose the correct value band for your property."

Form LPT5 – Application for General Clearance in Respect of ‘Uncrystallised’ Pre-Sale Liabilities Form



Date: (DDMMYYYY)

Property ID:

Property address:

Vendor’s name:

Vendor’s address (if different from property address):

Vendor’s PPSN:

Personal access number:

Contact details for vendor:

Agreed sales price: € , ,

Valuation band declared on LPT1 Return:

Chargeable Value declared on LPT1 Return if greater than €1m: € , ,

Explanation as to why a general clearance is being sought:

Explanation as to why agreed sales price does not come within any of the general clearance conditions:

Is there any supporting documentation as to why agreed sales price does not come within any of the general clearance conditions? Yes No

Supporting documentation attached? Yes No

I declare that the agreed sales price does not come within any of the general clearance conditions and that all the particulars contained in this application form, and the information attached with this application, are true and correct to the best of my knowledge and belief.

Signature of applicant: _____

Status of applicant: _____