

# **Notes for Guidance - Taxes Consolidation Act 1997**

## **Finance Act 2022 edition**

### **Part 22B Vacant Homes Tax**

**December 2022**



The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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## PART 22B

### VACANT HOMES TAX

#### Overview

This Part provides for a charge to vacant homes tax (VHT) to be applied in respect of residential properties that are occupied as a dwelling for less than 30 days in a chargeable period. Each chargeable period commences on 1 November and ends on 31 October of the following year. The first chargeable period commenced on 1 November 2022 and ends on 31 October 2023.

VHT is charged at a rate of 3 times the basic rate of LPT applying to the residential property for the year in which the chargeable period ends. The legislation provides that certain properties will not fall within the scope of the tax. The legislation also provides exemptions from the charge to VHT for properties that are vacant as a result of genuine and acceptable reasons

The person who is obliged to file a VHT return and pay VHT for a chargeable period is the chargeable person. This is the person who is the liable person for LPT purposes on the day immediately following the end of the chargeable period (i.e. on 1 November). Generally, the chargeable person will be the owner of the property.

The due date for filing VHT returns is 7 November after the end of the chargeable period and the due date for paying VHT is the following 1 January.

The tax is operated on a self-assessed basis, which means that the chargeable person is required to determine whether or not they have a liability to VHT and satisfy their pay and file obligations, if any.

Revenue may require any chargeable person to file a VHT return for a chargeable period, notwithstanding that the person may not have a liability to VHT for that period.

#### Chapter 1

##### *Interpretation*

### **Section 653AN – Interpretation (Part 22B)**

#### **Summary**

This section sets out the definitions to be used for the purposes of Part 22B.

#### **Details**

##### **Definitions**

(1)

‘**Act of 2003**’ means the Capital Acquisitions Tax Consolidation Act 2003.

‘**Act of 2004**’ means the Residential Tenancies Act 2004.

‘**Act of 2012**’ means the Finance (Local Property Tax) Act 2012.

‘**chargeable period**’ means the 12-month period commencing on 1 November of each

year, commencing with the year 2022.

**‘chargeable person’** in relation to a residential property, means the person that is the liable person in relation to the residential property for the purposes of the Finance (Local Property Tax) Act 2012 on the relevant date.

**‘company’** has the same meaning it has in the Finance (Local Property Tax) Act 2012. Its meaning includes any body corporate.

**‘designated chargeable person’** is to be construed in accordance with section 653AS. The person who is the ‘designated liable person’ in respect of a residential property for the purposes of local property tax on the relevant date is also the ‘designated chargeable person’ for the purposes of vacant homes tax on that date. In general, it is the person who is nominated by all the persons who jointly own a property (and are therefore chargeable persons in respect of that property) to comply with the obligations imposed by this Part. If there is more than one chargeable person in respect of a property and if a nomination has not been made by the chargeable persons, the Revenue Commissioners may designate a person to be the designated chargeable person. All persons who are chargeable persons in respect of a property remain jointly and severally liable for the payment of the liability to vacant homes tax even where one chargeable person is the designated chargeable person in respect of that property.

**‘electronic means’** has the meaning assigned to it by section 917EA. In section 917EA, ‘electronic means’ includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted.

**‘liability date’** has the same meaning it has in the Finance (Local Property Tax) Act 2012. It means 1 November in the preceding year.

**‘liable person’** has the same meaning it has in the Finance (Local Property Tax) Act 2012. The definition refers to a person who is entitled to immediate possession of a property or entitled to receive the rents or profits for a term that may equal or exceed 20 years. In general, the liable person in respect of a property is the person who owns the property.

**‘local authority’** means a county council, a city council or a town council within the meaning of the Local Government Act 2001.

**‘local property tax’** has the same meaning it has in the Finance (Local Property Tax) Act 2012.

**‘market rent’** has the same meaning it has in the Residential Tenancies Act 2004. In general, it means the rent which a willing tenant not already in occupation of a residential property would give and a willing landlord would take by reference to the terms of the tenancy and on the basis of vacant possession being given.

**‘market value’** in relation to a residential property, means the price which that residential property might reasonably be expected to fetch on a sale in the open market.

**‘personal public service number’** has the same meaning it has in section 262 of the Social Welfare Consolidation Act 2005.

**‘register’** has the meaning given to it by section 653BL. It means a register of vacant homes and associated chargeable persons which is to be established and maintained by Revenue.

**‘registered medical practitioner’** means a medical practitioner who is registered in the register established under section 43 of the Medical Practitioners Act 2007.

**‘registered professional’** has the same meaning it has in the Building Control Act 2007. It means a person who is registered as an architect on the register established and maintained by the Royal Institute of Architects of Ireland, a person who is registered as a quantity surveyor on the register established and maintained by the Society of Chartered Surveyors or a person who is registered as a building surveyor on the register established and maintained by the Society of Chartered Surveyors.

**‘relevant date’** in relation to a chargeable period, means the first day immediately following the end of the chargeable period. As the last day of a chargeable period will always be 31 October, a relevant date will always be 1 November.

**‘relevant person’** has the same meaning it has in the Finance (Local Property Tax) Act 2012. The Finance (Local Property Tax) Act 2012 lists at section 153 all persons who are relevant persons for the purpose of Part 15 of that Act. A relevant person is a person from whom Revenue can request information.

**‘relevant tenancy’** means a tenancy between a landlord and a tenant who are not connected with each other within the meaning of section 10, where the rent reserved is market rent and where the tenancy has been registered in accordance with Part 7 of the Residential Tenancies Act 2004. Part 7 requires a landlord to register a tenancy on a register that is maintained by the Residential Tenancies Board within a period of one month of the tenancy commencing and again within one month of the anniversary of the date that the tenancy commenced.

**‘residential property’** has the same meanings it has in the Finance (Local Property Tax) Act 2012. In general, it means any part of a building, structure or erection that is used, or suitable for use as, a dwelling. It includes any shed, outhouse, garage, or other building together with any garden or grounds (not exceeding 0.4047 hectares) which are usually enjoyed with the residential property.

**‘return’** means a return in respect of vacant homes tax which is required to be prepared and delivered to Revenue under section 653AQ.

**‘return date’**, in relation to a chargeable period, means 7 November immediately following the end of the chargeable period.

**‘sale’** is defined to include the voluntary transfer of a residential property. Therefore, it includes a situation where the ownership of a residential property changes without one person having paid the other to acquire an interest in the property. It also includes a situation where the price paid by the person acquiring the property was not the full market value of the property. In addition, it includes a sale of a property as a result of a compulsory purchase order.

**‘self-assessment’** means an assessment made by or on behalf of a chargeable person of the amount of vacant homes tax payable by the chargeable person in respect of a residential property for a chargeable period.

**‘taxable inheritance’** has the same meaning it has in the Capital Acquisitions Tax Consolidation Act 2003. Section 10 of that Act sets out when an inheritance is deemed to be taken. In general, a person takes an inheritance when they take a benefit on the death of a person. Section 11 defines a taxable inheritance and places a territorial limit on inheritances that are subject to Capital Acquisitions Tax in Ireland.

**‘vacant home’** means a residential property in respect of which a charge to vacant homes tax arises under section 653AO.

‘**vacant homes tax**’ has the meaning assigned to it by section 653AO.

‘**valuation date**’ is defined in section 30 of the Capital Acquisitions Tax Consolidation Act 2003. In the case of an asset that is the subject of an inheritance, it means the date that the person administering the estate of a deceased person can retain the asset, the date the person administering the estate actually retains the asset or the date that the asset is given to the person who is inheriting it, whichever date arises first.

‘**valuation period**’ has the same meaning it has in the Finance (Local Property Tax) Act 2012. So, for example, the valuation date for the years 2022 to 2025 was 1 November 2021. The valuation period is the period from 2022 to 2025 inclusive.

## Chapter 2

### *Charge to vacant homes tax*

#### Summary

Chapter 2 sets out the charge to vacant homes tax and provides for the calculation of tax due.

#### **Section 653 AO – Charge to vacant homes tax**

#### Summary

This section provides that a tax to be known as “vacant homes tax” will be charged, levied and paid in respect of a residential property for any chargeable period in which the property is in use as a dwelling for less than 30 days. It also provides that certain properties are outside the scope of the tax.

#### Details

Vacant homes tax will be charged and levied in a chargeable period on a residential property that is in use as a dwelling for less than 30 days in that chargeable period other than a property specified in paragraph (a), (b) or (c). **(1)**

- removes from the scope of vacant homes tax a residential property if no local property tax was payable in respect of that property for the year in which the chargeable period ends. **(a)**
- removes from the scope of vacant homes tax a property that was the subject of a relevant tenancy (as defined) for a period of no less than 30 days in the chargeable period. **(b)**
- removes from the scope of vacant homes tax a property that was the subject of a sale (as defined) in the chargeable period. **(c)**

Vacant homes tax is payable in respect of a residential property for a chargeable period by the person who is the chargeable person on the relevant date. In general, this means that vacant homes tax is to be paid by the person who owns a property on the day after the last day of the chargeable period **(2)**

Vacant homes tax can be paid by another person on behalf of the chargeable person in **(3)**

respect of a chargeable person.

Where there is more than one chargeable person in respect of a residential property on the relevant date, each chargeable person will be jointly and severally liable for the vacant homes tax payable. (4)

### **Section 653AP – Amount of vacant homes tax**

The amount of vacant homes tax that will be due for a residential property in a chargeable period is calculated by reference to a formula. The formula provides that the charge to vacant homes tax will be 3 times the liability to local property tax before the liability to local property tax is adjusted to take account of the Local Adjustment Factor. The Local Adjustment Factor is provided for in Section 20 of the Finance (Local Property Tax) Act 2012. The liability to local property tax to be applied in the calculation of the vacant homes tax is the liability as at the liability date for local property tax for the year in which the chargeable period for vacant homes tax commences.

In effect, the amount of vacant homes tax to be charged in respect of a chargeable period is 3 times the amount of local property tax payable for the year in which the chargeable period ends (before any local authority adjustment).

## Chapter 3

### *Obligations on chargeable persons*

#### **Summary**

This Chapter contains provisions concerning the obligations on chargeable persons to prepare and deliver a return in respect of vacant homes tax, retain relevant records and provide records if requested to do so by Revenue. The Chapter also sets out the circumstances in which Revenue will deem a property to be vacant for the purposes of the tax where a taxable person has not complied with their obligations. Finally, this chapter sets out the date for payment of the tax.

### **Section 653AQ – Obligation on a chargeable person to prepare and deliver a return**

#### **Summary**

This section provides for an obligation on chargeable persons to prepare and deliver a return in respect of vacant homes tax.

#### **Details**

Every chargeable person is responsible for preparing and delivering a return, in the form prescribed by Revenue, in respect of a residential property for a chargeable period where: (1)

- a charge to vacant home arises under section 653AO, or
- Revenue has requested a return in respect of a residential property in a notice sent to the chargeable person.

Revenue may prescribe the following information to be included in a return: (2)

- the address of the residential property, including the Eircode



- the unique identification number assigned to the residential property under section 27 of the Finance (Local Property Tax) Act 2012. This is the Property ID number for the purpose of local property tax. Section 27 of the Finance (Local Property Tax) Act 2012 provides for the establishment and maintenance of a register of residential properties and liable persons, and for a unique identification number to be assigned by the Revenue Commissioners to each residential property in the register
- the name of the local authority of the area in which the residential property is located
- a declaration as to whether or not the residential property was in use as a dwelling for less than 30 days a chargeable period
- if the residential property was in use as a dwelling for less than 30 days in the chargeable period, an explanation as to why this was the case.
- relevant details in respect of any claim for an exemption under section 653BC.
- the following details in respect of each chargeable person –
  - the name of the chargeable person
  - the personal public service number of the chargeable person or the tax reference number in the case of a company and
  - the address of the chargeable person including the Eircode,
- a method for payment of any vacant homes tax liability,
- any other information indicated in the return that may be required to determine the liability of a person to vacant homes tax.

The information collected under subsection (2)(e) is collected for sole purpose of (3) compiling statistical information on residential properties not in use as a dwelling. The information will not be used for any other purpose.

### **Section 653AR - One return in respect of jointly owned property**

#### **Summary**

Where there are two or more chargeable persons in relation to the same property, only one vacant homes tax return should be filed by the person who is the designated chargeable person.

#### **Details**

Where two or more persons are chargeable persons in respect of the same property, one (1) return for the property should be filed by the designated chargeable person.

When the designated chargeable person files a return for vacant homes tax, this return will: (2)

- satisfy the obligations of all chargeable persons, and
- bind all the other chargeable person(s)

Where: (3)

- more than one return is delivered in relation to a residential property, and
- one of those returns is delivered by the designated chargeable person

Revenue will notify the person(s) who are not the designated chargeable person that a return has been delivered by the designated chargeable person.

Revenue can designate a person as the designated chargeable person where: (4)

- more than one return is delivered in relation to a residential property, and
- there is no designated chargeable person

## **Section 653AS – Designated chargeable person**

### **Summary**

This section sets out the rules for determining who will be the designated liable person where there is more than one chargeable person in respect of a property.

### **Details**

A “specified class of person” is a class of person identified in the Table that is situated at the end of this section (1)

This section determines who will be the designated chargeable person for the purposes of vacant homes tax. (2)

Subject to subsections (4) and (5) the designated chargeable person will be: (3)

- if only one class of persons identified on the table is relevant, the person who falls into that class or,
- if a number of classes of persons are relevant, the designated chargeable person will be the person who falls into the first, as they appear on the table, class of person.

Notwithstanding subsection (3), if Revenue exercise their power under subsection (5), the designated chargeable person will be the person specified by Revenue. (4)

Revenue can specify, in writing, who will be the designated charge person where a property is jointly owned if either: (5)

- Revenue is of the opinion that it would be more appropriate for the person specified by them to be the designated chargeable person rather than the person who would be the designated chargeable person by operation of subsection (3), or
- the operation of subsection (3) does not result in any person being identified as the designated chargeable person.

Where Revenue designates a person as the designated chargeable person in respect of a residential property, they will notify all the chargeable persons of this specification. (6)

A chargeable person who is aggrieved by the specification by Revenue of a designated chargeable person may appeal the designation to the Tax Appeals Commission. An appeal must be lodged within a period of 30 days from the date of the notification under subsection (6). (7)

Table 1  
Classes of person

1. The person who is nominated by the joint election of all the chargeable persons of a residential property. Revenue must be notified of the name, address and PPS number of this person.
2. The person who provided the information required to be provided to the relevant local authority by section 6 of the Local Government (Household Charge) Act 2011.
3. The person who provided a declaration to the relevant local authority and paid the Non Principal Private Residence levy in accordance with by section 5 of the Local Government (Charges) Act 2009.
4. If a residential property is jointly owned by a married couple or civil partners, whoever is the assessable spouse in accordance with an election made under section 1018 or 1031D.
5. If a residential property is jointly owned by the partners in a partnership, the precedent partner.
6. The chargeable person with the highest total income within the meaning of section 3(1) of all the owners of a residential property.
7. If a residential property is jointly owned by a natural person and a company or companies, the natural person.
8. If a residential property is jointly owned and if some of the joint owners are not resident or ordinarily resident for tax purposes, the person who is resident or ordinarily resident in the state.

### **Section 653AT – Company Returns**

Where a company is required to prepare and deliver a return under this Part, the company secretary should prepare and deliver the return. (1)

If the company is not registered in the State, for the purposes of subsection (1) a secretary includes the agent, manager, factor or other representative of the company. (2)

### **Section 653AU – Preparation and delivery of return by person acting under authority**

A return can be delivered by a person acting under the authority of the chargeable person. (1)

A return that is prepared and delivered by a person acting under the authority of a chargeable person will be treated as if it had been filed by the chargeable person. (2)

Any thing that a chargeable person is required or permitted to do can be done by a person acting under their authority. (3)

### **Section 653AV – Self-assessment and signed declaration**

This section provides what every return for vacant homes tax should include:

- a self-assessment of the amount of tax payable, and

- a signed declaration that the return is correct.

### **Section 653AW – Electronic delivery of returns**

This section provides that returns for vacant homes tax should be delivered electronically through whatever electronic system is made available by Revenue for this purpose. The relevant provisions of Chapter 6 of Part 38 apply. Chapter 6 of Part 38 provides a legal framework for making electronic tax returns to Revenue. A tax return made electronically under these provisions has the same status as a return made on paper.

### **Section 653AX – Date for delivery of returns**

This section provides that a vacant homes tax return must be filed: (1)

- on or before the return date (i.e. 7 November following the end of the chargeable period), where a charge to vacant homes tax arises, or
- the date specified in the Notice where Revenue have served a notice on a chargeable person requiring a return to be filed and a charge to vacant homes tax does not arise.

This section cannot require a return to delivered earlier than the return date for that return. (2)

### **Section 653AY – Date for payment of vacant homes tax**

This section provides that vacant homes tax must be paid on or before 1 January immediately after the end of the chargeable period.

### **Section 653AZ – Requirement to prepare and deliver return where payment arrangement in place**

This section provides that a chargeable person is not required to file a return in relation to a chargeable period where the following conditions are met:

- the chargeable person has not been served with a notice by Revenue requiring a return to be filed,
- the relevant date (i.e. 1 November following the end of the chargeable period) does not fall in a year preceding the first year of a valuation period,
- a self-assessed return has previously been filed in relation to the property for a previous chargeable period, and
- the vacant homes tax contained in the return has been paid for the chargeable period to which the return referred, and for each chargeable period that has arisen since then, using:
  - a payment method specified in the return, or
  - any other method agreed with the Revenue Commissioners.

### **Section 653BA – Retention of records**

#### **Summary**

This section places an obligation on a chargeable person to keep records in order that a full and complete return for the purposes of vacant homes tax can be made.

## Details

A chargeable person must keep, or have kept on their behalf, such records as are required (1) to enable a full and true return for the purposes of vacant homes tax to be made.

The records may include books, accounts, documents and other data relating to: (2)

- the use of a residential property in a chargeable period,
- whether the residential property is outside the scope of vacant homes tax in by virtue of paragraphs (a), (b) and (c) of section 653AO(1), and
- any claim made for an exemption under section 653BC.

Records may be kept in English or in Irish and in written, electronic, photographic or other (3) form in accordance with section 887(2).

Records must be maintained for the longer of the following periods: (4)

- until the completion of any enquiries made by Revenue, where such enquiries are made, and
- 6 years from the end of the year in which the chargeable period ends.

Where the chargeable person is a company which is: (5)

- wound up, the liquidator or
- dissolved without the appointment of a liquidator, the last directors (including any person occupying the position of director by whatever name called)

must retain the records to which this section applies for 5 years from the date the company is wound up or dissolved.

Where the chargeable person dies, the executor or administrator of their estate must retain (6) the records to which this section applies for 5 years from the date of death.

A person who fails to comply with this section shall be liable to a penalty of €3,000. (7)

## Section 653BB – Notice to provide records

### Summary

This section provides that Revenue may issue a notice to a chargeable person which requires that person to provide records to Revenue demonstrating that a property was in use as a dwelling for 30 days or more in a chargeable period. Where such records are not provided, the section provides that Revenue can deem the property to be vacant property for the purposes of vacant homes tax.

### Details

This subsection defines certain terms for the purposes of the section. These are: (1)

‘**bill**’ means an account issued by a creditor to a debtor;

‘**short term letting**’ has the same meaning it has in section 3A of the Planning and Development Act 2000. Section 3A refers to the letting of a house, or part of a house, for

any period not exceeding 14 days. Section 3A specifically includes a licence that permits the licensee to enter and reside in the house, or part thereof, for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor;

‘**unit**’ means a unit of electricity or a unit of gas that is equal to a kilowatt hour where one kilowatt hour is the amount of energy used by a 1 kW appliance for one hour;

‘**utility provider**’ means:

- a person that is licensed under section 14(1) of the Electricity Regulation Act 1999 to supply electricity or to discharge the functions of the operator of the distribution system in the state, or
- a person that holds a natural gas licence under section 16(1) of the Gas (Interim) Regulation Act 2002.

Revenue may serve a notice in writing on a chargeable person in relation to a residential property which requires that person to provide records demonstrating that the residential property was in use as a dwelling for 30 days or more in a chargeable period. A notice served under this section will specify the timeframe within which the records are to be provided to Revenue. (2)

The records may include: (3)

- an electricity bill or a gas bill demonstrating the units consumed at the residential property in the chargeable period.
- a bill from a person who holds a permit to collect waste under the Waste Management (Collection Permit) Regulations 2007 showing details of the waste collected from the property in the chargeable period.
- evidence of all short-term lettings of the property during the chargeable period.
- a statutory declaration of the chargeable person that the property was in use as a dwelling for 30 days or more in the chargeable period.

If Revenue is not satisfied that the records provided by the chargeable person demonstrate that the residential property was in use as a dwelling for 30 days or more in a chargeable period, Revenue may serve a notice in writing. The notice will: (4)

- inform the chargeable person that Revenue has decided that the records do not demonstrate that the residential property was in use as a dwelling for 30 days or more in the chargeable period,
- provide the chargeable person with an opportunity to provide further records to demonstrate that the residential property was in use as a dwelling for 30 days or more in the chargeable period, within a time frame specified in the notice.
- inform the chargeable person that the residential property will be deemed to have been in use as a dwelling for less than 30 days in the chargeable period where Revenue decides that:
  - the records provided by the chargeable person pursuant to the notice issued under subsection (2), and
  - any additional records provided in response to a notice issued under this

subsection,

do not demonstrate to the satisfaction of Revenue that the residential property was in use as a dwelling for 30 days or more in the chargeable period.

If the chargeable person does not provide any records to Revenue in response to a notice issued under subsection (2), Revenue will serve a notice in writing on the chargeable person. This notice will: (5)

- provide the chargeable person with a further opportunity to provide records which demonstrate that the residential property was in use as a dwelling for 30 days or more in the chargeable period, and
- inform the chargeable person that the residential property will be deemed to have been in use as a dwelling for less than 30 days in the chargeable period where:
  - Revenue decides that the records provided in response to a notice issued under this subsection do not demonstrate to the satisfaction of Revenue that the residential property was in use as a dwelling for 30 days or more in the chargeable period, or
  - where the chargeable person does not provide any records to Revenue pursuant to a notice issued under this subsection.

A residential property will be deemed to have been in use as a dwelling for less than 30 days in a chargeable period where: (6)

- Revenue decide that the records provided in response to a notice issued under subsections (2), (4) or (5) do not demonstrate to their satisfaction that the residential property was in use as a dwelling for 30 days or more in the chargeable period, or
- where the chargeable person does not provide any records to Revenue pursuant to a notice issued under subsections (2)

and Revenue will serve a notice on a chargeable person in writing stating this.

Where a residential property is deemed to have been in use as a dwelling for less than 30 days in a chargeable period by virtue of a decision of Revenue, the chargeable person may appeal the decision to the Appeal Commissioners in accordance with section 949I within a period of 30 days of the date of the notice issued under subsection (6). (7)

## Chapter 4

### *Exemptions*

#### **Section 653BC – Exemptions**

This section sets out the exemptions that are available from vacant homes tax. The exemptions must be claimed by a chargeable person in their vacant homes tax return for each chargeable period. There are eight exemptions from vacant homes tax.

An exemption may be claimed where: (a)

- the chargeable person in relation to the property died during the chargeable period or in the 12-month period prior to it, and
- the chargeable person occupied the property as his or her sole or main residence

immediately before his or her death.

An exemption may be claimed where a Grant of Representation (within the meaning of the Succession Act 1965) has recently issued to the estate of a person who was, prior to their death, the chargeable person in relation to the property, that person having lived in the property as his or her sole or main residence. The will apply for: (b)

- the chargeable period in which the Grant of Representation issues, and
- for each chargeable period thereafter up to and including the chargeable period preceding the chargeable period in which the valuation date (as defined) of the taxable inheritance (as defined) comprising the property falls.

The valuation date for an inheritance means the date that the person administering the estate of a deceased person can retain the asset, the date the person administering the estate actually retains the asset or the date that the asset is given to the person who is inheriting it, whichever date arises first.

An exemption may be claimed where the residential property was being actively marketed for sale in the chargeable period and the following conditions are met: (c)

- the price sought for the property did not exceed the price which the property would be expected to achieve on the open market, and
- no conditions attached to the sale which were designed to impede or disrupt the sale of the property.

An exemption may be claimed where a residential property was being actively marketed for rent in a chargeable period and the following conditions are met: (d)

- the rent sought for the property did not exceed market rent (as defined), and
- no conditions attached to the tenancy which were designed to impede or disrupt the negotiation of a tenancy agreement in respect of the property.

An exemption may be claimed where the occupation or sale of the property in the chargeable period was prohibited by a Court Order. (e)

An exemption may be claimed where the property underwent structural works, substantial repairs or substantial refurbishment in the chargeable period. The works had to be ongoing for a period of not less than 6 months, must have been carried out without undue delay and one of the following conditions is satisfied: (f)

- it is certified by a registered professional (as defined) that the occupation of the property while the works were carried out would have posed an actual threat to the health and safety of an occupant and, if planning permission was required, it was obtained prior to the works commencing, or
- the cost of the works was more than 20% of the market value of the property before the works commenced.

An exemption may be claimed where the property was in use as a dwelling for less than 30 days in the chargeable period by reason of the chargeable person ceasing to occupy the property as a result of their mental or physical infirmity, that person having resided in the property as their sole or main residence. The physical or mental infirmity must be certified by a medical practitioner (as defined). (g)



An exemption may be claimed where the chargeable person in respect of the residential property is an implementation body within the meaning of the British-Irish Agreement Act 1999. (h)

## Chapter 5

### *Assessments, enquiries and appeals*

#### **Section 653BD Assessments, enquiries and appeals**

This section adapts certain provisions relating to assessments, enquiries and appeals for the purposes of vacant homes tax. The sections adapted are sections 959Y, 959Z, 959AA, 959AC, 959AD and 959AE. (I)

- Section 959Y provides that a Revenue officer may make or amend an assessment on a chargeable person for a chargeable period.
- Section 959Z provides that a Revenue officer may make enquiries within his or her powers as he or she considers necessary.
- Section 959AA provides for a 4-year time limit on the making and amending of assessments on a chargeable person.
- Section 959AC provides that assessments and amendments of assessments may be made at any time where a return is not received or where a Revenue officer is not satisfied with a return on the basis of information received or where a Revenue official has reasonable grounds for believing that a return does not contain a full and true disclosure of all material facts necessary to make an assessment.
- Section 959AD provides that assessments and amendments of assessments on a person may be made at any time where a Revenue officer has reasonable grounds for believing that there is fraud or neglect involved in relation to tax due for the chargeable period.
- Section 959AE preserves the right to make and amend assessments under various provisions of the Acts other than this chapter. Also, the section provides that an assessment does not cease to be final and conclusive because a Revenue officer has amended or may amend it.

For these purposes, the following modifications apply to sections 959Y, 959Z, 959AA, 959AC, 959AD and 959AE.

- a reference to a 'person' or a 'chargeable person' is to be interpreted as including a reference to a 'chargeable person' within the meaning of Part 22B.
- a reference to a 'chargeable period' is to be interpreted as including a reference to a 'chargeable period' within the meaning of Part 22B.
- a reference to a 'return' is to be interpreted as including a reference to a return within the meaning of Part 22B.
- a reference to 'self-assessment' is to be interpreted as including a reference to a 'self-assessment' within the meaning of Part 22B.
- a reference to 'any allowance, deduction, relief or tax credit for a chargeable period' will be interpreted as including a reference to an exemption under Part 22B.

A chargeable person aggrieved by a Revenue assessment or amended assessment has a right of appeal. Any appeal must be lodged within 30 days of the notice of assessment, or amended assessment, to the Appeal Commissioners in accordance with section 949I. (2)

## Chapter 6

### *Interest on overdue tax, surcharge for late filing and penalties*

#### Summary

This Chapter provides for interest on underpaid vacant homes tax, a surcharge for the late filing of a vacant homes tax return and the application of penalties for failing to comply with vacant homes tax.

#### **Section 653BE – Interest on overdue tax**

#### Summary

This section provides for interest on unpaid vacant homes tax to be applied.

#### Details

Interest applies from the date on which vacant homes tax becomes due and payable until it is paid in accordance with the formula for calculating the tax set out in subsection (2). (1)

This subsection provides the formula for determining the interest payable. The formula is: (2)

$T \times D \times R$

where –

T is the vacant homes tax payable which remains unpaid,

D is the number of days (including part of a day) in the period during which the vacant homes tax remains unpaid, and

R is the rate, represented by P in the formula  $T \times D \times P$  in section 1080(2)(c) TCA 1997, that would apply under that formula if the vacant homes tax payable was tax, within the meaning of that section, and the period during which the vacant homes tax remains unpaid was the period of delay, within the meaning of that section.

Interest on overdue tax will be: (3)

- payable without the deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for the purpose of the Tax Acts,
- a debt due to the Minister for Finance,
- payable to Revenue.

Subject to subsection (5), the following will apply to the recovery of unpaid interest and the interest will be treated as if it is unpaid tax: (4)

- every enactment relating to the recovery of tax,

- every rule of court so relating,
- section 81 of the Bankruptcy Act 1988, and
- sections 440 and 621 of the Companies Act 2014.

In legal proceedings for the recovery of interest, a certificate signed by a Revenue officer (5) stating the amount of interest due and payable by the person against whom the proceedings have been instituted:

- will, payable until the opposite is proved, be evidence that the stated amount of interest is due, and
- can be submitted in evidence without proof and will be deemed, until the opposite is proved, to have been signed by a Revenue officer.

### **Section 653BF – Surcharge for late filing of vacant homes tax return**

#### **Summary**

This section provides for a surcharge to be applied here a vacant homes tax return is filed late.

#### **Details**

For the purposes of this section, a chargeable person will be deemed to have failed to have (1) delivered their return on time:

- where they deliberately or carelessly deliver an incorrect return on or before the return date, unless the error in the return is rectified before the return date,
- where they, neither deliberately nor carelessly, deliver an incorrect return on or before the return date but where it comes to their attention that the return is incorrect and they do not rectify the return without unreasonable delay,
- where they deliver a return on time, but Revenue is dissatisfied with any of the information contained in the return. In this case Revenue can request, by written notice, that the chargeable person deliver a return or evidence, or further return or evidence. That person will be deemed to have failed to have delivered their return on time unless the requested return or evidence is delivered within the time frame specified in any notice.

A surcharge arises where a chargeable person fails to deliver a vacant homes tax return on (2) or before the return date. The surcharge increases the amount of vacant homes tax which would have been payable had a correct return been delivered by an amount equal to:

- 5 per cent of that amount of tax, where the return is delivered before the expiry of 2 months from the return date, and
- 10 per cent of that amount of tax, where the return is not delivered before the expiry of 2 months from the return date.

### **Section 653BG – Penalties**

This section provides that section 1077F (Penalty for deliberately or carelessly making incorrect returns or failing to make certain returns, etc.) will apply to vacant homes tax, subject to the following modifications:

- a reference to “income, profits or gains” is to be constructed as a reference to vacant homes tax, and
- a reference to “any allowance, deduction, relief or credit” will be construed as including a reference to an exemption under this Part. to apply to vacant homes tax. Section 1077F relates to penalties for failing to make a return or for deliberately or carelessly making an incorrect return.

## Chapter 7

### *Management provisions*

#### Summary

This chapter provides that vacant homes tax is under the care and management of Revenue. The chapter makes provision for certain powers that Revenue may exercise. This chapter also provides for the establishment of a vacant homes registrar that will be established and maintained by Revenue.

#### **Section 653BH – Care and management**

This subsection provides that vacant homes tax is under the care and management of Revenue. (1)

This subsection provides that Part 37 (Administration) will apply to vacant homes tax as it applies to income tax, corporation tax and capital gains tax, subject to the following modifications. (2)

- in sections 849, 863, 866, 872, and 874, a reference to “income tax, corporation tax, or capital gains tax” shall be constructed as a reference to vacant homes tax;
- in sections 851, 852, 856, 860, 861, 862, 864, 867, 868, 869 and 870, a reference to “the Tax Acts” shall be constructed as a reference to this Part.

#### **Section 653BI – Power to combine forms**

This section provides that Revenue can combine a vacant homes tax return with a return or other tax document relating to any other tax, charge or levy that is under the care and management of Revenue. It also allows Revenue to modify any such combined return or document in relation to its application to any other tax, charge or levy.

#### **Section 653BJ – Power to require return of property**

This section provides that section 909 (Power to require a return of property) applies to vacant homes tax. Section 909 provides that Revenue can require a person to prepare and provide a statement of affairs.

#### **Section 653BK – Revenue Commissioners may decide on allocation of payment**

This section provides that where a chargeable person has a liability to vacant homes tax in respect of more than one property and the person makes a payment of vacant homes tax, Revenue set this payment against the liability to vacant homes tax on any of the person’s properties.

## **Section 653BL – Register**

Revenue will establish and maintain a register of vacant homes and associated chargeable persons in the State. (1)

Revenue can include on the register such particulars in relation to the vacant home and its associated chargeable persons as they consider appropriate. (2)

If any information included on the register is shown to be incorrect, Revenue must amend or delete the incorrect information. (3)

## Chapter 8

### *Miscellaneous provisions*

## **Section 653BM – Information to be provided to Revenue Commissioners**

### **Summary**

This section provides Revenue with a statutory basis for making a request for information from a relevant person. Relevant persons are persons listed at Part 15 of the Finance (Local Property Tax) Act 2012. This list includes a number of statutory bodies and local authorities.

### **Details**

Revenue may send a written request to a relevant person (as defined) to obtain from that person information that is within that person's possession or control for the purposes of: (1)

- establishing whether a residential property was in use as a dwelling for less than 30 days in a chargeable period,
- the administration of vacant homes tax, and
- establishing, maintaining and ensuring the accuracy of the vacant property register.

The relevant person to whom a request has been issued must provide the information requested within the time specified in the notice. (2)

The information which may be requested are the following details in relation to a residential property: (3)

- the name of the occupier;
- the name of the owner;
- the address of the property, including the relevant Eircode;
- any unique identification number which the relevant person has assigned to the property or, as the case may be, to any meter or other device located in the property or to the occupier or owner of that property;
- information relating to the use, size and type of property.

The information should be provided to Revenue in such form and in such a manner as is specified by the Revenue Commissioners (4)

Where a relevant person fails to provide information that has been requested by the Revenue Commissioners: (5)

- in the form and manner requested, and
- within the time limit specified in the notice,

that person shall be liable to pay a penalty of €100 for each day the failure continues after the time limit specified in the notice.

Where the person from whom the information is requested is a body of persons and the relevant information is not provided in the form and manner requested and/or in the time limit specified, the secretary shall be liable to pay a separate penalty to the penalty referred to in subsection (5) of €100 for each day the failure continues after the time limit specified in the notice or a total penalty of €3,000, whichever is less. (6)

### **Section 653BN – Information to be provided by Revenue Commissioners**

#### **Summary**

This section enables Revenue to provide anonymised information to the Department of Housing and the Department for Housing, Local Government and Heritage if Revenue are satisfied that the provision of the information will assist the Minister in discharging a function conferred on or delegated to the Minister under any enactment. It also provides that Revenue can seek the assistance of a local authority and provide such information in relation to a property to that local authority as the local authority may reasonably require to provide the requested assistance.

#### **Details**

Revenue will, upon a request from, and at such intervals as may be specified by, the Minister for Finance or the Minister for Housing, Local Government and Heritage, provide that Minister of the Government with such information, other than taxpayer information within the meaning of section 851A, as that Minister may reasonably require for the purpose of enabling him or her to perform his or her functions. (1)

Revenue may request the assistance of a local authority in identifying any residential property in its functional area that is in use as a dwelling for less than 30 days in a chargeable period and in verifying the accuracy of any information it holds in relation to such properties. Revenue may provide a local authority with such information in relation to those properties as may reasonably be required for this purpose. (2)

Revenue will not provide information in accordance with subsection (1) unless they are satisfied that the provision by them of information obtained by them pursuant to this Part to such person will assist the person in discharging a function conferred on, or delegated to, the person by or under any enactment. (3)

### **Section 653BO – Restriction of Deduction**

This section provides that vacant homes tax is not deductible for the purposes of calculating profits or gains to be charged to income tax, corporation tax or capital gains tax.