

Pre-letting expenditure in respect of vacant residential premises

Part 04-08-11

This document should be read in conjunction with section 97A of the Taxes Consolidation Act 1997

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Introduction

Section 97A Taxes Consolidation Act 1997 (TCA) provides that certain expenses incurred on a vacant residential premises prior to it being first let after a period of non-occupancy – “pre-letting expenses” - are authorised as a deduction against rental income from that premises.

This manual explains the conditions attaching to the deduction.

1 Premises to which deduction applies

The section applies to expenditure on a premises which has been vacant for at least twelve months and which is subsequently let as a residential premises between 25 December 2017 (the date of the passing of Finance Act 2017) and 31 December 2024.

A ‘vacant premises’ means any premises that is not occupied for the entire six months before the ‘specified day’. Prior to 1 January 2023, the minimum period for which a property must have been vacant was 12 months. The ‘specified day’ means the day on or after 25 December 2017 on which a vacant premises is first let as a residential premises following the end of the period during which it was not occupied.

2 Date expenditure incurred

The expenditure must have been incurred in the twelve month period before the premises is let as a residential premises: the ‘specified period’.

3 Expenditure would qualify as Case V deduction if incurred in letting period

Where a person incurs expenditure on a vacant premises during the twelve months prior to first letting after the twelve or six month vacant period, as applicable, and this expenditure would be authorised as a Case V deduction under section 97(2) TCA if it had been incurred on or after the first day the premises was let, then it may be authorised as a Case V deduction under section 97A(3) TCA. The subsection applies notwithstanding the restrictions that would otherwise be imposed by section 105 TCA on rent and interest on money borrowed prior to the premises being occupied. The deduction is subject to a cap and to claw back in certain circumstances, outlined below.

4 Cap on deduction

Section 97A(4) TCA caps the authorised deduction at €10,000 per vacant premises from 1 January 2023. Prior to this, the cap on allowable pre-letting expenses was €5,000.

5 Claw back in certain circumstances

If the person who incurs the expenditure ceases to let the property as a residential premises within four years of the first letting the deduction will be clawed back in the year in which the property ceases to be let as a residential premises. This cessation can arise:

- on sale of the property or
- change of use from rented residential property.

The claw back will be made by deeming the deduction previously allowed to be a Case V profit or gain of the year of cessation.

6 Amounts allowed as a deduction under this section cannot also be allowed under another section of the TCA

Section 97A(6) TCA provides that there will be no allowance or deduction under any other provision of the Tax Acts other than section 97A TCA for expenditure treated as being authorised as a deduction for pre-letting expenses. This prevents double deduction of the expenditure.