

# Exemptions relating to long-term mental or physical infirmity

## Part 02-03

This document should be read in conjunction with section 5 Finance (Local Property Tax) Act 2012 (as amended)

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## 1 Introduction

This Tax and Duty Manual (TDM) deals with two different exemptions from Local Property Tax (LPT) relating to those who have a long-term mental or physical infirmity. The first exemption is for residential properties whose owners are unable to continue living in them because of a long-term mental or physical infirmity. The second exemption is for registered nursing homes.

## 2 Legislation

The relevant provisions are contained in section 5 of the Finance (Local Property Tax) Act 2012 (as amended).

Paragraph (a) refers to the long-term mental or physical infirmity aspect of the exemption.

Paragraph (b) refers to nursing homes and states that the nursing home must be registered under section 4 of the Health (Nursing Homes) Act 1990. However, this reference may be taken to be a reference to section 49 of the Health Act 2007, which is the current provision under which registration of nursing homes is required.

Section 14(2) of the Finance (Local Property Tax) Act 2012 (as amended), which provided for the continuation of an exemption throughout the first valuation period covering the years 2013 to 2021, does not apply to the second valuation period covering the years 2022 to 2025. This allows for the ending of this exemption during this latter period where the qualifying conditions cease to be met.

## 3 Exemption for property vacated by person with long-term mental or physical infirmity

The exemption is intended for properties that have been vacated by their owners because of their long-term infirmity or illness.

### 3.1 Qualifying conditions

#### 3.1.1 Use as sole or main residence of liable person

The property must have been occupied by the person who moved out of the property as the person's sole or main residence before he or she moved out. See [example 3.6.4](#) below.

#### 3.1.2 Long-term mental or physical infirmity

The person who moved out of the property must have done so because he or she was unable to continue living there because of a long-term mental or physical infirmity. It is not necessary that the infirm person be elderly.

The particular infirmity, and its long-term nature, must be independently verified and certified by a doctor. A condition that has lasted for at least 12 months is treated as being long-term. Periods shorter than 12 months are also allowed where a doctor is satisfied that the person is unlikely to return to live in the property. See [example 3.6.1](#) below.

### 3.1.3 Occupation of a property

In relation to the first valuation period covering the years 2013 to 2021, after a liable person had moved out of a property, the property was to remain vacant and not occupied by any other person. See [example 3.6.4](#) below.

Occupation is not simply a question of being physically present in the property but of having the right to occupy coupled with actual occupation. Therefore, it was not sufficient that the property was vacant on 1 May 2013 (first valuation date) where there was a person who habitually occupied the property but was not in occupation on that particular date. This wider meaning of occupation is equally applicable for the second valuation period covering the years 2022 to 2025.

However, as a result of the operation of section 14(2) (see [section 3.3.1](#) below), where a property was not occupied on 1 May 2013 by any other person such as the infirm person's spouse, a family member or an unrelated tenant, it continued to be exempt until the second valuation date 1 November 2021, regardless of whether or not it became occupied during that period. See [example 3.6.4](#) below.

This 'vacancy' condition was relaxed in relation to the second valuation period covering the years 2022 to 2025 (for valuation date 1 November 2021). The exemption continues to not apply where another liable person, in the case of a jointly-owned property, remains in the property after one of the liable persons moves out. See [example 3.6.2](#) below. However, the exemption now applies where the property is occupied by a person who is not a liable person in relation to the property. This allows a vacant property, for example, to be rented out. See [example 3.6.4](#) below.

Where an infirm liable person transferred ownership of a property before 1 May 2013, or 1 November 2021, because he or she would not return to live in the property, it is not relevant for the purposes of this exemption whether or not the new owner occupies the property. The new owner becomes the liable person on 1 May 2013, or 1 November 2021, and the exemption does not apply. See [example 3.6.5](#) below.

### 3.1.4 Location of liable person

Because section 5 also provides for an exemption for registered nursing homes, it might be assumed that the liable person who has moved out of his or her home is required to live in a nursing home. However, this is not the case. For example, as an alternative to living in a nursing home, the infirm person could go to live with a relative or a friend.

### 3.1.5 Property with more than one liable person

Where there is more than one liable person in relation to a property, for example, where the property is jointly owned, all the liable persons must meet the qualifying conditions for the exemption. See [example 3.6.3](#) below.

## 3.2 Claiming the exemption

How the exemption is to be claimed depends on when the qualifying conditions are met (see [section 3.1](#) above). A property cannot qualify for the exemption unless the

exemption is claimed<sup>1</sup>. As the exemption is claimed as part of the normal self-assessment process, it isn't necessary for the claim to be approved by Revenue. However, see [section 3.4](#) below in relation to Revenue's compliance programme.

### 3.2.1 Qualifying conditions met on 1 November 2021

Where the qualifying conditions for the exemption are met on the second valuation date<sup>2</sup> 1 November 2021, the exemption should be claimed in the LPT1 return form by inserting the code "1" in the exemption box. This claim covers the years 2022 to 2025.

### 3.2.2 Qualifying conditions met after 1 November 2021

Where the qualifying conditions for the exemption are met in the period after 1 November 2021 and on or before 1 November 2024, the exemption should be claimed online using [MyEnquiries](#), [Revenue Online Service \(ROS\)](#) or the [LPT online service](#) or by writing to LPT Branch, PO Box 100, Ennis, Co. Clare. A claim should include any relevant documentation in support of the claim. This claim covers the remaining years in the second valuation period 2022 to 2025. See [example 3.6.8](#) below.

## 3.3 Duration of the exemption

The duration of the exemption differs in relation to the first valuation date 1 May 2013 (for valuation period 2013 to 2021) and the second valuation date 1 November 2021 (for valuation period 2022 to 2025)<sup>3</sup>.

### 3.3.1 First valuation date 1 May 2013

In relation to the first valuation date 1 May 2013, a residential property that was exempt on this date continued to be exempt until the end of 2021, even if the qualifying conditions for the exemption ceased to be met during this period. In the case of a property that was vacant for less than 12 months, provided that a doctor was satisfied on 1 May 2013 that an infirm person was unlikely to return to live in the property in the future, a subsequent re-occupation of the property by the person did not cause the exemption to be withdrawn retrospectively, or prospectively for the remainder of the valuation period to 31 December 2021. Nor did a subsequent re-occupation of the property by an infirm person who had lived elsewhere for at least 12 months cause the exemption to be withdrawn. See [example 3.6.6](#) below.

A property that was not exempt on 1 May 2013 could subsequently become exempt where the qualifying conditions for the exemption were met at a later stage but only with effect from the first liability date (i.e. 1 November in a year) on which the

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<sup>1</sup> Required by sections 3A and 41A in relation to the second valuation period 2022 to 2025.

<sup>2</sup> The valuation date is the date on which the chargeable value of a property is established for all liability dates (1 November in each year) falling within the valuation period.

<sup>3</sup> The original second valuation date was 1 November 2016 but this was extended on a number of occasions until it became 1 November 2021 in the Finance (Local Property Tax) (Amendment) Act 2021.

qualifying conditions were met. The exemption then continued to apply until the end of 2021.

### 3.3.2 Second valuation date 1 November 2021

In relation to the second valuation date 1 November 2021, a residential property that was exempt on this date does not automatically continue to be exempt for the remainder of the valuation period to the end of 2025. If the property ceases to meet the qualifying conditions for the exemption, it becomes chargeable to LPT with effect from the first liability date (i.e. 1 November in a year) following the date on which the qualifying conditions cease to be met. For example, where the infirm person returns to live in the property, or another liable person occupies the property, in December 2021, the exemption applies for the year 2022 but the property is chargeable to LPT for the year 2023 (liability date 1 November 2022), unless the qualifying conditions are again met on 1 November 2022. See [example 3.6.4](#) below.

A property that was not exempt on 1 November 2021, could subsequently become exempt where the qualifying conditions for the exemption are met at a later stage but only with effect from the first liability date (i.e. 1 November in a year) on which the qualifying conditions are met, subject to the qualifying conditions continuing to be met. See [example 3.6.8](#) below.

## 3.4 Self-assessment and compliance

The exemption should be claimed on the LPT 1 return form as part of the normal self-assessment process. However, Revenue may decide to examine the validity of the claim at a later stage as part of its ongoing compliance programme. The person claiming the exemption may be required to provide evidence and supporting documentation to back up the claim, such as a doctor's certification of the nature of the infirmity and the likelihood of the person resuming occupation of his or her property or evidence that the person is living elsewhere.

The exemption will be withdrawn where Revenue determines that the qualifying conditions for the exemption were not met. Interest will be charged from the date on which LPT would have been payable in the absence of the exemption. A penalty may be imposed where a person makes a false statement or representation for the purpose of obtaining a reduction in the LPT liability.<sup>4</sup>

## 3.5 Appeals against Revenue's refusal of a claim for exemption

It may happen that, following a claim for the exemption, Revenue determines that the qualifying conditions for the exemption were not met. Revenue is required to notify the claimant in writing of its determination. The claimant then has 30 days to appeal against such a determination to the independent Tax Appeals Commission (TAC).<sup>5</sup> However, the TAC can decide to allow appeals made outside this timeframe in certain circumstances. See [TDM Part 09-01](#) for information on the LPT appeals procedures.

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<sup>4</sup> Section 147.

<sup>5</sup> Section 41B.

## 3.6 Examples showing the operation of the exemption

### 3.6.1 Certification by a doctor for an absence of less than 12 months

Ellen, who lives alone, is admitted to hospital after suffering a stroke in March 2021. Following her discharge from hospital, she spends some time in a convalescent home and on the advice of her consultant goes to live with her daughter in August 2021. Her consultant certifies that her condition after the stroke means that she is unlikely to return to her home at any stage in the future. Therefore on the 1 November 2021, she meets the necessary condition in relation to a doctor's certification of long-term physical or mental infirmity.

### 3.6.2 Occupation of a property by another liable person

Tom is 35 and suffered a serious head injury following a fall in January 2020. After a long stay in hospital he went to live with his parents as he was no longer able to live independently. By 1 November 2021, he had been living away from his house for over 12 months. However, the property does not qualify for an exemption as John, Tom's brother who jointly owns the property with Tom, has continued to live in the property.

### 3.6.3 Reason for another liable person not occupying a property

Jim and his sister Kay jointly own their house. Jim has dementia and has been in a nursing home since 2018. Kay continued to live in the house until she was transferred to Germany when her employer moved there in August 2020. The house has been vacant since she left. The house is not exempt because Kay is a liable person and she did not move out because of a long-term mental or physical infirmity.

### 3.6.4 Occupation of a property during first and second valuation periods

On their doctor's advice, Eddie and Peg moved out of their house and went to live in a nursing home in July 2016. Although they were absent from their house for more than 12 months, they did not qualify for the exemption for any of the years in the first valuation period covering the years 2013 to 2021 as the house was occupied by tenants shortly after they moved out. However, as the qualifying condition requiring a property to be vacant was relaxed for the second valuation period covering the years 2022 to 2025, they can claim the exemption when they file their LPT return form for the 1 November 2021 valuation date.

Eddie and Peg also own a rental property which does not qualify for an exemption as it was not their sole or main residence.

### 3.6.5 New liable person following the transfer of a property

May is an elderly lady who lived alone before moving into a nursing home in January 2021. Before she moved, she transferred her house to her two adult children. The house has remained vacant and, while her children do not intend to live there, they do not wish to sell it in case their mother wants to return at some stage. The exemption does not apply as May's children are now the liable persons in relation to the house on 1 November 2021.

### 3.6.6 Property exempt on 1 May 2013

Margaret qualified for the exemption on 1 May 2013. At that stage, she had been living with her niece for seven months, leaving her own home vacant. Her doctor provided written confirmation of his opinion that she would be unable to return to her home. However, Margaret was determined to return home and did so in October 2015. Despite no longer meeting the qualifying conditions, she continued to qualify for the exemption for the entire first valuation period covering the years 2013 to 2021. She then became chargeable for LPT in relation to the second valuation date 1 November 2021 covering the years 2022 to 2025.

### 3.6.7 Property losing the exemption after 1 November 2021

To help her to recover after a serious illness, Nora went to live with her daughter in October 2020. Her doctor certified that she was unable to continue to live at home because of her long-term infirmity. Nora therefore qualified for the exemption on 1 November 2021 for the year 2022. She returns home in June 2022. She qualifies for the exemption for the entirety of 2022 but loses the exemption for the years 2023 to 2025 as she does not meet the qualifying conditions on 1 November 2022 (the liability date for the year 2023). She can, of course, qualify for the exemption at a later stage if she again meets the qualifying conditions.

### 3.6.8 Property becoming exempt after 1 November 2021

Following a fall, Martin went to a convalescent home in June 2021. His doctor expected that he would be well enough to return home in a few months. At the valuation date 1 November 2021, Martin did not qualify for the exemption because he had moved out of his house less than 12 months previously. However, he does not recover as quickly as expected and is still in the convalescent home on 1 November 2022 (the liability date for the year 2023). As 12 months have now passed since he moved out of his house, Martin can claim the exemption for the year 2023. He writes to Revenue's LPT Branch to claim the exemption and submits a letter from the convalescent home and written confirmation of the long-term nature of his condition from his doctor. The exemption can continue for the rest of the second valuation period to 31 December 2025 if he continues to be unable to return home.

Even though Martin had been in the convalescent home for 12 months in June 2022, he continues to be liable for LPT for the entirety of 2022 as the qualifying conditions for the exemption were not met on 1 November 2021, the liability date for the year 2022.

## 4 Exemption for registered nursing homes

To be eligible for the exemption, a nursing home (section 5(2)(b)) must be used exclusively for the care of individuals who have been medically certified as suffering from a long-term mental or physical infirmity. It must also be registered under section 49 of the Health Act 2007 (replacement provision for section 4 of the Health (Nursing Homes) Act 1990).

If a nursing home is fully subject to commercial rates, it may also qualify for an exemption under section 4.

Sections 4, 5 and 6 above apply in relation to registered nursing homes as they do to other properties that are eligible for the exemption. These relate to claiming the exemption, the duration of the exemption, self-assessment and Revenue compliance activities. In relation to claiming the exemption on the LPT1 return form, the relevant code to be entered for a registered nursing home, is "9".

### 4.1 Residential units associated with nursing homes

A nursing home may have separate self-contained residential units associated with it. These residential units are not registered under section 49 of the Health Act 2007. The exemption applies only to the nursing home itself and does not extend to such residential units. If such residential units are not fully subject to commercial rates, they are chargeable to LPT.