

Special needs accommodation

Part 02-05

This document should be read in conjunction with section 7 of the Finance (Local Property Tax) Act 2012 (as amended) 2012 Act

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Introduction

Residential properties that are owned by a charity or a public body and that are used to provide special needs accommodation are exempt from the charge to local property tax (LPT). Revenue published guidelines to assist people in identifying special needs accommodation on <https://www.revenue.ie/en/property/local-property-tax/index.aspx> following consultation with providers of social housing. This instruction is essentially a summary of these guidelines (included in the annex) with the addition of some examples.

1. Legislation

The relevant provisions are contained in section 7 of the Finance (Local Property Tax) Act 2012 (as amended). The provisions relating to obtaining the necessary charitable status are contained in sections 207, 208 and 208A of the Taxes Consolidation Act (TCA) 1997.

2. Qualifying conditions

2.1 Charity or public body

The property must be owned by a charitable body or trust that has been established solely for charitable purposes and that has been granted charitable status by Revenue under section 207, 208 or 208A TCA 1997. Alternatively, the property may be owned by a public/State body.

2.2 Special needs accommodation

The property must be used solely or primarily to provide special needs accommodation. The exemption does not extend to residential properties that are used for general needs accommodation, i.e. housing units that are provided for people who have no particular need other than a housing need. Special needs accommodation is accommodation that is provided to persons who require special accommodation and support to enable them to live in the community. While section 7(3) of the Finance (Local Property Tax) Act 2012 (as amended) specifically references old age and physical and mental disability, these particular categories of need are not exhaustive and other categories may also be included (see section [3.1](#) of the annexed guidelines for examples).

A charity or a public body must provide services and/or support that are aimed at the needs of the people who are housed by it and who, without such services and/or

support would be unable to live independently in the community There is a continuum of services/support associated with special needs accommodation and the approach adopted by the charity or the public body will be dictated by the particular circumstances and the particular special need being met. It is acceptable for one or more third party specialist providers to provide the necessary services/support. However, the charity or the public body must have the lead role in, and be actively involved in, putting any such arrangement in place. See section 3.1 of the annexed guidelines for examples of different types of services/support.

2.3 Capital Assistance Scheme

Revenue has agreed to accept that any property that was funded under the Capital Assistance Scheme (CAS) (administered by the local authorities) and that is specifically approved for special needs accommodation by the relevant local authority is eligible for exemption. This means that there may be some properties that might not qualify for exemption based on the special needs criteria but that may nevertheless qualify because of CAS funding (see section 5 of the annexed guidelines for further details). However, this same broad approach is not taken in relation to properties funded under other local authority schemes. Such properties can only qualify for exemption because of the use to which they are put and not solely because of the source of their funding.

3. Claiming the exemption

The person who, without the exemption, would be liable to LPT on 1 May 2013 but who meets the qualifying conditions for an exemption should claim the exemption on the LPT1 return form as part of the normal self-assessment process. Where the particular charity or public body submits individual LPT1 return forms for any properties it owns, exemption type "F" should be inserted in the exemption box on the form.¹ For those who submit the alternative consolidated LPT3 return form through the process agreed with Revenue, the exemption is claimed by identifying each exempt property on the accompanying spreadsheet of properties.

4. Duration of exemption

The usual LPT rule is that a property that is exempt from the charge to LPT on the first valuation date will not be chargeable until the next valuation date. This means that a property that was exempt on 1 May 2013 will continue to be exempt until 1 November 2019, regardless of whether the qualifying conditions cease to be satisfied in the intervening period. The duration of the first valuation period was

¹The exemption types are listed on page 10 of the Revenue booklet that was issued with the LPT1 return form.

extended by three years by the Finance (Local Property Tax)(Amendment) Act 2015 and now ends on 31 October 2019.

5. Examples

5.1

Focus Ireland is a charity that owns and manages housing units in which it accommodates formerly homeless people. It employs social workers who visit the housing units to provide counselling and tenancy support to its clients. Depending on the type of special need, its clients require support to varying degrees. For some, intermittent support is sufficient while others require much more regular and intensive support. Some of its clients require specialist medical care and Focus Ireland has arranged that this be provided by visiting HSE staff. Focus Ireland's housing units qualify for the exemption.

5.2

Assist is a charity that provides rental housing units for people with disabilities. These are constructed as group housing with one of the houses reserved for its on-site staff including a cook, housekeeper and caretaker. Other support staff visit as required. All of the group housing schemes have been funded by the local authorities under the CAS scheme. Therefore, all of Assist's housing units qualify for the exemption even though the units occupied by its on-site staff are not used as special needs accommodation.

5.3

Golden Years is a charity that owns an entire apartment block in which it houses a number of elderly people to whom it provides services and support without which they would be unable to live in the community. Some of the apartments are occupied by families who were previously on the local authority housing list and who do not receive any special services and support. The remainder of the apartments are occupied by people who do not have any special need and who pay a market rent for their accommodation. This rent is used to fund the charity's operations. Golden Years has received funding from a local authority but under the Capital Loan and Subsidy Scheme and not under the CAS. Only those apartments that are used to provide special needs accommodation to its elderly clients qualify for the exemption.

6. Compliance

The exemption should be claimed on either the LPT 1 or LPT3 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 normal compliance programme. The person claiming the exemption may be required to provide evidence and supporting documentation to back up the claim. Evidence, in this context, includes a description of the type of special needs accommodation and documentary details of the support services that are provided to the occupants of the accommodation. As is the case with all self-assessed taxes, the property owner must retain evidence to support the claim for exemption on the grounds of special needs accommodation.

ANNEX - SPECIAL NEEDS ACCOMMODATION GUIDELINES

GUIDELINES FOR THE ASSISTANCE OF SOCIAL HOUSING PROVIDERS IN IDENTIFYING SPECIAL NEEDS ACCOMMODATION

1. Local property tax exemption for special needs accommodation

A residential property that is owned by a charity or a public body (referred to generically in these guidelines as ‘social housing bodies’²) and that is used solely or primarily to provide special needs accommodation is exempt from the charge to local property tax. For the purpose of this exemption, special needs accommodation is accommodation that is provided to persons who require special accommodation and support to enable them to live in the community. While the relevant legislation specifically references old age and physical and mental disability, these particular categories of need are not exhaustive and other categories may also be included, for example, victims of domestic abuse and the homeless.

2. General needs v special needs accommodation

The exemption from the charge to local property tax does not extend to residential properties that are used for general needs accommodation. The term general needs accommodation refers to housing units that are provided for people who have no particular need other than a housing need. These would be people who, before they were housed by a social housing body, would have been living in inadequate or unsuitable housing and who would not have had the resources to provide their own housing. In contrast, special needs accommodation means housing provided for people who have a particular or special need in addition to a general housing need.

3. What are special needs?

In determining whether any or all of the housing which a social housing body provides is special needs accommodation, the question to be asked is whether the body provides, in addition to housing, services and/or support that are aimed at the needs of the people who are housed by it and who, without such services and/or support would be unable to live independently in the community.

3.1 Types of special need

The following list, which is not exhaustive, is intended to indicate the types of special need that are covered by this guidance:

- old age

² These are essentially local authorities and bodies that are approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992.

- physical, mental, sensory or intellectual disability
- alcohol dependency
- drug dependency
- domestic violence or abuse
- *homelessness

*A homeless person in a special needs context is a person who, prior to moving into the 'special needs' housing unit, was accommodated in temporary/emergency homeless accommodation and who would be unable to sustain a tenancy without the support provided by, or on behalf of, a social housing provider.

4. Provision of services/support

The relevant legislation does not specify the period for which services and/or support should be provided to avail of the LPT exemption: it may be short-term or long-term. Nor does the relevant legislation specify the nature and level of the services and/or support to be provided: this may be high level and frequent or low level and intermittent. Revenue recognises that it would not be practical for the legislation to cater for such variations and it does not intend to attempt do so in these guidelines. There is a continuum of services/support associated with special needs accommodation and the approach adopted by a social housing provider will be dictated by the particular circumstances and the particular special need being met. Indeed, the particular circumstances may dictate that the services/support are not provided by the social housing provider itself. It is acceptable for a social housing provider to arrange for one or more third party specialist providers to provide the necessary services/support. However, the social housing provider must have the lead role in, and be actively involved in, putting any such arrangement in place.

The following is intended as broad guidance only. Revenue would not expect that all of the services/supports mentioned would necessarily feature in the case of each property being provided:

- the provision of services/support by on-site staff, such as a caretaker/warden.
- the provision of services/support by visiting staff (or third parties on behalf of the social housing provider), such as tenancy support, health/medical care or counselling services.
- the provision of social support on an informal or voluntary basis by specialist (care) groups.

- assistance with meals, laundry, housework, shopping, personal care and transportation.
- the provision of communal facilities.
- the provision of built in supports through design, location, layout of housing, alarm and security systems to facilitate independent living.

5. Capital Assistance Scheme

Revenue understands from the Department of Housing, Planning and Local Government that the Capital Assistance Scheme (CAS) is used almost exclusively to fund the provision of special needs accommodation by social housing providers. It is, therefore, prepared to accept that any property that has been funded under this scheme and that is specifically approved for special needs accommodation by the relevant local authority will be exempt from the charge to local property tax. This is subject, of course, to the particular property continuing to be used as special needs accommodation.

Properties may, of course, have been funded under other local authority schemes such as the Capital Loan and Subsidy Scheme and the Capital Advanced Leasing Facility. However, unlike the CAS, these schemes are not used almost exclusively to fund special needs accommodation. It is, therefore, not possible for Revenue to adopt the same broad approach as with the CAS. Properties funded under these other schemes can, of course, qualify for exemption, but this can only be because of the use to which they are put and not solely because of the source of their funding.

This approach will be subject to review by Revenue in the light of future changes in the funding arrangements for social housing providers.

6. Application for exemption

A social housing provider is not required to apply for an exemption in respect of a particular property. Instead, the exemption claim is made on a self-assessment basis. Where the particular social housing provider submits individual LPT1 Return forms for any properties it owns, exemption type 'F' should be inserted in the exemption box on the form.³ For those social housing providers who submit the consolidated Return form (LPT 3) through the process agreed with Revenue, each exempt property should be identified on the accompanying spreadsheet of properties as the means of claiming the exemption on a self-assessment basis.

As is the case with all self-assessed taxes, the property owner must retain evidence to support the claim for exemption on the grounds of special needs accommodation. Evidence, in this context, includes a description of the type of special needs

³The exemption types are listed on page 10 of the Revenue booklet that was issued with the LPT1 return form.

accommodation and documentary details of the support services that are provided to the occupants of the accommodation.

7. Duration of exemption

The usual LPT rule is that a property that is exempt from the charge to LPT on the first valuation date will not be chargeable until the next valuation date. This means that a property that was exempt on 1 May 2013 will continue to be exempt until 1 November 2019, even if the property ceases to be used for special needs accommodation at any stage after 1 May 2013. The duration of the first valuation period was extended by three years by the Finance (Local Property Tax)(Amendment) Act 2015 and now ends on 31 October 2019.

A new exemption will have to be claimed for the years 2020 to 2022.