Exemption for properties used for the provision of special needs accommodation

Part 02-05

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

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Table of Contents

1 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). 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. The exemption does not extend to residential properties that are used for general needs accommodation, i.e., accommodation that is provided to people who have no particular need other than a housing need.

2 Legislation

The relevant provisions are contained in section 7 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 Taxes Consolidation Act (TCA) 1997.

Section 14(2), 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 Qualifying conditions

3.1 Property owned by a 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.

3.2 Provision of 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. The term general needs accommodation refers to housing that is provided to people who have no particular need other than a housing need. These would be people who, before they were housed by a 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.

See section 4 below in relation to special needs accommodation that is funded under the local authority Capital Assistance Scheme.

Special needs accommodation is accommodation that is provided to people who require special accommodation and support to enable them to live in the community. While section 7(3) specifically references old age and physical and mental disability, these particular categories of need are not exhaustive and other categories may also be included. The following list, which is not exhaustive, indicates the types of special need that might be involved:

- old age;
- 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' accommodation, 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.

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. The following list of types of services and support is intended as broad guidance only. Revenue would not expect that all these would necessarily feature in the case of each property being used:

- 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.

The relevant legislation (section 7) does not specify the period for which services and/or support should be provided to qualify for the LPT exemption; it may be short-term or long-term. Nor does the 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 practice. There is a continuum of services/support associated with special needs accommodation and the approach adopted by a housing provider will be dictated by the circumstances and the particular special need being met. Indeed, the circumstances may dictate that the services/support are not provided by the housing provider itself. It is acceptable for a housing provider to arrange for one or more third party specialist provider to provide the necessary services/support. However, the housing provider must have the lead role in, and be actively involved in, putting any such arrangement in place.

See examples 9.1 and 9.3 below.

4 Local authority Capital Assistance Scheme

Revenue understands from the Department of Housing, Local Government and Heritage that the Capital Assistance Scheme (CAS) is used almost exclusively to fund the provision of special needs accommodation by social housing providers. Revenue is therefore prepared to accept that any property that was funded under the CAS and that was specifically approved for special needs accommodation by a local authority qualifies for the exemption. This is subject, of course, to the particular property continuing to be used as special needs accommodation.

This means that there may be some properties that might not qualify for exemption based on the special needs criteria set out in section 3 above but that may nevertheless qualify because of CAS funding. See example 9.2 below.

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. Revenue is not therefore prepared to adopt the same broad approach for these schemes as with the CAS. Properties funded under these other schemes can, of course, qualify for the 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.

5 Claiming the exemption

A property cannot qualify for the exemption unless the exemption is claimed.[1] How the exemption is to be claimed depends on when the qualifying conditions set out in section 3 above are met. As the exemption is claimed as part of the normal self-assessment process, it is not necessary for the claim to be approved by Revenue. However, see section 7 below in relation to Revenue's compliance programme.

5.1 Qualifying conditions met on 1 November 2021

Where the qualifying conditions for the exemption are met on the second valuation date[2] 1 November 2021, the exemption should be claimed in the LPT1 return form by inserting the code "6" in the exemption box. This claim covers the years 2022 to 2025.

5.2 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, 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.

Where a property is acquired after 1 November 2021 from a person who claimed the exemption, the new owner does not then have to claim the exemption where the qualifying conditions continue to be met. However, where a property that does not meet the qualifying conditions on 1 November 2021 is acquired after this date and then meets the qualifying conditions, the new owner should claim the exemption.

5.3 Claims for 11 or more properties

Individual LPT1 return forms may be submitted for each property owned by a charity or public body. Alternatively, where a charity or public body owns 11 or more properties, a single return will suffice for all the properties. The return to be used is available from within a liable person's online LPT record. The details for each individual property are to be entered on a downloadable template which is then uploaded within the Revenue online system.

[1] Required by sections 3A and 41A in relation to the second valuation period 2022 to 2025.

[2] 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 with the valuation period.

6 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).

6.1 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. See example 9.4 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 qualifying conditions were met. The exemption then continued to apply until the end of 2021.

6.2 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. See examples 9.5 and 9.6 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 9.6 below.

7 Self-assessment and compliance

The exemption is claimed 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 evidence of the charitable status of the liable person, the special needs of the occupants of a property, details of the support services provided to occupants or the CAS funding received from a local authority. Supporting documentation should be retained for a period of six years in case it is needed for inspection by Revenue.

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.[3]

8 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).[4] However, the TAC can decide to allow appeals made outside this timeframe in certain circumstances. See Tax and Duty Manual Part 09-01 for information on the LPT appeals procedures.

9 Examples illustrating the operation of the exemption

9.1 Charity provides special needs accommodation

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.

9.2 Housing funded by Capital Assistance Scheme

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 the group housing schemes have been funded by the local authorities under the CAS. 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.

[3] Section 147.

[4] Section 41B.

9.3 Apartment block used for mixture of special needs and general housing needs

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 have a general housing 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.

9.4 Property exempt on 1 May 2013

A local authority qualified for the exemption on 1 May 2013 in respect of 50 of its houses that it used to provide special needs accommodation. In April 2015 it started to use these houses to provide accommodation to families on its housing list who did not require any special support or services to enable them to live in the community. However, the local authority continued to qualify for the LPT exemption for the entire first valuation period covering the years 2013 to 2021. It then became chargeable for LPT in relation to the second valuation date 1 November 2021 covering the years 2022 to 2025.

9.5 Property sold after 1 November 2021

A local authority met the qualifying conditions for 30 of its houses on 1 November 2021 and claimed the exemption. It later sells the houses in July 2023 to a charity that specialises in providing special needs accommodation. The houses are sold with the sitting tenants who have addiction problems and require special support or services to enable them to live in the community. The local authority qualifies for the exemption for the years 2022 and 2023 as it is the liable person in relation to the liability dates 1 November 2021 (for the year 2022) and 1 November 2022 (for the year 2023). The exemption continues for the charity for the years 2024 and 2025 as it is the liable person in relation to the liability dates 1 November 2023 and 1 November 2024.

9.6 Qualifying conditions met after 1 November 2021

The charity Housing the Homeless purchases a property in April 2022 and immediately starts using it to provide special needs accommodation. It claims the exemption in respect of the following liability date 1 November 2022 which will apply for the remaining years in the second valuation period (i.e. 2023 to 2025), assuming, of course, that the qualifying conditions continue to be met. The previous owner is liable for LPT in respect of the year 2022.

9.7 Qualifying conditions cease to be met

The charity Assist qualifies for the exemption in respect of its properties for the years 2022 and 2023. However, in February 2023 it runs into financial difficulties and loses its charitable status. As Assist qualified for the exemption on 1 November 2022, the exemption applies for the full year 2023 notwithstanding that it ceases to meet the qualifying conditions in February 2023. It then becomes chargeable to LPT on the following liability date 1 November 2023 for the years 2024. If it retains ownership of the property it will also be the liable person for the year 2025.