Exemption for 'first-time buyers'

Part 02-07

This document should be read in conjunction with section 8 Finance (Local Property Tax) Act 2012 (as amended)

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

Table of Contents

1 Introduction

This exemption from local property tax (LPT) was intended to apply to residential properties that were purchased by 'first-time buyers' who would have been eligible for mortgage interest relief under section 244 Taxes Consolidation Act (TCA) 1997. However, the effect of an error in the legislation meant that the exemption turned out to be wider than intended and was not restricted exclusively to 'first-time buyers' or to people who had borrowed to purchase a property.

While section 8 does not distinguish between new and second-hand properties, this exemption was effectively confined to second-hand properties as another (less restrictive) exemption (under section 9) applied to new and unused properties that were purchased from a builder or a property developer.

The exemption applied for the first valuation period covering the years 2013 to 2021. The Finance (Local Property Tax) (Amendment) Act 2021 (section 13) terminated the exemption after the year 2021.

2 Eligibility for mortgage interest relief

The exemption was intended for 'first-time buyers' to compensate them somewhat for the phasing out of mortgage interest relief under section 244 TCA 1997. Section 244 provided for tax relief for interest paid by an individual on a loan used for the purchase, repair, development or improvement of his or her sole or main residence or of the sole or main residence of his or her former or separated spouse, civil partner or of a dependent relative.

However, a literal interpretation of section 8(1)(b) meant that a mortgage loan was not actually required but simply that a person would have been eligible for mortgage interest relief under section 244 had he or she taken out a mortgage loan. The unintended consequence was that any second-hand property purchased during 2013, regardless of the status of the purchaser, could qualify for the exemption. This was subject to the property being occupied as the purchaser's sole or main residence.

2.1 Self-builds

The exemption was also considered to apply where a property was built by, or for, the person who was to live in it and the property was completed during 2013. References to "purchased" in this TDM should be read as including "built" or "completed", as appropriate.

While it was not necessary for a loan to be taken out to finance the construction of a property for the exemption to apply, a person who built his or her property may have qualified for mortgage interest relief, depending on when the qualifying loan under section 244 TCA 1997 was drawn down and used. It was possible for a person to qualify for both mortgage interest relief and this LPT exemption where the construction of a property straddled both 2012 and 2013 and was not completed until 2013.

2.2 Refunds of LPT already paid

Revenue recognised the possibility that people who had purchased second-hand properties at the stage when the legislative error was identified were not aware that they were entitled to the exemption. Revenue wrote to any such potential purchasers that it could identify advising them of the possibility that they might be entitled to a refund of LPT already paid in respect of the period 1 July 2013 to 31 December 2013 and/or of their entitlement to the exemption for the year 2014 and the subsequent years in the first valuation period.

3 Legislation

The relevant provisions are contained in section 8 of the Finance (Local Property Tax) Act 2012 (as amended), although subsections (1)(b) and (2) have been rendered irrelevant due to the legislative error described in section 2 of this TDM above.

Under section 14(2), a property that was exempt on the first valuation date 1 May 2013 continued to be exempt until the second valuation date 1 November 2021. However, this provision was disapplied in the case of this exemption which ceased if a property was subsequently sold or ceased to be used as the liable person's sole or main residence.

The Finance (Local Property Tax) (Amendment) Act 2021 (section 10) terminated the exemption after the year 2021. Pending the extension of the exemption to include the years 2020 and 2021, the exemption was operated by Revenue on an administrative basis for these years. This was because the end date specified in section 8 was not aligned with the extended valuation date(s)[1] and, unlike the valuation date, was not capable of being amended by Ministerial Order.

4 Qualifying conditions

4.1 Date of purchase

A property must have been purchased in the period 1 January 2013 to 31 December 2013. However, where a property was purchased after 1 May 2013, there would already have been a liable person on that date who was liable to pay LPT for the year 2013. Therefore, it may have happened that the exemption only applied for the years 2014 onwards. It may also have applied for the years 2015 onwards, where the property was purchased after 1 November 2013 (liability date for the year 2014). The exemption did not apply to the person from whom the property was purchased.

[1] 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.

4.2 Sole or main residence

The person who purchased the property must have started to occupy it as his or her sole or main residence before the exemption was claimed and must have continued in occupation to avoid the termination of the exemption.

5 Claiming the exemption

Where a property was purchased on or before 1 May 2013, the purchaser should have claimed the exemption on the LPT1 return form as part of the normal self-assessment process. The code “B” was to be inserted in the exemption box on the return.

Where a property was purchased in the period 2 May 2013 to 1 November 2013, the vendor was responsible for filing the LPT return form and the purchaser did not have to do so in relation to the year 2013. However, he or she should have claimed the exemption in respect of the liability date 1 November 2013 for the year 2014 and onwards. Where a property was purchased in the period 2 November 2013 to 31 December 2013, the vendor’s return form covered both 2013 and 2014 and the purchaser should have claimed the exemption in respect of the liability date 1 November 2014 for the year 2015 and onwards.

6 Duration of exemption

A property must have been purchased in the period 1 January 2013 to 31 December 2013. Where it was purchased on or before the first liability date of 1 May 2013, the exemption applied for the duration of the first valuation period covering the years 2013 to 2021. However, where a property was purchased after 1 May 2013, or after 1 November 2013, the vendor was liable for LPT for the year 2013, and possibly 2014, and the purchaser was exempt for the years 2014 and onwards, or possibly the year 2015 and onwards, respectively.

7 Termination of exemption

As section 14(2) did not apply in the case of this exemption, the exemption did not necessarily last for the full duration of the first valuation period covering the years 2013 to 2021 (see section 3 above). This meant that a property ceased to be exempt when it was sold or otherwise transferred such as by way of a gift or an inheritance or when it ceased to be used as the sole or main residence of the person who was entitled to the exemption.

8 Examples illustrating operation of exemption

8.1 Property purchased after 1 May 2013

Cathal completed the sale of his house to Sinéad on 3 May 2013. He was the liable person on 1 May 2013 and was required to submit an LPT return form to Revenue and to pay LPT for the year 2013. Sinéad qualified for an exemption in respect of the LPT that would have been payable for the years 2014 to 2021. She did not have to file an LPT return form unless she formed the view that the chargeable value that was declared by Cathal was not reasonable. If she had formed such a view, she should have filed a return form with a revised chargeable value and claimed the exemption on this return.

8.2 Staged payments for construction of property

Martina engaged a builder to build a house on a site on her family's land. She made staged payments to the builder during 2012 and in January and February 2013. She qualified for mortgage interest relief in respect of the part of the loan that was drawn down in 2012. Martina moved into the house when it was completed in February 2013. She qualified for an exemption from LPT that she claimed by filing an LPT return form in respect of the valuation date 1 May 2013.

8.3 Property ceasing to be used as a sole or main residence

Seamus qualified for an exemption when he purchased an apartment in March 2013. However, following a change in his circumstances, he moved out of the apartment in December 2013 and began to rent it out. Seamus was exempt for the years 2013 and 2014. However, as he stopped using the property as his sole or main residence, it was not exempt on the subsequent liability dates 1 November 2014 to 1 November 2020 which meant that Seamus was liable for LPT for the years 2015 to 2021.

9 Self-assessment and compliance

Where the property was purchased on or before 1 May 2013, the exemption should have been claimed on the LPT1 return form by the liable person as part of the normal self-assessment process. However, Revenue may decide to examine the validity of a claim as part of its ongoing compliance programme. This may involve the liable person being required to provide evidence and supporting documentation to prove that the property was exempt, such as evidence of the date of purchase or completion of construction and of use as the sole or main residence of the person claiming the exemption.