

## Defective Concrete Products Levy

### Part 18E-00-01

This document should be read in conjunction with Part 18E and Schedule 36 of the Taxes Consolidation Act 1997

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## 1 Introduction

The purpose of this manual is to provide an overview of the Defective Concrete Products Levy (DCPL). The DCPL was introduced by section 99 Finance Act 2022 which inserted Part 18E and Schedule 36 into the Taxes Consolidation Act 1997 (TCA 1997).

The DCPL applies to the 'first supply' of certain concrete products on or after 1 September 2023. The levy is chargeable on the open market value of the concrete products that are within the scope of the levy, on the date of their first supply. The DCPL does not apply on any second or subsequent supplies of a concrete product within scope, where a previous chargeable supply of that product was made.

The person who makes a first supply of a concrete product which is within scope of the levy is the chargeable person in respect of the levy. The levy operates on a self-assessment basis and a chargeable person will be accountable for and liable to pay the levy and to submit returns to Revenue on a bi-annual basis.

The levy has been placed under the care and management of Revenue.

## 2 Overview of the Levy

### 2.1 What is the defective concrete products levy

The DCPL is a levy that arises on the first supply of certain concrete products. The levy is calculated at 5% of the open market value of liable concrete products on the date of their first supply.

### 2.2 What products are within the scope of the levy

The levy applies to two types of concrete products which are required to comply with certain Harmonised European Standard as referenced in the [Official Journal of the European Union \(or any adopted national version of such Harmonised European Standard\)](#)<sup>1</sup> and ready to pour concrete which may be liable to the reduced VAT rate of 13.5%.

Section 531AAG TCA 1997 defines the concrete products within the scope of the levy and Schedule 36 TCA 1997 provides additional detail. The following products come within the scope of the levy:

- (a) products, containing concrete, that are required to comply with the following [EU Harmonised Standards \(or adapted national version of such Harmonised Standard\)](#)<sup>2</sup>, as set out in Schedule 36 to the TCA 1997 -

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<sup>1</sup> OJ No. L88, 4.4.2011, p.5

<sup>2</sup> OJ No. L88, 4.4.2011, p.5

- EN 771-3:2011+A1:2015 Specification for masonry units - Part 3: Aggregate concrete masonry units (Dense and lightweight aggregates), and
- EN 771-4:2011+A1:2015 Specification for masonry units - Part 4: Autoclaved aerated concrete masonry units,

and

- (b) ready to pour concrete which may be chargeable to Value Added Tax at the rate of 13.5% under paragraph 16(1) of Part 4 of Schedule 3 of the Value Added Tax Consolidation Act 2010.

Concrete is defined in section 531AAG TCA 1997 as “material formed by mixing cement, coarse and fine aggregate and water, with, or without the incorporation of admixtures, additions or fibres, which develops its properties by hydration”.

### 2.3 When is the levy chargeable?

A chargeable person, for the purposes of the DCPL, is a person<sup>3</sup>, who makes a first supply of a concrete product within scope of the levy.

The first supply of a concrete product is defined in section 531AAG TCA 1997 as meaning a chargeable supply of a concrete product where a previous chargeable supply of that concrete product has not occurred.

To determine what is a chargeable supply, consideration should also be given to the definition of “supply”. “Chargeable supply” and “supply” are both defined in section 531AAG TCA 1997.

A chargeable supply arises when a concrete product, within the scope of the levy, is-

- (a) sold or otherwise transferred, within the State or outside of the State, by a person in the course of any business carried on in the State by the person. This would include the sale or transfer of the product to a person outside of the State;
- (b) assigned for use in a business other than as set out in paragraph (a) by a person in the State; or
- (c) used by a person for private or business use in the State. This would include concrete products which are sourced from outside the State.

The levy arises on the first chargeable supply of the concrete product and does not arise on any second or subsequent supplies.

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<sup>3</sup> Section 18 of Part 4 of the Interpretation Act 2005 defines a “person” as including “...a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual...”.



**Example 1- Manufacture of concrete masonry units**

ABC Ltd carries on a business in the State which involves the manufacturing of autoclaved aerated concrete masonry units ([EN 771-4:2011+A1:2015](#) applies to the product).

On 10 September 2023 ABC Ltd sells 10,000 units of newly manufactured product to XYZ Ltd who is a retailer in the State. ABC Ltd has made the first supply of a concrete product within scope of the levy in the course of a business carried on by ABC Ltd in the State, therefore the DCPL applies to this supply.

XYZ Ltd begins selling these units to customers on 11 September 2023. The DCPL does not apply to these sales as they are considered to be a second supply.

**Example 2 – Manufacture of ready to pour concrete**

Red Ltd carries on a business in the State which involves the manufacturing of ready to pour concrete that is liable to the reduced VAT rate of 13.5%.

On 1 October 2023 Red Ltd sells 50 tonnes of newly manufactured product to Blue Ltd who is a construction company operating outside the State. Red Ltd has made a first supply of a concrete product within scope of the levy in the course of a business carried on by Red Ltd in the State, therefore Red Ltd is a chargeable person and the DCPL applies to this supply.

**Example 3 – Supply to a subsidiary**

Venus Ltd carries on a business in the State which involves the manufacturing of aggregate concrete masonry units ([EN 771-3:2011+A1:2015](#) applies to this product).

On 10 October Venus Ltd assigned 10,000 units of newly manufactured product to Mars Ltd who operates a concrete product retail business, Mars Ltd is a subsidiary of Venus Ltd. Venus Ltd has made a first supply of a concrete product within scope of the levy for use in a business carried on by Mars Ltd, therefore Venus Ltd is a chargeable person and the DCPL applies to this supply.

**Example 4 – Supply from outside the State to a business within the State**

XYZ Ltd is a retailer in the State. On 30 October 2023 XYZ Ltd purchases autoclaved aerated concrete masonry units ([EN 771-4:2011+A1:2015](#) applies to the product therefore it is within scope of the levy) from Blue Ltd. Blue Ltd is a manufacturer of this product outside the State.

XYZ Ltd receives the purchased product on 10 November 2023. On 11 November 2023 XYZ Ltd begins selling the purchased product to customers. As XYZ Ltd is using the product purchased from outside the State in its business, the DCPL applies to these sales as they are considered to be the first supply for the purpose of the levy and XYZ Ltd is a chargeable person.

**Example 5 – Supply from outside the State to an individual within the State**

Paula is building a private residence. On 1 September 2023 Paula purchased 500 units of aggregate concrete masonry units ([EN 771-3:2011+A1:2015](#) applies to this product therefore it is within scope of the levy) from a manufacturer in Northern Ireland. The units are delivered into the State.

On 1 October 2023 Paula used the units in the construction of her private residence. As Paula has used the units in a private capacity within the State a chargeable supply has arisen as no previous first supply in the State has occurred. Paula's use of the units on 1 October 2023 is the first supply for the purposes of the DCPL and therefore Paula is a chargeable person and the levy applies.

**Example 6 – Supply of products manufactured from ready to pour concrete**

123 Ltd manufactures garden patio slabs. The garden patio slabs are not a concrete product within scope of the DCPL however they are manufactured using ready to pour concrete which is a product within scope of the DCPL. 123 Ltd purchases ready to pour concrete from ABC Ltd to manufacture these slabs.

ABC Ltd has made a first supply of a concrete product within scope of the levy, ABC Ltd is a chargeable person for the purposes of the DCPL.

ABC Ltd issues an invoice to 123 Ltd as follows:

Ready to pour concrete	€10,000
DCPL 5% (€10,000 @ 5%)	<u>€500</u>
<b>Total taxable amount</b>	<b>€10,500</b>
VAT @ 13.5% (€10,500 @ 13.5%)	<u>€1,417.50</u>
<b>Total amount due</b>	<b><u>€11,917.50</u></b>

123 Ltd is not within scope of the DCPL for the sale of the garden patio slabs.

123 Ltd issues an invoice to a customer as follows:

10 bundles of garden patio slabs	€20,000
VAT @ 23% (€20,000 @ 23%)	<u>€4,600</u>
<b>Total amount due</b>	<b>€24,600</b>

**Example 7 – Business use of concrete products**

Concrete Ltd manufactures garden patio slabs and manufactures ready to pour concrete.

Concrete Ltd utilises ready to pour concrete manufactured at its plant in the manufacture of the garden patio slabs.

Concrete Ltd has made a first supply of a concrete product within scope of the levy, therefore Concrete Ltd is a chargeable person for the purposes of the DCPL.

Concrete Ltd is required to create a record as follows:

Ready to pour concrete market value	€30,000
DCPL 5% (€30,000 @ 5%)	€1,500

Section 531AAQ(3) TCA 1997 contains an anti-avoidance measure in respect of first supplies of concrete products within scope of the levy between connected persons. The measure applies where connected persons enter into any arrangement(s) with the main purpose of making a first supply before 1 September 2023 in order to avoid the application of the DCPL. Where such arrangement(s) are entered into, they shall be regarded as not having taken place for the purpose of the application of the DCPL.

See [section 3.1](#) on how to register for the DCPL and [section 3.2](#) for the documents and records that are required to be created and issued on each first supply of concrete products within scope of the levy.

## 2.4 Computation of the levy

The levy is chargeable at the rate of 5% on the VAT exclusive open market value of concrete products, within the scope of the levy, on the date of their first supply.

The levy is chargeable on the open market value of the concrete product only. Ancillary costs such as delivery and haulage are not within the scope of the levy. Where a chargeable person charges a sale price inclusive of delivery or another associated service, the chargeable person should apply the levy to the element of the sales price for the concrete products within scope only.

### Example 8 – Calculation of levy – Business to business

The details are the same as Example 1. ABC Ltd charges XYZ Ltd €6,000 for the 10,000 units of autoclaved aerated concrete masonry, this is prior to charging delivery and haulage costs and applying VAT.

ABC Ltd's liability to the DCPL is calculated as follows: €6,000 x 5% = €300

ABC Ltd will apply VAT on €6,300 i.e., the cost of the units prior to the application of the DCPL plus the DCPL.



**Example 9 – Calculation of levy – Business to an individual**

ABC Ltd supplies ready to pour concrete to Joe Bloggs on 30 September 2023.

ABC Ltd is making a first supply of a concrete product within scope of the DCPL on or after 1 September 2023.

ABC Ltd issues a document to Joe Bloggs as follows:

Ready to pour concrete	€5,000
DCPL 5% (€5,000 @ 5%)	€250
<b>Total taxable amount</b>	<b>€5,250</b>
VAT @ 13.5% (€5,250 @ 13.5%)	€708.75
<b>Total amount due</b>	<b>€5,958.75</b>

**Example 10 – Calculation of levy – Business outside the State to an individual**

Joan Bloggs purchases £5,000 of ready to pour concrete from 456 Ltd in Co. Down on 30 September 2023, for the private use in the construction of footpaths and a driveway around her home in Co. Meath. Therefore, for the purposes of the levy, Joan Bloggs uses the ready to pour concrete, supplied from outside the State, for private use in the State.

Joan Bloggs is within scope of the DCPL as this is considered the first supply within the State, and Joan Bloggs is the chargeable person.

Joan Bloggs retains the invoice 456 Ltd issued and accounts for 5% DCPL on the market value of the invoice which was £5,000 stg. (Exchange rate on 30 September 2023 €1 is GBP £0.86706):

Ready to pour concrete (€5,000/0.86706)	€5,767
DCPL 5% (€5,767 @ 5%)	€288

Joan Bloggs retains the following books and records:

- Invoice from 456 Ltd, displaying the concrete product within charge,
- Delivery document from 456 Ltd,
- Record created under section 531AAH(4) displaying the DCPL levy.

## 3 Obligations of chargeable persons

### 3.1 Obligation to register

Prior to making a first supply of a concrete product within scope of the levy on or after 1 September 2023 every chargeable person is required to register with Revenue, as a chargeable person for the purposes of the levy. This obligation to register is set out in section 531AAJ TCA 1997.<sup>4</sup>

In order to register, chargeable persons are required to supply Revenue with the following information:

- their name
- their tax reference number
- their business address where relevant

When a chargeable person ceases to be a chargeable person they should notify Revenue stating the date of cessation, see [section 7](#) for contact details.

Revenue will maintain a register of all chargeable persons.

### 3.2 Documents and records

#### 3.2.1 Documents and records to issue on the first supply of a concrete product

When a chargeable person makes a first supply of a concrete product that is within the scope of the levy, they are required to issue documentation or create and retain records in relation to that supply.

Where the supply relates to the transfer of ownership by agreement or sale (paragraph (a) in [section 2.3](#) above), section 531AAH(3) TCA 1997 provides that a document should be issued by electronic or other means to the person to whom the supply was made stating -

- (a) the amount of levy that has arisen and been charged on the supply of the product,
- (b) the supply date of the product, and
- (c) the name of the chargeable person.

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<sup>4</sup> This TDM will be updated in due course to include details on the process and timing for registering for DCPL.

Where the supply comes within paragraphs (b) and (c) of [section 2.3](#) above, section 531AAH(4) TCA 1997 provides that the chargeable person shall create and retain a record by electronic or other means stating -

- (a) the amount of levy that has arisen and been charged on the supply of the product, and
- (b) the supply date of the product.

### 3.2.2 Obligation to keep certain records<sup>5</sup>

Chargeable persons must keep full and accurate records relating to all first supplies of concrete products made during an accounting period in order to ensure that true and accurate returns can be made.

The records that are required to be retained should include, but are not limited to, books, accounts documents and other data maintained either manually or electronically relating to the following –

- a) each supply of concrete products during an accounting period, including;
  - invoices, delivery and purchase records,
  - specific concrete products information which will enable the identification of the type of concrete products, and
  - documentation setting out the open market value of the products on the supply date.
- b) the calculation of the liability to the levy and details of the levy payments made to Revenue, and
- c) copies of documentation issued or records created regarding the first supply of concrete products as required under sections 531AAH(3) and 531AAH(4) TCA 1997 (see [section 3.2](#) above).

In general, records must be retained for 6 years from the end of an accounting period in which a return has been submitted.

However, where the chargeable person is a company that is wound up the liquidator is required to retain all records for a period of 5 years from the date the company is wound up. Where a company is dissolved without the appointment of a liquidator, the directors are required to retain all records for a period for 5 years from the date the company is dissolved.

Where a chargeable person dies, the executor or administrator of the deceased's estate is required to retain all records in relation to the levy for a period of 5 years from the date of death of the deceased.

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<sup>5</sup> Section 531AAN TCA 1997 – Obligation to keep certain records.

### 3.3 Accounting period

The payment and filing obligations for chargeable persons, in relation to the DCPL, are based on the 'accounting period' for the levy which is defined in section 531AAG TCA 1997.

Accounting periods for the purposes of the DCPL are 6-monthly (bi-annual) periods, with the exception of the first accounting period.

The first accounting period for the levy is –

- 1 September 2023 to 31 December 2023

Subsequent accounting periods are 6-monthly (bi-annual) periods, for example -

- 1 January 2024 to 30 June 2024
- 1 July 2024 to 31 December 2024

### 3.4 Pay and file obligations

A chargeable person is required to submit a full return and pay any levy arising during an accounting period within 23 days of the end of the accounting period.<sup>6</sup>

For example –

- for an accounting period ending on the 30 June, the return and any payment due must be filed by the 23 July.
- for an accounting period ending on the 31 December, the return and any payment due must be filed by the 23 January of the following year.

The particulars that are required to be included on the return are –

- a) the sum of the open market values, on the supply date, of chargeable concrete products supplied during the accounting period, and
- b) the amount of levy due for the accounting period.

It should be noted that where no levy arises in an accounting period a chargeable person is still required to submit a return to Revenue as set out in section 531AAK(3) TCA 1997.

Where a chargeable person identifies that a submitted return contains an error or an omission, they are obliged to submit an amended return to correct the error or omission.

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<sup>6</sup> This TDM will be updated in due course to include details on the pay and file process for DCPL.



### 3.5 Tax Clearance

A Tax Clearance Certificate is confirmation from Revenue that a person's tax affairs are in order. If a chargeable person fails to meet their DCPL obligations their application for tax clearance may not be successful.

Further information on tax clearance is available in the [Tax Clearance](#) Tax and Duty Manual.

## 4 Valuation by Revenue of concrete products

Section 531AAP TCA 1997 sets out valuation procedures that are available to Revenue where Revenue is not satisfied with the open market value of a concrete product declared on a return or where no return has been made. Section 531AAP TCA 1997 provides that Revenue may ascertain the open market value of a concrete product in a manner that Revenue sees fit including appointing a suitable qualified person for this purpose.

## 5 Interest and Penalties

### 5.1 Interest on late payments

If a chargeable person does not pay the levy due on or before the due date (see [section 3.4](#) above), the unpaid levy attracts interest on a daily basis. Interest accrues from the date the levy payment is due until the amount is paid in full. The rate of interest that applies to unpaid DCPL is 0.0219% per day, or part of a day.

### 5.2 Penalties

Part 18E TCA 1997 sets out a number of penalties that a chargeable person may be liable for where they fail to meet certain obligations in respect of the levy. These penalties are set out below.

#### 5.2.1 Failure to issue documentation or create records

Where a chargeable person fails to issue documentation to the person that a first supply is made to, as required under section 531AAH(3) TCA 1997 or fails to create the record required under section 531AAH(4) TCA 1997, they shall be liable to a maximum penalty of €500 for each failure.

#### 5.2.2 Failure to apply the levy to concrete products

Where a chargeable person fails to charge the levy on the supply date, as required under section 531AAH(2) TCA 1997, they will be liable to pay the levy not charged and also liable to a maximum penalty of €4,000.

### 5.2.3 Failure to submit a return or filing a late return

Where a chargeable person, fails to submit a return containing the required details in relation to an accounting period as required under section 531AAK TCA 1997, they will be liable to a maximum penalty of €4,000.

### 5.2.4 Failure to keep certain records

Where a person who is required under section 531AAN TCA 1997 to retain records in relation to the levy and fails to meet their obligation, they will be liable to a maximum penalty of €3,000.

Furthermore, a failure to make a DCPL return required under section 531AAK TCA 1997, is included in Schedule 29 TCA 1997 which lists the sections to which sections 1052, 1054, 1077E and 1077F<sup>7</sup> TCA 1997 apply. These sections provide for penalties in relation to various Revenue offences.

## 6 Right of appeal

The DCPL operates on a self-assessment basis and existing provisions available to the Revenue Commissioners to address non-compliance also apply to the levy. These include provisions regarding the raising and amending of assessments by Revenue.

Where a Revenue officer raises an assessment or an amended assessment to tax on a person, the person can appeal that assessment or amended assessment to the Tax Appeals Commission (“TAC”)<sup>8</sup>. The appeal must be made within 30 days after the date of the notice of assessment or the amended assessment.

TAC is an independent body that adjudicates and determines disputes between Revenue and taxpayers in relation to taxes and duties dealt with by Revenue. There are detailed statutory provisions in Part 40A TCA 1997 setting out the procedures to be followed in respect of appeals made to the TAC<sup>9</sup>.

## 7 Contact

For questions relating to the administration of the DCPL by Revenue, please contact Revenue through MyEnquiries, our secure communications portal available on ROS and on MyAccount. Please quote the reference ‘DCPL’.

Some customers may be presented with an option to self-categorise their MyEnquiries query and if this option is available, please select:

- “Enquiry relates to” - Defective Concrete Products Levy, and
- “More specifically” - General query.

<sup>7</sup> Please see [Tax and Duty Manual Part 47-06-08](#) for more information.

<sup>8</sup> The TAC was established by the Finance (Tax Appeals) Act 2015. This Act, *inter alia*, contains provisions dealing with the appointment and functions of the Commission and the Appeal Commissioners.

<sup>9</sup> Further information is available on the Revenue website -

<https://www.revenue.ie/en/corporate/information-about-revenue/appeals/index.aspx>