Overview of exempt properties

Part 02-01

This document should be read in conjunction with
Part 2 Finance (Local Property Tax) Act 2012 (as amended)

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Revenue
Cáin agus Custaim na hÉireann
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1. Introduction

This Tax and Duty Manual (TDM) provides a high-level overview of the categories of properties that are exempt from the charge to local property tax (LPT) and how the exemptions generally operate. Readers who want a good understanding of how a particular exemption operates should also refer to the detailed information on the individual exemptions that is contained in separate TDMs numbered Parts 02-02 to 02-13.

2. Legislation

Section 16(1) Finance (Local Property Tax) Act 2012 (as amended) ('the Act') charges a 'relevant residential property' to LPT.

A 'relevant residential property' is any property that is a "residential property" on the liability date[1]. If a property is a relevant residential property on the liability date, it is liable for LPT for the following year. For example, if a property is a relevant residential property on 1 November 2023, it is liable for LPT for 2024.

A "residential property" is defined in section 2A as 'any building which is in use as, or is suitable for use as, a dwelling.' The term "building" is not defined in the Act and so is to be given its ordinary and everyday meaning. However, the Act does provide that the definition of a 'building' includes 'part of a building' and 'a structure or erection of any kind and of any materials, or any part of that structure or erection, but excludes a structure that is not permanently attached to the ground, a vessel and a vehicle (whether mobile or not).'[2]

Where an exemption applies (in accordance with section 4, 5, 7, 7A, 10A, 10B, 10C or 10D of the Act) a property will not be regarded as a relevant residential property for the purposes of section 16, thereby exempting it from a charge to LPT.

Prior to Finance (Local Property Tax) (Amendment) Act 2021 (the 2021 Act), a property was not considered a 'relevant residential property' for any part of the Act once it qualified for an exemption. Exempt properties are now subject to other relevant provisions in the Act such as the requirement to submit returns claiming the exemption and to declare a self-assessed chargeable value.

[1] Section 3 Meaning of relevant residential property. The liability date for LPT is 1 November each year.

[2] Section 2 Interpretation

The 2021 Act also amended section 14(2) of the Act. Prior to this amendment, a property that was exempt on a valuation date continued to have the benefit of the exemption until the next valuation date even if the conditions to qualify for the exemption were no longer met. Therefore, a property that qualified for an exemption on the first valuation date 1 May 2013 continued to have the benefit of the exemption until the end of 2021, even if the qualifying conditions for the exemption ceased to be met during this period. However, following the amendment to section 14(2), a residential property that was exempt on the second valuation date 1 November 2021 will 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. This will be the case for exemptions going forward and therefore, it will be necessary for each liable person to make an assessment as to whether they are entitled to the benefit of an exemption on each liability date.

3. Categories of exemption

The categories of residential property that are currently exempt (if they meet the required qualifying conditions) are those that are:

- fully subject to commercial rates (section 4)
- vacated due to a long-term mental or physical infirmity (section 5(2)(a))
- registered nursing homes (section 5(2)(b))
- used by a charity to provide special needs accommodation (section 7)
- used by a charity in connection with the provision of recreational activities (section 7A)
- certified as affected by significant pyrite damage[3] (section 10A)
- purchased, built or adapted for occupation by a permanently and totally incapacitated person (section 10B)[4]
- owned by a North-South Implementation Body under the British-Irish Agreement Act 1999 (section 10C) [5]
- eligible for the Defective Concrete Blocks grant scheme (section 10D). [6]

[3] This exemption is being phased out and will not apply where the qualifying conditions are not met before 21 July 2023. See S10A Finance (Local Property Tax) Act 2012 as amended.

[4] Exemption introduced by Finance (Local Property Tax) (Amendment) Act 2013.

[5] Exemption introduced by Finance (Local Property Tax) (Amendment) Act 2021.

[6] Exemption introduced by Finance (Local Property Tax) (Amendment) Act 2021.

Other categories of residential property were exempt for the first valuation period, (comprising the years 2013 to 2021) but became chargeable to LPT for the year 2022 and subsequent years following the termination of the exemptions by the Finance (Local Property Tax)(Amendment) Act 2021. These categories are:

- unsold and unused trading stock of a builder/property developer at May 2013 (section 6) and subsequent purchases of such properties (section 9)
- residential properties purchased by a 'first-time buyer' during 2013 (section 8)

  residential properties situated in specified unfinished housing estates (section 10).

4. Claiming an exemption

A property cannot qualify for an exemption unless the exemption is claimed (section 3A)[7].

A specific application must be made to Revenue for approval for the following exemptions –

- Pyrite-induced damage – S10A(3)(c) and (d)
- Permanently and totally incapacitated individuals – S10B(1)(a)(ii)
- Properties constructed using defective concrete blocks – S10D(1)(b) and (c)

These exemptions do not apply until and unless approval has been received from Revenue.

All other exemptions are claimed as part of the normal self-assessment process and therefore do not require Revenue approval before they apply. However, any person who claims an exemption must be in a position to show that they satisfied the conditions attaching to that exemption and retain documentation to demonstrate this if called upon to do so by Revenue. See section 6 below in relation to Revenue's compliance programme.

4.1 Qualifying conditions met on 1 November 2021

Where the qualifying conditions for an exemption are met on the second valuation date[8] 1 November 2021, the exemption should be claimed in the LPT1 return form by inserting the appropriate exemption number code in the exemption box. The exemption number codes are:

1. Vacated due to long-term Illness
2. Residence of a severely incapacitated person
3. Pyrite damaged
4. Defective Concrete Blocks Grant Scheme

[7] New section 3A inserted by Finance (Local Property Tax) (Amendment) Act 2021.

[8] 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.

5. Fully subject to commercial rates
6. Charity/Public Body owner and provider of special needs accommodation
7. Charity owner and used to provide recreational activities
8. North-South Implementation bodies
9. Registered nursing home

This claim covers the years 2022 to 2025.

4.2 Qualifying conditions met after 1 November 2021

Where the qualifying conditions for an 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, if the new owner wishes to benefit from the exemption, they must submit a claim for the exemption.

4.3 First valuation period 2013 to 2021

A person who acquires a property, that was exempt on the first valuation date 1 May 2013, did not need to submit a return form to claim the exemption until 1 November 2021, the second valuation date.[9] However, a person who acquired a property after the 1 May 2013, that was not exempt on 1 May 2013, who subsequently satisfied the qualifying conditions, could make a claim for the exemption on the first liability date after the qualifying conditions were satisfied.

The exemption letter codes used to claim an exemption on the 2013 LPT1 return form were:

A. Unsold and unused trading stock owned by a builder/property developer at May 2013
B. Purchased by a 'first-time buyer'
C. Purchase of the unsold and unused trading stock of a builder/property developer
D. Situated in a specified unfinished housing estate
E. Pyrite damaged

[9] This did not apply to the Exemption for first-time buyers in Section 8. A property that qualified for this exemption 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.

F. Charity/Public Body owner and provider of special needs accommodation
G. Registered nursing home
H. Vacated due to long-term illness
I. Residence of a severely incapacitated person
K. Fully subject to commercial rates
M. Charity owner and used to provide recreational activities.

5. Duration of an exemption

The duration of an 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).

5.1 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 generally continued to be exempt until the end of 2021, even if the qualifying conditions for the exemption ceased to be met during this period. Exceptions to this general rule were the ‘pyrite’ exemption which had a fixed-6-year period of exemption and the ‘first-time buyer’ exemption which ceased when a property was sold or ceased to be used as the only or main residence of the liable person.

The first valuation date was 1 May 2013 which originally applied for the years 2013, 2014, 2015 and 2016. However, the Finance (Local Property Tax) (Amendment) Act 2015 extended this valuation period to include the years 2017, 2018 and 2019. Subsequently, a Ministerial Order (S.I. 166/2019) dated 18 April 2019 further extended the first valuation period to include the year 2020. A second Ministerial Order (S.I. 458/2020) dated 27 October 2020 further extended the first valuation period to include the year 2021.

Example

A residential property qualified for an exemption because it was fully subject to commercial rates on 1 May 2013. In March 2019 the liable person started to use the property for a purpose that resulted in it no longer being subject to commercial rates so that the qualifying conditions for the exemption ceased to be met. However, as the exemption applied on 1 May 2013, it continued to apply until the end of 2021.

As section 8 (‘first-time buyer’) and section 9 (unused property purchased from a builder) contained end dates for the exemptions provided by those sections, these exemptions could not be extended by these Ministerial Orders. Pending the required legislative amendment to these sections by the Finance (Local Property Tax) (Amendment) Act 2021, the exemptions were continued on an administrative basis by Revenue for the years 2020 and 2021.

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.

Example

A residential property qualified for an exemption in April 2018 when its sole owner had been living in a nursing home for 12 months because of long-term illness. The property remains chargeable to LPT for the full year 2018 because the exemption did not apply on 1 November 2017. However, as the qualifying conditions are met on 1 November 2018, the property will be exempt for the year 2019, and also the years 2020 and 2021 if the qualifying conditions continue to be met.

5.2 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. The exceptions to this general rule are the ‘pyrite’ and the ‘defective concrete blocks’ exemptions which have a fixed 6-year period of exemption.

Example

A residential property that was owned by a charity and used to provide special needs accommodation qualified for an exemption on 1 November 2021. However, in February 2022 it started to lease the property to tenants who did not have special needs. The exemption therefore ceases to apply. The property will continue to be exempt for the remainder of 2022 as it was exempt on 1 November 2021. However, it becomes chargeable to LPT on 1 November 2022 and will have to start paying LPT from the year 2023.

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.

Example

A residential property that has been adapted to make it suitable for occupation by a severely incapacitated person qualifies for an exemption when it starts to be occupied by the incapacitated person in January 2023. As the qualifying conditions for the exemption are not met on 1 November 2022, LPT is payable for the full year 2023. However, it will be exempt on 1 November 2023 and LPT will not be payable for the years 2024 and 2025, subject to the qualifying conditions continuing to be met.

6. Self-assessment and compliance

Most of the exemptions are claimed as part of the normal self-assessment process. However, Revenue may decide to examine the validity of any 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 their claim for an exemption. As is the case with all self-assessed taxes, the liable person must retain evidence to support their claim for exemption for a period of 6 years.

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.[10]

7. 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).[11] 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.

8. Non-liable properties

Other types of property are outside the scope of LPT, and therefore not liable to LPT, rather than being exempt as such. Such properties are often referred to as 'non-liable' properties.

The main category of 'non-liable' properties are properties that do not come within the definition of "residential property" in section 1. This encompasses buildings (or structures) that are not suitable for use as a dwelling. An example of such a property would be a property that is in such a serious state of dereliction that it is uninhabitable.

The definition of "building" in section 1 contains specific exclusions for vessels (boats), vehicles (whether these are mobile or not) and structures that are not permanently attached to the ground. Therefore, mobile homes (where not permanently attached to the ground) are outside the scope of LPT.

[10] Section 147.

[11] Section 41B.

Certain residential properties that are used for diplomatic purposes are outside the scope of LPT because they have a general tax exemption contained in other legislation.

In relation to the first valuation period covering the years 2013 to 2021, an important category of non-liable property were those properties that were not in existence, or that had not been completed, on the first valuation date 1 May 2013. Properties that were completed, or refurbished to a habitable standard, after 1 May 2013 continued to be non-liable until the second valuation date 1 November 2021.

In relation to the second valuation period covering the years 2022 to 2025, a property that is completed, or refurbished to a habitable standard, after 1 November 2021 will remain non-liable only until the first liability date (i.e., 1 November in each year) following its coming within the definition of “residential property”. This means that a property that is completed in June 2023 will become a liable property on 1 November 2023 in relation to LPT payable for the years 2024 and 2025.