

Notes for Guidance - Taxes Consolidation Act 1997

Finance Act 2020 edition

PART 18B

PARKING LEVY IN URBAN AREAS

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Part 18B Parking Levy in Urban Areas

531O Interpretation (Part 18B)

531P Urban areas to which parking levy applies and making of orders by the Minister

531Q Entitlement to use a parking space

531R Provision of parking space by employer

531S Exemption for certain persons

531T Charge to parking levy

531U Rate of charge to parking levy

531V Deduction of levy by employer

531W No relief for any payment in relation to parking levy

531X Records and regulations

531Y Payment, collection and recovery

531Z Penalties

PART 18B

PARKING LEVY IN URBAN AREAS

Overview

This Part provides for a levy on employees for the use of parking facilities provided by employers in the major urban centres of Cork, Dublin, Galway, Limerick and Waterford. **The exact areas to which to levy will apply and the commencement date of the levy will be designated by order of the Minister for Finance.**

The charge to the levy for a full year will be €200 where an employee has an ongoing entitlement to use a parking space. Where parking spaces are shared by employees, the levy is reduced to €100 where the ratio of the number of employees who have an entitlement to park to the number of parking spaces is two to one or more. Reductions in the levy are also provided for to take account of atypical work patterns.

In general, the levy will apply to private cars. The levy will not apply to disabled drivers or to employees of the emergency services in the context of responding to an emergency situation. Occasional permission to park for not more than 10 days in a year is excluded as is occasional use of a space (available from a former employer) by a retired person.

Employers are required to deduct the levy throughout the year from employees' net wages or salary and are required to remit the levy to Revenue at the same time and in the same manner as they remit income tax deducted under the PAYE system.

531O Interpretation (Part 18B)

Summary

This section contains definitions of the various terms used in *Part 18B*.

Details

Definitions

This section contains a large number of definitions of terms used throughout *Part 18B*. The more important of these are:

'car' means a mechanically propelled road vehicle designed, constructed or adapted for the carriage of the driver or the driver and one or more other persons, other than—

- a motor-cycle (within the meaning of *section 121*),
- an official vehicle (as defined – see below),
- a van (within the meaning of *section 121A*) where an employee is

required by the employer to use the van in the performance of his or her duties,

- a vehicle, other than a van, of a type not commonly used, or suitable to be used, as a private vehicle.

“employee” has the same meaning as it has for the purposes of the PAYE regulations. Therefore all persons who are in receipt of emoluments (i.e. wages/salary etc.), including directors, are included.

“net emoluments” means emoluments (less pension contributions) after the deduction of PAYE, PRSI, health contributions and income levy. [The parking levy will be deducted by the employer after these deductions have been made – see *section 531V(1)*].

“official vehicle” is defined as a vehicle owned or provided by the State or by a State authority (as defined – see below) where an employee of the State or of such an authority is required by the employer to use the vehicle in the performance of his or her duties.

“relevant local authority” means the city council of Cork, Dublin, Galway, Limerick or Waterford.

“State authority” is defined as the Garda Síochána, the Defence Forces, the HSE (in so far as it relates to the ambulance service), the Revenue Commissioners (in so far as it relates to the Customs service), a fire authority or such other body as may be prescribed by order of the Minister for Finance under *section 531P(1)*.

‘urban area’ means an area or areas designated by Ministerial Order under *section 531P(1)*.

531P Urban areas to which parking levy applies and making of orders by the Minister

Summary

This section deals with the making of orders by the Minister for Finance to include the designation of areas and the commencement of the parking levy in those areas.

Details

This section provides the Minister for Finance with the power to: (1)

- designate an area to be an urban area for the purposes of application of the parking levy. However, such designation is confined to areas which are within the administrative areas of relevant local authorities i.e. the city councils of Cork, Dublin, Galway, Limerick and Waterford,
- prescribe a body to be a State authority for the purposes of *Part 18B*, and

- provide for the date from which **Part 18B** comes into effect.

Any order made by the Minister under **subsection (1)** must be laid before Dáil Éireann after it is made. (2)

531Q Entitlement to use a parking space

Summary

This section sets out the circumstances in which an employee is regarded as having an entitlement to use a parking space, the circumstances in which an employee is not so regarded and the circumstances in which an employee will cease to be so regarded.

Details

The circumstances in which an employee will be regarded as having an entitlement to use a parking space are: (1)

- a) the employee has some form of authorisation from the employer or is otherwise given permission (including oral permission) by the employer to use a parking space,
- b) the employee holds or has been issued with any form or means of access to a parking space,
- c) the employee has been allocated a dedicated parking space,
- d) the employee has been allocated a parking space on a shared basis or similar arrangement,
- e) the availability of a parking space to the employee is on a “first come, first served” basis.

An employee will not be regarded as having an entitlement to use a parking space in circumstances where authorisation, permission or access is given to the employee occasionally (i.e. for not more than a total of 10 days in a year) and the actual use of the space is also for not more than 10 days in a year. For this purpose, part of a day is treated as a full day. (2)

An employee will cease to be regarded as having an entitlement to use a parking space where the employee disclaims entitlement, the entitlement lapses or the employer withdraws entitlement for any reason. Where relevant, the employee must return any form of authorisation or form/means of access. In all circumstances, the employee must cease actual use of the parking space. (3)

For the purposes of **subsection (1)(a)**, permission to use a space is to be regarded as given to an employee where the employer has entered into an arrangement or agreement with the employee or any other person to provide a space to the employee. (4)

531R Provision of parking space by employer

Summary

A key feature of the parking levy is that it will apply where the employer provides, either directly or indirectly, a parking space for use by an employee. This section sets out the circumstances in which a parking space will be regarded as provided directly or indirectly by the employer.

Details

The circumstance referred to above are:

- a) direct provision on, at or in a premises owned or occupied by the employer,
- b) indirect provision on, at or in a premises owned or occupied by a person connected (within the meaning of *section 10*) with the employer,
- c) the employer enters into an arrangement or agreement with the employee or any other person whereby a parking space is provided to the employee.

Additionally, *paragraph (d)* of the section covers situations in the public sector where the employer for the purposes of the Tax Acts i.e. the person who pays a public sector employee's salary, may not be the provider of a parking space to that person. This arises, for example, in the education area where the Department of Education pays the salaries of certain teachers and other employees while an individual school provides the parking. In that situation, the Department is deemed to be the provider of the parking space for the purposes of the section.

531S Exemption for certain persons

Summary

This section provides for certain exemptions from the parking levy.

Details

The parking levy will not apply to:

- an employee who holds a valid disabled person's parking permit,
- the use of a parking space by an employee of a State or civil emergency service where that use relates solely to a response (required of the employee by the employer) to an emergency situation,
- to occasional use of a parking space by a retired person where the space continues to be made available by the person's former employer.

531T Charge to parking levy

This section provides that, subject to the exemptions in *section 531S*, a parking levy will apply where an employee has an entitlement to use a parking space in a designated urban area and the space is provided directly or indirectly by his or her employer. [See *sections 531Q* and *531R* for information on the circumstances covered by these terms]

531U Rate of charge to parking levy

Summary

This section provides for the rate of charge to the parking levy to apply in various circumstances.

Details

The amount of the levy will be a flat rate of €200 for each year of assessment. This amount is to be reduced proportionately in the year in which *Part 18B* comes into effect where the levy applies for only part of that year. (1)

Shared basis

Where an employee has been allocated a parking space on a shared basis: (2)

- the full amount (e.g. €200 in a full year) of the levy will apply where the ratio of employees sharing a space to a space is less than 2 to 1,
- 50 per cent (e.g. €100 in a full year) of the levy will apply where the ratio of employees sharing a space to a space is 2 to 1 or more.

Job-sharing and part-time work

In the case of job-sharing and part-time work arrangements, provision is made for a reduction in the amount of the levy, determined under *subsection (1)* or *(2)*, to reflect the part of the full working week or year which is worked. However, the maximum reduction possible is 50 per cent of the levy determined under *subsection (1)* or *(2)*. (3)

Entitlement for part of year

A proportionate reduction in the amount of the levy, determined under *subsections (1)*, *(2)* or *(3)*, is allowed where an employee's entitlement to park applies for only part of a year e.g. where an employee's entitlement starts during a year or where an employee disclaims entitlement during a year. (4)

Maternity leave

The period of paid maternity leave to which an employee is entitled plus 10 weeks immediately prior to the start of such leave is to be disregarded for the (5)

purposes of calculating the amount of levy under *subsection (4)*.

Certain shift work

The part of a year in which an employee's pattern of work requires the employee to start or finish work after 9 pm in the evening or before 7 am in the morning is to be disregarded for the purposes of the calculation of the amount of the levy under *subsection (4)*. (6)

531V Deduction of levy by employer

Summary

This section sets out responsibilities of employers in relation to the deduction of the levy from employees and remittance of the levy to the Revenue Commissioners.

Details

Provision is made that the employer: (1)

- must deduct the amount of the levy (determined under *section 531U*) from the employee's net emoluments (see *section 531O* for definition) on a proportionate basis over the period the employee has an entitlement to park,
- will be accountable for the amount of the levy deductible and liable to pay it to Revenue as if it were income tax deductible under the PAYE system, and
- must remit total levy amounts deductible to the Collector-General to coincide with remittance of PAYE deductions, in accordance with Regulations 28 and 29 of the PAYE regulations.

Where the employer makes levy deductions, the employee shall allow such deductions and the employer shall be acquitted and discharged of such deductions. This, in effect, indemnifies the employer in relation to deductions made from the employee in accordance with the legislation. (2)

531W No relief for any payment in relation to parking levy

This section provides that, notwithstanding any provision in the Tax Acts, an employee cannot claim an expenses deduction under *section 114* or a credit against any liability arising in relation to payment of a parking levy. In addition, where the employer makes any payment to compensate or reimburse an employee for the payment of a parking levy, the employer cannot claim such payment in computing trading profits or management expenses.

531X Records and regulations

Summary

This section sets out minimum requirements for employers in terms of keeping records in relation to the operation of the parking levy, with provision for expanding on these requirements by way of Revenue regulations, if necessary.

Details

The record requirements specified in respect of each year are: (1)

- details of the locations at which parking spaces are provided for the use of employees,
- the name and personal public service number of each employee who has an entitlement to use a parking space,
- the name and personal public service number of each employee who ceases to have an entitlement to use a parking space and the date such entitlement ceases,
- the name and personal public service number of each employee who has an exemption by virtue of holding a disabled person's parking permit, and
- such other records as may reasonably be required which are specified in any regulations made by the Revenue Commissioners.

Where the circumstances referred to in *section 531R(d)* apply (i.e. in the State sector where the person who pays wages/salary is not the same as the provider of the parking space), then the person who provides the parking spaces must: (2)

- keep all of the records which are referred to in *subsection (1)*, and
- transmit to the employer (i.e. the person who pays the emoluments of the public sector employees), on a timely basis, whatever details are necessary in order that such employer can make appropriate levy deductions from the employees

The Revenue Commissioners may make regulations in relation to the administration and implementation of the parking levy including, in particular, in relation to: (3)

- the keeping of records, and
- the transmission, in accordance with *subsection (2)*, of details to employers by persons who provide parking spaces to public sector workers.

The definition of “records” in *section 903* is to be treated as including the records referred to in *subsections (1)* and *(2)* of this section. *Section 903* deals with Revenue powers in relation to inspection of employers' records. (4)

531Y Payment, collection and recovery

The parking levy is placed under the care and management of the Revenue Commissioners. (1)

The payment, collection and recovery provisions which apply to PAYE are applied, with necessary modifications, to the payment, collection and recovery of the parking levy. (2)

Where an employer makes an underpayment or overpayment of the parking levy to the Collector-General, an appropriate payment or repayment must be made between the employer and the Collector-General. (3)

An employer, who is obliged to deduct the parking levy, is required to send the following details to the Collector-General with the annual form P35 which the employer is obliged to submit under Regulation 31 of the PAYE regulations: (4)

- total number of employees to whom the parking levy applied in the year, and
- the total amount of parking levy deducted from employees in the year.

531Z Penalties

Provision is made for a penalty of €3,000 where an employer fails to: (1)

- deduct or remit the parking levy in accordance with *section 531V(1)*,
- keep records in accordance with *section 531X(1)*, or
- include the relevant information, as set out in *paragraphs (a) and (b) of section 531Y(4)*, with the annual P35 form.

A similar penalty of €3,000 is relevant where a person to whom *section 531X(2)* applies (i.e. a person who provides parking spaces to public sector employees but who does not pay the emoluments of those employees) fails to: (2)

- keep records in accordance with *paragraphs (a) and (b)(ii) of section 531X(2)*, or
- provide details to an employer in accordance with *paragraph (b)(i) of that section* i.e. in order that the employer can make appropriate levy deductions from the public sector employees involved.

The provisions relating to proceedings for the recovery of penalties contained in *subsections (3) and (4) of section 987* are applied to the recovery of penalties referred to in *subsections (1) and (2) of this section*. (3)