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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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 not rely solely on this TDM but should also look at the detailed information on the individual exemptions that are contained in separate TDM's numbered Parts 02-02 to 02-13.

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

2. Legislation

The provisions relating to the individual exemptions are contained in sections 4 to 10D Finance (Local Property Tax) Act 2012 (as amended).

A "**residential property"** is defined in section 1. Where a building (or a structure) is in use as, or is suitable for use as, a dwelling on a liability date in a year, the building is termed a "relevant residential property" by section 3. This term is then used to describe a liable property. The drafting mechanism that is used in Part 2 to exempt a particular type (or use) of a residential property is to state that such a property "shall not, for the purposes section 16(1), be regarded as a relevant residential property". Section 16(1) charges a property to LPT.

The Finance (Local Property Tax) (Amendment) Act 2021 substituted the reference to "for the purposes **of this Act**" with "for the purposes **of section 16(1)**". This had the effect of narrowing the provisions in the Finance (Local Property Tax) Act 2012 (as amended) to which exempt properties were subject to the charging provision in section 16(1). It also made exempt properties subject to other relevant provisions such as the requirement to submit returns claiming the exemption and to declare a self-assessed chargeable value.

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. 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 for an extended period by a person with a long-term mental or physical infirmity (section 5(2)(a))
- registered nursing homes (section 5(2)(b))
- used 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[1] (section 10A)
- occupied by permanently and totally incapacitated people (section 10B)
- owned by a North-South Implementation Body under the British-Irish Agreement Act 1999 (section 10C) [2]
- eligible for the Defective Concrete Blocks grant scheme (section 10D). [3]

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)
- purchased by a 'first-time buyer' during 2013 (section 8)
- situated in a specified unfinished housing estate (section 10).

[1] This exemption is being phased out and will not apply where the qualifying conditions are not met before 21 July 2023.

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

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

4. Claiming the exemption

A property cannot qualify for an exemption unless the exemption is claimed (section 3A)[4]. Where an exemption is claimed as part of the normal self-assessment process, it isn't necessary for the claim to be approved by Revenue. However, see section 6 below in relation to Revenue's compliance programme.

Some exemptions require a specific application process and Revenue approval before they apply. This applies in the case of the exemptions for properties damaged by pyrite or the use of defective concrete blocks and properties occupied by certain severely incapacitated people.

How an exemption is to be claimed depends on when the qualifying conditions for the particular exemption are met.

4.1 Qualifying conditions met on 1 November 2021

Where the qualifying conditions for an exemption are met on the second valuation date[5] 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
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] New section 3A inserted by Finance (Local Property Tax) (Amendment) Act 2021.

[5] 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.

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, the new owner should claim 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, after that date[6] does not need to submit a return form to claim the exemption until 1 November 2021, the second valuation date. However, a person who acquires a property, that was not exempt on 1 May 2013, after that date and who meets the qualifying conditions for exemption should claim the exemption.

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
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.

[6] Other than from a person who qualified for a 'first-time buyer' exemption.

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 didn't 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 won't 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 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. As is the case with all self-assessed taxes, the liable person must retain evidence to support the 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.[7]

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).[8] 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, rather than being exempt as such. Such properties are often referred to as 'non-liable' properties.

The main category of 'non-liable' properties is 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 not permanently attached to the ground are outside the scope of LPT.

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[7] Section 147.

[8] 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 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.