

Local Property Tax

Appeals

Part 09-01

This document should be read in conjunction with
Part 40A Taxes Consolidation Act 1997

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1. Introduction

A person who does not agree with Revenue's decision on a range of Local Property Tax (LPT) matters can appeal to the independent Tax Appeals Commission (TAC).

This manual is mainly concerned with the LPT matters that can be appealed. **LPT staff should also consult the general [Tax and Duty Appeals Manual](#) for guidance on the appeals process as it applies to all of the taxes and duties dealt with by Revenue, including LPT.**

The matters that can be appealed to the TAC are discussed in sections 3 to 7 below. The fact that a particular matter cannot be appealed does not prevent a person seeking clarification from Revenue on the matter. In addition, there are established procedures in place for a taxpayer who wishes to avail of an internal or external review in relation to the manner in which his or her tax affairs were handled by Revenue.

2. Legislation

The Finance (Tax Appeals) Act 2015 made a substantial number of amendments to the Taxes Consolidation Act (TCA) 1997 and other tax and duty legislation, including the Finance (Local Property Tax) Act 2012 (as amended) in connection with the establishment (on 21 March 2016) of the TAC and the reform of the tax appeals process.

For a right of appeal to exist, there must be a statutory basis for the appeal. "Appealable matter" is defined in section 949A TCA 1997 as "any matter in respect of which an appeal is authorised by the Acts". The "Acts" include the Finance (Local Property Tax) Act 2012 (as amended). The LPT appealable matters are:

- Decision on a claim for repayment (section 26(4));
- Determination that a person is a liable person for LPT (section 34);
- A Revenue assessment (section 59);
- Determination that a liable person is not eligible for a deferral (section 135);
- Revenue action/enquiry outside of the 4-year time limit (section 142);
- Obligation to submit an electronic return (S.I. No. 572/2014).

Apart from the statutory basis for an appeal contained in the individual tax Acts, generic appeal provisions relating to all of the taxes and duties dealt with by Revenue, including LPT, are contained in Part 40A TCA 1997.

3. Appeal as to whether or not a person is a liable person

An appeal about whether a person is a liable person in relation to a relevant residential property differs from the other LPT appeals in that it requires a preliminary determination on the matter to be made by Revenue **before** an appeal can be made to the TAC.

Under section 33 Finance (Local Property Tax) Act 2012 (as amended), Revenue may require a person to file a LPT return where it has reason to believe that the person may be a liable person in relation to a particular residential property. Where a person considers that he or she is not a liable person, section 34 outlines the procedure for such a person to obtain a determination from Revenue on the matter (see section 3.2 below). Where the person disagrees with the Revenue determination, he or she may then appeal that determination to the TAC.

3.1. Basis on which a Revenue determination may be requested

Section 34(1)(c) Finance (Local Property Tax) Act 2012 (as amended) restricts the basis on which a person can request an (appealable) Revenue determination on whether or not he or she is a liable person to those matters that are contained in Part 2 (Residential property) or Part 3 (Liable person) of this Act. This essentially means that the reason a person might not be a liable person will relate to either a property or to a person's interest in a property, i.e.:

- in relation to a property, whether it is a residential property on a liability date or is specifically exempted from the charge to LPT, and
- in relation to a person's interest in a property, whether the person owns the property or is the liable person for some other reason.

Therefore, some possible reasons for requesting a Revenue determination that the person is not a liable person are that:

- The property does not come within the definition of "residential property" because it is not suitable for use as a dwelling (section 3 of Part 2), for example, because it was still being built on 1 May 2013 or it was totally derelict and unfit for habitation;
- The 'property' is a structure that is not permanently attached to the ground (definition of "building", which, although contained in Part 1, feeds into the definition of "residential property" and is therefore covered by section 3 of Part 2);
- The property is specifically exempted from the charge to LPT by reason of one of the exemptions contained in sections 4 to 10B of Part 2;
- The property is not situated in the State (section 3 of Part 2);
- The person is a short-term (i.e. less than 20 years) tenant of a property and does not have a sufficient interest in the property to be regarded as the liable person in accordance with section 11 of Part 3;
- The person occupies a property along with the owner of the property but does not have any interest in that property as required by section 11 of Part 3.

Some possible reasons why a person may not have a valid basis for requesting a Revenue determination that the person is not a liable person are:

- The person who owns a property in the State is not resident in the State (residency is not a requirement for liability);
- The property is not occupied as the person's sole or main residence (all residential properties are chargeable to LPT, whether occupied or not and regardless of the reason for occupation).

A person who does not have a valid basis for requesting an (appealable) Revenue determination should be advised of this and why this is the case.

The valid bases for requesting a Revenue determination are discussed in more detail in sections 3.1.1 to 3.1.3 below.

3.1.1. Buildings and residential properties

A building or a structure that does not come within the definition of a residential property in section 2 Finance (Local Property Tax) Act 2012 (as amended) is outside the scope of LPT. A **“residential property”** means any building or structure which is in use as, or is suitable for use as, a dwelling and includes any shed, outhouse, garage or other building or structure and any yard, garden or other land appurtenant to or usually enjoyed with that building, save that so much of any such yard, garden or other land that exceeds one acre shall not be taken into account for the purposes of this definition”.

The key part of this definition in relation to determining whether a property is a residential property is whether it **“is in use as, or is suitable for use as, a dwelling”**. It is a question of fact whether the property is actually **in use**. However, it may be more difficult to determine if the property is **suitable for use** as a dwelling (where it is not actually in use as such) as there will be an element of judgement involved.

A structure may be in use as, or be suitable for use as, a dwelling but may still be outside the scope of LPT because it does not come within the definition of a “building”. A **“building”** is defined as excluding **“a structure that is not permanently attached to the ground, a vessel and a vehicle (whether mobile or not)”**. Therefore, a Revenue determination could relate to whether a structure is permanently attached to the ground or whether it is a vessel or a vehicle.

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. Therefore, a Revenue determination could relate to whether a particular property is used for the required diplomatic purposes.

3.1.2. Exempt properties

Where a building or a structure comes within the definition of a residential property on a liability date it is a “relevant residential property” and chargeable to LPT unless it is specifically exempted. A person who considers that an exemption applies should claim the exemption by submitting the LPT return form and inserting the appropriate exemption code on the return on a self-assessment basis. The person does not need to notify Revenue that he or she does not consider himself or herself to be a liable person.

If, having examined the claim for exemption, Revenue forms the view that the exemption does not apply, it will notify the person who has claimed the exemption of its (appealable) determination on the matter. Where the person disagrees with the Revenue determination on the matter, he or she can then appeal that determination to the TAC, in which case the procedures described in sections 3.4 and 3.5 below apply.

3.1.3. ‘Ownership’ of relevant residential property

Section 11 Finance (Local Property Tax) Act 2012 (as amended) sets out the types of interest that a person must have in a relevant residential property to be a liable person. This interest is either –

- an entitlement to the immediate possession of the property, **or**
- an entitlement to the rents or profits earned from the property for a period of at least 20 years.

The section has a wide scope and includes freehold interests, leasehold interests exceeding 20 years and life interests. It also provides that trustees and the personal representatives of a deceased person who is or was a liable person are themselves liable persons. The section also ensures that a person who occupies a property, and who, to all practical intents and purposes, is the owner, cannot avoid liability on the grounds that he or she has not registered title.

Section 12 allows Revenue to make a rebuttable presumption that a person who occupies a property, or who receives rent from it, is a liable person in relation to the property. It would be expected that the person’s rebuttal would take the form of producing evidence that he or she does not have the required interest in the property to make him/her a liable person. So, for example, a tenant occupying a property under a lease of less than 20 years would be expected to show that he or she was paying rent to the actual owner of the property.

Because liability depends on a very broad range of interests in a property, it may happen that people who have interests other than full ownership may notify Revenue that they do not consider themselves to be liable persons because of a mistaken understanding of the statutory position.

3.2. Notifying Revenue that a person is not a liable person

There is no requirement for a person to file a LPT return when notifying Revenue that he or she does not consider himself or herself to be a liable person in accordance with section 34 Finance (Local Property Tax) Act 2012, (as amended). However, there are several other requirements, which are that:

- The person must send a written notification to Revenue within 30 days of the date on the Revenue notice requiring that person to file a LPT return;
- The notification must explain why the person does not consider that he or she is a liable person and this explanation must relate to whether the property is a residential property/relevant residential property or the type of interest, if any, that he or she has in the property;
- The notification must be accompanied by any relevant documentation that might support the person's contention that he or she is not a liable person; and
- The notification must include any information in the person's knowledge or possession about any other person who is, or who might be, a liable person in relation to the property.

3.3. Time limit for requesting a Revenue determination

A person who does not consider himself or herself to be a liable person is required to send a written notification to Revenue within 30 days after the date on the Revenue notice to that person requesting a LPT return.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

There is no statutory time limit for Revenue to make its determination.

3.4. Notification of Revenue determination

The Revenue determination need not be based solely on the information provided by a person in his or her request for the determination. Every effort should be made to establish the full facts before a determination is made. Revenue may discuss the matter with the person, request additional information, seek clarification on the information provided and/or use alternative information sources as it considers appropriate.

Revenue is required to notify a person of its determination. This applies both where a person has specifically notified Revenue that he or she does not consider himself or herself to be a liable person and where a person has claimed an exemption on a return on a self-assessment basis with which Revenue does not agree. **A determination means a formal determination and not merely a response to a query and should be clearly stated as such.** A suggested form of wording for a determination is contained in the appendix along with other material that should be included in a notification of a determination. It is not possible to provide a ‘fixed’ template as a determination has to address the particular facts and circumstances of each case.

The reason for a determination, i.e. why it has been decided that the person is/is not a liable person, should be stated in the notification of the determination. This explanation should be reasonably comprehensive for a number of reasons. For example, it may serve to demonstrate that a matter is clear-cut or clarify the matter for a person and result in the submission of additional information that enables Revenue to issue a revised determination. It will also be useful to the TAC in understanding the grounds for any subsequent appeal.

The notification should advise the person of the next steps in the process. These will depend on the particular circumstances and might be:

- file a LPT return;
- pay LPT liability based on the person’s valuation of his or her property or agree a phased payment arrangement with Revenue;
- claim a deferral; or
- appeal against the Revenue determination (this step requires the payment of the Revenue estimate).

Where Revenue determines that a person is **not** a liable person, the person should be advised that he or she does not have to take any action on receipt of the determination until the following valuation date (i.e. 1 November 2021) unless his or her circumstances change in the meantime.

Where a determination has been made and further information subsequently becomes available that results in Revenue changing its view that the person is a liable person, a revised determination should be made.

3.5. Appealing to the Tax Appeals Commission (TAC)

A person who disagrees with a Revenue determination that he or she is a liable person may appeal against the determination to the TAC. Such an appeal should be made within the period of 30 days after the date of the Revenue notification of the determination. However, the TAC may accept late appeals in certain circumstances. An appeal to the TAC must be made on a specific Notice of Appeal form which is available on the TAC website taxappeals.ie **LPT staff should consult the general Tax and Duty Appeals Manual for information on the procedures involved in appealing to the TAC.**

Unlike an appeal against, for example, a Revenue assessment, an appellant is not required to file a LPT return or to pay the amount of his or her self-assessed LPT liability before making an appeal. Instead, the amount stated in the Revenue Notice of Estimate must be paid pending the determination of the appeal by the TAC. However, this amount does not have to be paid upfront and may be paid by way of a phased payment arrangement agreed with Revenue. If the TAC subsequently determines that the appellant is not a liable person, any tax paid will be refunded.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

After an appeal against a Revenue determination is made, it proceeds in the same way as any other appeal, including the possibility of settling the matter by agreement with Revenue. Further details can be found in the general Tax and Duty Appeals Manual.

An appeal is about whether or not an appellant is a liable person and is not concerned with any other matter such as property valuation. If the TAC determines that the appellant is a liable person, a self-assessment of the LPT liability will then be required and this will displace the amount stated in the Revenue Notice of Estimate.

4. Appealing the amount of the LPT liability

The amount of a person's LPT liability will generally be based on the person's self-assessment of a property's chargeable value. A person **may not appeal his or her own self-assessment** of the liability. Where a person has not submitted a self-assessment, liability is based on either the amount stated in the Revenue Notice of Estimate or in a Revenue Notice of Assessment.

4.1. Revenue Notice of Estimate

Revenue included a Notice of Estimate of the LPT liability when it issued the LPT returns in 2013. This estimate amount became due if the liable person did not submit a self-assessment. This 'estimate' **may not be appealed** but it can be **displaced at any time** by a liable person's self-assessment. It will be discharged where Revenue or the TAC subsequently determines that a person is not a liable person.

4.2. Revenue assessment

Under section 55 Finance (Local Property Tax) Act 2012 (as amended), Revenue may make an assessment where:

- a self-assessment or a Revenue estimate has not been made, or
- a Revenue officer has reason to believe that the self-assessment that was made was too low.

Where a Revenue assessment is made, a Notice of Assessment issues to the liable person. This notice should advise a liable person of his or her entitlement to appeal against the assessment and how to do this. A liable person who disagrees with the assessment (or with an amended assessment) may appeal against the assessment to the TAC. Such an appeal should be made within the period of 30 days after the date of the Notice of Assessment. However, the TAC may accept late appeals in certain circumstances. An appeal to the TAC must be made on a specific Notice of Appeal form which is available on the TAC website taxappeals.ie **LPT staff should consult the general Tax and Duty Appeals Manual for information on the procedures involved in appealing to the TAC.**

An appeal may not be made unless the liable person has already filed a LPT return and paid, or arranged to pay, the amount of his or her self-assessment.

4.2.1. Time limit for making a Revenue assessment

There is a 4-year time limit on the making of a Revenue assessment unless the LPT return that was filed did not contain a full and true disclosure of all matters necessary for the establishment of the correct liability. A liable person who considers that this time limit has been breached may appeal to the TAC. An appeal may not be made unless the liable person has already filed a LPT return and paid, or arranged to pay, the amount of his or her self-assessment.

5. Appealing the refusal of a claim for repayment

Section 26 of the Finance (Local Property Tax) Act 2012 (as amended) entitles a person to a repayment of LPT where tax is not due or would not have been due but for an error or mistake made by the person. However, Revenue does not have to make a repayment where:

- a claim for repayment has not been made;
- the claim for repayment is made more than 4 years after the end of the year in which the relevant liability date fell;
- a true and complete LPT return has not been filed;
- information reasonably required by Revenue to enable it to determine if the repayment is due has not been provided;
- LPT, or a tax/duty other than LPT, is due and payable by the liable person¹; or
- a return in respect of a tax/duty other than LPT has not been filed.²

A Revenue decision not to make a repayment may be appealed to the TAC within 30 days after the date of the decision in the same way as an assessment may be appealed – see [section 4.2](#).

6. Appealing a determination about eligibility for a deferral

Where Revenue decides that a person is not eligible for a deferral, it must make a formal determination on the matter and notify the person accordingly. The determination should be worded as follows:

“Under section 135(1) of the Finance (Local Property Tax) Act 2012 (as amended), I hereby notify you of my determination that you are not eligible for a deferral under section XX of this Act.” The relevant section, depending on the type of deferral claimed should be inserted. These are:

- section 132 - gross income thresholds;
- section 133 – gross income thresholds increased by mortgage payments;
- section 133A – personal representatives of deceased liable person;
- section 133B – formal personal insolvency arrangements;
- section 133C – excessive financial hardship.

¹ Section 960H(2)(a) TCA 1997 (Offset between taxes) is applied to LPT.

² Section 960H(2)(b) TCA 1997.

The notification should also contain a comprehensive explanation of the reason for the Revenue determination and advise the liable person of his or her entitlement to appeal the determination and how to do this. The same procedure applies whether the deferral is the type of deferral that is statutorily allowed and claimed on a self-assessment basis or whether it must be specifically requested and approved in cases of potential hardship. The material contained in [section 3.4](#) in relation to determinations as to whether a person is a liable person is also relevant for deferral determinations as is the material in the appendix.

The Revenue determination may be appealed to the TAC within 30 days after the date of the determination in the same way as an assessment may be appealed – see [section 4.2](#).

7. Appealing against late Revenue actions/enquiries

Section 141(2) Finance (Local Property Tax) Act 2012 (as amended) puts a 4-year time limit on enquiries or actions by a Revenue officer in relation to specified LPT matters. The 4-year period commences on 1 January after the year in which the relevant liability date falls. A liable person who considers that Revenue has breached this 4-year time limit may appeal to the TAC within 30 days after the date of the enquiry/action in the same way as an assessment may be appealed – see [section 4.2](#).

Appendix

Material for inclusion in a notification of a Revenue determination as to whether or not a person is a liable person

The making and notification of a Revenue determination as to whether or not a person is or is not a liable person is discussed in section 3 above. The headings below contain suggestions on the components of such a notification. It is not possible to provide a 'fixed' template as a determination has to address the facts and circumstances of the particular case. The formal determination itself is the most important component as this is what may be appealed to the TAC.

Date

The date of the notification must be included as a person who wants to appeal a determination is required to do so within 30 days after the date on the notification.

Subject matter of notification

"Re: Revenue determination under section 34(2) Finance (Local Property Tax) Act 2012 (as amended)"

Formal determination

"Under section 34(2) Finance (Local Property Tax) Act 2012 (as amended), I hereby notify you of my determination that you are/are not **(delete as appropriate)** a liable person in relation to the property situated at the address below in relation to the liability date 1 May 2013/1 November YYYY **(delete as appropriate)**."

Reason for determination

The person should be advised of the reason for the determination, i.e. why Revenue decided that he or she is/is not a liable person. This explanation should be reasonably comprehensive, particularly where Revenue determines that the person is a liable person.

Entitlement to appeal

"If you do not agree with this determination, you may appeal to the Tax Appeals Commission. This is an independent body that adjudicates on disputes between Revenue and taxpayers. You have 30 days after the date on this notification to make an appeal. The Notice of Appeal that you must submit to the Tax Appeals Commission is available on its website taxappeals.ie. The address is Fitzwilliam Court, 2 Leeson Close, Dublin 2, D02 YW24, the email address is info@taxappeals.ie and the phone number is (01) 6624530.

Before you can appeal, you must....” **(Describe what the person is required to do; for example, file a return and pay/ arrange to pay. This will depend on the particular facts and circumstances).**

You should note that the fact that a matter is being appealed does not affect the due date for payment of the LPT liability. If the Tax Appeals Commission determines that you are a liable person, you will be charged interest where your LPT liability is not paid on time. LPT is payable on 1 July 2013 for 2013 and on 1 January in each year thereafter. Interest is calculated on the amount of any late payment (at the daily rate of 0.0219%) from these payment dates until the date that payment is made. If the Tax Appeals Commission determines that you are **not** a liable person and you have paid LPT, Revenue will repay this LPT (with interest), as long as you do not owe any other type of tax or duty”.

Next steps where determination is accepted

“If you accept this determination and do not wish to appeal it to the Tax Appeals Commission, you should now...” **(Describe what the person is required to do, for example, file a return and pay/ arrange to pay, claim a deferral if eligible. This will depend on the particular facts and circumstances).**