

# Appeals

## Part 09-01

This document should be read in conjunction with the Finance (Local Property Tax) Act 2012 (as amended) and 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 either the independent Tax Appeals Commission or the Land Values Reference Committee. This Tax and Duty Manual (TDM) is mainly concerned with the LPT matters that can be appealed. These are set out in [sections 4 to 7](#) below. The general Tax and Duty Appeals TDM<sup>1</sup> should be consulted for guidance on the generic appeals process as it applies to all the taxes and duties dealt with by Revenue, including LPT.

Consequential amendments resulting from the reform of the tax appeals system by the Finance (Tax Appeals) Act 2015 entailed the deletion of all the provisions originally contained in Part 9 (Appeals) of the Finance (Local Property Tax) Act 2012 (as amended) and their replacement by Part 40A of the Taxes Consolidation Act (TCA) 1997. However, for convenience, this TDM retains its original 'Part 09' title as the LPT-specific appeal provisions are spread throughout the Finance (Local Property Tax) Act 2012 (as amended).

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 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 (see [www.revenue.ie](http://www.revenue.ie) for details).

## 2. Legislation

### 2.1. Appeals to the Tax Appeals Commission (TAC)<sup>2</sup>

Apart from the statutory basis providing for rights of appeal contained in the individual taxes Acts, generic appeal provisions relating to all the taxes and duties dealt with by Revenue, including LPT, are contained in Part 40A Taxes Consolidation Act (TCA) 1997. Part 40A deals with the appeal process in so far as it relates to the TAC, from the making of an appeal to the publication of the TAC determination and an appeal to the High Court against this determination.

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<sup>1</sup> TDM available under separate 'Appeals' category. It's not possible to provide a direct link to this TDM as most of it has been marked exempt for FOI purposes.

<sup>2</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.

For a right of appeal to exist, there must be a statutory basis for the appeal. In this regard, “**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). Section 949A also includes LPT in the definition of “**tax**”. The LPT appealable matters (see [sections 4, 5](#) and [7](#) below for details) are:

- refusal of a claim for repayment (section 26(4));
- determination that a person is a liable person for LPT (section 34);
- determination that a property is not eligible for an exemption (section 41B);
- specification of a designated liable person where a property is jointly owned (section 43);
- a Revenue assessment where the dispute is not about valuation (section 59(1) – see following section 2.2 in relation to valuation appeals);
- determination that a liable person is not eligible for a deferral (section 135);
- Revenue action/enquiry outside the 4-year time limit (section 142);
- obligation to submit an electronic return (S.I. No. 572/2014); and
- an income tax assessment in relation to an LPT-generated surcharge (section 959AF TCA 1997).

## 2.2. Appeals to the Land Values Reference Committee (LVRC)

In accordance with section 59(1A), an appeal against a Revenue assessment on the grounds that Revenue’s valuation of a property is too high is to be made to the LVRC and not to the TAC. The relevant ‘parent’ legislation is the Finance (1909 – 1910) Act 1910 (relevant section 33) (as amended by the Property Values (Arbitrations and Appeals) Act 1960) in relation to making an appeal and the provisions in Part 1 that relate to appeals. The rules governing the appointment of property arbitrators and the appeals procedures are contained in two sets of Regulations: Land Values (Referees) (Ireland) Rules 1911 (S.I. 414/1911) and Property Values (Arbitration and Appeals) Rules 1961 (S.I. 91/1961).

## 3. Outline of the tax appeals process

A broad outline of the appeals process in relation to both the Tax Appeals Commission and the Land Values Reference Committee is set out below. In view of their importance to the appeals process, the role of Revenue’s central Appeals Unit and the arrangements for caseworkers to identify and object to invalid appeals are also described.

### 3.1. Tax Appeals Commission

The Tax Appeals Commission (TAC) is an independent body that adjudicates and determines disputes between Revenue and taxpayers in relation to all the taxes and duties dealt with by Revenue. There are detailed statutory provisions in Part 40A TCA 1997 setting out the procedures to be followed.

These provisions, in so far as the TAC is concerned, are set out in detail in the general Tax and Duty Appeals TDM<sup>3</sup>. This is a generic process for all tax and duty appeals, including LPT.<sup>4</sup> In summary, the process broadly involves the following steps:

- Revenue notifies taxpayer of assessment/decision;
- taxpayer sends Notice of Appeal to TAC within 30 days of Revenue assessment/decision (but TAC can allow late appeals);
- TAC notifies Revenue's central Appeals Unit (see [section 3.3](#) below) of new appeal;
- Appeals Unit contacts relevant Revenue branch/caseworker;
- Caseworker checks validity of appeal (see [section 3.4](#) below);
- Caseworker may object to TAC
- TAC decides to accept or reject appeal;
- Revenue and appellant provide written submissions to TAC;
- TAC holds hearing or determines appeal based on written submissions;
- TAC issues determination followed by publication on its website; and
- possible appeal against TAC determination to High Court.

All the above steps may not necessarily happen as an appeal may be settled at any stage before a TAC determination by agreement between Revenue and an appellant.

### 3.2. Land Values Reference Committee (LVRC)<sup>5</sup>

The LVRC is a long-established body<sup>6</sup> that is part of the [Courts Service](#). Its main function is to appoint a property valuation specialist (property arbitrator), to settle disputes about the value of property. This mainly involves the compulsory acquisition of land and the amount of compensation to be paid. Since the establishment of the LVRC, property arbitrators have also been appointed to settle disputes between Revenue and taxpayers in relation to taxable property values for duties such as estate and succession duty, stamp duty and excise duties. Currently, property valuation appeals for capital acquisitions tax, stamp duty, domicile levy and LPT are to be determined by a property arbitrator.

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<sup>3</sup> As per footnote no. 1.

<sup>4</sup> Section 949A TCA 1997 definition of "Acts" includes Finance (Local Property Tax) Act 2012 (as amended) and the definition of "tax" includes LPT.

<sup>5</sup> Comprises the Chief Justice, the President of the High Court and the President of the Society of Chartered Surveyors Ireland. It operates as part of the Courts Service

<sup>6</sup> Established in 1919.

The statutory basis for the appeals process involving a property arbitrator is very old (see [section 2.2](#) above) and does not have the same level of detail and prescription as that involving the TAC. In modern times, the number of tax and duty appeals referred to the LVRC has been negligible. In practice, issues about property valuation are settled by agreement between Revenue and taxpayers without going through formal appeal channels.

In summary, the process broadly involves the following steps:

- taxpayer sends Notice of Appeal to LVRC within 30 days of Revenue assessment;
- LVRC can allow late appeals but gives Revenue opportunity to object;
- taxpayer copies Revenue with Notice of Appeal;
- LVRC appoints a property arbitrator (from a panel) and notifies taxpayer and Revenue and then ceases to have any role in the appeal;
- Revenue and appellant provide written submissions to property arbitrator;
- property arbitrator holds hearing;
- property arbitrator issues written determination to taxpayer, Revenue and LVRC; and
- possible appeal against determination to High Court.

### 3.3. Revenue's Appeals Unit

The Appeals Unit ([TaxAppealsUnit@revenue.ie](mailto:TaxAppealsUnit@revenue.ie)), which operates out of the RLS, is responsible for a number of appeals-related functions, including communicating notifications from the TAC to Revenue caseworkers, uploading new notices of appeal from the TAC to RCM<sup>7</sup> and generally advising caseworkers about TAC-related matters. The Appeals Unit is responsible for liaising with the TAC at an 'oversight' level and does not have any responsibility for individual tax appeals. However, it is a useful resource for caseworkers dealing with appeals in relation to getting guidance on the appeals process, the procedures that must be followed and the appropriate approach to take when dealing with the TAC.

The TAC notifies Revenue of all new appeals via the Appeals Unit. Appeals for most tax heads are uploaded to RCM by the Appeals Unit and assigners in each Branch then forward the appeal to the relevant caseworker. However, a different process is used for LPT appeals which avoids new appeals being assigned by RCM to a liable person's 'home' Branch (based on the PPSN) and allows the appeal to be referred by the Appeals Unit, in the first instance, to the LPT Branch in Ennis ([LPTAppealsGroup@revenue.ie](mailto:LPTAppealsGroup@revenue.ie)) who open an 'Aspect Query' in RCM. The Appeals Unit then uploads the appeal to RCM.

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<sup>7</sup> Revenue Case Management system for recording compliance interventions, including appeals.

### 3.4. Valid appeals

The TAC is required to provide Revenue with the opportunity to object to the acceptance of an appeal. The main basis for objection is that the appeal is **not a valid appeal**.<sup>8</sup> There are essentially only two requirements for a valid appeal. These are that:

- the appeal relates to an “appealable matter”; i.e., there is a statutory right to make the appeal; and
- any conditions that are required to be met before the appeal can be made have been met.

#### 3.4.1. Appealable matter

The various LPT appealable matters are set out in [sections 4, 5 and 7](#) below. As set out in [section 2.1](#) above in relation to an “appealable matter”, for a right of appeal to exist, **there must be a statutory basis for the appeal**. The wording used in tax legislation (including LPT legislation) to provide for a right of appeal is standardised as far as possible to ensure clarity. For example, the right of appeal against an LPT assessment is contained in section 59 as follows:

*“A person aggrieved by a Revenue assessment made on that person may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Act<sup>9</sup> of 1997, within the period of 30 days after the date of the notice of assessment.”*

Depending on the particular appealable matter, the word “assessment” is replaced in the relevant legislation by “determination”, “decision”, “action”, “refusal”, or whatever it is that can be appealed. For example, the right of appeal against a Revenue determination that a person is a liable person (see the following section 4) is contained in section 34(3) as follows:

*“Where a person is aggrieved by the **determination** referred to in subsection (2), he or she may appeal the **determination** to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of that **determination**.”*

An appeal made directly to the TAC, **in the first instance**, on the grounds that a person is not a liable person is not a valid appeal. Instead, the appealable matter is a (preliminary) Revenue determination that the person is a liable person (see the following section 4). Therefore, where a person appeals to the TAC without first obtaining a Revenue (appealable) determination, LPT caseworkers should object to the acceptance of the appeal as it is not a valid appeal.

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<sup>8</sup> Sections 949J to 949L TCA 1997.

<sup>9</sup> Taxes Consolidation Act.

A Revenue assessment where the matter in dispute is the valuation of a property can be appealed (see [section 6](#) below). However, it does not come within the definition of an “appealable matter” as such as this is relevant only in relation to an appeal that can be made to the TAC.<sup>10</sup> Instead, such an appeal must be made to the Land Values Reference Committee. Therefore, where a person appeals a property valuation matter to the TAC, LPT caseworkers should object to the acceptance of the appeal as it is not a valid appeal.

#### 3.4.2. Conditions to be satisfied before appeal made

A person may not appeal a Revenue determination that he or she is a liable person unless he or she has paid, or arranged to pay, the Revenue Estimate (see [section 4.5](#) below).

A liable person may not appeal a Revenue assessment unless he or she has already filed an LPT return and paid the amount of his or her self-assessment.<sup>11</sup>

In the case of a late appeal (made more than twelve months after the standard 30-day timeframe allowed), a liable person may not appeal a Revenue assessment unless he or she has paid the amount of the Revenue assessment, including any accrued interest, instead of the amount of a self-assessment.<sup>12</sup>

#### 3.4.3. Responding to the TAC

Following the TAC notification of a new appeal, the LPT caseworker should establish if the appeal is a valid appeal based on it being an “appealable matter” and the appellant meeting any conditions that are required to be met before an appeal can be made. The caseworker should respond to the TAC confirming either that the appeal is valid or not valid and, if not valid, that Revenue objects to the acceptance of the appeal. The reason for an objection should be clearly stated, **quoting the relevant statutory reference(s)**. For example:

- the disputed matter is not an “appealable matter” (section 949J(1) TCA 1997);
- the person has not obtained a (preliminary) Revenue determination that he or she is a liable person – not an appealable matter without this determination (section 34(2) and (3));
- the liable person has not filed a return and/or not paid his or her self-assessed liability when appealing a Revenue assessment (section 59(2));
- the jurisdiction for appeals against Revenue assessments relating to a property valuation is assigned to the Land Values Reference Committee and not to the TAC (section 59(1A)).

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<sup>10</sup> Part 40A TCA 1997 does not apply to the Land Values Reference Committee.

<sup>11</sup> Section 59(2).

<sup>12</sup> Sections 949L(1) and 949O(3) TCA 1997.



Establishing whether an appeal is a valid appeal should not be a difficult process. **Every effort should be made to respond to the TAC within 30 days** after the notification of a new appeal as the TAC is not required to have regard to a Revenue objection in deciding whether to accept an appeal outside of this timeframe.<sup>13</sup> However, where this timeframe cannot be met, caseworkers should still notify an objection to the TAC as the TAC can change its decision to accept an appeal where it subsequently becomes aware that an appeal is not a valid appeal.<sup>14</sup>

Other than objecting to the acceptance of an invalid appeal, caseworkers should refrain from commenting on certain other matters, such as whether the appeal was made on time or whether the Notice of Appeal was completed correctly. These are matters solely for the TAC which has the final decision on the acceptance or refusal of an appeal.

Where a return has been filed but the self-assessed amount has not been paid, or has not been paid in full, the caseworker should advise the TAC of the liability and the amount paid against this.

Where it seems that the TAC, in proceeding to advance an appeal, has not had regard to a Revenue objection, caseworkers should nevertheless comply with any TAC directions (for example, a request for a Statement of Case) but should continue to remind the TAC of their grounds for objecting to the acceptance of the appeal.

LPT caseworkers are not required to revert to the Appeals Unit but should respond directly to the TAC by email ([info@taxappeals.ie](mailto:info@taxappeals.ie)) and copy the Appeals Unit ([TaxAppealsUnit@revenue.ie](mailto:TaxAppealsUnit@revenue.ie)) on all correspondence. The reference assigned by the TAC to an appeal should be used in all communications with the TAC.

The TAC is required to notify the appellant of any Revenue objection and to give the appellant an opportunity to respond to the objection.<sup>15</sup>

#### 4. Appeal about whether a person is a liable person

An appeal about whether a person is a liable person in relation to a residential property is the most common matter appealed. It 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. There may be a number of aspects to such an appeal: whether a property is a residential property, whether it qualifies for an exemption, whether a person holds a sufficient interest in the property to be treated as a liable person or whether the interest in the property is held on a particular liability date.

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<sup>13</sup> Section 949L(2) TCA 1997.

<sup>14</sup> Section 949N(1) TCA 1997.

<sup>15</sup> Section 949L(3) TCA 1997.

Revenue may require a person to file an LPT return where it has reason to believe that the person may be a liable person in relation to a particular residential property.<sup>16</sup> A person who considers that he or she is not such a liable person may request a determination from Revenue on the matter (see following section 4.1). A Revenue determination is then the ‘appealable matter’ for the purpose of having a right to appeal to the TAC.<sup>17</sup> Therefore, where the person disagrees with the Revenue determination, he or she may appeal that determination to the TAC.

#### 4.1. Basis on which a Revenue determination may be requested

The basis on which a person can request a Revenue determination about his or her status as a liable person must relate to section 3 or Part 3.<sup>18</sup> This means that the permitted reasons for a person to claim that he or she is not a liable person must relate to either a property (section 3) or to the interest that the person holds in a property (Part 3).

A request for a Revenue determination by a person who does not have the required statutory basis for the request should be refused. Examples of requests that should be refused are those relating to matters involving the ownership of a property in the State by a person who is not resident in the State or the occupation of a property as a person’s sole or main residence. Residency in the State is not a requirement for liability to LPT and **all** residential properties are chargeable to LPT, whether occupied or not, and regardless of the reason for occupation (subject, of course, to any available exemptions).

##### 4.1.1. Section 3

The relevant matters referred to in section 3 are whether a property:

- is situated in the State; or
- is a “residential property” (meaning set out in section 2A) on a liability date;

Therefore, there may be a number of reasons why a person might be uncertain about a particular matter or disagree with Revenue’s view on the matter and wish to obtain a Revenue determination.

While the matter of whether a property is situated in the State will generally be clear-cut, there may be uncertainty about the precise location of a property that is situated close to, or straddles, the border between the Republic of Ireland and Northern Ireland.

A residential property is one that is in use as, or that is suitable for use as, a dwelling. Suitability for use as a dwelling is essentially about whether a property is uninhabitable because it has not yet been completed on a liability date or it is in a

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<sup>16</sup> Section 33.

<sup>17</sup> Section 34(3).

<sup>18</sup> Section 34(1)(c).

very poor state of repair. This can be a very subjective judgement and a potential liable person may wish to obtain a Revenue determination on the matter.

Another aspect of what constitutes a residential property is whether the property is a structure that is permanently attached to the ground. This aspect is contained in the definition of “building”, which in turn, feeds into the definition of “residential property” and is therefore covered by section 3.

What constitutes a residential property for LPT purposes is considered in detail in the TDM “Meaning of a residential property” [Part 01-01](#).

#### 4.1.2. Part 3

In relation to Part 3, the relevant matters are whether a person holds the required interest in a property to be a liable person or is a liable person for some other reason.<sup>19</sup> The interest that is required to be held for a period of at least 20 years is either:

- an entitlement to the immediate possession of the property, **or**
- an entitlement to the rents or profits earned from the property.

This interest has a wide scope and includes freehold interests, long leasehold interests and life interests. Interests held by trustees, personal representatives of deceased people and mortgagees in possession may also be relevant.

Revenue may 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.<sup>20</sup> It would be expected that the person’s rebuttal would take the form of producing evidence that he or she does not hold the required interest in the property to make him or 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 being a liable person depends on the holding of any of a broad range of interests in a property, it may happen that people who have interests that are less than full ownership (holder of the freehold interest) may notify Revenue that they do not consider themselves to be liable persons because of a mistaken understanding of the statutory position. The Revenue determination would then set out the relevant statutory position.

There has been uncertainty about whether a person selling a property still held the required interest on a particular 1 November liability date when the sale was at the ‘contract for sale’ stage. Revenue’s view is that a seller continues to be the liable person until a sale of a property is completed and a purchaser acquires title to the property and does not cease to be the liable person at the earlier stage when a contract for sale is first entered into. This view was upheld by the TAC in its determinations 16TACD2017 and 91TACD2020 – see [section 8](#) below.

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<sup>19</sup> Sections 11 and 12.

<sup>20</sup> Section 12.

Another area of possible uncertainty may be the revised arrangement in relation to long leases of properties to local authorities or approved housing bodies.<sup>21</sup> With a lease of at least 20 years, the usual position is that the lessee becomes the liable person instead of the property owner. However, this arrangement does not apply with a local authority or approved housing body lessee and the property owner continues to be treated as the liable person. As a consequence, such properties do not fall into the lowest valuation band (which is the norm where a local authority or an approved housing body is the liable person) but instead have to be valued at their market value. The revised treatment applies to leases entered into on or after the 1 November 2021 liability date for LPT payable for the year 2022. Existing leases in place before 1 November 2021 are not affected and the local authority or approved housing body lessee continues to be the liable person in respect of the leased property.

## 4.2. Exempt properties

Sections 4 to 10D provide for a number of exemptions (see overview in TDM [Part 02-01](#)). For the years preceding 2022, a right to appeal against the refusal of an exemption required a ‘preliminary’ Revenue determination that a person was a liable person. The basis for a request for a determination was that section 3 (see [section 4.1.1](#) above) is subject to sections 4 to 10D, which meant that if an exemption applied, a property was not regarded as a “relevant residential property” so that a person was not then a liable person. The reason for issuing an (appealable) Revenue determination that a person was a liable person would have been that he or she was not eligible for the exemption claimed.

This procedure no longer applies (as set out in [section 7.4](#) below) following amendments made by the Finance (Local Property Tax) (Amendment) Act 2021<sup>22</sup> that provide that:

- notwithstanding eligibility for an exemption, a liable person continues to be a liable person for the purposes of the LPT Act, other than being required to pay LPT;
- an exemption does not apply unless it is claimed; and
- a person has a right to appeal a Revenue determination that an exemption does not apply.

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<sup>21</sup> New subsection (1A) inserted in section 11 by the Finance (Local Property Tax) (Amendment) Act 2021 (section 19).

<sup>22</sup> Sections 6, 7 and 32 which inserted new sections 3A, 41A and 41B in relation to the requirement to claim an exemption and the right of appeal against a Revenue determination about eligibility for the exemption.

### 4.3. Notifying Revenue that a person is not a liable person<sup>23</sup>

A person who does not consider that he or she is a liable person is required to send a written notification to Revenue within 30 days of the date on the Revenue notice requiring the person to file an LPT return. There is no prescribed form for the notification. The notification must:

- explain why the person does not consider that he or she is a liable person and the explanation must relate to whether the property is a residential property on a liability date or the type of interest, if any, that he or she holds in the property;
- be accompanied by any relevant documentation that might support the person's contention that he or she is not a liable person; and
- 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.

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.

### 4.4. Notification of a Revenue determination

The Revenue determination need not be based solely on the information provided with the 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 that he or she is a liable person and where a person has claimed an exemption on a return on a self-assessment basis and Revenue has examined the claim.

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<sup>23</sup> Section 34.

**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 was 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 which may result in the submission of additional information that enables Revenue to issue a revised determination. It will assist the person in forming a view as to whether the decision/determination should be accepted or appealed. In the event of an appeal, it will also be useful to the TAC in understanding the grounds for the appeal.

The notification of a determination that the person is a liable person should advise the person of the next steps in the process. These will depend on the particular circumstances and might be to:

- file an LPT return;
- pay the LPT liability based on the person's self-assessed valuation of his or her property;
- claim a deferral or exemption; or
- appeal against the Revenue determination.

Where 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.

The issue of when a person may subsequently become a liable person, if his or her circumstances change, following the making of a Revenue determination, depends on the valuation date involved. In relation to the first valuation date 1 May 2013, a person who was not a liable person on that date did not become a liable person until the following valuation date 1 November 2021. However, in relation to the second valuation date 1 November 2021, a person whose circumstances change before the following valuation date (1 November 2025) could become a liable person on the 1 November liability date following the change in circumstances. A notification of a Revenue determination should indicate that the determination was made in relation to a past liability date(s) and that it will not necessarily apply to a future liability date(s) if circumstances change.

#### 4.5. Appealing a Revenue determination to the TAC<sup>24</sup>

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](http://taxappeals.ie). LPT caseworkers should consult the general Tax and Duty Appeals Manual for information on the procedures involved in appealing to the TAC.<sup>25</sup>

Unlike an appeal against, for example, a Revenue assessment, an appellant is not required to file an LPT return or to pay the amount of his or her self-assessed LPT liability before making an appeal. Instead, the Revenue Estimate must be paid pending the determination of the appeal by the TAC.<sup>26</sup> However, in the event of an appeal, Revenue is prepared to agree a phased payment arrangement instead of an upfront payment. 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.

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[...]

After an appeal against a Revenue determination is made, it proceeds in the same way as any other tax appeal, including the possibility of settling the matter by agreement with Revenue at any stage before the TAC make a determination.

An appeal to the TAC is about whether an appellant is a liable person and should not be concerned with any other matter such as property valuation. If the TAC determines that the appellant is a liable person, an LPT return and a self-assessment of the chargeable value of a property will then be required and this will displace the Revenue Estimate. If there is an outstanding LPT liability, interest on late payment will be due from the original 1 January payable date.

## 5. Appealing the amount of the LPT liability

The amount of a person's LPT liability will generally be based on his or her self-assessment of a property's chargeable value.<sup>27</sup> Where a person has not submitted a self-assessment, liability is based on either the amount stated in a Revenue Notice of Estimate or in a Revenue Assessment. While a person may not appeal a Revenue Estimate, this can be displaced by a self-assessment. A person **may not appeal his or her own self-assessment** of the liability.

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<sup>24</sup> Section 34(3).

<sup>25</sup>As per footnote no. 1.

<sup>26</sup> Section 49.

<sup>27</sup> Sections 52 and 53.

An appeal against a Revenue assessment on the grounds that Revenue's valuation of a property is too high is to be made to the Land Values Reference Committee and not to the TAC<sup>28</sup> - see [section 6](#) below. Although this change was only made in respect of LPT payable for the year 2022 onwards, the TAC had not previously made any determinations in relation to the valuation of a property.

### 5.1. Revenue Estimate<sup>29</sup>

Notices of Estimate of the LPT payable were issued to liable persons by Revenue in relation to the filing of returns for the two previous valuation dates. The estimate amount stated in the notice was to become payable if the liable person did not submit a self-assessment. While a Revenue Estimate cannot be appealed, it can be displaced by a liable person's self-assessment or by a Revenue assessment which can then be appealed (as set out in the following section 5.2). A Revenue Estimate will be discharged if Revenue (or the TAC) subsequently determines that a person is not a liable person.

### 5.2. Revenue assessment<sup>30</sup>

Revenue may make an assessment where:

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

There is a 4-year time limit (starting on 1 January following the relevant 1 November liability date) 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.<sup>31</sup> Where Revenue makes an assessment, it must issue a Notice of Assessment to the liable person. Where the assessment is subsequently amended, an amended Notice of Assessment should be issued.

A Notice of Assessment should advise the liable person of his or her entitlement to appeal against the assessment and how to do this. Unless, the ground for an appeal is that Revenue's valuation of a property is too high (see the following section 6), a liable person who disagrees with the assessment (or with a later 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](http://taxappeals.ie).

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<sup>28</sup> Section 59(1A), inserted by the Finance (Local Property Tax) (Amendment) Act 2021 (section 35).

<sup>29</sup> Sections 47 to 50.

<sup>30</sup> Sections 55 to 58.

<sup>31</sup> Section 58(2).



LPT caseworkers should consult the general Tax and Duty Appeals Manual<sup>32</sup> for information on the procedures involved in appealing to the TAC. The 'template' for a notice of determination in the [Appendix](#) may be adapted for a Notice of Assessment.

The grounds for an appeal against an assessment must be stated in a Notice of Appeal. These may be that a liable person considers that the 4-year time limit has been breached without a valid basis for doing so and that the assessment should be discharged. Other grounds for an appeal against an assessment relate to the 4-year time limit on the making of enquiries or the taking of actions by Revenue officers - see [section 7.5](#) below for details. In all instances, an appeal may not be made unless the liable person has filed an LPT return and paid the amount of his or her self-assessment.<sup>33</sup> See [section 3.4](#) above in relation to objecting to the acceptance of an invalid appeal by the TAC.

In the unlikely event that Revenue makes an assessment without having already made a determination that a person is a liable person, section 60 provides for a situation where a person responds to a Notice of Assessment by claiming not to be a liable person. If this happens, the claim is treated as if Revenue had required the person to file a return and the process set out in [section 4](#) above then applies.

## 6. Appeals involving property valuation

An appeal against a Revenue assessment on the ground that Revenue's valuation of a property is too high is to be made to the Land Values Reference Committee (LVRC) (see [sections 2.2](#) and [3.2](#) above) and not to the TAC.<sup>34</sup> The LVRC appoints a valuation expert called a property arbitrator (from a panel of arbitrators) to determine the disputed property value. LPT is now included with some other taxes and duties whose appeals are subject to this process; i.e., capital acquisitions tax, stamp duty and the domicile levy. Tax and duty appeals made to the LVRC would have been more common in the pre self-assessment era but, in recent times, the number of such tax and duty appeals has been negligible.

In practice, issues about property valuation tend to be settled by agreement between Revenue and taxpayers without going through formal appeal channels.

The statutory basis for the appeals process involving a property arbitrator is very old (see [section 2.2](#) above) and does not have the same level of detail and prescription as that involving the TAC. The appeals process provided for by Part 40A TCA 1997 does not apply to the LVRC or a property arbitrator. There are, however, some similarities in the procedures that apply.

The rules governing the appointment of property arbitrators and the appeals procedures are contained in two sets of Regulations: Land Values (Referees) (Ireland) Rules 1911 (S.I. 414/1911) and Property Values (Arbitration and Appeals) Rules 1961

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<sup>32</sup> As per footnote no. 1.

<sup>33</sup> Section 59(2).

<sup>34</sup> Section 59(1A), inserted by the Finance (Local Property Tax) (Amendment) Act 2021 (section 35).

(S.I. 91/1961) and in the Property Values (Arbitrations and Appeals) Act 1960. These are the basis for the following procedures:

- appellant to submit Notice of Appeal to LVRC within 30 days after Revenue Notice of Assessment;
- LVRC discretion to extend 30-day timeframe following written application from appellant stating reason for extension;
- LVRC copying Revenue on application for extension and providing opportunity to object;
- LVRC appointing property arbitrator and forwarding on Notice of Appeal to appointee;
- LVRC notifying appellant and Revenue of appointment of property arbitrator and his or her contact details;
- prohibition of new grounds of appeal not stated in Notice of Appeal, unless approved by property arbitrator;
- appellant and Revenue to send submissions to property arbitrator;
- property arbitrator to arrange venue and time for hearing with appellant and Revenue;
- property arbitrator to send written determination to appellant and Revenue;
- property arbitrator can award costs of proceedings;
- property arbitrator to state case for High Court if determination appealed on a point of law;
- Revenue to amend its assessment if different valuation determined by property arbitrator.

The legislation doesn't prescribe a specific form for the Notice of Appeal other than that it should specify the matter to which the appeal relates and give particulars of the grounds for the appeal. However, there is a form (called 'Application for the nomination of a property arbitrator') at this link to the [Courts Service](#) website that must be completed by an appellant and submitted to the secretary to the LVRC.<sup>35</sup> While this form reflects the primary function of an LVRC appointed property arbitrator in relation to the amount of compensation to be paid for the compulsory acquisition of land rather than a tax appeal, an appellant is expected to adapt the form for the purposes of an LPT valuation appeal and to disregard any sections of the form that are not relevant.

## 7. Other categories of appeal

There are a number of non-assessment matters that can be appealed to the TAC. These generally relate to Revenue decisions and are set out in sections 7.1 to 7.7 below. They are:

- the refusal of a claim for repayment;
- the specification of a designated liable person;
- a determination about eligibility for a deferral;
- a determination about eligibility for an exemption;
- Revenue actions/enquiries outside 4-year time limit;
- the imposition of an income tax surcharge; and
- the requirement to file an electronic return.

Where the appealable matter is a Revenue decision/determination, the notice of the decision/determination should advise the liable person of his or her entitlement to appeal against the decision/determination and how to do this, including that an appeal should be made to the TAC within 30 days after the date of the notice. The appeal procedure is the same as that for an appeal against a Revenue assessment set out in [section 5.2](#) above.

The notification of the Revenue decision/determination should contain a comprehensive explanation of the reason for the decision/determination. This will assist the person in forming a view as to whether the decision/determination should be accepted or appealed. In the event of an appeal, the notification will be sent to the TAC along with the Notice of Appeal and will facilitate the TAC in understanding the grounds for the appeal.

While the 'template' in the [Appendix](#) is intended for use with determinations as to whether or not a person is or is not a liable person, it can be adapted for other types of Revenue decision or determination, particularly for a determination that a person is not eligible for a claimed exemption or a deferral.

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<sup>35</sup> Supreme Court Office, Four Courts, Dublin 7, [patriciacuddihy@courts.ie](mailto:patriciacuddihy@courts.ie).

### 7.1. Refusal of a claim for repayment<sup>36</sup>

A liable person is entitled to a repayment of LPT, on making a claim to Revenue, where tax is not due or would not have been due but for an error or mistake made by the person. However, Revenue is precluded from making 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; or
- LPT, or a tax/duty other than LPT, is due and payable by the liable person or a return in respect of such a tax/duty has not been filed.<sup>37</sup>

### 7.2. Designated liable person<sup>38</sup>

Where a property is jointly owned the LPT return is to be prepared and filed by only one of the liable persons, known as the designated liable person. It is generally a matter for the liable persons themselves to select the designated liable person. However, in certain circumstances, Revenue may select the designated liable person in accordance with specified criteria. Where this happens, Revenue must notify all the liable persons of its decision. Any of the liable persons may then appeal this decision to the TAC.

### 7.3. Eligibility for a deferral<sup>39</sup>

Where Revenue decides that a liable person is not eligible for a deferral, it must make a formal determination on the matter and notify the person accordingly. The determination to be included in the notice 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 XXX [*insert whichever of sections 132, 133, 133A, 133B or 133C applies*] of this Act.”

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 by Revenue in cases of potential hardship. The

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<sup>36</sup> Section 26.

<sup>37</sup> Section 960H(2)(a) TCA 1997 (Offset between taxes) is applied to LPT by section 158 and item 6 in the Schedule.

<sup>38</sup> Sections 42 and 43.

<sup>39</sup> Part 12 and section 135.

'template' for a notice of determination in the [Appendix](#) may be adapted for a notice of a deferral determination.

#### 7.4. Eligibility for an exemption<sup>40</sup>

Sections 4 to 10D provide for a number of exemptions (see overview of exemptions in TDM [Part 02-01](#)). An exemption does not apply unless it is claimed in a return.<sup>41</sup> A person who considers that an exemption applies claims the exemption in the LPT return on a self-assessment basis by inserting the appropriate exemption code.

If Revenue, having examined the claim for an exemption, then forms the view that a liable person is not eligible for the exemption, it must make a formal determination on the matter and notify the person accordingly. The determination to be included in the notice should be worded as follows:

*"Under section 41B of the Finance (Local Property Tax) Act 2012 (as amended), I hereby notify you of my determination that you are not eligible for an exemption under section XX [insert whichever of sections 4 to 10D applies] of this Act."*

The 'template' for a notice of determination in the [Appendix](#) may be adapted for a notice of an exemption determination.

#### 7.5. Revenue actions/enquiries outside 4-year time limit<sup>42</sup>

There is a 4-year time limit for Revenue officers to make enquiries or to take actions in relation to specified LPT matters. The 4-year period commences on 1 January after the relevant 1 November liability date. A liable person who considers that Revenue has breached this 4-year time limit may appeal to the TAC. Where an assessment has been made or amended, the appeal is to be made against the assessment (as set out in [section 5.2](#) above) on the grounds that the 4-year time limit has been exceeded. Where an assessment has not been made or amended, the 30-day period allowed for an appeal starts on the day after the day on which the Revenue officer makes the enquiry or takes the action.

In the event of an appeal, any action or enquiry must be suspended pending the TAC's determination of the appeal. In the event of a determination in favour of Revenue, the enquiry or action may then be resumed.

#### 7.6. Imposition of an income tax surcharge<sup>43</sup>

A late return filing surcharge in respect of income tax can be imposed where a liable person is not fully compliant with their LPT obligations (see TDM [Part 07-02](#) for details). In the normal course of events, a surcharge on the amount of income tax

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<sup>40</sup> Section 41B.

<sup>41</sup> Sections 3A and 41A, which commenced in relation to LPT payable for the year 2022 onwards.

<sup>42</sup> Sections 141 and 142.

<sup>43</sup> Section 38.

owed by a person is charged where the person's income tax return is not filed on time. However, even though the income tax return may be filed on time, an LPT-generated surcharge may also apply where a person has not filed all outstanding LPT returns, or has not paid whatever LPT is due, when the income tax return is filed.

The surcharge is an income tax surcharge, not an LPT surcharge, and does not appear on a liable person's LPT record. It has no connection with LPT other than being generated by non-compliance with LPT. The right of appeal against the imposition of a surcharge is therefore provided for by the TCA 1997 - section 959AF(1) (appeals against assessments) as a surcharge is included in an assessment under section 959C(6) TCA 1997.

Section 1084(1A) TCA 1997 restricts the grounds on which an appeal may be made to the TAC against an income tax surcharge that is imposed by section 1084(2). A limited number of exclusions apply including where the surcharge was generated by non-compliance with a liable person's LPT obligations in relation to filing a return and paying LPT.<sup>44</sup>

### 7.7. Requirement to file an electronic return<sup>45</sup>

A liable person who owns more than one residential property or who is required to file electronic returns in relation to any other taxes is required to file his or her LPT returns electronically. The *"Tax Returns and Payments (Mandatory Electronic Filing and Payment of Tax) Regulations 2014"* (S.I. No. 572/2014) provide for, inter alia, the categories of taxpayers who are required to file electronic returns. Under these Regulations, a liable person may request Revenue to exclude him or her from the requirement to file returns electronically on the basis of insufficient access to the internet or, age or mental or physical infirmity. A Revenue decision to not exclude the person can then be appealed to the TAC. However, in practice, this situation does not arise as Revenue assists liable persons experiencing difficulties to meet their electronic filing obligations.

## 8. LPT determinations published by TAC

The TAC has published four LPT determinations, summarised below. Full details are available on the [TAC website](#) by following the links to the determinations below.

### [16TACD2017](#)

This was an appeal against a Revenue determination that a person selling a property was a liable person on a 1 November liability date. The issue involved the date on which a person purchasing a property becomes a liable person by becoming entitled to the immediate possession of a property in accordance with section 11(1). Revenue's view is that a purchaser becomes the liable person when a sale of a property is completed and a purchaser acquires title to the property and not at the

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<sup>44</sup> Section 959AF(1A) provides for the exclusions, with paragraph (c) providing for the LPT exclusion.

<sup>45</sup> Section 44 and S.I. No. 572/2014 ("instruments" made under the primary Act are included in the definition of the "Acts" in section 949A TCA 1997 in relation to "appealable matters").

earlier stage when a contract for sale is first entered into, as was argued by the appellant in maintaining that the purchaser had become the liable person.

Revenue won this appeal but the appellant (seller) did not appeal the TAC determination to the High Court.

#### [09TACD2019](#)

This was an appeal against a Revenue determination that a person was a liable person because the properties involved were residential properties for LPT purposes. Revenue argued that properties used as student accommodation were in use as dwellings, as required by the definition of a “residential property” (section 2A), and that their use as student accommodation was not relevant.

Revenue won this appeal but the appellant did not appeal the TAC determination to the High Court.

#### [91TACD2020](#)

This was an appeal against a Revenue determination that a person was a liable person because the exemption that was claimed did not apply. The issue involved a person’s eligibility for the ‘first-time buyers’ exemption under section 8 and the qualifying condition that the property had to be purchased in the year 2013. The issue to be decided was essentially the same as in the earlier determination 16/TACD/2017; i.e., the date on which a sale of a property is completed and the purchaser acquires title to the property which is later than the date on which the contract for sale is first entered into.

Revenue won this appeal but the appellant did not appeal the TAC determination to the High Court.

#### [92TACD2020](#)

This was an appeal against a Revenue determination that a person was a liable person because one of the qualifying conditions for the exemption that was claimed subsequently ceased to be met. The issue involved a person’s eligibility for the ‘first-time buyers’ exemption under section 8 and the qualifying condition that the property had to continue to be occupied by the liable person as his or her sole or main residence. The TAC determined that, although the liable person had gone to live in the United States, the circumstances involved meant that he did not cease to use the property as required.

Revenue lost this appeal but, although it did not agree with the TAC’s reasons for its determination, decided not to appeal the TAC determination to the High Court.

## Appendix

### **‘Template’ for notification of a Revenue determination as to whether or not a person is a liable person**

Although this ‘template’ is intended for use with determinations as to whether or not a person is or is not a liable person, it can be adapted for other types of Revenue decision or determination, particularly for a determination that a person is not eligible for a claimed exemption or a deferral.

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 4](#) above. The headings below contain suggestions for the components to be included in 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.

#### **1. 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.

#### **2. Subject matter of notification**

“Re: Revenue determination under section 34(2) of the Finance (Local Property Tax) Act 2012 (as amended)”

#### **3. Formal determination**

“Under section 34(2) of the 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)**.”

#### **4. 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.

A comprehensive explanation will assist the person in forming a view as to whether the determination should be accepted or appealed. In the event of an appeal, the Revenue notice of the determination will be sent to the TAC along with the Notice of Appeal and will facilitate the TAC in understanding the grounds for the appeal.



## 5. Entitlement to appeal

The person should be advised of his or her right to appeal against the determination as follows:

“If you do not agree with this determination, you may appeal to the Tax Appeals Commission (TAC) in accordance with section 34(3) of the Finance (Local Property Tax) Act 2012 (as amended). 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 by completing and submitting a Notice of Appeal form to the TAC. The Notice of Appeal form, which is available on the TAC’s website [taxappeals.ie](http://taxappeals.ie), contains the address to which an appeal is to be sent. You are required to submit a copy of this Revenue determination with your Notice of Appeal. The TAC can be contacted by email at [info@taxappeals.ie](mailto:info@taxappeals.ie) and the phone number is (01) 6624530.

Before you can appeal, you must....” **(Describe what the person may be 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. LPT is payable on 1 January in each year. If the Tax Appeals Commission determines that you are a liable person, you will be charged interest if your LPT liability was not paid on time. Interest is calculated on the amount of any late payment (at the daily rate of 0.0219%) from the relevant 1 January until the date on which 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”.

## 6. 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/exemption if eligible. This will depend on the particular facts and circumstances).**

## 7. Timeframe for application of determination

The person should be advised of the liability date(s) covered by the determination.

In relation to the first valuation date 1 May 2013, a person who was not a liable person on that date did not become a liable person until the following valuation date 1 November 2021. However, in relation to the second valuation date 1 November 2021, a person whose circumstances change before the following valuation date could become a liable person on the 1 November liability date following the change in circumstances. After 1 November 2021, a notification of a Revenue determination should indicate that the determination was made in relation to a past liability date(s) and that it will not necessarily apply to a future liability date(s) if circumstances change.