



IRELAND – July 2022

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THOUSANDS STILL DEFYING REVENUE ON LOCAL PROPERTY TAX MONTHS AFTER DEADLINE

No return filed for 178,000 properties and owners may face hefty penalties

Thousands of homeowners continue to defy Revenue by failing to file a local property tax return months after the deadline.

New figures show that no property tax return has been filed for 178,000 properties.

It means that just half of those contacted by the tax authority in March and April have responded to its warnings to file a return.

The failure of so many to provide a current valuation means they could be underpaying the tax and could face large interest rate penalties.

The rules were changed for this year's local property tax (LPT), requiring a new valuation for homes, the first such request to revalue since 2013.

Property owners were required to determine the market value of their property as at last November 1.

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The higher-than-expected non-compliance means the property tax amount for these houses where no valuation has been provided is based on estimated values put together by Revenue statisticians.

Revenue said the total number of properties estimated to be liable for the tax for this year is around 1.98 million.

At the start of this month, returns were filed and payments made, or payment arrangements in place, for over 1.62 million properties.

In March, Revenue wrote to almost 300,000 property owners who at that stage had failed to provide an updated valuation for their homes. And filing arrangements have been put in place for 176,000 local authority and approved housing body properties.

Revenue said it was in correspondence with the owners of another 10,000 properties. Once the arrangements are finalised, Revenue said it will mean the property owners will be in a position to file their returns.

The overall return compliance rate is 91pc. But Revenue confirmed that it has not got a filing for around 178,000 properties.

“This means that returns for around 9pc of the 1.98 million properties liable for LPT for 2022 have not yet been filed (about 178,000),” it said.

It added that payment arrangements are in place for 84,434 of the 178,000 properties where returns have not yet been filed.

In March, Revenue wrote to almost 300,000 property owners who at that stage had failed to provide an updated valuation for their homes.

That move represented a change of approach by the tax-collection agency.

The Revenue Commissioners had been holding back on contacting those who failed to file a return because of the financial impact on families of Covid and the Ukrainian war.

But four months after writing warning letters to non-compliant property owners, only half of these have filed a return to indicate the up-to-date value of their property. Some of those who have not given an updated valuation are paying the LPT, but based on 2013 property valuations.

Revenue has extensive powers to levy punitive charges if it finds the property tax has been underpaid.

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These include imposing interest charges of 8pc a year on amounts it is owed, the application of penalties in certain circumstances and referral of the debt to a sheriff for collection.

CENTRAL BANK STUDY FINDS PROPERTY TAX CAN DECREASE MARKET VOLATILITY

The Economic Letter stated that the introduction of a property tax can provide the Government with a stable source of revenue as it is less likely to be impacted by economic fluctuations

Recurrent property taxes can aid in reducing the volatility of house prices over time, according to a new paper from the Central Bank of Ireland.

The Economic Letter stated that the introduction of a property tax can provide the Government with a stable source of revenue as it is less likely to be impacted by economic fluctuations.

The paper, which was based on a cross-country analysis, found that as a proportion of national income, revenue from recurrent property taxes in Ireland is significantly below the average for OECD countries.

In Ireland, recurrent property taxes include the Local Property Tax (LPT) and the Residential Zoned Land Tax.

LPT made up 0.6% of tax revenue in 2020.

Since LPT was implemented in 2013, Irish property prices have more than doubled, yet revenue gathered from LPT has remained constant.

The Economic Letter stated that this was due to the exemption of owner-occupied houses built since 2013 from the LPT, as well as property valuations remaining at the same level since 1st May 2013.

The findings from the paper also stated that there was a relationship between a higher incidence of recurrent property tax and a decrease in downside risks to property prices.

The results from the cross-country analysis also suggested that recurrent property taxes can be beneficial in fostering more stable growth in house prices over time.

In the paper, the economists state that recurrent property taxes can complement the role of macroprudential policy and promote a greater level of financial stability.

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The stability of recurrent property taxes is ensured through their design in most countries, allowing the revenue gathered from this tax to remain stable.

This is partially due to the frequency of revaluation of properties and the use of valuation bands for determining tax liability.

The Economic Letter also stated that unlike cyclical taxes, such as individual or corporate income tax, revenue from a recurrent property tax is less likely to be affected by the economic cycle.

This suggests that recurrent property taxes can provide a stable source of revenue for the Government.

LOUTH PUBLIC INVITED TO HAVE SAY ON LOCAL PROPERTY TAX

Louth County Council is inviting the public to have their say on Local Property Tax.

The local authority is welcoming written submissions from the public regarding the potential effects of varying the basic rate of Local Property Tax on businesses, individuals and local authority services.

The Finance (Local Property Tax) Act 2012, makes specific provision that elected members of a local authority may pass a formal resolution to vary the basic rate of the Local Property Tax for their administrative area by a percentage known as the local adjustment factor.

The public consultation is taking place ahead of September's meeting of the council, at which members will have to decide whether to change the basic rate or to leave it the same.

The legislation allows for them to set a local adjustment factor within the range of +/- 15% of the basic rate, which would affect funding in proportion to the percentage change, or, they may decide against changing the basic rate, in which case funding would remain unchanged. If a decision is reached to increase the rate, the maximum spending available to Louth County Council would amount to over €1.46 million yearly.

“As the majority of households in the region are set in the lowest band of LPT, a maximum increase of 15% would raise household tax by just €13.50 per annum,” Louth County Council has said in a statement. “For households in the highest LPT bracket, which make up just 2% of properties in the area, an LPT increase of fewer than €75 per annum would be incurred. The local adjustment factor in Co. Louth has not been altered since 2009, while the CPI has risen by 15.1% which presents obvious challenges in service provision.”

The deadline for submissions is Friday August 19th 2022 and applications can be sent to:

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·Local Property Tax, Finance Section, Louth County Council County Hall, Millennium Centre, Alphonsus Road, Dundalk, Co. Louth or by email to lptsection@louthcoco.ie

A GENERAL INTRODUCTION TO REAL ESTATE INVESTMENT TAXATION IN IRELAND

i Investment vehicles in real estate

Irish real estate is a popular investment opportunity for both Irish resident and non-Irish resident investors. Understanding the Irish tax landscape is key to any investment decision, and investors should factor the potential Irish tax implications on the acquisition, rental and ultimate disposal of Irish real estate into their decision. Investors might wish to invest in Irish real estate directly through an Irish or non-Irish corporate entity or a tax-transparent partnership (e.g., an Irish investment limited partnership (ILP)). For larger investments, it might be preferable to invest via an Irish real estate fund (IREF) or an Irish real estate investment trust (REIT). We outline below some of the Irish tax considerations that should be taken into account in making any investment decision.

ii Property taxes

There are a number of Irish taxes to consider when investing in, owning and disposing of Irish real estate.

Indirect taxes

Stamp duty

The purchaser incurs the liability for stamp duty, which is normally levied at 7.5 per cent of acquisition price for commercial property and 2 per cent for residential property (1 per cent on the first €1 million).

It might be possible to obtain a stamp duty refund if stamp duty at 7.5 per cent was paid on the acquisition of land on which residential housing is then built. There are a number of conditions that need to be met, including that building must commence within 30 months of the date of the acquisition of the land to obtain such refund, and there is a cap on the maximum amount of stamp duty that may be refunded.

VAT

The VAT treatment of a real estate sale will be dependent on the nature of the building, how it is used and its VAT history. Depending on the circumstances, the sale may also be subject to transfer of business relief, which may essentially exempt the sale from VAT. VAT on real

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estate is a complex area. The VAT implications of any real estate sale (including any capital goods implications) should be considered carefully and documented appropriately from a contractual perspective.

VAT incurred on the purchase of the real estate and on ongoing costs may be reclaimed depending on the VAT profile of the real estate and the nature of the use to which the real estate is put.

Other tax considerations

There are also a number of other relevant tax considerations in respect of Irish real estate. Some of these include the following:

- Local property tax (LPT) and rental registration: an annual LPT applies to Irish residential properties with any unpaid liabilities attaching to the property. Residential tenancies must be registered with the Residential Tenancies Board and registration is a condition of tax relief for interest incurred on the acquisition of the real estate.
- Tax compliance: irrespective of the holding structure chosen, Irish tax payment and compliance obligations will normally apply.
- Relevant contracts tax (RCT): RCT is a withholding tax that applies in Ireland to payments made by principal contractors to their subcontractors for certain construction operations. The rates of RCT are zero per cent, 20 per cent and 35 per cent, with an applicable rate dependent on the subcontractor's tax compliance history. A principal contractor is required to register for RCT and provide certain information to the Irish tax authorities (Revenue Commissioners), including the identity of the subcontractor, estimated contract value and duration, and location or locations at which the relevant operations will take place. There are significant penalties if a principal contractor fails to operate RCT correctly.
- Rates: non-residential properties are subject to rates, namely a commercial property tax. The commercial tenant would normally be liable for the rates, but if the building is vacant, the landlord becomes liable.
- VAT on management fees: services that are connected to real estate are typically considered to be provided wherever the real estate is situated. As such, when property management fees are incurred in respect of Irish real estate, they are likely to be subject to VAT in Ireland (irrespective of where the recipient of the service is established).
- Capital acquisitions tax (CAT): CAT may apply to a gift or inheritance of Irish real estate, regardless of the residence or domicile of the parties. The person who receives the gift or inheritance has the liability for CAT, which is charged at the rate of 33 per cent above certain tax-free thresholds, which depend on the relationship between the donor and the donee.

Direct taxes

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Net rental income earned (as calculated under the relevant tax principles) is subject to Irish tax, irrespective of the residence of the investor. Irish resident and non-Irish resident corporate investors should be subject to corporation tax at 25 per cent on their net rental income. Operational expenses directly relating to the real estate should be deductible and capital allowances might also be available.

Interest on loans to acquire, improve or repair a property should normally be deductible against taxable rental income. There are various anti-avoidance provisions that can seek to deny an interest deduction, such as the EU Anti Tax Avoidance Directive (ATAD) interest limitation rule (ILR),² anti-hybrid mismatch provisions and the reverse hybrid mismatch provisions.³

Gains arising on disposals of Irish real estate held as investment assets are subject to Irish capital gains tax (CGT) at the rate of 33 per cent, regardless of whether the vendor is Irish tax resident; in other words, it has a worldwide application. A gain arising on the sale of unlisted shares in a company that derives the greater part of its value from Irish real estate is also subject to CGT at the rate of 33 per cent, regardless of whether the vendor is Irish tax resident; it also has a worldwide application.

Section 980 of the Taxes Consolidation Act 1997 (TCA 1997) ensures the functioning of the CGT regime by placing a responsibility on the purchaser to withhold 15 per cent of the total consideration on the purchase of certain assets and pay it over to the Revenue Commissioners. These assets include Irish real estate and unquoted shares in a company deriving the greater part of their value from Irish real estate. Sales proceeds in excess of €500,000 (€1 million in the case of residential property) will be subject to 15 per cent withholding tax if a CGT clearance certificate (Form CG50A) is not provided to the purchaser. The clearance certificate is generally available when the vendor is tax resident in Ireland, there is no CGT arising on the disposal or any CGT liability that does arise has been paid.

Guidance published by the Revenue Commissioners states that, in general, a loan secured on Irish land and a security that derives the greater part of its value from Irish land are both land for CGT purposes.

RESIDENTIAL ZONED LAND TAX - GUIDELINES FOR PLANNING AUTHORITIES

From Department of Housing, Local Government and Heritage

Housing Policy Objective 15.2 of Housing For All – A New Housing Plan for Ireland proposed a new tax to activate vacant land for residential purposes as a part of the Pathway to Increasing New Housing Supply. The Residential Zoned Land Tax (RZLT) was introduced by

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the Finance Act 2021 and will come into effect from 2024, managed by the Revenue Commissioners.

The tax and the associated guidelines are part of a suite of integrated measures and policy direction within Housing for All to:

- engage lands in cities and towns
- create compact and integrated communities
- aid brownfield regeneration
- activate greenfield landbanks for housing
- support place making and growth of sustainable communities.

The objective of the tax is to activate zoned and serviced residential development land and land zoned for mixed use, including residential, for development to increase housing supply and to ensure regeneration of vacant and idle lands in urban locations. These locations have been identified within statutory land use plans as being appropriate locations for housing and they have benefitted from investment in the key services to support the delivery of housing. Given the ongoing and urgent need to increase housing supply, the activation of these lands in a timely manner is essential.

The purpose of the guidelines is to assist planning authorities in meeting the statutory requirement to undertake and publish a draft, supplemental and final map(s) identifying lands zoned for residential purposes and mixed use purposes including residential uses, which are connected or able to be connected to the necessary services to support housing development. The guidelines include details in relation to the various actions to be taken and identification of lands in scope for the tax, and the consideration of submissions from landowners and the general public in relation to the lands identified on the maps, including the potential for appeal to An Bord Pleanála where the landowner considers that the land in question does not meet the criteria set out within the legislation.

Whilst the maps will include lands occupied by permanently occupied dwellings in the case of relevant zoned lands, owners of such properties will not be liable for the tax.

By encouraging the development of appropriately zoned and serviced land, the measure will:

- activate greenfield landbanks and brownfield lands for housing and regeneration, increasing housing supply of differing tenures and designs
- support other key policies contained in Housing for All, including Land Value Sharing, Town Centres First, Croi Conaithe (Cities) and (Towns) due to the identification and prioritisation of vacant and idle land for redevelopment and regeneration
- support the accommodation of anticipated population growth and their housing and social infrastructural needs, by directing growth to land which is appropriately serviced,

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where activation of planning permission for housing is incentivised and thereby providing greater certainty for delivery agencies as to the need for facilities and services to support existing and future residential communities.

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