HLB Ryan & Co.
Chartered Accountants & Registered Auditors

THE LOCAL PROPERTY TAX

A new property tax is being introduced with effect from 1st July 2013 it is recommended that readers consider their exposure to this tax in advance of this date. Readers should be aware that the Local Property Tax applies to every residential property owned by an individual or a company subject only to the exemptions listed below.

As an interim measure, the Government introduced the Household Charge in 2012. This was set at €100 per residential property per annum. It is understood that around 70% of people have paid this charge. This was abolished from 1st January, 2013. As an incentive to those who have not paid the charge, arrears for 2012 will be capped at €130 *if* paid by 30th April 2013. Where the charge remains outstanding at 1st July 2013 the arrears will be increased to €200 and will be included as part of the LPT liability in respect of the property. Arrears of the charge will be rigorously pursued. Further information on this charge can be obtained on: http://www.householdcharge.ie

Although there was a good return on the flat rate Household Charge, the LPT is very different in that it is based on the market value of the residential property in question. It does not provide for an income exemption (although there is provision for a full or partial deferral in cases of inability to pay which we will outline later). This means that neighbours, with very different financial circumstances, will become liable for the same charge. Also, those living in urban areas will most likely find themselves paying a higher amount of LPT than those in rural areas as properties in the greater Dublin area, in particular, are likely to be valued at a higher level.

The LPT will fund the provision of local services administered by local authorities. Such services currently include public parks, libraries, open spaces and leisure amenities, planning and development, fire and emergency services, maintenance and cleaning of streets and street lighting. Collection of the tax will rest with Revenue and Revenue is currently using data from the Household Charge, Non Principal Private Residence, Private Residential Tenancies Board and Local Government Management Agency to compile a comprehensive list of properties. Revenue may also obtain information from other bodies, such as utility providers.

Valuation and assessment:

The tax will be based upon the assessed market value of the property on 1st May 2013. As it is a self assessed tax, the owner of the property will be able to determine the market value of the property. That value will form the basis of the calculation of the tax and will be valid for the years 2013 up to 2016. That value will hold regardless of whether any work is done on the property which would increase the value in the interim or if there is a general increase in property prices during that period. Thereafter the valuation date that will apply will be the 1st November in the year preceeding each three year period. Therefore the valuation date for the period 2017 – 2019 will be 1st November, 2016.

Where the property is sold between valuation dates, the chargeable value will continue to apply to the new owner. However as a deterrent against under-declaration of the value of a property by a person who intends to sell the property between two valuation dates, that person must disclose to the purchaser the value for LPT purposes that was established on the first valuation date along with any relevant documentation. The purchaser is, in turn, obliged to submit a revised return and chargeable value where it appears to the purchaser that the value declared by the vendor was too low. As an added incentive, a penalty of €500 is imposed for failure to comply with this.

For the purposes of valuing the property you take into account the residence itself and also include any yard, gardens, driveway or other land associated with the property up to one acre in size. It would also include structures that form part of the residence e.g. sheds and garages. Even where the property includes more than one acre of land, the LPT is payable on the house and up to one acre of land only. Similarly farm land would not be liable but the farm dwelling and any building, garden or yard up to one acre that is associated with the farm dwelling will be liable to the tax.

Where a professional office or a doctor’s surgery forms part of the private residence, LPT will only be due on the residential portion of the property (which would not be subject to commercial rates).

Revenue will issue letters to property owners in the four week period beginning 11th March, 2013. This will include the Revenue guidelines on how to value the property. Revenue have stated that where a liable person makes a self assessed valuation in accordance with the Revenue guidelines and pays the amount of tax due, Revenue have said they will not seek to replace this self assessment with a Revenue assessment. This provision however does not apply where the chargeable value of a property exceeds €1 million. It is important to remind clients however that the onus is on the taxpayer to ensure that the tax paid is adequate.

However, if you feel the guidance is not giving a reasonable valuation for your property you are free to make your own assessment. The Residential Property Price Register at www.propertypriceregister.ie provides a listing of the prices obtained on all properties sold since January 2010. If no properties have been sold in your area or similar properties in another similar area in recent years then you could engage a professional valuer. This would obviously have a cost but you may be able to reduce that by joining forces with your neighbours in obtaining a value. Discussions with your neighbours will also assist you but you must bear in mind whether or not they, or you, have extended or improved the property.

Rate of tax payable:

Whatever value is applied to your property, the tax liability will be 0.18% up to €1 million and 0.25% on the portion above €1 million. Valuations should be rounded to the nearest whole Euro. A half yearly charge will apply for 2013 and from 2014 LPT will apply on a full-year basis.

However, Section 20 of the LPT Act enables local authorities to increase or decrease the rate of local property tax by a "local adjustment factor" (i.e. 15% above or below the national central rate) on properties located in their area. If the local authority decides to vary the percentage, Revenue must be notified on or before 30th September in the year in which the change is to be made and the change will be implemented for the liability date falling in that year. This could mean that, from 2015, properties in different areas may be subject to different rates of tax

The completed Form LPT which Revenue will send taxpayers must be returned to Revenue by 7th May 2013 if submitting a paper form and by 28th May, 2013 if submitting the form electronically together with payment due. There is a maximum penalty of €3,000 for failure to submit a true and complete return. A similar penalty applies for knowingly making a false statement for the purpose of obtaining any advantage to which you are not entitled.

Inability to pay:

There is a system of deferral of the tax if you cannot afford to pay but the tax, **plus interest at a rate of 4% per annum**, remains a charge on the property and will have to be paid before the property is sold or transferred. The deferral option is not available for landlords or second homes.

The deferral conditions are:

- ***Full deferral***: Applies where gross income for the year is unlikely to exceed €15,000 for a single person and €25,000 for a couple. (Gross income is income before any tax deductions, allowances or reliefs. It also includes welfare payments but excludes Child Benefit). Also available until 31/12/2017 is a full deferral for owner occupiers who have an outstanding mortgage. These income limits are then increased by 80% of the gross mortgage interest payment that is expected to be made by the end of the year.
- ***Partial deferral***: Applies where the gross income for the year is unlikely to exceed €25,000 for a single person and €35,000 for a married couple. Again a partial deferral is available until 31/12/2017 for owner occupiers with outstanding mortgages. In that instance, these income limits are increased by 80% of the gross mortgage interest payment that is expected to be made by the end of the year.
- On a claim by the personal representatives of a deceased individual's estate, there may be a deferral of any LPT due and unpaid at the date of death of the individual for a period of three years after the date of death, unless the property is sold or transferred to the beneficiaries.

- Where a person has entered into an insolvency arrangement i.e. a Debt Settlement Arrangement or a Personal Insolvency Arrangement under the Personal Insolvency Act 2012, he or she may qualify for a deferral of the LPT that falls due for payment by that person during the period for which the insolvency arrangement is in effect on making a valid claim to Revenue.
- Persons who cannot without excessive hardship pay local property tax as a consequence of unexpected financial loss or expense. This deferral operates on a different basis to the other deferral arrangements. It is not automatically available on the making of a valid claim. It must be applied for in writing and the individual must meet the criteria that will be set out in guidelines to be published by Revenue.

Payment of the Local Property Tax and who is liable for payment:

The owner of a residential property will be liable to pay the LPT and if owned jointly, you must decide between you who will make the relevant return and pay the tax. Where a partnership owns the property the precedent acting partner should file the return. However, in cases of non payment Revenue can proceed to collect the tax from any of the owners.

Landlords of properties (except in cases where the lessee holds a lease on the property for more than 20 years) will be liable for the tax in respect of each rental property.

You can opt to make one single payment or opt to phase your payments from 1st July 2013 until the end of the tax year.

A variety of payment methods will be available. Payment may be made by cash through a number of service providers or Single Debit Authority through your bank. Payment may also be made by way of deduction from salaries, occupational and State pensions and certain other long term welfare payments. You can also pay and file electronically at www.revenue.ie which will give you a three week extension on the payment date. However you must file electronically :

- Where you own more than one residential property.
- If you are already required to submit tax returns and pay electronically to Revenue.
- If you own residential property through a company.

The payment dates for 2013:

- 1st July 2013: Commencement of deduction at source from salary etc. and cash payments through certain service providers.
- 15th July 2013: Commencement of direct debits.
- 21st July, 2013: Single Debit Authority Payment deducted.

Exemptions from the LPT

There are a number of exemptions from the LPT:

- Properties fully subject to commercial rates.
- Properties which have been vacated by the owner for at least 12 months because of mental or physical disability. However this disability must be certified by a medical practitioner. Also properties which have been vacated by the owner for less than 12 months where a registered medical practitioner is satisfied that he or she is unlikely to return to the property. In both cases the exemption only applies where the property is not occupied by any other person.
- Registered nursing homes.
- Newly constructed but unsold and unoccupied residential property.
- Properties, the ownership of which is vested in a public body or an approved charitable body and which are used to provide accommodation for people with special housing needs e.g. sheltered housing for the elderly and disabled.
- Residential properties owned by certain charitable bodies where such properties are used by girl guides and other similar groups for recreational purposes other than on a commercial basis.
- Property purchased by a first time buyer and used as a sole or main residence between 1st January 2013 and 31st December 2013. These will be exempt from the LPT until the end of 2016.
- New and previously unused properties that are purchased from a builder or developer between 1st January, 2013 and 31st October, 2016. These will also be exempt from the LPT until the end of 2016.
- Properties in unfinished housing estates (or "ghost estates") specified by the Minister for the Environment, Community and Local Government.
- Certain properties certified as having significant level of pyrite-induced damage. This is a temporary exemption period of at least three years.
- The LPT will not apply to mobile homes, vehicles or vessels.
- Properties purchased or adapted for use as a sole or main residence by a permanently and totally incapacitated individual where certain conditions are met. The exemption ends if the property is sold and the incapacitated individual no longer occupies it as his or her sole or main residence.
- Diplomatic properties.

Reduction in chargeable value for disabled persons:

Provision has also been made for a reduction in the chargeable value of a property which has been adapted for use by a disabled person as his sole or main residence where a grant has been paid in respect of the adaptation under specified housing regulations.

Approved housing bodies and local authorities:

Approved housing bodies and local authorities will also come within the charge but will be allowed to postpone payment of their 2013 liabilities until 2014. Also, the properties owned by local authorities and approved housing bodies will be deemed to be valued in the lowest valuation band for the first valuation period 2013 – 2016.

What happens if you decide not to pay.

Collection of this tax rests with Revenue. Where the tax is not paid the following avenues are open to Revenue:

- Mandatory deduction from 1st July, 2013 from your employment income, occupational pension or certain Government payments.
- Attachment of your bank account.
- Referral of the debt to the Sheriff or solicitor for collection.
- Withholding of tax refunds for offset against the LPT for example repayments of excess F45 credits
- Interest on late payments of the tax at 8% per annum will apply.
- Any unpaid LPT attaches to the property and the sale or transfer of that property cannot be completed without paying outstanding taxes, interest and penalties due.
- Self employed persons will be unable to obtain a tax clearance certificate as long as the tax remains outstanding.
- Currently, Revenue may impose a surcharge for a late submission of an income tax return. That surcharge is 10% of the individual's tax liability. Where an individual has submitted his or her income tax return on time but the LPT return remains outstanding, then this surcharge can still be imposed. For example, a self employed doctor with a tax liability of €100,000 could find themselves exposed to a surcharge of €10,000 if he or she does not submit his or her LPT return on time. This will also apply where residential properties are owned by companies and that company fails to make a timely LPT return. Where, however, the LPT return is subsequently submitted and payment is made, this surcharge will be capped at the LPT liability

NPPR

The Non-Principal Private Residence Charge of €200 per property will continue to apply until 1st January, 2014 and it is important that this is paid where due. This will place a substantial additional burden on landlords with multiple residential dwellings.

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