An Roinn Airgeadais
Department of Finance

Property-Related Tax Issues
Tax Strategy Group – 22/04
July 2022

Prepared by the Tax Division,
Department of Finance
www.gov.ie/finance

Contents

1 Introduction

1. This paper covers the following topics: the Help-to-Buy scheme, Residential Zoned Land Tax, Local Property Tax, Vacant Property Tax, the Living City Initiative, and an update on the 2017 report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers.
2. It briefly sets out the current position for each issue and, where appropriate, examines potential options for change in the context of Budget 2023. These options are presented for discussion by the Tax Strategy Group.

1.1 Housing market overview

3. The root cause of pressures in the Irish housing market is one of insufficient supply. As a result, property price inflation continues to rise, albeit with in a moderation in the level of inflation according to the latest data in April. Prices rose by 14 per cent in the 12 months to April 2022, 11.5 per cent in Dublin and 16 per cent in rest of country. The high levels of property price inflation experienced since last year are likely due to a combination of undersupply, the release of post-COVID pent-up demand (including 'excess savings') and the strength of the labour market recovery. Price levels nationwide are now just 2 per cent lower than their 2007 peak.
4. The key to resolving these issues of access to housing in the property market, including affordability, is through the provision of increased supply. The Irish Government announced *Housing for All* late last year: a multi-annual, multi-billion euro plan to improve Ireland's housing system and deliver more homes of all types whilst addressing pressures within the housing market.
5. Under the plan, over 300,000 new homes will be built by 2030, including a projected 54,000 affordable homes for purchase or rent, over 90,000 social homes and 18,000 cost rental homes. The plan is backed up with a commitment of over €15.5 billion in funding. Some €12 billion in direct Exchequer funding will be made available up to 2025, with an additional €3.5 billion in funding generated through the Land Development Agency (LDA) and a further €5 billion funding generated through the Housing Finance Agency.
6. Whilst significant challenges lie ahead in terms of housing supply, most notably in terms of the availability and rapid costs rises of key inputs, some positive forward indicators have emerged in recent months. Housing commencements, a strong indicator of future housing completions totalled over 30,200 units in the 12 months to May 2022. These figures represent the 9th consecutive month in a row in which the 12 month rolling monthly total number of housing commencements has exceeded 30,000 units. Whilst completions in 2021 still lag significantly below the estimated required 33,000 units' per

annum[1], in the year to end-March 2022, completions of new dwellings amounted to just over 22,000 units. This is the highest rolling 12-month total since the Central Statistics Office (CSO) series began in 2011. With activity beginning to feed through to commencements, it is likely that the *Housing for All* target of 23,600 units for this year will be surpassed. The key challenge will be to sustain this momentum in the years to come and bridging the imbalance between demand and supply that has persisted for a number of years to date.

1.2 *Housing for All*

7. The Government has acknowledged that it has a key role to play in enabling the delivery of new housing, ensuring that best use is made of existing stock and delivering strong, sustainable communities.
8. The *Housing for All* strategy[2] is Government's long-term plan to boost the supply of housing, to increase availability and affordability of housing and to create a sustainable housing system into the future. It aims to ensure that everyone in the State will have access to a home to purchase or rent at an affordable price, built to a high standard and located close to essential services, offering a high quality of life.
9. *Housing for All* provides four pathways to achieving four overarching objectives:
    - Supporting homeownership and increasing affordability;
    - Eradicating homelessness, increasing social housing delivery and supporting social inclusion;
    - Increasing new housing supply; and
    - Addressing vacancy and efficient use of existing stock.
10. Each of the pathways contains a comprehensive suite of actions out to 2030 so as to achieve these housing policy objectives. The implementation of each action is led by a named Government department, State Agency or other body, with overarching governance by the Department of the Taoiseach.
11. The specific actions which the Department of Finance is tasked with delivering under *Housing for All* are:
    - Review of the Help to Buy scheme to ensure appropriate calibration. This commitment was completed in Q3 2021. However, arising from a recommendation made in that 2021 exercise, a more fundamental review has been undertaken by external independent consultants, Mazars. At the time of writing, the draft report is awaited. This will help inform decisions about the future of the scheme;
    - Consideration of an extension to the Help to Buy scheme. This was completed in Q4 2021 whereafter the scheme was extended to 31 December 2022;

[1] Economic and Social Research Institute (2020). *Regional Demographics and Structural Housing Demand at a County Level*. Available at: https://www.esri.ie/system/files/publications/RS111.pdf
[2] Government of Ireland (2021). *Housing for All: A new Housing Plan for Ireland.* Available at: https://assets.gov.ie/197237/29edec3e-6664-4e62-86b2-af2e77f2f609.pdf

- Introduction of a new vacant land tax. This was completed in Q4 2021 by the introduction of the Residential Zoned Land Tax, as detailed in Section 3;
- Assessment of the adequacy of funding for *Housing for All* targets, which was also completed in Q4 2021;
- Collection of data on vacancy with a view to introducing a vacant property tax by end Q2 2022, as detailed in Section 5above;
- Review of the options presented in the Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers by end Q3 2022, as detailed in Section 77 Update on the 2017 Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers;
- Expand data sharing efforts between the Residential Tenancies Board and the Office of the Revenue Commissioners (Revenue) and the Department of Housing, Local Government and Heritage, which is due in Q1 2023; and
- Increase funding for the LDA, which is due in Q1 2024.

2 Help to Buy Scheme

2.1 Description

12. The Help to Buy incentive offers first-time purchasers of a new house / apartment the opportunity to avail of a refund on Income Tax and Deposit Interest Retention Tax (DIRT) paid in the State over the previous four years, subject to limits outlined in Section 477C of the Taxes Consolidation Act 1997.
13. The scheme was initially announced in July 2016 as part of the "*Rebuilding Ireland: Action Plan for Housing and Homelessness*", with full details outlined in Budget 2017. One of the policy aims of the incentive is to assist first-time buyers of new homes to fund the deposit required under the Central Bank's macro-prudential rules. The other is to encourage the building of additional new properties.
14. A €500,000 price ceiling applies under the scheme, although a €600,000 maximum applied previously where, in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a new house was entered into, or in the case of a self-build, the first tranche of a qualifying loan was drawn down by the claimant.
15. Help to Buy allows claimants to select all or any of the previous four tax years for the purposes of calculating the refund available to them. Enhancements to the scheme were provided for in Section 8 of the Financial Provisions (COVID-19) (No. 2) Act 2020 such that the maximum rebate is currently the lower of:
    - €30,000 (increased in 2020 from €20,000);
    - the total income tax and DIRT paid in the previous four years; or
    - 10 per cent (increased in 2020 from 5 per cent) of the purchase price of a new build property, including self-builds.
16. The relief only applies where a mortgage is taken out to purchase or build the home and where that mortgage is a minimum of 70 per cent of the purchase price or, in the case of a self-build, 70 per cent of the value of the property. Additionally, the property must be occupied by the claimant as their only or main residence for a period of five years from the date it is first occupied.
17. The scheme has been rolled over annually since its original sunset date of 31 December 2019 and so is currently due to end on 31 December 2022.

2.2 Previous reviews

18. An independent impact assessment of Help to Buy was undertaken by Indecon in September 2017[3]. This was followed in October 2018 by a Cost-Benefit Analysis[4], also undertaken by Indecon, which confirmed its findings. Indecon concluded that the primary driver of house prices remained the continued misalignment between demand and supply, although noted that Help to Buy may have contributed to a very small increase in prices. It was also noted that the marked increase in supply could, in part, be attributed to the scheme. Additionally, affordability and time to save had improved for all claimants as a result of Help to Buy. Ultimately, Indecon reported a moderate positive effect for the incentive, with a benefit-cost ratio of 1.28.
19. Three years later, the Department of Finance conducted an internal review of Help to Buy[5], in the context of the Tax Strategy Group deliberations. The paper acknowledged that progress in addressing the market failure challenges that gave rise to HTB has been hampered by COVID-19 and the public health restrictions that ensued. However, it also noted that the introduction of direct expenditure and other non-tax measures in *Housing for All* have altered the policy context in which Help to Buy operates. These are:
    - the Local Authority-led Affordable Purchase Scheme;
    - the 'First Home' Shared Equity Scheme for private developments;
    - reforms to the Local Authority Mortgage Scheme;
    - an 'Owner-Occupier Guarantee' in housing developments to secure homes exclusively for first time buyers and other owner-occupiers; and
    - 20 per cent of all developments set aside for affordable and social housing.
20. The Department highlighted that the cost of Help to Buy was, at the time, over four times greater than the original €40 million per annum estimate. This, alongside issues regarding the inequitable and regressive characteristics of the scheme, raised questions about its viability. At the same time, attention was drawn to other relevant factors, including a commitment in the *Programme for Government: Our Shared Future*[6] to retain and expand the Help to Buy scheme for new properties and self-build properties. It was also noted that *Housing for All* envisaged a potential role for the measure in helping to address the current housing challenges. Furthermore, the potential for market disruption should the scheme be withdrawn was also mentioned. The paper also laid out the case for a formal review to be undertaken in the event that the Help to Buy scheme was extended.

---

[3] Indecon (2017). *Indecon Impact Assessment of the Help to Buy Tax Incentive.* Available at: https://assets.gov.ie/190324/be0585d3-1db3-4ada-9523-ea9685d3acbe.pdf
[4] Indecon (2018). *Indecon Ex-Post Cost-Benefit Analysis of the Help to Buy Incentive.* pp 238-304. Available at: https://assets.gov.ie/180683/4717af03-a44a-44d5-b4c7-3bad0c324eb0.pdf
[5] Department of Finance (2021). *Income Tax (incorporating a Review of the Help-to-Buy Scheme): Tax Strategy Group – 21/02.* Available at: https://assets.gov.ie/198263/dc82f791-edb9-4f42-8414-59b540a765d1.pdf
[6] Government of Ireland (2020). *Programme for Government: Our Shared Future*. Available at: https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf

2.3 External review 2022

21. In his Budget 2022 address, the Minister for Finance announced that a formal review of the Help to Buy scheme would take place this year. The contract for this independent review was awarded to Mazars following a competitive tender process and the final report will be submitted to the Minister in due course.
22. The terms of reference for this review, per the request for tenders, are as follows:

    "To examine all aspects of the Help-to-Buy scheme (section 477C of the Taxes Consolidation Act 1997) including its design, its operation, the extent to which it has met its key policy aims of assisting first-time buyers of new homes to fund their deposit and encouraging the building of additional new properties.

    In doing so, the review should explore the cost effectiveness of the scheme to-date, including the issue of deadweight. It should also examine the impact of the scheme on house prices since inception.

    The findings should present an assessment on a national basis while highlighting any regional aspects.

    Having regard to the Government's Housing for All strategy, and in particular to other initiatives included in Housing for All that have the same broad policy objectives as currently apply for the scheme, to examine whether there is a continued role for Help-to-Buy and, if so, to present options on how such role might best be fulfilled in the most efficient and cost-effective manner in the medium to long term, including on the question of any transitioning.

    As part of the overall context, the review should draw on experience internationally and offer views in this regard as appropriate.

    The study should be completed by c.o.b. Friday, 24 June 2022."
23. The review has proceeded broadly in line with the timeline indicated within the terms of reference. At the time of writing, the draft report of the consultants is awaited. Ultimately, the future of the Help to Buy scheme beyond its current sunset date is a matter that will fall to be considered by Government in the light of the finalised report and in the context of the Budget 2023 and Finance Bill 2022 process.

3 Residential Zoned Land Tax

24. As part of the Government's *Housing for All* strategy, Finance Act 2021 legislated for a new Residential Zoned Land Tax (RZLT). The tax, which will replace the Vacant Site Levy (VSL), will be administered by Revenue. It is aimed at land activation, rather than intended as a revenue raising measure. It will encourage the timely activation of zoned and serviced residential development land for housing.

3.1 Zoned Land Maps

25. Finance Act 2021 outlined the process by which a detailed mapping exercise will be undertaken by Local Authorities to identify liable zoned and serviced land. The first draft maps will be published by 1 November 2022. It is estimated by the Department of Housing, Local Government and Heritage that between approximately 8,000 and 9,000 hectares of zoned residential land may be impacted which has potential for the development of as many as a quarter of a million homes. The Department of Housing, Local Government and Heritage have also identified 70,000 – 80,000 planning permissions nationwide that have not yet been activated. The RZLT will encourage activation of approximately 15 times as much land as is currently subject to the VSL.

3.2 Rate of RZLT

26. The Residential Zoned Land Tax is an annual tax, to be calculated at 3 per cent of the market value of the land on its commencement in 2024. Generally, the tax applies to owners of land zoned as being suitable for residential or mixed-use purposes, that is serviced and that is not affected in physical condition by considerations such as contamination. The legislation provides that each Local Authority will prepare and publish a map identifying land within the scope of the tax. These maps will be updated annually for changes in zoning and servicing of the land.

3.3 Appeals procedure

27. Landowners will have an opportunity to submit an appeal against inclusion on the map to the Local Authority in the first instance, and subsequently to An Bord Pleanála where the Local Authority upholds their original decision. A landowner will also have an opportunity to submit a request to change the zoning status of their land, which will be evaluated by the Local Authority as a variation to the adopted development plan, taking into account the proper planning and sustainable development of the area. Where it comes to the attention of the Revenue Commissioner that land which should have been included on the map has been omitted, Revenue will notify the relevant Local Authority and the map will be amended where appropriate.

3.4 Exclusions from the measure

28. There are a number of exclusions from the scope of the tax, including:
    - existing habitable dwellings and the curtilage usually enjoyed with the residential property,
    - certain infrastructure or facilities including utilities, transport, and facilitates for social, community or recreational purposes,
    - a site which is designated as a derelict site and liable for the Derelict Sites Levy,
    - land, which is zoned for residential use, but is used by a business to provide services consistent with a residential area, such as a corner shop, and
    - land that is zoned for a mixture of residential and other uses will only be included within the scope of the tax, where it is reasonable to consider the land is not integral to the operation of a business carried out on or beside such land.

3.5 Charge to tax

29. An owner who has land which was zoned and serviced on 1 January 2022, and who has not commenced development of the land before 1 February 2024, will be subject to a charge which will be due and payable in May 2024. Where the land is zoned or serviced after 1 January 2022, tax will be chargeable in the third year after it comes within scope. It is important to note that the tax follows the zoning and servicing status of the land and not the length of time a person owns the land.
30. The tax may be deferred in certain circumstances, including where residential development is commenced. Tax deferred while residential development is ongoing, will, on the making of a claim, not be payable where development is completed by the end of the timeframe set out in the planning permission and a certificate of completion is in place. Tax deferred may only be partially payable where the residential development is partially completed within the life of the planning permission.

3.6 Basis of assessment

31. Residential Zoned Land Tax will operate on a self-assessment basis and will be administered by the Revenue Commissioners. Owners of land within scope will, from 2024 onwards, be required to make a return to Revenue and where appropriate pay any liability in May of each year. The legislation requires landowners to maintain detailed records so that the Revenue Commissioner may verify tax payable as well as claims for exemption, abatement or deferral of the tax.
32. In cases of non-compliance, unpaid tax and interest will accrue as a charge on the land. Where a landowner significantly undervalues their land for the purposes of the tax, a surcharge of up to 30 per cent may apply.

4 Local Property Tax

4.1 Background

33. The Local Property Tax (LPT) was introduced in the Finance (Local Property Tax) Act 2012. Previous forms of taxation on property in Ireland had included domestic rates and also the Residential Property Tax which was abolished in Finance Act 1997. An annual charge of €200 on non-principal private residences (NPPR) applied between 2009 and 2013. There was also a Household Charge which was an annual charge of €100 introduced under the Local Government (Household Charge) Act 2011 which was payable by liable owners of residential properties for the year 2012.
34. The design of the LPT was considered in 2012 by an Interdepartmental Group chaired by Dr Don Thornhill. The tax was introduced in 2013 and is collected by the Revenue Commissioners. LPT was the largest extension of self-assessment in the history of the State, with over 1.3 million taxpayers obliged to file LPT returns and pay the tax in respect of approximately 1.9 million properties.
35. LPT was designed to serve a dual function. Firstly, to provide a stable funding base for the Local Authority sector. LPT has yielded over €4 billion since its introduction, with the annual LPT allocation currently standing at over €500 million, which supplements other Local Authority income.
36. Secondly, LPT delivered significant structural reform through broadening the base for taxation in a manner that does not directly impact on employment. LPT has met this objective and has replaced some of the revenue from transaction-based taxes with an annual recurring property tax. International experience has shown that property taxes are a secure and stable source of funding. As a measure which taxes assets, not employment, the LPT does not adversely affect job creation.
37. Since its introduction in 2013, LPT has been reviewed twice. In 2015, the Minister for Finance engaged Dr. Don Thornhill to conduct a review of LPT and make recommendations in relation to its operation and in particular any impacts on LPT liabilities as a result of property price developments. In line with one of his recommendations, the Government agreed to postpone the revaluation date for LPT from 1 November 2016 to 1 November 2019. This postponement meant that property owners continued to have their properties valued for LPT purposes on the basis of their 1 May 2013 declared valuation, and so were not faced with increases in their LPT liabilities in 2017, 2018 and 2019.
38. In 2019, ahead of the planned revaluation date of 1 November 2019, a further review of LPT was completed by the Department of Finance in conjunction with the Departments of the Taoiseach, Public Expenditure & Reform, and Housing, Planning & Local Government, as well as the Revenue Commissioners. The review focused on the impact of house price movements on LPT liabilities under a series of scenarios involving different

rate and tax band structures. The review included a consultation process to enable all interested parties and individuals to submit their views on the future of the LPT. It also included an examination of the outstanding recommendations of the 2015 Thornhill review of the Local Property Tax.

39. The 2019 Review Group found significant but geographically uneven increases in residential property price levels. This made it difficult to identify a scenario that would deliver on the condition set by the Minister for Finance, that there should be relative stability for all taxpayers in their LPT liabilities and that any increases should be modest, affordable and fair.

40. Revaluation of the tax was deferred from 1 November 2019 to 1 November 2020 to allow time for engagement with the Budgetary Oversight Committee. Due to the time taken to form a Government following the 2020 General Election and the Covid-19 pandemic, a 2020 revaluation was not feasible. Revaluation was deferred, for a final time, to 1 November 2021. As a result, properties continued to pay LPT liabilities on the basis of their 2013 valuations and properties built since 2013 were not liable for the tax.

41. In the absence of any changes to the LPT legislation and charging structure, the valuations of properties on 1 November 2021 would have been the basis for calculating LPT liabilities in 2022 and would have involved significant increases in the yield (estimated in the 2019 Review to be up to €729 million) and in the liabilities faced by taxpayers (estimated in the 2019 Review to involve at least half of properties facing increases of more than €200). International experience suggests the first revaluation of a property tax can be critical and that delaying revaluations risks repetition leading to a set of valuations significantly adrift from the underlying property market.

4.2 2021 LPT Reform

42. The *Programme for Government: Our Shared Future*[7] – included a commitment to bring forward legislation in relation to LPT on the basis of fairness, such that most homeowners would not face an increase in their LPT liability. A commitment was also made to bring new homes, which had been excluded from the LPT, into the LPT system. On 22 July 2021, the Finance (Local Property Tax) (Amendment) Act 2021 was enacted and made a number of changes to LPT, including a revised method for calculating liabilities. This allowed Revenue to make the essential technical and administrative preparations to implement the various changes to the LPT regime that are contained within the Act in advance of the valuation date of 1 November 2021. These changes included::
    - A revised method for calculating LPT liabilities;
    - Regular revaluations and bringing of new properties within the LPT charge;
    - Ending of certain exemptions, the modification and introduction of others and the cessation of exemptions between valuations;

[7] Government of Ireland (2020). *Programme for Government: Our Shared Future*. Available at: https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf

- Increased income thresholds for deferrals and a reduction in the deferral rate of interest;
- Changing the Local Adjustment Factor (LAF) notification date; and
- A number of administrative and technical reforms.

4.3 Alteration to calculation of liabilities

43. Local Property Tax (LPT) is based on the market value of a residential property on the valuation date. The tax is charged according to the valuation band that applies to a property. There are 20 bands with a corresponding rate of LPT applied to each band.
44. The Finance (Local Property Tax) (Amendment) Act 2021 changed the LPT charging regime from 2022 onwards. A key challenge encountered during the 2019 Review and subsequent analysis was the significant variation of property price increases geographically, and in particular the uneven pace and rate of increases in residential property values throughout the country since the original valuation on 1 May 2013. To take account of this and the Programme for Government commitment, the rate of the tax was reduced and the bands were widened to ensure that the impact of the new valuation date of 1 November 2021 was affordable for most homeowners.
45. In the new structure, the widening of bands provides a smoothing effect whereby the probability of moving bands is reduced. A lower rate is applied and the existing charging structure is maintained with some modifications. Band 1 was extended to include properties with a valuation from €1 to €200,000 and Band 2 includes properties with valuations between €200,000 to €262,500, with the LPT charge fixed at the current rates for these two Bands, at €90 and €225 respectively. The objective of these adjustments was that the vast majority of properties that were in Band 1 would remain in the new Band 1 and continue to pay the same amount of LPT. A 75 per cent increase was then applied to all thresholds which was broadly consistent with the 74 per cent increase observed in property prices 2013-2020 and a forecasted 2 per cent increase in 2021.
46. Under the existing charging structure, there was a higher rate applicable to properties valued above €1 million, with the first million charged at 0.18 per cent and everything above at the higher rate of 0.25 per cent. Properties are charged on the self-assessed value at individual property level. As the new band structure was designed and modelled, a likelihood emerged that owners of high value properties (values over €1 million) would benefit from reductions in LPT liability, due to the widening of the bands and the reduced rate. To address this, a higher rate is applied to properties above €1.05 million by charging at a higher mid-point rate on bands above this amount (bands 12-19). Properties in Band 20 are charged on individual property price as before, with a higher rate of 0.3 per cent applied on the value in excess of €1.75 million (0.1029 per cent on first €1.05 million, 0.25 per cent between €1.05 million and €1.75 million, and 0.3 per cent on the balance.

47. The following table illustrates the changes to the band structure and the resulting LPT charge under these bands.

Table 1: New charging structure

	Original Band Structure	New Band structure	
		Band	**Annual Charge (€)**
1	0 – 100,000	1 – 200,000	90
2	100,001 – 150,000	200,000 – 262,500	225
3	150,001 – 200,000	262,501 – 350,000	315
4	200,001 – 250,000	350,000 – 437,500	405
5	250,001 – 300,000	437,501 – 525,000	495
6	300,001 – 350,000	525,001 – 612,500	585
7	350,001 – 400,000	612,501 – 700,000	675
8	400,001 – 450,000	700,001 – 787,500	765
9	450,001 – 500,000	787,501 – 875,000	855
10	500,001 – 550,000	875,001 – 962,500	945
11	550,001 – 600,000	962,501 – 1,050,000	1,035
12	600,001 – 650,000	1,050,001 – 1,137,500	1,190
13	650,001 – 700,000	1,137,501 – 1,225,000	1,409
14	700,001 – 750,000	1,225,001 – 1,312,000	1,627
15	750,001 – 800,000	1,312,501 – 1,400,000	1,846
16	800,001 – 850,000	1,400,001 – 1,487,500	2,065
17	850,001 – 900,000	1,487,501 – 1,575,000	2,284
18	900,001 – 950,000	1,575,001 – 1,662,500	2,502
19	950,001 – 1,000,000	1,662,501 – 1,750,000	2,721
20	Over €1 million	1,750,001+	2,830+
		Rate = 0.1029 per cent on midpoint for first million, 0.25 per cent on €1.05 million and €1.75 million, 0.3 per cent thereafter (fixed charge in first and second bands)	

4.4 Regular revaluations and bringing of new properties within the LPT

48. The first LPT revaluation was always going to be challenging, in light of the length of time between valuations and the significant movements in residential property prices in that period. The 2021 Act provides that property valuations are to be reviewed every four years and facilitates the regular addition of new properties to the LPT register. This provides a balance between the timely capture of changes in the property market and the need to limit compliance and administration costs.
49. The Act also provides that new properties, built between valuations, will become liable for LPT as though they had existed on the prior valuation date. Thus a new property, becoming liable for the LPT charge at the next liability date (1 November 2022 / 2023 / 2024), will be valued at the previous valuation date (1 November 2021) and Revenue will provide assistance to property owners to determine this value.

4.5 Exemptions

50. A number of categories of residential properties are exempted from the payment of LPT if they satisfy the relevant qualifying conditions. On the introduction of LPT, the Government decided that a liability to the tax should apply to all owners of residential properties with a limited number of exemptions. The 2019 review also concluded that LPT exemptions should be reviewed regularly and kept to a minimum in order to keep the base broad and minimise the impact on those paying the tax.
51. Two exemptions were due to lapse on the proposed revaluation date of 1 November 2019. These were:
    - the exemption applied to properties purchased between 1 January 2013 and 31 December 2013.
    - the unsold trading stock exemption. This exemption applied to properties which constituted the unsold trading stock of builders / developers in May 2013, or such properties sold by them (while remaining unused) in the period 1 January 2013 to 31 October 2021.
52. Because revaluation was deferred from 1 November 2019 and because there was no mechanism by which such properties might be valued, these exemptions were continued on an administrative basis by Revenue. Following the passage of the 2021 legislation and revaluation, these exemptions have been allowed to lapse. These constituted two of the largest exemptions and the effect of their lapsing has been to significantly reduce the number of exemptions claimed as set out in Table 2.
53. In addition to the two exemptions mentioned, a further LPT exemption existed for unfinished housing estates (aka ‘ghost’ estates). Information provided by the Department of Housing, Local Government and Heritage suggested there was a 91 per cent reduction

in the unfinished developments since 2010. Accordingly the 2021 legislation ended this exemption.

54. In order to better incentivise rental supply, the existing exemption for properties vacated by their owners due to illness or physical infirmity was modified to allow the property to be occupied by someone else while the exemption was retained by the owner.

55. A temporary exemption (generally applies for six years) from the charge to LPT is available for properties in certain counties that have been shown to have a significant level of damage arising from the presence of pyrite in their foundations (pyritic heave). A similar temporary exemption was provided for under the 2021 Act to apply to properties in those counties that have been damaged due to the use of defective concrete blocks in their construction and are eligible for the Defective Concrete Blocks Grant Scheme.

56. Lastly, with effect from 2021, a new exemption was introduced to clarify that residential properties owned by a North-South Implementation Body are exempt from the LPT, consistent with the British-Irish Agreement Act 1999.

57. Previously a property that was exempt on the valuation date continued to be exempt until the following valuation date regardless of whether or not the qualifying conditions for the particular exemption to continue to be met. This meant that the figures for exemptions remained largely static in annual statistics published since 2016. The 2021 Act provides that where the qualifying conditions for exemption cease to be met during a valuation period, LPT can start to be charged based on the property's value at the preceding valuation date.

58. Table 2 shows the breakdown of exemptions prior to revaluation and (based upon provisional figures) the breakdown of figures following revaluation. Following revaluation, the number claiming exemptions is 18,300. This is significantly lower than the previous figure of 49,000. This reduction is likely largely due to the lapse of two exemptions (Properties purchased in 2013 & Unsold Trading stock) which between them comprised approximately 43 per cent of all exemptions prior to revaluation in 2021.

Table 2: Exemptions claimed (before and after revaluation)

Exemptions Type (self-assessment)	2021		2022 (provisional)	
	No.	%	No.	%
Charity/Public Body owned for special needs	8,967	18.3	9,845	53.8
Long term illness	7,987	16.3	2,361	12.9
Residence of a severely incapacitated individual	2,156	4.4	2,050	11.2
Pyrite damaged	2,009	4.1	1,244	6.8
Fully subject to commercial rates	2,499	5.1	1,190	6.5
Defective concrete blocks grant scheme	*N/A*	*N/A*	805	4.4
Registered nursing home	294	0.6	512	2.8

Exemptions Type (self-assessment)	2021		2022 (provisional)	
	No.	%	No.	%
Charitable recreational activities	196	0.4	238	1.3
North-South implementation bodies	*N/A*	*N/A*	55	0.3
Properties purchased in 2013	11,074	22.6	*N/A*	*N/A*
Trading stock of builders	10,143	20.7	*N/A*	*N/A*
Mobile homes[8]	294	0.6	*N/A*	*N/A*
Unfinished housing estates	3,332	6.8	*N/A*	*N/A*
Total	**49,000**		**18,300**	

4.6 Deferrals

59. Under LPT, a deferral can be claimed where there is an inability to pay and specific conditions are met. An eligible person may opt to defer, or partially defer, their payment of LPT. Interest is charged on deferred amounts, but at a lower rate (previously 4 per cent annually) than the rate charged in default cases (i.e. 8 per cent annually). This rate was reduced to 3 per cent under the 2021 Act. The deferred amount, including interest, is a charge on the property, and must be paid on the sale or transfer of the property.
60. The largest category of deferral is where the annual gross income of the liable person does not exceed a given amount. Previously this was €15,000 (single person) and €25,000 (couple), with marginal relief applicable for owner-occupiers whose income is not more than €10,000 above the income limits to permit deferral of up to 50 per cent of the LPT liability.
61. Following the 2021 Act, these thresholds were increased to €18,000 for a single owner and €30,000 for a couple. For owner-occupiers who have an outstanding mortgage, an adjusted gross income limit applies where gross income less 80 per cent of mortgage interest paid falls below €15,000 (single person) and €25,000 (couple). This previously applied to all mortgages, but will now be phased out being only available where the mortgage was taken out before 1 November 2020.
62. Table 3**Error! Reference source not found.** shows the number and breakdown of deferrals before and after revaluation. While the figure of 11,800 deferrals claimed (of properties for which full returns have been filed) is a significantly lower figure than the previous figure of 40,700 deferrals, the new figure represents claimed deferrals whereas the old figure reflected the previous practice of Revenue to automatically defer the LPT of those who, at the last valuation, were below the income threshold for deferral. While this practice of automatic deferral may be repeated it has not yet been done and is not therefore reflected in the figures.

[8] For LPT purposes, residential properties are buildings or structures that are suitable for use as a dwelling. The definition of a 'building' excludes vessels (boats), vehicles, whether mobile or not, and structures that are not permanently attached to the ground. This means that mobile homes are not liable for LPT. While “mobile homes” is not strictly an LPT exemption, a figure for mobile homes was included in the LPT exemption statistics up until 2021.

63. The figures include both full and partial deferrals of LPT. Partial deferral of LPT can be availed of, where the liable person pays 50 per cent of the tax due and defers the remaining 50 per cent.

Table 3: Deferrals

Deferral reason	2021		2022 (provisional)	
	No.	%	No.	%
Executor / Administrator of an Estate	488	1.2	12	0.1
Significant Financial Loss	204	0.5	0	0.0
Below Income Threshold	39,357	96.7	11,788	99.9
Insolvent Liable Person	651	1.6	0	0.0
Total	**40,700**		**11,800**	

4.7 Revaluation Process

64. The preparation for and revaluation of the tax, including assisting property owners in making returns, was a major project for Revenue during 2021. Revenue issued over 1.4 million notices to property owners during September and October 2021, setting out the requirements to meet LPT obligations for the new 'valuation period'.
65. This included approximately 200,000 hard-copy LPT returns to property owners who had not previously availed of the online options and may not have been able to avail of, access or use the LPT online services. Overall, of 1.6 million returns filed, 94 per cent have been filed online[9]. Property owners were advised of their new 'Revenue estimate' of their LPT liability. This 'Revenue estimate' was not an actual valuation but rather an estimated valuation band for each property that is applied by Revenue until displaced by an owner's self-assessed valuation when a return is filed.
66. Revenue provided comprehensive guidance for property owners in valuing their properties including an online interactive tool which gave data on average values for a geographical area known as a 'Small Area'. There are around 18,600 such areas in Ireland, usually with 50 to 200 properties (dwellings) in each. Revenue also put a dedicated LPT helpline in place to assist taxpayers to make their returns. Revenue conducted a comprehensive LPT media campaign, highlighting the obligations for the new 'valuation period' and the assistance available to enable property owners to fulfil their LPT obligations. The deadline for paying LPT for 2022 was 12 January 2022. However, there are a number of phased payment options available e.g. through deduction at source from salary or pension. Taxpayers could also select the Annual Debit Instruction which was deducted on 21 March 2022.
67. 1,250,611 owners have fully filed returns for 1,597,200 properties as of the most recently published statistics, representing a 90 per cent return compliance thus far. The proportion of people registered to pay, or who have already paid their LPT, is higher at 95 per cent.

[9] Office of the Revenue Commissioners (2022). *Local Property Tax (LPT) for 2022: Statistics Update (11 May 2022).* Available at: https://revenue.ie/en/corporate/documents/statistics/lpt/lpt-stats-update-110522.pdf

Some of these property owners have carried over annual payments without reassessing their property's value.

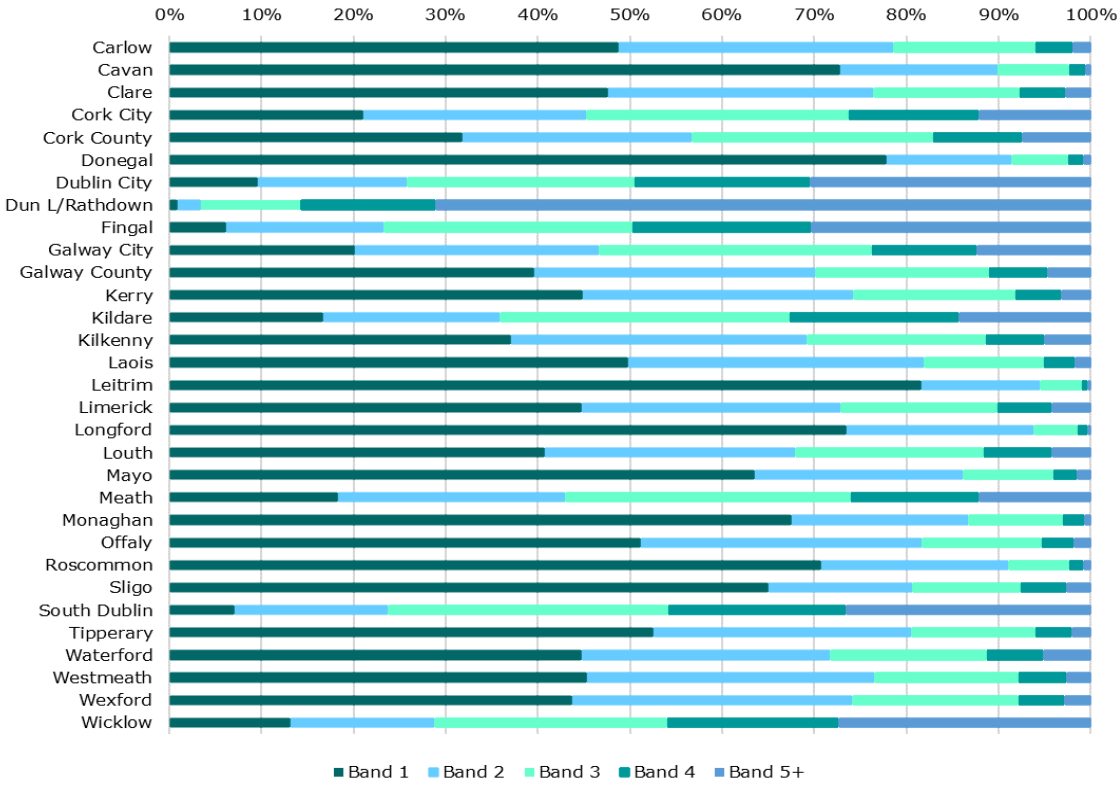
68. Property owners who did not file their return by the extended deadline of 10 November 2021 still have an obligation to do so and are encouraged to file a return as soon as possible.

4.8 Valuations & Yield

69. The returns received to date indicate that over half of properties (55 per cent) were valued in the first two bands, up to a value of €262,500. 75 per cent of the properties were valued in the first three valuation bands (value up to €350,000) compared with 76 per cent (value up to €200,000) under the previous arrangements. Approximately 91 per cent of the properties were valued in the first 5 valuation bands (value up to €525,000). This compares with 90.5 per cent (value up to €300,000) under the previous arrangements.

70. Figure 1 shows the breakdown of valuation bands across Local Authority areas, as well as indicating the concentration of properties in the lowest bands:

Figure 1: LPT valuation by LA area



71. The LPT returns to date indicate that 92 per cent of owners' valuations are the same or one band higher or lower than the Revenue guidance. For 65 per cent of properties the owner valuation band is the same as the Revenue guidance. 22 per cent returned a lower band (17 per cent reduced by 1 band, 3 per cent by 2 and 2 per cent by 3 or more). 13

per cent returned a higher band (10 per cent increased by 1 band, 2 per cent by 2 and 1 per cent by 3 or more).

72. At this point in time, the estimated overall yield is now €467 million for the year but this is expected in increase once mandatory deductions and other compliance measures are put in place over the coming months.

5 Consideration of a Vacant Property Tax

73. Addressing vacancy and dereliction, and maximising the use of the existing housing stock, is a priority objective of the Government. This is evidenced in the *Housing for All* plan[10], where one of the four pathways in the plan is specifically dedicated to this area. This Government has committed to a range of actions as part of the pathway to address vacancy and ensure the efficient use of housing stock.
74. *Housing for All* includes a specific action for the Department of Finance to collect data on vacancy with a view to introducing a Vacant Property Tax. The commitment to collect data has now been delivered with the publication of the Revenue preliminary analysis of vacancy data on 6 July 2022. Further detail on this analysis is provided below.
75. The following section will set out the research completed by the Department and consider some of the potential issues associated with the introduction of a Vacant Property Tax.

5.1 Background

76. An independent report on the taxation of vacant residential property was commissioned by the Department of Finance and laid before Dáil Éireann on 18 September 2018, in accordance with Section 86 of Finance Act 2017[11]. The independent report was carried out by Indecon Consultants and presented a detailed evidence-based assessment of vacancy rates in areas in which the demand for housing is most acute. This assessment suggested that the vacancy rate in these areas was significantly lower than the national average and has fallen in recent years. The report also suggested that the vacancy rate was likely to continue to fall due to market developments. Indecon Consultants did not recommend the introduction of a residential vacant property tax at the time of their report, as they did not believe it would be an effective response to deal with the housing shortages. Indecon however recommended that the position should be kept under review. Indecon also recommended that enhanced evidence should be collected to monitor movements in the level of vacancies of residential properties.
77. A significant difficulty encountered in this report was the diverging nature of estimates of vacancy from different sources. The report noted that "*The two main sources of information on vacancy rates – the Central Statistics Office (CSO) and GeoDirectory - appear to suggest very different estimates of vacancy levels. The reasons for the differences are in part due to differences in methodologies and definitions of vacancies.*" These two sources were the last Census (2016)[12] and GeoDirectory[13], a joint venture

[10] Government of Ireland (2021). *Housing for All: A new Housing Plan for Ireland.* Available at: https://assets.gov.ie/197237/29edec3e-6664-4e62-86b2-af2e77f2f609.pdf.
[11] Indecon (2018). *Indecon Report on the Taxation of Vacant Residential Property.* Available at: https://assets.gov.ie/4096/101218110143-ac37c2beecf14fa7b51594b3756cd4e1.pdf
[12] Central Statistics Office (2022). *Census 2016 reports.* Available at: https://www.cso.ie/en/census/census2016reports/
[13] GeoDirectory (2022). *GeoDirectory.ie.* Available at: https://www.geodirectory.ie/

between An Post and Ordnance Survey Ireland (OSI). Further information on the difference are provided below.

5.2 *Housing for All* commitment to compile vacant property data

78. In *Housing for All*, the Government has set out a suite of incentives available to encourage re-use of properties. However, in addition, options are being examined to introduce sanctions for non-use of residential property so that there is some penalty for leaving a property vacant while so many are in need of homes.
79. Action point number 19.12 of the Government's *Housing For All* plan includes the following commitment to be completed by Q2 2022:

    "*Collect Data on Vacancy with a view to introducing a Vacant Property Tax"*
80. In considering the case for a vacant property tax, it is important to have a sound understanding of the quantity, locations and characteristics of long-term vacant properties. It is also essential to identify the reasons for vacancy, and whether this is long or short-term in nature. There may be genuine and acceptable reasons for vacancy such as refurbishment work, the temporary absence of the owner for medical reasons or pending the grant of probate for a deceased person's estate. Furthermore, as is the case for all taxes, a strong rationale for intervention must be identified.

5.3 Local Property Tax returns

81. The Finance (Local Property Tax) (Amendment) Act 2021 enabled Revenue to collect certain information in relation to the occupancy status of residential properties in the Local Property Tax (LPT) return forms submitted by residential property owners in respect of the new LPT valuation period (2022-2025).
82. In relation to vacant properties, the LPT returns requested information such as whether a property is vacant; the reasons for the vacancy; and whether the period of vacancy is 12 months or more. The return data provide a snapshot of vacant properties in Ireland as at the valuation date of 1 November 2021.
83. Properties that were uninhabitable or unsuitable for use as a dwelling as at 1 November 2021 were not liable for LPT for 2022. Owners of these properties were not required to value their property for LPT purposes and they were not required to submit an LPT return. Therefore, information from the returns will not include properties that are not liable for LPT in 2022, such as derelict or otherwise uninhabitable properties.
84. Data from these returns should be considered as an indicative profile of vacant properties, rather than a definitive number.

5.4 Provisional analysis of vacancy data from LPT returns

85. The Revenue analysis was published on 6 July 2022[14]. 57,206 (3.2 per cent) properties were indicated by their owners as being vacant on 1 November 2021, according to latest available information. A vacancy rate of between 2.5 per cent and 6 per cent is considered normal in a properly functioning housing market. For instance, in the Dublin City Local Authority Area, there were approximately 5,800 vacant properties, representing a vacancy rate of 2.6 per cent. Similarly low rates exist in other areas of highest demand, such as:
    - Cork City (2.6 per cent)
    - Dun Laoghaire-Rathdown (2 per cent),
    - Fingal (1.7 per cent)
    - Galway City (2.4 per cent)
    - Limerick City & County (2.5 per cent)
86. Nationally, the most frequent reason given for vacancy was that the property was "Undergoing Refurbishment" (22.2 per cent), "Other" (21.7 per cent) and "Holiday Home" (20.4 per cent). A breakdown of "Other" category is not available. This was an option by dropdown menu on the LPT return, with no additional explanatory field. Revenue advise that these properties are broadly in line with the profile of reported vacant properties in terms of geographical spread, valuation and duration of vacancy.
87. Properties in this category might include, for instance, where a property has been inherited and an owner may not yet have decided what they will do with the property; or a property that would require renovation to meet rental / sale standard.

Table 4: Vacancy by stated reason

Vacancy Reason	Share of Vacant Properties (%) *	No. of vacant properties**
For Sale	12.4	7,094
Undergoing Refurbishment	22.2	12,700
Legal Dispute	0.8	458
Probate Application	6.9	3,947
Long term care	6.3	3,604
Other	21.7	12,414
Between Lettings	5.4	3,089
Holiday Home	20.4	11,670
Owner Absent	4.0	2,288
All	**100.0**	**57,206**
****Rounding applies*		

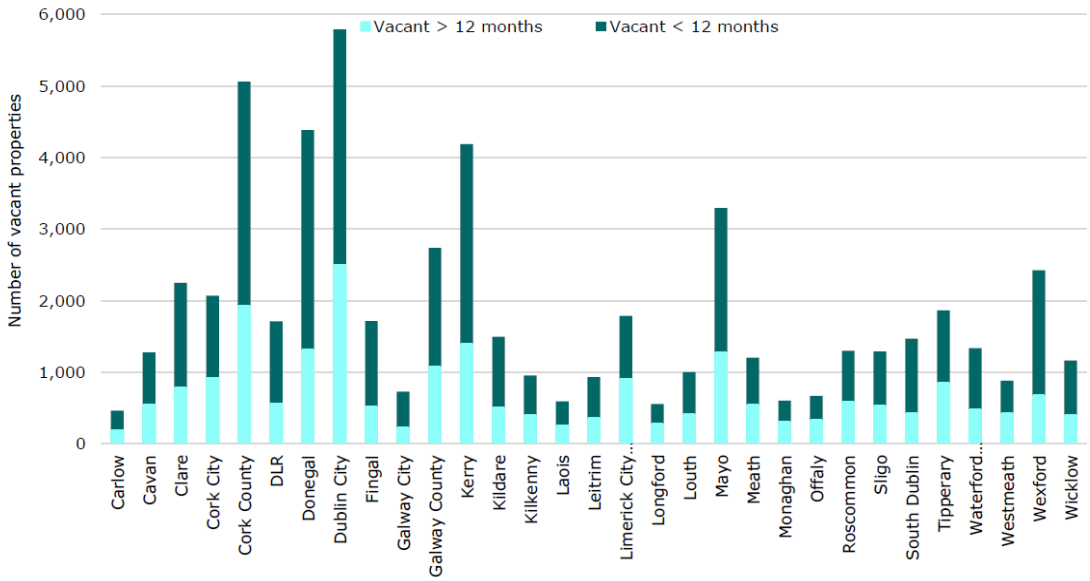
[14] Office of the Revenue Commissioners (2022). *Local Property Tax (LPT) for 2022: Preliminary Vacancy Analysis.* Available at: https://www.revenue.ie/en/corporate/documents/statistics/lpt/lpt-vacant-properties-report.pdf

88. The highest rates of vacancy were returned in Donegal (6.7 per cent), Kerry (6.4 per cent), Leitrim (6.3 per cent) and Mayo (6.0 per cent). In these areas, the most common reason for vacancy was the incidence of holiday homes making up 40.6 per cent of the vacancy in Donegal and 39.9 per cent of the vacancy in Kerry.

89. Of the 57,206 properties reported as vacant by their owners, 3,450 are owned by Local Authorities and Approved Housing Bodies (AHBs). Of the 53,756 vacant properties not owned by Local Authorities and AHBs, 2,959 vacant properties have claimed exemptions from LPT (as may be expected, the biggest category, 1,627 properties, is the exemption related to properties unoccupied due to illness of owner) and 3,453 have an owner indicated as non-resident. 42,522 of the vacant properties were indicated as Non-Principal Primary Residences (NPPRs) by their owner.

90. Overall, 61 per cent of vacant properties were reported as being vacant for less than 12 months. However, in all but one of the Local Authority areas, at least 50 per cent of vacant properties were reported as having been vacant for less than 12 months.

Figure 2: Vacancy by duration



5.5 Other sources of data on vacancy

91. The two main sources of information on vacancy rates available up to now are the CSO data based on the Census and GeoDirectory data. These sources use different methodologies and definitions of vacancy. As a result their estimates of the number of vacant properties differ – both from one another, as well as from the data obtained from LPT returns.

5.5.1 CENSUS

92. The Census 2022 Preliminary Results were published on 23 June and the CSO reported 166,752 vacant houses and apartments[15] (excluding holiday homes) in which equates to a rate of 7.8 per cent.
93. The Census vacancy figure, is a point in time measure recorded on Census Night in April 2022. Thus, the Census vacancy data includes homes that may be unoccupied for a relatively short period of time. This is not intended to be a measure of long term vacancy or that these properties are available for re-use. These homes may well have been occupied again shortly after Census Night. Therefore, caution is advised around the interpretation of Census vacancy data, particularly in categorising it as a measure of the number of dwellings which are potentially available for re-use.
94. The Census vacancy definition has been used over several censuses which enables comparisons over time. In assessing dwellings for vacancy, Census Enumerators were instructed to look for signs that the dwelling was habitable but unoccupied. In terms of the overall trend, the 2022 figure represented a reduction of 16,560 dwellings (down 9 per cent) from the corresponding 2016 figure. It is of note that 48,387 of the vacant dwellings recorded in 2022 were also documented as vacant in 2016; furthermore, 23,483 dwellings were vacant in 2011 as well. Over 40 per cent of these are in Cork, Mayo, Galway, Donegal and Kerry. While this may be an indicator of homes which were sitting vacant for a long period of time, it should be noted that these dwellings may not have been vacant for the entire period.
95. The CSO data indicated that Dublin had approximately 30,000 vacant dwellings. However, when compared with the 2016 Census, 70 per cent of those vacant units were occupied in 2016 and most of the units that were vacant in 2016 were found to be occupied in 2022. This suggests much of the vacancy in areas of high demand, like Dublin, reflects natural churn. Similarly, Dublin had 9,000 rental units vacant on Census night, representing approximately 5 per cent of its total rental stock. Dublin had just 1,335 residential units (0.2 per cent of 2022 stock) that were vacant in each recent census – 2011, 2016 and 2022.
96. In order to provide some additional insight into the potential duration of vacancy in Census 2022, CSO required enumerators to provide a reason for vacancy for each dwelling they categorised as vacant. Census enumerators categorised vacant dwellings into several categories including 'For Sale', 'For Rent' and 'Undergoing Renovation'.
97. The Census preliminary count published on 23 June 2022 by its nature includes provisional figures. The final figures on vacancy will be published in 2023 along with the reasons for vacancy.

[15] Central Statistics Office (2022). *Census 2016 Profile 1 – Housing in Ireland.* Available at: https://www.cso.ie/en/csolatestnews/presspages/2022/censusofpopulation2022-preliminaryresults/

5.5.2 GEODIRECTORY

98. GeoDirectory was jointly established by An Post and OSI to create and manage a database of commercial and residential buildings. It publishes a quarterly Residential Buildings Report on its data of over 2 million residential properties, which provides insight on vacant properties.

99. According to the GeoDirectory 2021 Q4 database, almost 1 in 20 dwellings or 90,158 dwellings across the State were classified as vacant in Q4 2021[16]. The average vacancy rate across the State was 4.4 per cent in Q4 2021, constituting a marginal year-on-year decrease of 0.1 percentage points. 20 of the 26 counties had declining residential vacancy rates over the course of the year to Q4 2021. Dublin (1.4 per cent) was reported to have the lowest vacancy rate, down 0.2 percentage points versus last year. Conversely, Leitrim (13.3 per cent) had the highest percentage of vacant dwellings, despite a fall of 1.3 percentage-points year-on-year. GeoDirectory categorises an address as vacant if it can be described as one of the following:
    - The dwelling is vacant and ready to be inhabited, based on whether the property does or does not receive post;
    - The dwelling is vacant and requires a small amount of cosmetic / repair work to make it habitable;
    - The dwelling is not a holiday home.

100. The GeoDirectory data also appears to classify entire buildings as vacant while the CSO data classifies individual apartments as either vacant or occupied.

5.6 Vacant property taxes – International experience

101. A number of jurisdictions have introduced or are planning to introduce taxes on vacant residential properties with various policy aims; including increasing rental supply (the *Vancouver Empty Homes Tax*, the *Toronto Vacant Homes Tax*, the *French Taxe sur les Logements Vacants (TLV)*), penalising foreign owners of vacant property (the *Australian Vacancy fee for foreign owners*), and to encourage refurbishment and letting (the *Council tax premium in the UK*). While the scope of these taxes is generally residential property, in *Oakland California*, a *Vacant Property Tax* applies to all forms of vacant property, not just residential. Preliminary examination of these measures indicate a number of common features and policy rationales.

    .

102. One feature that is common across other jurisdictions is that these taxes tend not to be applied on a national basis, but are limited to particular urban areas or rent pressure zones (such as France's TLV) In other examples such as Vancouver and Oakland

[16] GeoDirectory (2022). *GeoDirectory Residential Building Report – Q4 2021.* Available at: https://www.geodirectory.ie/getattachment/Knowledge-Centre/Reports-Blogs/GeoDirectory-Residential-Buildings-Report-Q4-2021/GeoDirectory_Residential_Report_Issue_16_Q4_Q2021.pdf?lang=en-IE

California, vacant property taxes were introduced in the relevant urban areas of those cities. In the State of Victoria, Australia, the *Vacant Residential Land Tax* applies in 16 specified council areas of Melbourne.

103. The assessment mechanism is generally self-assessment, through declaration by property owners as to the vacancy status of their property.
104. In the measures examined, there was convergence on the duration of vacancy required for a property to fall within scope of the charge, of six months (186 days). France's *Vacant Housing Tax (VLT)* differs slightly from other measures with the threshold at a year, the rate rising if longer than two years. An outlier in several respects was a proposal in Oakland California which considered a property vacant if it is in use less than fifty days in a calendar year, and not does not qualify for any exemptions.
105. The basis of taxation varies. Some jurisdictions charge tax at a percentage value of the vacant property's taxable or market value. Others calculate the percentage of tax payable from the notional yield the property could generate if rented.
106. There are also similarities in the exemptions provided from these taxes. Almost universal are exemptions for when the property is subject to an on-going legal process (i.e. in probate / divorce / separation / bankruptcy / court proceedings) or when it is in the process of being sold or let on the market. Also common are exemptions for when the vacancy is due to the owner receiving medical or long-term residential care or where there is significant renovation or work being undertaken on the property. Some jurisdictions also exempt holiday homes or second homes used to attend work in another area.
107. Many of these taxes are relatively new, introduced within the last decade or so. As such, limited research or data is available on the effectiveness of these measures on achieving their intended aims, or on the levels of revenue generated.

5.7 Conclusion

108. Overall vacancy levels are low in Ireland and in line with a functioning housing market. The categories and duration of vacancy suggesting that vacancy is predominately short-term, with the most common reason being refurbishment.
109. In jurisdictions in which vacancy is taxed, there tends to be a broad range of exemptions available.
110. Officials do not consider the application of vacant property taxes to specific urban areas or regions, as seen in other jurisdictions, appropriate in the domestic context. Consideration of the merits and impact of a vacant property tax is being undertaken on the assumption that it would apply nationwide, regardless of where the vacant property is situated.
111. Vacancy and dereliction are frequently conflated in the public discourse on vacancy, but should be distinguished both for conceptual and policy reasons. It is possible that a vacant habitable property could be occupied quickly whereas uninhabitable or derelict properties require various levels of investment to make them habitable. For the purposes

of LPT, a residential property is a building or structure which is in use as, or is suitable for use as, a dwelling. It is noted however, that identifying a property that is habitable is not always straightforward and includes an element of judgement. The data discussed in this paper do not include derelict properties.

112. The objective of any tax imposition would be to increase the supply of housing for rent or purchase to complement the Government's strategy to maximise use of existing housing stock, rather than to raise Revenue. In any case, if a tax on vacant residential property was introduced with appropriate exemptions in place, it is estimated that the yield would be modest, applying to a narrow base of taxpayers.

113. With this in mind, the rationale for introducing such a tax lies in how effective it would be in encouraging owners of long-term vacant residential properties to either sell, rent or otherwise occupy their properties. Consideration must be given to what rate of tax would be appropriate to achieve the desired behavioural change and intended policy aim.

114. In proposing the introduction of any new tax, consideration must be given to the various design elements such as the scope including appropriate exemptions, assessment, compliance including the role of other State agencies, and rate. A particular challenge in successfully imposing a tax on a vacant property will be the identification of vacant properties.

115. Officials are considering the matter further this summer, as part of the Department's commitment under the *Housing for All* plan. Tax Strategy Group members are invited to provide their thoughts on the merits and impacts of introducing a vacant residential property tax.

6 Review of the Living City Initiative

6.1 Description

116. The Living City Initiative is a scheme of property tax incentives first enacted in Finance Act 2013 and commenced on 5 May 2015. The initiative is provided for in Sections 372AAA to 372AAD of the Taxes Consolidation Act 1997 (as amended).
117. It offers income or corporation tax relief for qualifying expenditure incurred in the refurbishment and conversion of qualifying residential and commercial buildings located within 'Special Regeneration Areas' (SRAs) in Cork, Dublin, Galway, Kilkenny, Limerick and Waterford.
118. There are three distinct types of relief available under the Living City Initiative. These are:
    - owner-occupier residential relief;
    - rented residential relief; and
    - commercial or retail relief.
119. The minimum qualifying level of expenditure for the refurbishment / conversion of the premises is €5,000 but there is no upper limit to the amount of qualifying expenditure that can be incurred in the refurbishment / conversion of a qualifying premises.
120. Other key aspects of the Living City Initiative reliefs are outlined below, however further particulars on the conditions applicable are available on the Revenue website[17].

6.1.1 OWNER-OCCUPIER RESIDENTIAL RELIEF

121. An individual who incurs qualifying expenditure is entitled to income tax relief under this element by way of a deduction from their total income. The expenditure is written off at a rate of 10 per cent per annum over a 10 year period.
122. Property Developers may apply for the owner-occupier element, however, the tax relief is claimed by the individual who purchases the property to live in as their main residence.
123. The property must have been built before 1915 and, after the work has been completed, the claimant must occupy the property as their main residence for all or part of each year for which the relief is claimed. If all the relief for one year cannot be used in that year due to insufficient income, the excess cannot be carried forward and so is lost.
124. It should be noted that any sum which has been provided, directly or indirectly, by the State, or any board established by statute or any public authority, such as grant aid, must be deducted when calculating the qualifying expenditure for the purposes of the Living City Initiative.

[17] Office of the Revenue Commissioners (2022). *Tax and Duty Manual Part 10-13-01: Living City Initiative.* Available at: https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-10/10-13-01.pdf.

6.1.2 RENTED RESIDENTIAL AND COMMERCIAL / RETAIL RELIEF

125. An individual who incurs qualifying expenditure is entitled to tax relief under these elements by way of an accelerated capital allowance over a seven year period, at a rate of 15 per cent over six years and 10 per cent in the final year.
126. While the rented residential element is limited to buildings which were originally built pre-1915, the commercial element of the scheme is not.
127. The maximum level of actual tax relief which can be obtained in respect of any individual project under the rented residential and commercial elements of the Initiative is capped at €200,000, regardless of the number of investors. This is in accordance with the EU State Aid *De Minimis* rule limit of €200,000 of relief over any rolling three-year period for any one undertaking.
128. Where any part of the refurbishment or conversion expenditure is met directly or indirectly by the State or any State bodies, the amount of expenditure qualifying for relief will be reduced by a multiple of three times the amount of that sum.

6.2 Background

6.2.1 PILOT SCHEME

129. The Living City Initiative is a targeted incentive to encourage people back to the historically and culturally important central areas of selected Irish cities and encourage the regeneration of the retail heartland of central business districts within those areas. The pilot phase was targeted at two specific urban areas which had been identified as being most in need of urgent action – Waterford and Limerick.
130. Given their age and their historic importance and resultant planning restrictions, it was noted that the costs associated with refurbishing historic buildings could sometimes be prohibitive. Therefore, for the purposes of promoting and supporting the refurbishment and restoration of historical buildings which might have been neglected over time, the Living City Initiative's pilot scheme was focused on specific areas with a particular prevalence of such houses as part of the overall regeneration of these areas.

6.2.2 EX ANTE EVALUATION 2013

131. An ex ante evaluation of the pilot was undertaken by independent consultants Indecon in 2013 before the Living City Initiative was officially implemented[18].
132. The report stated that one of the most important benefits of the initiative could be the impact on urban renewal and on conservation and cultural reputation of the inner city areas of Ireland's cities, suggesting that this could also result in a reversal of the trend of de-population of the city centres.

[18] Indecon (2013). *Indecon Ex Ante Evaluation of the Living City Initiative for Urban Regeneration.* Available at: https://assets.gov.ie/180801/d674a215-96b0-4a57-9a8a-2edeb4929ccb.pdf

133. The research suggested that refurbishment of run-down and vacant buildings within the SRAs through such an initiative would likely have an indirect economic impact on the value of surrounding buildings and stakeholder feedback suggested the scheme could have significant impacts on the commercial viability of businesses.
134. Significant impacts were also anticipated to arise in terms of the visual attractiveness of the inner cities; heritage and conservation status of buildings; and utilisation of buildings currently uninhabited. At the time, the Department of Arts, Heritage and the Gaeltacht stated that *"the Culture and Heritage of Ireland has been identified as one of the main reasons visitors come to Ireland…works to conserve this heritage therefore reinforce and protect this key element of our tourism product".* Indecon's research suggested a potential tourism uplift of 11.4 per cent for the pilot areas of Limerick and Waterford.
135. Indecon concluded that, properly planned, the scheme could have positive impacts on economic activity and business in the affected areas and help achieve both urban renewal and conservation objectives. Contrasting with past property incentives, it was determined that the focus and timing of the initiative was aligned with the requirements of the Irish economy and that the net economic benefits were likely to exceed the economic costs, taking into account deadweight and economic displacement.

6.2.3 AMENDMENTS SINCE 2015

136. Officials in the Department of Finance reviewed the scheme in 2016 in consultation with the relevant councils and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs[19]. As uptake of the Living City Initiative was lower than expected, on foot of that review, the Minister for Finance brought forward a number of changes to the initiative in Budget 2017 which were designed to make it more attractive and effective. These changes came into effect from 1 January 2017.
137. The principal change was to extend the scheme to include the rented residential relief. As outlined above, this relief combined aspects of both the owner-occupier element and the commercial / retail element, however, the relevant qualifying period for eligible expenditure only began on 1 January 2017.
138. In addition, the Minister decided to remove a requirement that, in order to qualify for the residential reliefs, a pre-1915 building had to have been originally constructed for use as a dwelling. A floor area restriction for the owner-occupier relief was also removed.
139. Where previously the minimum amount of capital expenditure required for eligibility for relief under all elements of the scheme was 10 per cent of the market value of the building, structure or house immediately before that expenditure was incurred, this was amended to €5,000. Additionally, the relief claimed by owner-occupiers under the initiative is now subject to the High Income Earner Restriction.

[19] Department of Finance (2016). *Report on Tax Expenditures: Incorporating outcomes of Tax Expenditure Reviews completed since October 2015.* pp 85-90. Available at: https://assets.gov.ie/181475/91f597c2-bd98-41d8-998e-19f14c099eea.pdf

140. Subsequently, Finance Act 2019 provided for an extension of the scheme until 31 December 2022. The initiative now falls to be considered in the context of Budget 2023 and Finance Bill 2022.

6.3 Ex post evaluation 2022

6.3.1 CONTINUED RELEVANCE

141. The Living City Initiative complements the commitment in the *Programme for Government: Our Shared Future*[20] to "develop the cities of Cork, Waterford, Limerick and Galway as viable alternatives to Dublin" by specifically targeting inner city areas of Cork, Galway, Kilkenny, Limerick and Waterford in addition to Dublin.
142. In respect of the continued relevance of the scheme, keeping historical buildings in use is the first principle of architectural conservation. This is supported by the *National Policy on Architecture*[21], which commits that local and national architecture and design strategies will prioritise the re-use and adaptation of existing buildings, with particular focus on urban centres. The adaptation and sympathetic re-use and repair of historical buildings, stimulating the overall regeneration of historic urban areas is also consistent with national policy objectives, such as the Compact Growth objectives of *Project Ireland 2040*[22].
143. Currently, the residential housing market in Ireland is characterised by a lack of supply. The re-purposing and re-use of under-utilised historic properties in Irish cities and towns can play a part in the national response to the current housing challenge[23]. By incentivising such activity, the Living City Initiative increases the supply of residential housing units within the State.
144. Direct expenditures in respect of historical structures, such as the Built Heritage Investment Scheme and the Historic Structures Fund, focus primarily on essential preservation and stabilisation works on the structure. In contrast, the Living City Initiative allows for refurbishment and conversion of the internal elements to bring them up to habitable residential / commercial standards. Safeguards are incorporated into this targeted tax expenditure as, under the owner-occupier element, for the claimant to reside within the property as their sole or main residence for all or part of any year in which the relief is claimed.
145. It should also be noted that other heritage tax reliefs, such as those in respect of the donation of heritage items (Section 1003 TCA) or properties (Section 1003A TCA) and

[20] Government of Ireland (2020). *Programme for Government: Our Shared Future.* Available at: https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf
[21] Government of Ireland (2022). *Places for People: National Policy on Architecture.* Available at: https://assets.gov.ie/224573/aac6d6ce-8a48-49a8-85f0-76da56be8ba4.pdf.
[22] Government of Ireland (2019). *Project Ireland 2040: National Planning Framework.* Available at: https://www.gov.ie/en/publication/774346-project-ireland-2040-national-planning-framework/.
[23] Government of Ireland (2021). *Housing for All: A new Housing Plan for Ireland.* Available at: https://assets.gov.ie/197237/29edec3e-6664-4e62-86b2-af2e77f2f609.pdf

expenditure on significant buildings and gardens (Section 482 TCA), are available as an upfront relief within the year in which they are claimed. The Living City Initiative differs by restricting the claimed relief to prescribed amounts over the course of several years, thereby encouraging long-term use of the building. This approach complements the urban regeneration measures in the Government's *Housing for All* strategy by ensuring that residential units supported by the initiative do not merely add to the number of vacant residential properties in urban areas.

6.3.2 COST

146. The Living City Initiative is demand-led and, as such, it is not subject to an annual cost ceiling. Table 5 demonstrates the available Revenue data in relation to the cost of the scheme for the years 2015 to 2018, the latest year for which fully analysed data are available.

Table 5: Cost of the Living City Initiative per year from 2015-2018

Tax Year	Amount claimed (€m)	Maximum tax cost[24] (€m)
2018	0.5	0.2
2017	0.4	0.2
2016	0.5	0.2
2015	0.5	0.2

147. In 2013, Indecon consultants believed that the scheme's estimated Exchequer net costs of circa €1.8 million to €3 million per annum were modest in the context of achieving the anticipated economic, urban renewal and employment benefits. However, as shown in Table 5, the maximum estimated tax cost in each year has consistently been €0.2 million largely due to the lower than anticipated take-up of the scheme.

6.3.3 IMPACT

148. The Living City Initiative specifically aims to regenerate the historic inner city / town areas of Cork, Dublin, Galway, Kilkenny, Limerick and Waterford. However, Indecon's ex ante report warned that inappropriate redevelopment could damage the historic urban fabric of Ireland's cities.
149. As such, there are measures built into the Initiative's residential elements to ensure that the refurbishment / conversion work is of a high standard and in keeping with the historic and cultural character of the building. Also, when designating the SRAs it was considered essential to carefully specify the streets for inclusion, taking into account existing Architectural Conservation Areas.

[24] Assumed at 40 per cent for income tax and 12.5 per cent for corporation tax.

150. At the outset, specific criteria were set down in respect of the areas which should be included. For example, it was decided that the SRAs should be inner city areas which are largely comprised of dwellings built before 1915, where there was above average unemployment and which demonstrate clear evidence of neglect, dereliction and under-use. It was specified that areas which are generally regarded as affluent, which have high occupancy rates and which do not require regeneration should not be included. These criteria were taken into account by the relevant Local Authorities when proposing the SRAs. Following recommendations by an independent review by a third party advisor, the boundaries of the SRAs were each designated via a Statutory Instrument.

151. As the Revenue figures in Table 6 attest, take-up of the Initiative has been modest to date, with 78 total claimants over the period 2015 to 2018, the most recent year for which statistics are currently available.

Table 6: Number of claimants under the Living City Initiative per year from 2015-2018

Year	No. of claimants
2018	27
2017	23
2016	15
2015	13
Total	**78**

152. While the number of claimants remains relatively modest, take-up has increased each year since inception. The modest uptake of the scheme to date implies options to improve the impact of the scheme could be considered. However, care should be taken as there are many possible reasons for the low take-up, including a low level of awareness among the general public, the relative attractiveness of living in an area in need of urban regeneration and the large upfront cost of eligible refurbishment / conversion of qualifying buildings.

6.3.4 EFFICIENCY

153. Indecon's 2013 review warned that, with very low levels of take-up, the Benefits / Costs ratio was less than 1 in certain scenarios. In spite of the significant proportion of deadweight assumed, their analysis suggested that there were significant benefits to be gained from the initiative, depending on levels of uptake. It was assumed that 36 per cent of the refurbishment activity may have occurred without the initiative and also that 92.5 per cent of the increased tourism spend would simply be diverted from other parts of Ireland.

154. In 2020, one of the findings from the Department of Culture, Heritage and the Gaeltacht consultation on the National Policy on Architecture[25] was that the respondents believed it was easier to construct a new building than re-use an existing one.
155. Informed by a consultation regarding reasonable estimates, Indecon's 2013 analysis assumed that the average level of expenditure for each building eligible for the Living City Initiative would be around €100,000. This implies an average claim per claimant per year of €10,000 (or €15,000 for rented residential and commercial / retail claimants in years one to six). However, as indicated by Table 7, which utilises published statistics from Revenue, the average annual value of claims for each claimant from 2015 to 2018 surpasses these amounts.

Table 7: Average amount claimed under the scheme per claimant between 2015 and 2018

Year	Total Amount claimed under the scheme (€)	No. of claimants	Average amount claimed per claimant (€)[26]
2018	500,000	27	18,500
2017	400,000	23	17,400
2016	500,000	15	33,300
2015	500,000	13	38,500

156. Comparing these average amounts claimed to the grants available under the Built Heritage Investment Scheme, the Living City Initiative offers greater financial assistance. Under the grant scheme, the minimum funding awarded for successful projects is €2,500, up to a maximum of €15,000, although the total value of all public funding provided for individual projects must not exceed 50 per cent of the total project cost.
157. However, under the Historic Structures Fund, grants of between €15,000 and €200,000 are available across the various streams. For example, both Stream 1 and the pilot scheme for the conservation of historic shop fronts offer grants between €15,000 and €50,000 for essential repairs and smaller capital works for the refurbishment and conservation of heritage structures which can cover up to 80 per cent of the eligible costs.
158. While these heritage grants are focused on repair and conservation measures, depending on the particulars of the relevant project, the tax relief offered by the Living City Initiative can provide additional financial support which increases the attractiveness of such projects within the SRAs.
159. A full Cost-Benefit Analysis would be required in order to determine whether the economic benefits of the Living City Initiative outweigh the economic costs, however it is clear that the modest take-up of the scheme to date has had an effect on meeting the

[25] M.Co (2020). *Draft Review report for the Department of Culture, Heritage and the Gaeltacht consultation on the National Policy on Architecture.* Available at: https://assets.gov.ie/224580/95abd08c-9e54-4a33-bd92-3699a1384f8a.pdf
[26] Figures are rounded to the nearest €100.

scheme's urban renewal and conservation objectives. It may therefore be necessary to amend the scheme to enhance its attractiveness.

160. With that said, any proposed amendments to the scheme would need to bear in mind State Aid considerations. Prior to enactment of the relevant legislative provisions in Finance Act 2014, the Department of Finance consulted with the European Commission on the proposed Initiative. As a result, the rented residential and commercial elements of the Living City Initiative are subject to relief limits to ensure that the scheme remains under the *De Minimis* rule limit and as such the relief can be awarded without notification to or clearance from the European Commission.

6.3.5 SUMMARY

161. The Living City Initiative appears to have continued relevance in light of current Government policy priorities on the restoration of historical buildings nationwide, playing a (modest) role in increasing the supply of residential units in the Irish housing market and the urban regeneration of Ireland's cities and towns. The costs of the scheme have remained relatively consistent annually and below the estimates which were indicated in the ex ante evaluation as being modest in the context of the scheme's potential benefits.

162. Property-related tax measures facilitated the property boom prior to the Financial Crisis but were ultimately deemed ineffective as the projects were spread nationwide instead of being targeted on the localities where the need was greatest. In contrast, the Living City Initiative is a modest, targeted, scheme which is aimed at refurbishment of the existing building stock in very specific areas which are in urgent need of regeneration.

163. The scheme compares favourably to other direct and tax expenditure measures in this sector although both the impact and efficiency of the scheme have suffered due to low uptake. Despite the potential deadweight originally estimated by Indecon in 2013, the scheme's objectives remain worthwhile endeavours with clear economic benefits and, particularly in light of the urban regeneration goals of the *Housing for All* strategy, there would appear to be an ongoing need for the Living City Initiative, albeit with some amendments to enhance attractiveness.

6.3 Options for consideration

164. Various enhancements could be considered to increase the potential of the Living City Initiative. However, there are many competing priorities which must be taken into account when deciding which, if any, should be introduced. Also. as previous property-related tax

expenditure reviews have suggested, Ireland's past experience with tax incentives in this sector strongly suggests the need for a cautionary stance[27,28,29].

6.3.1 OPTION 1: SHORTEN TERM OF RELIEF

165. As the Initiative is currently implemented, under the owner-occupier relief, an individual who incurs qualifying expenditure obtains tax relief by way of a deduction from total income over ten years.
166. In 2013, Indecon identified difficulties with financing eligible projects as the single biggest potential barrier. Their Cost-Benefit Analysis suggested that the scheme would be enhanced by providing full relief in the year of expenditure (presumably with relief carry-over until the full value of the relief can be absorbed). However, such an approach could raise tax equity issues in that those who have more financial resources would benefit most by the early absorption of the relief.
167. Given the variety of changes in personal circumstance that can impact a person's income over a ten-year period, it can be argued that the relief is unattractive from an owner-occupier's perspective.
168. Notwithstanding that only 20 per cent of respondents to Indecon's 2013 survey identified the ten year period as being a very significant problem, shortening the period of relief for owner-occupiers would help to de-risk the ability to avail of the relief. This could attract applicants by allowing for a more meaningful line of sight on likely tax savings at the point of purchase. For property developers who sell to owner-occupiers, it would enhance the sale value of the property and scope for profit as the owner-occupier could claim the relief Living City Initiative if theirs is the first occupation of the property after the work has been completed.
169. Accelerated capital allowances are available to non-owner-occupiers over a period of 7 years at a rate of 15 per cent for the first 6 years and 10 per cent for the final year. As such, there is scope to bring the term available to the owner-occupier relief in line with this offering. This measure would likely have to be considered alongside a possible carry forward of the relief, as set out in Option 2, below.

6.3.1.1 Example

170. An example might be where currently an owner-occupier who purchases either a property which has been developed or which they developed themselves, at an eligible development cost of €500,000 (either to the developer or to themselves as developers) would currently receive relief at a rate of 10 per cent for 10 years, i.e. relief at a maximum

[27] Indecon (2006). *Budget 2006: Review of Tax Schemes: Volume 1: Indecon Review of Property-based Tax Incentive Schemes.* Available at: https://assets.gov.ie/8100/a3c125763e664e7b868cf79f912911b4.pdf
[28] Department of Finance (2006). *Budget 2006: Review of Tax Schemes. Volume II: Goodbody Review of Area-Based Tax Incentive Renewal Schemes.* pp. 127-146. Available at: https://assets.gov.ie/8101/2cfc2bb49fc7481aa2179cdf7712798b.pdf
[29] Regling and Watson (2010). *A Preliminary Report on The Sources of Ireland's Banking Crisis*. Available at: http://opac.oireachtas.ie/Data/Library3/ReglingWatsonAPreliminaryReport_124814.pdf

rate of 40 per cent x €50,000 in each year for 10 years. This would give a total relief of €20,000 per annum for each of 10 years (€200,000 total).

171. Under the proposal to shorten the term of the relief, the owner-occupier would receive 40 per cent x €75,000 in each year for six years (€30,000 per annum) and 40 per cent x €20,000 in the final year. The net present value of the accelerated relief would be modest.

6.3.2 OPTION 2: ALLOW CARRY FORWARD OF RELIEF

172. Currently, where an individual owner-occupier's income for a year of assessment is not sufficient to absorb the relief for that year, the excess relief cannot be carried forward and is lost, so expenditure is limited by the persons' current and future potential tax liability.

173. However, a person's income can fluctuate due to unforeseen circumstances and so, where it has not been possible for an owner-occupier to use all of their allowances in a particular year, it could be considered that a person could be allowed to carry forward any unutilised relief. This measure would mean that the person could still avail of the relief in a future year, when their financial circumstances improve.

174. The issues to be considered here are similar to those under Option 1 on accelerated capital allowances. There may be merit in this idea on the grounds of tax equity in relation to owner-occupiers; for example, the High Income Earner Restriction allows the carry forward of unused relief. However, tax measures should, in the interests of certainty for the Exchequer be time-bound. In addition, the precedent effect may mean that this approach may not be feasible ultimately.

6.3.3 OPTION 3: EXPAND NATIONWIDE

175. The Living City Initiative is currently targeted towards the regeneration of historic buildings in urban areas of neglect and deprivation. The Minister for Finance has previously indicated that he does not believe that the Initiative is a suitable vehicle for broader application beyond its original policy goal.

176. Section 23 of Finance Act 1981 introduced a measure whereby a deduction would be available from rental income for a portion of the capital cost incurred on the construction, conversion or refurbishment of a rental property. The purpose of this non-location specific provision was to encourage the supply of reasonably-priced rented residential accommodation. Section 23 relief schemes were terminated in the period 2006 to 2008, a move that was endorsed by the 2009 Commission on Taxation[30] over concerns about deadweight loss, effectiveness and adverse equity impact. The *Programme for Government: Government for National Recovery 2011-2016*[31] committed to reducing,

[30] Commission on Taxation (2009). *Commission on Taxation Report 2009.* Available at: http://hdl.handle.net/10197/1447

[31] Government of Ireland (2011). *Programme for Government: Government for National Recovery 2011-2016.* Available at: https://www.socialjustice.ie/system/files/file-uploads/2021-09/2011-03-06-programmeforgovernment2011-2016.pdf

capping or abolishing property tax reliefs and other tax shelters which benefit very high income earners.

177. Since then, the recommendations from various reviews of Section 23 reliefs and from the economic impact analyses[32,33,34] were that, while the various property relief schemes had contributed to economic regeneration and employment, in general they outlived their usefulness, contributed to the misallocation of resources in certain sectors (namely residential housing and hotels), and as such represented a waste of scarce public resources.

178. Owing to this, an initiative in the area of property, especially residential property, should be carefully designed and targeted towards addressing specific market failures. A large scale expansion of the Living City Initiative nationwide would amount to a Section 23-type relief. Expanding the scheme nationwide would fundamentally transform the scheme into one where the cost implications are so substantial it would need an ex ante cost benefit analysis. Accordingly, an expansion along the lines being considered is not an initiative that the Department of Finance could endorse. In any event, the proposal would have the potential for greatly increased Exchequer costs and would raise State Aid concerns.

6.3.4 OPTION 4: EXTEND TO NON-ESSENTIAL EXTENSIONS

179. Currently participants cannot claim for expenditure on an extension unless the extension was built before 1915 or the claimant is required to add a feature required by building regulations, for instance adding a bathroom to a derelict house. This does not prevent the participant from claiming relief in relation to any refurbishment or conversion expenditure incurred on the original structure.

180. Many of the larger houses in the Special Regeneration Areas have been split into units, for example, there may be a commercial premises on the ground floor with a residential premises on the upper floors, or a house may be divided into a number of residential apartments. In that case, expenditure incurred on the unit that the owner occupies as their sole or main residence should qualify for relief if necessary conditions are met.

181. A possible measure that has been examined relates to provision within both the rented residential and owner-occupier relief to allow for inclusion of expenditure on non-essential new build extensions, such as new kitchen or bathroom extensions. Such a facility, if it were to be brought forward would need to be subject to a cap, for example a percentage relative to the overall area of the building, or a percentage of overall renovation costs, to ensure the historical integrity is retained and protected.

---

[32] Indecon (2006). *Budget 2006: Review of Tax Schemes: Volume 1: Indecon Review of Property-based Tax Incentive Schemes.* Available at: https://assets.gov.ie/8100/a3c125763e664e7b868cf79f912911b4.pdf

[33] Department of Finance (2006). *Budget 2006: Review of Tax Schemes. Volume II: Goodbody Review of Area-Based Tax Incentive Renewal Schemes.* pp. 127-146. Available at: https://assets.gov.ie/8101/2cfc2bb49fc7481aa2179cdf7712798b.pdf

[34] Regling and Watson (2010). *A Preliminary Report on The Sources of Ireland's Banking Crisis*. Available at: http://opac.oireachtas.ie/Data/Library3/ReglingWatsonAPreliminaryReport_124814.pdf

182. However, the Living City Initiative is a targeted property incentive aimed at older heritage buildings, in deprived urban areas, which were neglected. Unnecessary new construction would not support the goal of the scheme: the restoration of heritage architecture. As things stand, house-owners are free to add on to their eligible properties but there does not seem to be a compelling reason as to why a tax relief funded by the Exchequer should be provided for such purposes.

6.3.5 OPTION 5: EXPAND BUILDING ELIGIBILITY

183. The SRAs contain many buildings of cultural and historic importance but there is a particular prevalence of Georgian houses, many of which date back to the middle of the eighteenth century. The current owner-occupier and rented residential relief elements of the Living City Initiative apply to pre-1915 buildings.
184. Indecon's 2013 report had suggested widening the definition of eligible to include a broader definition of Georgian buildings as well as Victorian and Edwardian buildings. They believed that a wider definition of historic buildings up to 1919 may secure urban development benefits, however following their report, the Department of Finance issued SRA selection criteria to the Local Authorities and third party adviser which included the pre-1915 criteria.
185. The question of widening the scope of the scheme to pre-1970 buildings (i.e. over 50 years old) is another aspect that has been briefly considered. If building eligibility were expanded in this way, building age would be seen as less critical in determining the historical importance of architecture and in the context of wider urban area designation.
186. However, if it were to be implemented, this option would significantly broaden out the scope of the scheme, even within SRAs, and would not be consistent with its primary focus. The Living City Initiative was targeted specifically at areas where Georgian houses are located due to the socioeconomic context of their inner city locations and the costs associated with their refurbishment, owing to the complications inherent in such projects considering the age, historic importance and potential planning restrictions.

6.3.6 OPTION 6: ROLLOVER FOR MORE THAN THREE YEARS

187. Rollover of the scheme for a longer period of time (e.g. further ten years) would provide long-term certainty for interested parties to engage in what can be challenging and lengthy development projects.
188. Due to the nature of construction projects, short sunset timelines may be considered too limiting owing to capacity constraints on the construction sector and the stringent planning regulations applicable to impacted properties. A significant extension of the qualifying period might potentially allow taxpayers to arrange financing, go through the lengthy planning process for refurbishment or conversion of these properties and complete the works.

189. However, Indecon's 2013 report recommended that the incentive only be provided for a limited period of up to four or five years after which its impact should be subject to a rigorous ex post cost-benefit analysis in order to provide lessons for future policy.
190. In addition, the Department of Finance's Tax Expenditure Guidelines provide that, where a scheme costs between €1 million and €10 million, sunset periods may be up to five years maximum.
191. From a governance and Exchequer cost perspective, it makes sense to keep tax reliefs such as the Living City Initiative under reasonably frequent and regular review. A three-year timefame would seem to be an appropriate period for extension and it is suggested that sunset clauses for the scheme should reflect this.

7 Update on the 2017 Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers

7.1 Introduction

192. In 2016, the Department of Housing, Planning, Community and Local Government published its *Strategy for the Rental Sector*[35], wherein it committed to the establishment of a Working Group to examine and report on the tax treatment of rental accommodation providers and to put forward, where appropriate, options for amendments to such treatment.
193. The Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers was established on 19 January 2017. Chaired by the Department of Finance, this Working Group included officials from the Department of Housing, Planning, Community and Local Government, the Office of the Revenue Commissioners (Revenue) and the Residential Tenancies Board (RTB).
194. One of the aims of the Group was to determine if the taxation system of the time was fit for purpose as it related to the rental accommodation sector. To this end, they were tasked with putting forward options for amendments to the system where deemed appropriate.
195. The Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers[36] was published on 10 October 2017 ("2017 Report"). It put forward ten options for change in the area of taxation for further consideration over the short-, medium- and long-term. Under objective 2.8 of the Government's *Housing for All* strategy[37], the Department of Finance is committed to review those options by Q3 2022.
196. In examining the options, the Department is mindful that taxation is only one of the policy levers through which the Government may boost rental and overall housing supply. Since the 2017 Report was published, there have been many developments in the property sector. This includes the *Housing for All* strategy, which sets out the Government's comprehensive policy on housing out to 2030.
197. Given the developments in the sector since the 2017 Report was published, it is prudent to evaluate the options put forward so as to assess where they stand today in the context of developments in the intervening period since the original report was completed. Tax reliefs, no matter how worthwhile the policy objective, lead to a narrowing of the tax base

[35] Department of Housing, Planning, Community and Local Government (2016). *Strategy for the Rental Sector.* Available at: https://assets.gov.ie/80483/c118f361-776e-41e8-b436-3ccc0f66383e.pdf
[36] Department of Finance (2017). *Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers.* Available at: https://assets.gov.ie/190638/5704d804-88fc-4414-933a-c2928f330bc6.pdf
[37] Government of Ireland (2021). *Housing for All: A new Housing Plan for Ireland.* Available at: https://assets.gov.ie/197237/29edec3e-6664-4e62-86b2-af2e77f2f609.pdf

and a strong and convincing case for the benefits and outcomes need to be articulated in order for due consideration to be given for the commitment of scarce taxpayer resources for such reliefs. When deciding which policy measures to introduce, it needs to be borne in mind that the rental sector is just one of many other sectors that may require assistance and intervention.

198. Where a policy rationale exists, consideration in accordance with the Tax Expenditure Guidelines is also required to determine whether a tax measure is the most appropriate policy tool. As mentioned previously, Ireland's past experience with tax incentives in the property sector highlights the importance of circumspection with regard to any possible interventions in this space.

7.2 Recent trends in rental property market

199. Pressures within the housing market are evidenced within the rental sector. High levels of rental inflation for new tenancies are due in large part to the low availability of properties available to rent. To illustrate this, the latest Daft.ie Rental Price Report noted that there were just 851 properties available to rent nationwide on 1 May 2022, the lowest figure in a series that begins in 2006[38]. The low availability of rental units is exacerbated by the number of landlords leaving the market, a trend of recent years. Data from the RTB shows that there were 165,736 landlords associated with private tenancies in Q4 2020, a 5.4 per cent decline from the 175,250 landlords in Q4 2016. The RTB have also published data which shows that between Q1 2021 and Q1 2022, 2,521 notices of termination were issued by landlords who explicitly stated they intend to sell the property[39]. In addition, the RTB conducted a survey of small scale landlords, published in July 2021. Landlords who had already left the market were asked why they chose to leave. While the question relating to those who had left was based on a small sample size (approx. 50 respondents), the most common reason for market exit included 'no longer wished to be a landlord' followed by 'being a landlord was no longer profitable'.

200. According to CSO data from January to June 2021, 86 per cent of RTB landlords have 1-2 tenancies while 13.5 per cent of RTB landlords have 3-19 tenancies[40]. The following table sets out more detail:

[38] Daft.ie (2022). *Rental Price Report 2022 Q1*. Available at: https://ww1.daft.ie/report/2022-Q1-rentalprice-daftreport.pdf?d_rd=1
[39] Residential Tenancies Board (2022). *Research and Data Hub: Notice of Termination.* Available at: https://www.rtb.ie/data-hub/notice-of-termination-received-by-rtb
[40] Central Statistics Office (2021). *The Rental Sector in Ireland 2021*. Available at: https://www.cso.ie/en/releasesandpublications/fp/fp-trsi/therentalsectorinireland2021/landlords/

Table 8: Breakdown of number of tenancies per RTB landlord (Q1 and Q2 2021)

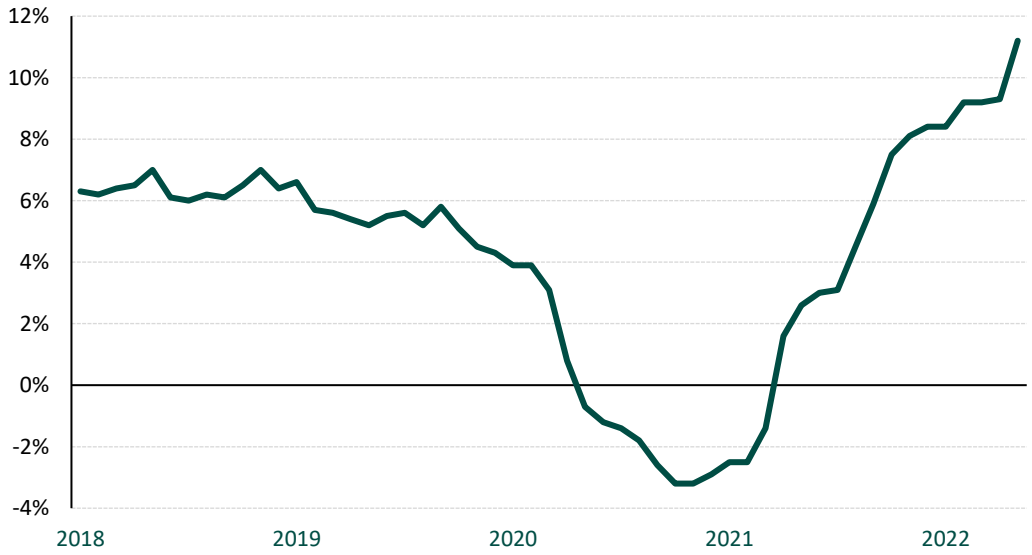
No of tenancies	Number of RTB landlords	% of landlords
1-2	134,951	86.2
3-19	21,195	13.5
20+	409	0.3
Total	**156,555**	**100.0**

201. The data published by the CSO show that half of all landlords in the country had net rental income of below €10,000 in 2019, with 80 per cent of landlords earning a net rental income of less than €20,000 p.a. The data also showed that one-fifth of all landlords had residential rental income as a primary source, whilst over 40 per cent of landlords stated employee income as their primary source. Median total gross income for landlords did, however, rise from 2017 to 2019 from €48,729 to €50,091 (an increase of almost 3 per cent). Some 60 per cent of landlords had total gross income (employment plus rental) below €60,000 and 40 per cent had total income below €40,000.
202. In addition to those leaving the market, a low number of new landlords are entering the market. Figures from the Banking & Payments Federation show that in 2021, less than 1,000 Buy-to-Let mortgages were issued. This figure represents a substantial reduction from levels seen during the mid-2000s where, for example, over 28,000 Buy-to-Let mortgages were issued in 2006.

7.2.1 RENT LEVELS

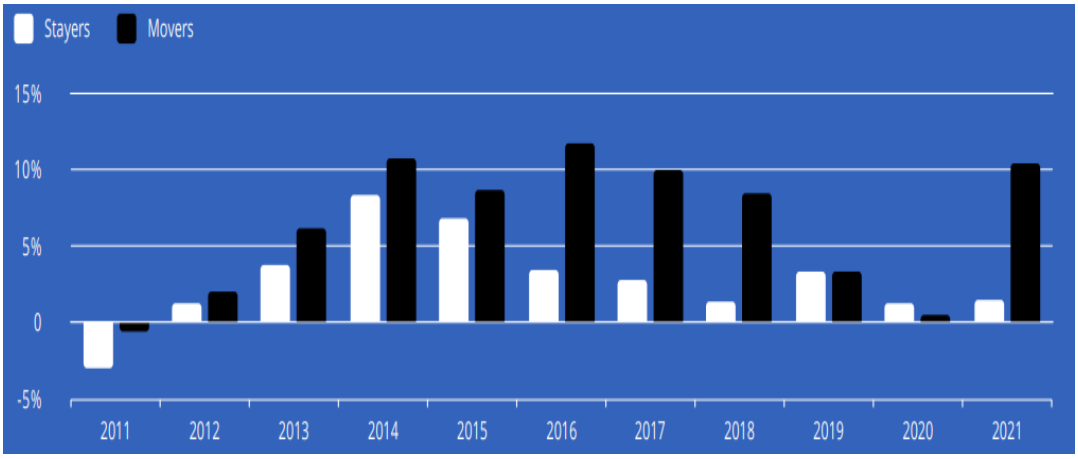
203. After falling during the pandemic, inflation in the rental market has increased in recent months. According the CSO Consumer Price Index, inflation in private rents reached 11.2 per cent in May 2022.

Figure 3: CSO Private Rents



204. The latest RTB index shows the average rents of new tenancies in Q4 2021 was €1,415 per month, and €1,972 per month in Dublin. It is important to note these represent new tenancy agreements and do not reflect rent levels paid by existing tenants. In the Q1 2022 Daft.ie rental report, a survey was used to obtain information rents for sitting tenants. The results showed significant differences in the level of rental inflation experienced by new and existing tenants. In particular, rents for sitting tenants 'non-movers' have increased 3.4 per cent on average each year over the last decade compared with 7.1 per cent for new tenants.

Figure 4: Change in existing tenants (stayers) and new tenants (movers)



Source: Daft.ie

205. Rent Pressure Zones (RPZs) were introduced in 2016 to curb rental inflation, with rent increases capped at 4 per cent per annum in designated areas. In December 2021, RPZ legislation was amended to cap rent increases at 2 per cent unless HICP inflation was below 2 per cent.

7.3 Current tax treatment of rental accommodation providers

206. The tax treatment of landlords is determined by the nature of the entity, whether an individual, a corporation or some other fund or structure. Further detail is as provided below.

207. The tax system in Ireland does not differentiate in its treatment of rental income accruing to resident individuals on the basis of their reasons for becoming a landlord. Irish source rental income is subject to tax under Case V of Schedule D. The income tax rate that an individual pays depends on their total income and personal circumstances. The current rates applying to income tax are the 'standard rate' of 20 per cent and a higher rate of 40 per cent on that part of a taxpayer's taxable income for a tax year which exceeds the

‘standard rate band’. Total Case V income for the year is added to the individual’s other income for determining their tax rate and band. PRSI and USC may also be chargeable.

208. The rental profits of an Irish resident company are in general chargeable to Corporation Tax at the higher 25 per cent rate if classed as Case V rental income.
209. For both resident individuals and companies, net rental income must be calculated separately for each rental source. The aggregate of all net rental incomes determines the total Case V income for the year. Generally, expenditure on a property which is capital in nature, such as expenditure on structural improvements, is not deductible when computing taxable income. However it would generally qualify for deduction in calculating any capital gain on disposal of the property.
210. Capital Gains Tax (CGT), currently at the rate of 33 per cent, is chargeable on the gain arising on assets sold, including the sale of a property operated as a rented residential property by an individual landlord. In the case of companies, corporation tax on chargeable gains would arise at an effective rate of 33 per cent. There are allowable expenses, such as “enhancement expenditure”, which can be deducted from the sale price to work out an individual’s chargeable gain arising on the disposal.
211. Collective institutional investment in rental property most commonly take place through either a Real Estate Investment Trust (REITs) or an Irish Real Estate Funds (IREFs).
212. REITs are publicly listed exchange traded funds set up to allow collective investment in rental property. They must be widely held and hold a diversified portfolio of property, among other conditions. REITs are not subject to tax on qualifying profits or gains within the REIT, but the REIT is obliged to distribute 85 per cent of property profits annually for taxation at the level of the shareholder. Dividend Withholding Tax (DWT) at a rate of 25 per cent generally applies to distributions made by REITs to their shareholders, except in certain limited cases, such as where the investor is a pension or charity.
213. An IREF is an investment fund that derives 25 per cent or more of its value from real estate assets in the State. Qualifying investment funds are generally subject to the gross roll-up regime, where income accrues tax free within the fund and tax is levied on the investor on receipt of income or gains. However income tax of 20 per cent can apply to IREFs in certain circumstances. IREFs must also operate a 20 per cent withholding tax on distributions to non-resident investors (other than exempt investors). Investors resident in double taxation treaty-partner countries may be able to reclaim some of this withholding tax or offset against their home country tax liabilities on the distributions received. Irish resident investors in IREFs are not subject to the IREF withholding tax as they are instead subject to a separate exit tax.

7.4 Update on Options for Change

214. The options put forward in the 2017 Report are described briefly below, alongside any updates or evaluations undertaken by the Department of Finance.
215. The taxation of the residential rental sector must be considered as a component of the wider housing system. Changes to the tax treatment of the sector can have negative and positive spill over, displacement and other impacts. It will also interact with wider institutional and regulatory systems. Tax measures on their own are unlikely to significantly increase the supply of rental accommodation and so changes to taxation policy need to be complementary to measures under the *Housing for All* strategy and aligned with wider financial and macro-prudential policies.
216. As noted earlier in section 7.2, the number of private landlords in the market has reduced year on year since 2016, a total reduction of 5 per cent between 2016 and 2020. The number of private tenancies has reduced by 8 per cent over the same period. Surveys and market observers point to a number of key reasons for the reduction:
    - prevalence of 'accidental landlords'
    - regulation and uncertainty regarding future regulation
    - lack of profit.
217. In the case of accidental landlords, it is difficult to envisage any reasonable policy intervention that could dissuade such people from selling their property. People in this situation are keen to sell once they have escaped negative equity and public policy options to prevent such action are extremely limited. In relation to regulation, successive Governments have made a series of specific policy choices to more heavily regulate landlords. This was done in order to respond to legitimate concerns around tenant rights and security of tenure. Changes have been made to the point where the regulatory environment has changed utterly from that which existed before the financial crisis. A natural consequence of these policy choices is the departure of 'amateur' landlords who may not have the time, money or risk appetite to continue with their property in such an environment. The corollary of that is the professionalisation of the rental sector.
218. There are two strands to the issue of profitability. Firstly, with the advent of Rent Pressure Zones, the majority of landlords do not have the ability to charge market rents for their properties. Similarly to the wider issue of regulation, this policy choice involves a trade-off. Tenants have more affordable rents but the reduction in landlord profitability reduces the incentive to invest. Another consequence of price controls is the creation of a two tier market. In 2021 rent price inflation for new tenants was almost seven times that for existing tenants.
219. Finally, taxation of rental income is often sighted as a push factor for Buy-to-Let investors. In fact, unlike the other issues outlined above, the way in which rental income is treated for tax purposes hasn't changed. Personal rates of income tax have always applied to rental income. Any favourable treatment of passive personal income such as rent would raise legitimate questions around social equity.

220. The Department of Finance's Tax Expenditure Guidelines must be used by policy-makers for evaluating the appropriateness of introducing new tax measures or retaining existing measures. The Guidelines promote high standards in tax expenditure evaluation and provide guidance and clarity to interested parties as to how the Department of Finance will approach the evaluation of new or existing tax expenditures.
221. As with all tax expenditures, EU State Aid regulations will also need to be considered in developing any proposed tax measures.

7.4.1 OPTION 1: FULL MORTGAGE INTEREST DEDUCTIBILITY

7.4.1.1 Description

222. In Budget 2009, interest deductibility for residential rental premises was restricted to 75 per cent of qualifying interest in the context of the fiscal crisis and the need to broaden the tax base. Finance Bill 2016 provided for the phased restoration of full deductibility over five years in increments of 5 percentage points, commencing in 2017. Some 80 per cent of qualifying interest incurred in 2017 was allowable in respect of rented residential property and this was to rise to 85 per cent from 1 January 2018.
223. The 2017 Report proposed an option to restore 100 per cent mortgage interest deductibility for landlords of residential property with effect from 1 January 2018.

7.4.1.2 Current Position

224. This option has since been implemented. With effect from 1 January 2019, 100 per cent of the interest may be deducted on mortgages for residential rental properties.

7.4.2 OPTION 2: LOCAL PROPERTY TAX DEDUCTIBILITY

7.4.2.1 Description

225. This short-term option was to allow rental property providers to deduct Local Property Tax from their rental income as an expense in calculating taxable profits for the purposes of income tax.

7.4.2.2 Current Position

226. General deductibility:

The question of deductibility of LPT for landlords has been considered in a number of studies over recent years; e.g., the Thornhill reports of 2012 and 2015 as well as the 2017 Report. It was last examined in the 2019 Interdepartmental Review of the tax which was completed by the Department of Finance in conjunction with the Departments of the Taoiseach, Public Expenditure & Reform and Housing, Planning & Local Government and the Revenue Commissioners. A recommendation of its report, published on 2 April 2019, stated that LPT should not be allowed as a deduction against income or corporation tax.

227. While Thornhill (2012) recommended that the LPT paid in respect of a rented property should be deductible from gross rents in computing taxable income (in a similar manner to commercial rates) on the basis that it was an expense of the transaction under which

rents are received, Dr Thornhill altered his stance in 2015 on this issue stating that deductibility did not rest easily with the concept of the LPT as a tax on the amenity value of residential properties rather than as a business cost.

228. *Changes to Nursing Home resident exemption:*
Since its introduction, one of the exemptions provided for by the LPT regime has been an exemption for 'Properties vacated because of long term mental / physical infirmity'. Until recently qualification for this exemption required the property in question actually be vacant. However, this was changed by the Finance (Local Property Tax) (Amendment) Act 2021, which provided that a property will remain eligible for the exemption even if occupied, so long as the person occupying the property is not a joint-owner / liable person. The change was made in order to free-up residential properties for rental.

7.4.2.3 Evaluation

229. The 2019 LPT Review group noted that such a measure would create a different treatment of LPT between landlords and owner-occupiers, who cannot claim a deduction for LPT. It further noted that LPT is a relatively small expense and therefore is unlikely to make a significant difference to the position of any individual landlord in cash terms and so may not be regarded by landlords as a sufficient measure to encourage them to stay in or enter the rental market. The measure would also have a deadweight cost.

7.4.3 OPTION 3: OFFSETTING RENTAL LOSSES AGAINST OTHER INCOME SOURCES

7.4.3.1 Description

230. Case I (trade) and II (professional) losses are available to offset sideways against other income, subject to restrictions in respect of non-profitable businesses. As such, option 3 proposed allowing rental accommodation providers to offset current-year rental losses arising under Case V taxation rules against other taxable income in the same year.

231. The original 2017 report identifies this measure as follows:

> *"(to) allow landlords to offset current-year rental losses, arising under current Case V taxation rules, against other taxable income in the same year. Case I (trade) and II (professional) losses are available to offset sideways against other income, subject to restrictions in respect of non-profitable businesses.*

232. The objective would be to retain the existing stock of rental property in the market by improving the net cash position of landlords whose allowable expenses exceed rental income. It could also attract additional investment into rental property as it could reduce the net costs to landlords in the early years of the investment when net losses (most probably linked to mortgage interest costs) are more likely to occur.

7.4.3.2 Current Position

233. Currently, landlords can carry-forward their rental losses for offset against future rental profits, but cannot offset rental losses against other net taxable income in the current year, other than other rental profits from other properties. By contrast, losses from a trade

or profession can be offset against some other sources of income in a current year (subject to certain conditions).

234. However, rental losses can currently be carried forward indefinitely against future rental income, even after the loss-making property has ceased to be a rental property. This is in contrast to trading income chargeable under Case I, where the loss relief effectively ceases when the trade ceases. The current system of rental loss relief has the effect of encouraging landlords to remain in the market, in order to avail of the loss relief against future streams of rental income. Allowing offset of rental losses against all other income could potentially encourage landlords to exit the market at an earlier date, once their losses had been fully relieved against other income.

7.4.3.3 Considerations

235. In addressing this option, it should be recalled that the 2017 Report also identified the following considerations:
    - The risk that tax-planning opportunities that could take advantage of this measure and the potential for loss relief against the income of a spouse under joint assessment rules.
    - For most landlords, mortgage interest is the largest single expense and is therefore likely to be a significant factor in determining profitability. Introducing the offset of rental losses against other sources of income could encourage higher levels of indebtedness among landlords when purchasing new property (albeit that the macro-prudential rules should limit potential for overgearing).
    - Any measures directed at landlords will necessarily disadvantage potential owner-occupier purchasers.
    - Any changes to the treatment of other losses would be difficult for Revenue to administer.
    - There would also be a substantial deadweight element to any changes.

7.4.3.4 Evaluation

236. As noted above, the objective would be to retain the existing stock of rental property in the market by improving the net cash position of landlords whose allowable expenses exceed rental income. It could also attract additional investment into rental property as it could reduce the net costs to landlords in the early years of the investment when net losses (most probably linked to mortgage interest costs) are more likely to occur.

237. The 2017 report stated that there was evidence of market failure in the supply of property in the residential rental market, which is resulting in increasing upward pressure on rental prices and contributing to increased demand for social housing supports funded by the State. It is clear that since the time of the report, that issue has become even more challenging.

238. At the same time, as with a number of the other options proposed by the Working Group, no evidence is set out in the report that this option would be superior to non-tax based measures. In addition, the Tax Expenditure Guidelines affirm that, in principle, direct

expenditure measures are to be presumed preferable to tax expenditures in market interventions.

239. This measure is likely to have a substantial deadweight element in that its capacity to have a significant role in incentivising new lettings (other than those motivated by tax-planning) is unclear.

7.4.4 OPTION 4: DEDUCTIBILITY OF PRE-LETTING EXPENDITURE

7.4.4.1 Description

240. Another short-term option proposed that a deduction be allowed for pre-letting expenses incurred by a landlord in bringing a property which has been vacant for a minimum period of time on to the rental market. The objective of the measure was to increase the supply of rental accommodation by incentivising the owners of vacant property to bring the property up to standard and into serviceable use on the rental market.

7.4.4.2 Current Position

241. This measure was implemented in Finance Act 2017. Finance Act 2021 extended its availability as an incentive out to end-2024. Owners of rental properties are entitled to claim deductions and reliefs from gross rents for various expenses relating to their rental property. These expenses include any rent payable in respect of the premises, general repairs and maintenance (capital expenditure excluded), insurance and management fees, rates, service charges, accountancy fees and certain mortgage protection policy premiums.
242. The relevant section of the TCA, Section 97A, TCA provides that expenses incurred on a vacant residential premises prior to it being first let after a period of non-occupancy are authorised as a deduction against rental income from that premises.
243. Section 97A (6) TCA provides that there will be no allowance or deduction under any other section of the TCA other than this section for expenditure treated as being authorised as a deduction under the section. This prevents double deduction of the expenditure.
244. A claw back mechanism is in place where a landlord who has made a claim under the section stops letting a residential premises within four years of the first letting. This cessation can be either on sale of the property or on change of use from rented residential property.
245. The section applies to expenditure on a premises which has been vacant for at least 12 months and must have been incurred in the 12 months before it is let as a residential premises. The expenditure must be such as would be allowed against rental income if it had been incurred during the period of letting. There is no limitation on the number of residential units for which a landlord can make a claim under this section however the allowed deduction is capped at €5,000 per vacant premises.
246. There may be some merit in considering whether the cap might be raised to address cost rises in the intervening period since this measure was introduced.

7.4.5 OPTION 5: DATA COLLECTION AND SHARING

7.4.5.1 Description

247. The fifth and final short-term option proposes improvements in the collection and sharing of data on the rental accommodation sector. The Working Group noted that, while Revenue and the RTB were not set up for the purposes of collecting statistical data, it is an inevitable consequence of their operations that they acquire large volumes of data. Accurate and comprehensive data is a pre-requisite when considering the introduction of new or review of existing tax measures.

248. The report stated that future reviews of data collection systems, for example by Revenue and the RTB, should aim to improve the quality of data collected without unduly increasing administrative burdens. It was suggested that linkages between existing data source should also be improved, where feasible and appropriate, to facilitate more in-depth analysis of the sector. For example, requiring the use of a property identified for each tenancy registration with the RTB, such as an Eircode or a LPT property ID, would facilitate the linking of data collected by different State agencies.

7.4.5.2 Current Position

249. This option is a matter for Revenue and the RTB in the first instance. Revenue advises that work on optimising the quality and efficiency of its property-related data collection processes is ongoing.

7.4.5.3 Evaluation

250. The general thrust of this option is one that may be supported and, to the extent possible, efforts should be made to further advance progress in this area. However, as noted in the report itself, this option is not a tax expenditure.

7.4.6 OPTION 6: DEDUCTION OF CAPITAL COST OF THE RENTAL PROPERTY WITH CORRESPONDING REDUCTION IN THE BASE COST OF THE PROPERTY FOR FUTURE CAPITAL GAINS TAX PURPOSES

7.4.6.1 Description

251. This medium-term measure would allow a tax deduction against rental income for an element of the capital cost of a property in the initial years of ownership of a residential rental unit, with a corresponding reduction in the base cost of the property on a future disposal for Capital Gains Tax (CGT) purposes.

7.4.6.2 Current Position

252. Currently, a landlord cannot offset the capital costs of a property against rental income (or any income). Landlords may be in a position where their rental income each month may not cover, or only just cover, their mortgage repayment and letting expenses, but yet a taxable profit still arises due to the capital repayment element of the mortgage.

7.4.6.3 Considerations

253. The 2017 report identified a number of considerations as follows:

- Would the relief apply to existing property holdings or only to property purchased after the introduction of the relief. Introducing the incentive for new purchases only could be viewed unfavourably by existing landlords and could lead to some increased property churn from current property owners seeking to avail of the relief? Alternatively, extending the relief to existing property owners would have a significant deadweight cost and may give rise to difficulties in identifying the appropriate capital cost to use.
- As an alternative to broad application, this option could be targeted at the cohort of individuals referred to as "accidental landlords"[41]. It should be noted however that it may be difficult in practice to define and identify the intended "accidental landlords" for the purposes of any relief.
- There are instances in which a CGT liability does not arise on disposal of a property – for instance the transfer of a property on death. Such cases would result in a permanent loss from the tax base of the relieved amount.
- A method of accurately tracking the reduction in the base cost for a future sale of the property, potentially occurring some decades in the future would be required.

7.4.6.4 Evaluation

254. The objective of the measure envisaged by Option 6 would be to support the supply of property in the residential market by improving the net cash position of landlords in the early years of property ownership by reducing their current taxable profit.
255. The 2017 Report provided evidence of market failure in the supply of property in the residential rental market, resulting in increased upward pressure on rental prices and contributing to increased demand for social housing supports funded by the State. Furthermore, it was noted that landlords often operate at or below break-even point in the early years of property ownership, when the capital element of mortgage borrowings is being repaid. The measure may contribute to stability in the market if the landlord is planning on a long-term gain, but conversely it could contribute to instability where landlords sell up to cut expenses or realise a capital gain.
256. A key challenge at present is to seek to slow or prevent the steady exit from the market of smaller scale landlords pending the coming on stream of great levels of supply under Housing for All and, as far as possible, to avoid disincentives for new entrants. Tax measures on their own are unlikely to significantly increase the supply of rental accommodation and so changes to taxation policy need to be complementary to measures under the *Housing for All* strategy and aligned with the wider regulatory financial and macro-prudential policies. Ideally also, only those measures that do not undermine moves to increase supply and affordability for first time buyers of first homes should be considered.

[41] The report defines accidental landlords as individuals who purchased their first property during the peak years of the property boom, who have found it necessary to rent alternative accommodation more suited to their current household while renting out the owned property.

257. For Option 6 to be effective, it would need to apply to existing landlords already operating in the market as well as to new entrants. This would give rise to deadweight costs as the existing landlords would be provided tax relief for expenses that they have already incurred. In addition, there would be challenges around the equitable design of an appropriate measure and it would potentially involve very significant upfront annual Exchequer costs[42]. Some of the other considerations/drawbacks mentioned in the considerations section immediately above may also apply.

7.4.7 OPTION 7: CAPITAL GAINS TAX RELIEF FOR PROPERTIES ACQUIRED AND RETAINED AS RENTAL ACCOMMODATION

7.4.7.1 Description

258. Where a property is purchased with a tenant in situ and is retained as a rental property for a minimum of 5 years, a CGT relief of 4 per cent per annum would accrue on an annual basis for the length of time it remains as a rental property.
259. If it is sold or ceases to be let to tenants in less than 5 years, no relief applies. If it is sold or ceases to be let after more than 5 years, the taxable gain is reduced by 4 per cent for each year that it was held as a rental property. This was the second of three medium-term options put forward in the 2017 Report.

7.4.7.2 Considerations

260. The 2017 Report identified the following considerations:
    - An incentive of this type could encourage a prospective investor to purchase a property with a tenant in-situ, thereby preserving the existing tenancy. Reduction in tenancy churn in rental markets and greater continuity of tenancies could result in reduced call on social housing services by households who have to vacate as a result of disposals of rental properties. It is possible that many of these properties are purchased by owner-occupiers and they in turn will vacate their rental property or sell their previous home meaning that, while there is a churn in who lives in a specific property, the number of homes is unchanged.
    - By supporting potential Buy-to-Let purchasers, the measure could reduce incentives for landlords planning to exit the market to seek vacant possession in order to sell their rental properties into the home ownership market.
    - The current rent pressure zone regulations may inhibit uptake of this model, in cases where the current tenant's rent is below the market rent for the property and the property is therefore less attractive to a Buy-to-Let purchaser.

[42] For example, a deduction over 10 years equivalent to 25 per cent of the capital cost of a single property valued at €350,000 would amount to €8,750 per annum (€350k * 25 per cent = €87,500; €87,500/10 = €8,750). At a marginal rate of income tax of 40 per cent, the annual net tax cost on this figure would potentially be €3,500 (for income tax alone); if the marginal rate of tax was 20 per cent, the annual net tax cost would be €1,750. For illustrative purposes, if 50 per cent of the current cohort of landlords who own no more than two properties were to benefit at the rate of €1,750 per annum, this would give rise to upfront costs in excess of €130 million per annum.

- In order to operate successfully this measure would require the introduction of anti-avoidance provisions to prevent the abuse of the relief (through, for example, lettings to connected parties).
- A review of regulations may be required to maintain tenant rights through a change of landlord.

261. In addition to the above, further considerations include the treatment of negative gains where the property devalues during ownership. Also relevant is the date at which relief would begin and how values would be calculated if it wasn't the purchase price.

7.4.7.3 Evaluation

262. The objective would be to retain existing rental accommodation in the rental market when current landlords choose to sell the property. It would also aim to promote the long-term retention of property in the rental sector and an increase in the duration of tenancies.
263. The 2017 Report provided clear evidence of market failure in the supply of property in the residential rental market, resulting in increasing upward pressure on rental prices and contributing to increased demand for social housing supports funded by the State. In the intervening period, these challenges have intensified.
264. However, it is not clear that the measure envisaged under Option 7 would be effective in that it relies on the decision of the vendor (to leave the tenant in situ) while at the same time the option envisages that the tax incentive is to be provided to the purchaser.
265. From the perspective of the purchaser, a trade off would arise between the price saving that might accrue from buying a property with a tenant in situ and the narrowed range of options that would result from that decision.
266. In addition, it is not clear that the incentive envisaged would be sufficiently attractive to purchasers/landlords to retain a property as a rental unit for a minimum of five years.
267. Some indicative modelling undertaken for the purposes of this review (see Appendix 1) suggests that the CGT gain to landlords would be relatively modest on a single property after a five year period, particularly when compared with current monthly rents.
268. If this measure was to be considered, strong anti-avoidance provisions would be required to minimise prospective abuse.

7.4.8 OPTION 8: INCENTIVE FOR INVESTMENT CAPITAL FOR CONSTRUCTION

7.4.8.1 Description

269. The objective of this policy option, the third of three options for possible implementation over the medium-term, was to encourage investment in the development of accommodation which would then be let at a social/affordable rent, below the market rate. The rationale for this approach was that there was a weak market capacity and/or preference to supply rental units to the low to moderate income rental market. The availability of the increased finances would be tied to a requirement that some/all of the units would be let at social / affordable rates.

270. The policy option outlined in the 2017 Report was similar in concept to the Employment Investment Incentive (EII). It involved the development of a relief for investment in shares in a company set up to develop and manage the rental properties. Investors would receive tax relief based on the amount invested in the company concerned.
271. The 2017 Report suggested that the relief could be phased, (as was previously the case with the EII) with a minimum holding period required in order to ensure entitlement to receive the relief. Once construction of the premises had completed and letting had commenced the project would generate an ongoing income return to the investor.

7.4.8.2 Current position

272. Since publication of the 2017 Report, the EII has been modified. The provision of tax relief is no longer delivered in two phases; it is now provided at a rate of up to 40 per cent upfront in respect of investments made in certain corporate trades. The main objective of EII is to provide SMEs and start-ups with an alternative source of funding and to support the creation and retention of employment in SMEs across the economy.
273. Pathway 1 of the *Housing for All* plan, Supporting Homeownership and Increasing Affordability, includes the introduction of a new form of rental tenure and delivery of 'Cost Rental' homes. Cost Rental is a new form of affordable housing in which the rent that applies is based on the cost of provision rather than on profit maximisation. Rents cover the cost of financing, building, managing and maintaining the homes, calculated over a minimum period of 40 years. Tenants will have increased security of tenure, making Cost Rental a long-term rental option. The rents will also be linked to inflation, providing tenants with greater certainty regarding cost. Delivery of Cost Rental accommodation at scale will also have a stabilising effect on the wider rental market, as the increase in supply will reduce the high rents which are driven by demand.
274. Eligibility for Cost Rental is targeted to address the needs of middle-income earners (below €53,000 net household income). The aim is to maximise effectiveness for those who do not qualify for social housing but who are facing affordability pressures on the private rental market.
275. The Department of Housing, Local Government and Heritage has approved funding through the Cost Rental Equity Loan (CREL) scheme for the development of approximately 900 Cost Rental homes, to be delivered in 2022 and 2023 by Approved Housing Bodies (AHBs). An average of 2,000 homes will be provided per year, by the AHBs, Local Authorities, the Housing Finance Agency and the LDA between now and 2030. Where State funding is made available, rents are targeted to be delivered at 25 per cent below market rates.
276. The CREL scheme makes loans available to AHBs on favourable terms to cover up to 30 per cent of capital costs for the construction or acquisition of homes for Cost Rental. CREL loans will be long-term (40 years), low-interest, and will use simple rather than compound interest. Repayments will not be required until the end of the loan term. These favourable terms help to reduce the financing costs of delivering new Cost Rental homes,

allowing cost-covering rents to be set at lower, more affordable levels. Budget 2022 allocated €70 million to develop Cost Rental homes, to be delivered by AHBs through the CREL mechanism.

7.4.8.3 Evaluation

277. EII is a generous relief predicated on a significant degree of risk on the part of the investor. It may provide an immediate 40 per cent return on investment before any profit subject to certain investment limits. Even in a significantly more modified form using, for example, the previous staggered approach to tax relief, an EII type measure in the context of the current property market would represent a disproportionately generous intervention and would inevitably give rise to a substantial amount of deadweight.
278. However, perhaps more importantly, circumstances have moved on compared with 2017. The issue of funding is no longer a main challenge: arrangements are in place for the provision of funds directly through the CREL scheme with financing now available to AHBs each year following Budget 2022. Also, the provision of funds directly through the CREL scheme may be seen as more efficient than the use of the tax system to increase financing and it also aligns with the general principles set out in the tax expenditure guidelines.

7.4.9 OPTION 9: REVIEW OF PROVISIONS FOR THE HOLDING OF RENTAL PROPERTY VIA PENSION VEHICLES

7.4.9.1 Description

279. In the context of a planned wide-ranging review of pensions policy, this option proposed that the current provisions allowing for investment in property via pension funds could be reviewed to determine if they are appropriate for the Irish property market. This was one of two long-term options put forward by the 2017 Report.

7.4.9.2 Objective

280. The objective would be to ensure pension funds can invest in residential rental property in a manner that is compatible with the long-term provision of pension benefits to the prospective pensioner(s) and with stability of tenure and supply in the rental accommodation market. This could to encourage / retain investment in rental accommodation by small scale landlords and encourage planning for retirement income. For example, the review may consider allowing (in effect) a current year tax relief for the capital cost of the property to improve affordability for indebted landlords.

7.4.9.3 Current Position

281. The regulatory environment for pension funds has changed since the report was published in 2017. Of particular relevance is the EU directive on the activities and supervision of Institutions for Occupational Retirement Provision (IORP II), which was transposed into Irish Law in April 2021. It was introduced to counter the lack of asset diversification, and offer greater protection to pension savers.

282. Previously one-member arrangements (OMAs) could borrow to invest and were not required to be predominantly invested in regulated assets. OMAs were also not required to diversify their investments and avoid risk accumulation, as other schemes are. Therefore, a one-member scheme could invest 100 per cent in one property or another investment asset, with or without borrowing.

283. However, OMAs are now subject to the full impact of the IORP II legislation. For all pensions funds there is now an effective ban on borrowing within the pension scheme, and investments in unregulated products, such as property, loan notes and renewable energy, cannot exceed 50 per cent of the value of the pension fund.

7.4.9.4 Considerations

284. The regulatory pension landscape has changed in the intervening years since this policy option was proposed. Encouraging pension funds to invest in property does not seem to align with the contemporary policy environment.

7.4.10 OPTION 10: SEPARATE METHOD OF TAXING RENTAL INCOME

7.4.10.1 Description

285. The report proposed that consideration be given to developing a separate method of taxing rental income. This was the second of two long-term options put forward by the 2017 Report. By way of example, a flat-rate tax or a separate rate of tax, as a policy lever to support the sector as a whole or specific sub-sectors (for example, affordable housing / urban housing). Another option proposed was to mirror the regime which applies to the leasing of land for the purposes of farming, such that taxable rental income is reduced depending on the term of the lease.

7.4.10.2 Current Position

286. The current tax treatment of rental income is laid out in Section 7.3 above.

7.4.10.3 Evaluation

287. Implementation of this option would represent a significant departure from current tax policy. While acknowledging the principle of horizontal equity, the 2017 Report noted that tax reliefs can be, and are, used to achieve specific policy goals. The breadth and depth of argument necessary to support such a fundamental shift in policy has not been provided to the extent necessary to support such a significant change. More specifically, the rationale as to why passive income from property rental should enjoy a lower or preferential rate of tax as compared with, for example, earned income has not been set out.

288. Costs would also likely be a big factor. For example, on certain reasonably modest assumptions, if 20 per cent of landlords were to pay a marginal rate tax on rental income of 20 per cent rather than 40 per cent, it is estimated that the cost could be in excess of €155 million per annum (see Appendix 2).

289. Also since 2017, the policy context has evolved. While as noted elsewhere in this review, many of the challenges that were manifest in 2017 continue to persist, we now have a

comprehensive strategy in place in the form of Housing for All. This plan, the implementation of which is a key priority for Government, aims to increase the supply of affordable for purchase and rental and it is accompanied by very significant levels of financial resources to help underpin delivery.

Appendix 1

The below model relays the illustrative gain from a CGT Relief (4 per cent per annum) for properties acquired and retained as rental accommodation, as discussed in respect of Option 6 above.

Capital appreciation
(5 per cent per annum)

1	350,000
2	367,500
3	385,875
4	405,169
5	425,427
6	**446,699**
6	469,033
7	**492,485**

	Assumptions:	**Sold at start Yr 6 (retained for basic 5 yrs)**	**Sold start Yr 8 (retained for 7 yrs)**
1	Capital appreciation of **5 per cent** per year average rate		
2	Property bought Yr 1 for €350k	**€350,000**	**€350,000**
3	Assume price appreciation of **5 per cent** per year		
4	Property sold (Yr 6 or Yr 8)	€446,699	€492,485
5	**Gross gain**	**€96,699**	**€142,485**
6	Less 4 per cent per annum for 5 years (20 per cent)	-€19,340	-€39,896
7	Net taxable gain	€77,359	€102,589
8	CGT rate of 33 per cent	€25,528	€33,854
9	CGT saving	€6,382	€13,166
10	*Gain per year for landlord over 5 yrs*	*€1,276*	*€2,633*

Gain:	€96,699	€142,485
Tax, if no relief:	**€31,911**	**€47,020**

Appendix 2

The below model relays the illustrative gain from a 20 per cent income tax relief for landlords who rent a property to a tenant for 5 years, as discussed in respect of Option 10 above.

Assumptions:

1	Estimated total number of rented properties:	325,000
2	Number availing of the relief (if 20 per cent of landlords with one rental property each):	65,000
3	Monthly rent	€1,500
4	Annual gross income from rental	€18,000
5	Expenses	-€6,000
6	Net taxable income per year	€12,000
7	Gross income tax (40 per cent) per year:	€4,800
8	Value of income tax relief (20 per cent of taxable income) per year:	€2,400

Estimated Annual Cost	**€156,000,000**
Estimated Cost Over 5 Years	€780,000,000

An Roinn Airgeadais
Department of Finance

Tithe an Rialtas. Sráid Mhuirfean Uacht,
Baile Átha Cliath 2, D02 R583, Éire
Government Buildings, Upper Merrion Street,
Dublin 2, D02 R583, Ireland

T:+353 1 676 7571
@IRLDeptFinance
www.gov.ie/finance