



Matters arising in relation to the

Guidelines

on

Residential

Developments

for

3rd Level Students

Section 50 Finance Act 1999

*Relief for Rented Residential Accommodation
for Third Level Students*

July 2005

Introduction

In 1999 the Minister for Education and Science, in consultation with the Minister for the Environment and Local Government and with the consent of the Minister for Finance, issued guidelines relating to the operation of the scheme of tax relief for investment in third level residential accommodation that is outlined in Section 50 of the Finance Act 1999.

This document addresses a range of specific matters that has arisen since publication of the guidelines. A number of these matters are of a minor technical nature. Other more substantive matters are also addressed.

Following Finance Act 2006 (section 25), the current qualifying period for incurring construction expenditure on student accommodation is 31 July 2008 subject to certain conditions being met. The qualifying period is up to 31 December 2006 where a valid application for full planning permission has been submitted to a local authority by 31 December 2004. The qualifying period is further extended to 31 July 2008 where work to the value of 15% of the construction expenditure is carried out by 31 December 2006. There is a gradual reduction in the amount of expenditure qualifying for relief after 31 December 2006. Expenditure incurred in 2006 can qualify in full without restriction. However, only 75% of expenditure incurred in 2007 and 50% of expenditure incurred from 1 January 2008 to 31 July 2008 can qualify for relief. The Revenue Commissioners have published guidance on the Finance Act 2006 changes in Tax Briefing issues 63 and 65. This can be found at www.revenue.ie

The Revenue Commissioners have published an explanatory note on certain provisions that were introduced in the 2003 Finance Act and on the operation of rent pooling and guidance note on 'Section 23 Relief' and these should be read in conjunction with the guidelines and this document. These documents can be found on the Revenue Commissioners' website at www.revenue.ie under 'publications/technical guidelines'. Entitlement to tax relief is dependent

on compliance with the guidelines, with this document and with the relevant taxes legislation.

At the rear of this document is a list of contact details. The list indicates to whom specific queries relating to this scheme should be addressed.

Changes to some definitions (paragraph 2 of the guidelines)

The changes relate to the definition of (a) educational institution and (b) student.

Educational institution (Minor technical)

In relation to the definition of an educational institution, there are three changes all of which are of a minor technical nature. Firstly, the word “certifying” has been added to the overall definition. Secondly, the phrase “in the State” has been added to the second part of the definition to emphasise that it is only recognised third level institutions in this State that can certify developments. Thirdly, the reference to Section 474 of the Taxes Consolidation Act has been amended to read Section 473A of the Taxes Consolidation Act 1997.

The definition now reads as follows:

A "**certifying educational institution**" means:

an institution in the State which provides courses to which a scheme approved by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts 1968 to 1992 applies;

or

an institution in the State which offers an approved course for the purposes of tax relief under section 473A of the Taxes Consolidation Act, 1997.

Definition of Student - (Substantive)

There are two changes to the definition of a student. The first change, appearing in Part A, is designed to emphasise that the student must be a full time student pursuing a course that extends for a full academic year at a certifying educational institution.

The second change, appearing in Part B, is designed to permit students attending a third level institution in Ireland while registered in a recognised third level institution abroad to benefit from the student accommodation scheme.

The definition now reads as follows:

A “**student**” means:

A: A person who is registered with a certifying educational institution and is attending a day course extending over at least a full academic year on a full time basis at that institution.

or

B: a person undertaking a programme of study at a certifying educational institution. The person must be registered as a full time student in a formal full time programme of study at a higher education institution abroad. The programme must lead to a degree or diploma up to and including doctoral level, recognised by the participating country in which the student is registered and the period at the certifying institution is an integral part of the programme of study.

The certification process in regard to multiple certifications – (Substantive)

This issue was not addressed in the guidelines. The change below reflects the need to allow multiple certifications and introduces greater flexibility which serves the best interest of the scheme.

Multiple certifications

In regard to the certification of qualifying developments, the following may apply:

1. An **entire** development can be certified by a certifying educational institution.
2. An **entire** development can be certified by one or more certifying educational institution(s). For example: a development consisting of 50 bedspaces can be certified by Institution A and the same 50 bedspaces can be certified by Institution B.
3. An **entire** development can be certified by multiple certifying educational institutions subject to a minimum of 20 bedspaces being certified by **one single** certifying institution. For example: a development of 30 bedspaces – one institute must certify a minimum of 20 bedspaces and the balance can be certified by any number of certifying educational institutions.

Only students from educational institution(s) that has/have certified bedspaces in a qualifying development can occupy these bedspaces. Surplus bed spaces cannot be occupied by non-students or by students of non-certifying educational institutions.

Qualifying leases (paragraph 5 of the guidelines)

(Substantive)

The qualifying lease section of the guidelines has been extensively re-drafted to reflect the differing lease arrangements that exist and which are permissible in the operation of the scheme. Each of the qualifying lease arrangements detailed below are acceptable under the scheme.

1. A lease involving an owner of a unit(s) in a qualifying development and a student

In order that a lease executed between an owner of a unit or units in a qualifying development and a student can be regarded as a qualifying lease, it must comply with the following requirements:

- a) The lease must be in writing.
- b) The lease must be in respect of a bedspace that is in a qualifying development.
- c) The student leasing the bedspace must be a student of the certifying educational institution.
- d) The lease must be governed by the provisions of the Landlord and Tenants' Code except where the lessor is a certifying educational institution in which case the letting arrangement must comply with the institution's normal policy for letting residential accommodation and provide security of tenure for the student as detailed in (e) (i) below.

- e) (i) The lease must be for the whole of the academic year except in the case of a student defined under paragraph B of a student in page 4 above in which case the period of the lease shall be for the duration of the course at the certifying educational institution or for the academic year, whichever is the shorter.
- (ii) If the circumstances of a student (lessee) change during the course of the academic year, resulting in the termination of the lease before the end of the academic year, while this lease will be regarded as a qualifying lease, a lease for the remainder of that academic year with another student of the certifying educational institution will also be regarded as a qualifying lease.

2. A lease involving an owner(s) of a unit(s) in a qualifying development and a management company

In order that a lease executed between an owner(s) of a unit(s) in a qualifying development and a management company charged with the onward letting of the bedspaces can be regarded as a qualifying lease, it must comply with the following requirements:

- a) The lease must be in writing.
- b) The lease must be in respect of bedspaces that are in a qualifying development.
- c) The lease must confirm that the management company will on-let the bedspaces on behalf of the owner in compliance with all of the requirements of paragraph 1 above.
- d) The management company must be actively seeking students of the certifying educational institution from the date of execution of the lease. The qualifying lease cannot be executed before the unit is completed and ready for occupation.

Note: A lease involving an owner(s) of a unit(s) in a qualifying development and a certifying educational institution will be similarly regarded as a qualifying lease provided it complies with all of the requirements of paragraph 2 above.

3. Where a qualifying development is not completed until after the start of an academic year, the lease must run for the whole of the remainder of that academic year and the subsequent lease shall be for the whole of the next academic year thereafter.
4. The first letting of the unit must be to students of the certifying educational institution(s). This applies even where the unit is first completed and available for letting outside of the academic year.
5. Owners of qualifying developments must be in a position to provide evidence of letting to students. This evidence will be requested where any claim for relief is subject to an audit by the Revenue Commissioners. The owners should satisfy themselves that the students are from the certifying educational institution(s).
6. Owners may let the unit to non-students for periods outside of the academic year of the certifying educational institution subject to paragraph 4 above.
7. The units must continue to be let under a qualifying lease throughout the ten year period that commences with the first letting under a qualifying lease. Reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another are acceptable.

Communal Facilities and Amenities (Paragraph 8 of guidelines) (Clarification)

The following text clarifies the issue of communal facilities and amenities.

In addition to being provided for communal use, the facilities must be owned communally and in conjunction with ownership of a house unit. This is necessary as tax relief is dependent on ownership of a dwelling house. There is no tax relief for the provision of ancillary communal facilities that are owned on a stand-alone basis. A caretaker/security office and apartment can qualify for tax relief as part of the communal facilities. It can also qualify as student accommodation if the unit meets the minimum requirements of the guidelines. Such requirements include occupancy by a minimum number of three students of a certifying educational institution and the appropriate certification by the Department of the Environment Heritage and Local Government.

A commercial unit such as a shop will not be regarded as part of a qualifying development.

Disabled Access and Provision of Accessible Bedrooms (Paragraph 10 of the guidelines) (Minor Technical)

The paragraph below confirms the implementation of a proposal noted in the Guidelines to extend Part M of the Building Regulations to student accommodation.

Part M requires new dwellings commencing on or after the 1 July 2000 to be accessible by all. The design of residential accommodation for students must take this into account.

Certificate of Compliance

Where tax relief on rental income is being claimed by a person other than the developer (e.g. by the purchaser of a house or apartment), it is necessary to obtain a Certificate of Compliance. This was not addressed in the guidelines. See Appendix 1 attached.

Department of Environment, Heritage & Local Government

Information on Certification of Reasonable Cost and Certification of Compliance

1. Certificate of Reasonable Cost

A certificate of reasonable cost is required where the builder/developer retains ownership and then lets the newly constructed/refurbished/converted dwellings.

The certificate of Reasonable Cost certifies that the cost of providing the accommodation is reasonable, that the dwelling unit is within the specified floor area limits (55 to 160 square meters per unit) and that it complies with the standards set out in these guidelines and the Department's standards as outlined in the Department of Environment, Heritage and Local Government Memorandum, HA1 – April 2004. In the case of refurbishment projects it also certifies that the work was necessary for the purpose of ensuring the suitability of the house/apartment as a dwelling of accommodation.

An application may only be made by the builder/developer. Application forms and all supporting documentation should be submitted prior to the commencement of work. Where refurbishment work is proposed a prior inspection of the development, as it exists, is a requirement under the scheme.

Application for a Certificate of Reasonable Cost

To apply for a Certification of Reasonable Cost complete form HPF/1 and return it, together with the appropriate documentation and fee to the Department of the Environment, Heritage and Local Government, Housing Grants Section, Room F9/10, Government Buildings, Ballina, Co Mayo.

Documentation

Each application for a Certificate of Reasonable Cost must be accompanied by the following:

- (a) Fully dimensioned drawings of house/apartment to a scale of 1:50 showing floor plans, sections, and elevations.

- (b) Site location plan to scale of 1:2500 and site plan showing details to a scale of 1:500 including numbering scheme, north point etc.
- (c) Detailed specification of construction.
- (d) Copy of Planning Permission and in the case of apartments a copy of the Fire Safety Certificate.
- (e) Breakdown of Costs:
 - (i) Where the application executes the works, details of labour and materials costs plus other expenses incurred.
 - (ii) Where work is carried out under contract, details of tender, design fees, etc., and copy of final account.

The Department of Environment, Heritage & Local Government at all times reserves the right to request a Bill of Quantities.

Fees

A fee of €63.49 for the first unit, plus €25.39 for each additional unit is payable in respect of an application for a Certificate of Reasonable Cost.

2. Certificate of Compliance

Where tax relief on rental income is being claimed by a person other than the developer (e.g. by the purchaser of a house or apartment), it is necessary to obtain a Certificate of Compliance. This certifies that the accommodation is within the specified floor area limits (55 to 160 square metres per unit) and that it complies with the standards set out in the guidelines and the Department's standards as outlined in the Department of the Environment, Heritage and Local Government Memorandum, HA1 – April, 2004. In the case of refurbishment projects, it also certifies that the work was necessary for ensuring the suitability of the house/apartment as a dwelling of accommodation.

Application for a Certificate of Compliance

To apply for a Certificate of Compliance complete form HPF/2 and return it, together with the appropriate documentation, to the Department of the Environment, Heritage and Local Government, Housing Grants Section, Room F9/10, Government Buildings, Ballina, Co Mayo.

An application may only be made by the builder/developer. Application forms and all supporting documentation should be submitted prior to the commencement of work. Where refurbishment work is proposed a prior inspection of the development as it exists is a requirement under the scheme.

Documentation

Each application for a Certificate of Compliance must be accompanied by the following:

- (a) Fully dimensioned drawings of house/apartment to a scale of 1:50 showing floor plans, sections, and elevations.
- (b) Site location plan to a scale of 1:2500 and site plan showing details to a scale of 1:500 including numbering scheme, north point etc.
- (c) Detailed specification of construction.
- (d) Copy of Planning Permission and in the case of apartments a copy of the Fire Safety Certificate.



Department of the Environment Heritage and Local Government

HPF/1

An Roinn Comhshaoil agus Rialtais Aitiuil

Government Offices, Ballina, Co. Mayo. Telephone: (096) 24200 LoCall: 1890-20-20-21
Oifigi Rialtais, Beal an Atha, Co. Mhuigheo Fax: (096) 24222

Application for a Certificate of Reasonable Cost

Tax Incentive Scheme for the provision of Residential Accommodation for Third Level

Students (Section 50 Finance Act 1999)

IMPORTANT: This form is to be completed where the builder/developer/owner retains ownership of the unit(s) and then lets the newly constructed/refurbished/converted dwellings as unit(s) of residential accommodation. Before completing this form please read memorandum **HA1** and form **HA2R** (available from the Department of the Environment). The Guidelines on this scheme are available from the Department of Education and Science, Third Level Building Unit, Government Buildings, Tullamore, Co Offaly. Telephone 0506 25346

1. Applicant's Name

Address

2. Telephone Number: Home

3. Address of house(s)/unit(s) to which application relates (**full address and/or attach numbering system**)

4. Description of work (*please tick appropriate box*)

(a) New Construction Yes No

(b) Conversion of a single dwelling or non-residential building into not less than twenty bedspaces Yes No

(c) Refurbishment of a building with not less than twenty bedspaces Yes No

5. Total number of house/apt units to be provided

6. Total number of bedspaces to be provided

7. Total number of disabled bedspaces to be provided

8. Proposed date of commencement of work

9. Proposed date of completion of works

10. Estimated/amount claimed in respect of cost of provision of accommodation

11. Is letter from Educational Institution attached? Yes No

12. The following documentation is required and must be submitted with the completed application form:-

- (a) Copy of plans, sections and elevations to a scale of 1:50 (1:100 for Apartment Blocks)
- (b) Copy of site location map to a scale of 1:2,500 or larger and site layout map(1:500)
- (c) Specifications
- (d) Copy of numbering scheme for Apartments to a scale of 1:500
- (e) Copy of Planning Permission
- (f) Copy of Fire Safety Certificate for Apartments and Duplex units
- (g) Breakdown of costs
 - (1) Where works are executed by the applicant, details of materials and labour costs plus any other expenses incurred.
 - (2) Where work is carried out under contract, details of tender, design fees, etc., and copy of final account

A Bill of Quantities may be sought in certain cases

13. Fees

1 (one) initial house/apt unit @ € 63.49

each additional unit @ € 25.39

Total Fee submitted

Method of Payment (Please tick)

Cheque Bank Draft Money Order

Cheques, Bank Drafts, etc., should be crossed and made payable to the 'Department of the Environment, Heritage and Local Government'

PLEASE DO NOT SEND CASH THROUGH THE POST

The particulars set out in this application are correct to the best of my knowledge and belief

Signed _____ Date _____

PLEASE NOTE: INCOMPLETE APPLICATION FORMS WILL BE RETURNED



An Roinn Comhshaoil agus Rialtais Aitiuil

Government Offices, Ballina, Co. Mayo. Telephone: (096) 24200 LoCall: 1890-20-20-21
Oifigi Rialtais, Beal an Atha, Co. Mhuigheo Fax: (096) 24222

Application for a Certificate of Compliance
Tax Incentive Scheme for the provision of Residential Accommodation
for Third Level Students (Section 50 Finance Act 1999)

IMPORTANT: This form is to be completed where a unit(s) of residential accommodation is **being sold** by a builder/developer. Before completing this form please read memorandum **HA1 and Form HA2R** (available from the Department of Environment). The Guidelines on this Scheme are available from the Department of Education and Science, Third Level Building Unit, Government Buildings, Tullamore, Co Offaly. Telephone No: 0506 25346

1. Applicant's Name
Address

2. Telephone Number: Home Work Mobile

3. Address of house(s)/unit(s) to which application relates (**full address and/or attach numbering system**)

4. Builder's Name
Address

5. Total number of house/apt units to be provided

6. Total number of bed spaces to be provided

7. Total number of disabled bed spaces to be provided

8. Proposed date of commencement of works

9. Proposed date of completion of works

10. Description of work New Construction

Refurbishment

Conversion

(Please tick appropriate box)

11. Is letter from Educational Institute attached?

Yes

No

12. The following documentation is required and must be submitted with the completed application form:-

- (a) Copy of plans, sections and elevations to a scale of 1:50 (1:100 for Apartment blocks)
- (b) Copy of site location map to a scale of 1:2500 or larger and site layout map (1:500)
- (c) Specifications
- (d) Copy of numbering scheme for Apartments to a scale of 1: 500
- (e) Copy of Planning Permission
- (f) Copy of Fire Safety Certificate for Apartments and Duplex units

The particulars set out in this application are correct to the best of my knowledge and belief

Signed _____ Date _____

Sketch showing how to get to the house(s)/apt(s) from the nearest main road

PLEASE NOTE: INCOMPLETE APPLICATION FORMS WILL BE RETURNED

Contact Details for Enquiries

Revenue Commissioners

Any queries on the following issues should be addressed to the Revenue Commissioners at Business Income Tax Unit, Direct Taxes Interpretation and International Division, Stamping Building, Dublin Castle, Dublin 2 (Phone no: 01-6475000). Queries about an individual investor's tax affairs should be taken up with the individual's local tax office, details of which are available at www.revenue.ie.

- * Meaning of section 23-type relief
- * Expenditure qualifying for tax relief
- * Qualifying period for construction expenditure
- * Meaning of construction, conversion, refurbishment
- * How tax relief is claimed
- * How tax relief is given
- * Case V issues
- * Arrangements for payment of rent
- * Rent pooling
- * Method of financing used
- * Ownership structures
- * Letting arrangements
- * Buy back by educational institution
- * Use of management companies
- * Management and operational expenses
- * Time during which property must be retained
- * Temporary periods of disuse
- * Sale of property
- * Clawback of tax relief
- * Issues arising from Revenue audit
- * Qualifying leases

Department of Education & Science

Any queries on the following issues should be addressed to the Department of Education and Science, Third Level Building Unit, Government Buildings, Tullamore, Co. Offaly. The telephone number is 0506 25346.

- * Certifying educational institutions
- * Consultation process
- * Certification procedure
- * Definition of student
- * Qualifying areas
- * Qualifying developments
- * Communal facilities and amenities

Department of Environment, Heritage & Local Government

Any queries on the following issues should be addressed to the Department of the Environment, Heritage and Local Government, Housing Grants Section, Government Buildings, Ballina, Co. Mayo. The telephone number is 1890 305030 or 096 24200.

- * Floor areas of premises
- * Internal design and layout
- * Site planning
- * Construction methods and Materials
- * Certificate of reasonable cost
- * Certificate of compliance