

Property

Local Property Tax: Rising House Prices and Questionable LPT Valuations

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In a year where the words “good times” are being heard again and reports confirming that residential property prices rose by 7.2% across Ireland, along with claims that the new first time buyer scheme introduced under the Budget for 2017 will help push up prices further, it is likely that Revenue will see an increase in applications by vendors of residential properties for specific clearance or self-correction of LPT valuations originally submitted during 2013 when the country was emerging from recession.

Sale of Residential Property

Where a residential property is sold, the sale price may be considerably in excess of the original valuation returned for LPT calculation in May 2013 (“the original valuation”). This does not necessarily mean that the valuation used in the LPT return was not a true reflection of the valuation of the property on the valuation date; however, it is important that any residential property owner can explain any difference between the LPT valuation and the sale price to the satisfaction of Revenue.

General Clearance – A Purchaser’s responsibility

Underpayment of LPT, relating to the period prior to the sale of a residential property, can remain a charge on the property and, therefore, a purchaser must satisfy himself in relation to general clearance and decide whether the original valuation used by the vendor in relation to LPT prior to the sale was reasonable. Where the sale price exceeds the LPT valuation and any of the four conditions set out by Revenue have been met, Revenue accepts that there is no charge on the property and general clearance applies. The four conditions are:

1. the property is sold for less than €300,000
2. the sale price and LPT valuation difference is within the allowable margin
3. the sale price and LPT valuation difference is within the allowable margin and adjusted upwards by any construction/refurbishment expenditure
4. the upper limit of the declared valuation band must be at least the Revenue’s guidance band and the vendor must have evidence of at least one comparable property sold within the period of six months.

If a purchaser does not consider such valuation reasonable and none of the conditions have been met, then he is obliged to file a return after the sale completes to include an updated valuation. As a result of the purchaser filing this post sale return any pre-sale LPT will not remain a charge on the property and Revenue will pursue the vendor for any balance of tax due.

A Purchaser should be aware that when filing a stamp duty return post sale, Revenue will be furnished with details of the sale price which will put Revenue on notice of circumstances where the sale price is in excess of the original valuation previously furnished and the fact that none of the general clearance conditions have been met.

Specific Clearance – A Vendor’s responsibility

Revenue will, in some circumstances, on the request of the vendor, provide specific written clearance, where the above conditions have not been met but the vendor claims that the valuation at 1 May 2013 was made in good faith and that the original lower valuation was justified. This specific clearance application is only available where:

- There is an actual sale taking place
- The sale price is agreed
- The Vendor has not self-corrected
- None of the four conditions above are met.

Revenue will require supporting documentation to include a professional valuation, information on actual selling prices at the time and movement in house prices obtained from the Property Services Regulatory Authority and the Central Statistics Office. It is advisable for a vendor prior to the sale of a residential property to make an application to Revenue for specific clearance as if the purchaser files a return post sale indicating a revised valuation, Revenue may seek to recover any balance of LPT due from the vendor based on the amended valuation for the period prior to the sale.

If specific clearance is not issued by Revenue a vendor can self-correct the LPT prior to the sale if it appears that the property was undervalued in May 2013.

The specific clearance procedure does not apply in second or subsequent sales of a property within a valuation period. The general clearance procedure applies in these instances provided the valuation difference on the first sale was within the allowable margin referred to above.

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