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**AN BILLE AIRGEADAIS (CÁIN MHAOINE ÁITIÚIL)  
(LEASÚ), 2013  
FINANCE (LOCAL PROPERTY TAX) (AMENDMENT) BILL  
2013**

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**EXPLANATORY MEMORANDUM**

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*Section 1* defines the “Principal Act” as the Finance (Local Property Tax) Act 2012.

*Section 2* amends Part 2 of the Finance (Local Property Tax) Act 2012 by providing exemptions from local property tax for residential properties used by a charitable body for recreational activities connected with its charitable purpose and for residential properties purchased or adapted for occupation by permanently and totally incapacitated individuals.

The exemption for residential properties used by a charitable body in connection with recreational activities facilitated by that body applies where such activities take place in the course of the actual carrying out of a primary purpose of the charity. An example would be a residential property that is used to accommodate girl guides or boy scouts who take part in guiding and scouting activities.

The exemption for a residential property that is purchased or adapted for use as a sole or main residence by an incapacitated individual applies where an award has been made by the Personal Injuries Assessment Board or a court or where a trust has been established specifically for the benefit of such individuals. To be exempt from payment of local property tax, a residential property must be acquired or adapted to make it suitable for occupation by an incapacitated individual. In the case of adaptations to a property, the exemption will not apply unless the cost of the adaptations exceeds 25% of the market value of the property before it is adapted. The exemption ends if the property is sold and the incapacitated individual no longer occupies it as his or her sole or main residence.

*Section 3* amends Part 2 of the Finance (Local Property Tax) Act 2012 to provide an exemption for a temporary period of at least 3 years for residential properties that have been affected by a significant level of pyrite-induced damage. The Minister for the Environment, Community and Local Government is to make regulations that will stipulate how residential properties are to be tested to establish if a property has been affected by a significant level of pyrite-induced damage.

*Section 4* amends Part 3 of the Finance (Local Property Tax) Act 2012 to clarify how the Act will apply in a number of situations where an occupier of a residential property has not taken steps to establish title to the property.

*Section 5* makes several amendments to Part 4 of the Finance (Local Property Tax) Act 2012 relating to the charging provisions such as valuation of property and the rate of tax to be applied.

Paragraphs (a) and (b) make amendments to section 14 that are linked to an amendment made to section 35. These amendments are intended to act as a deterrent against under-declaration of the chargeable value of a relevant residential property by a liable person who intends selling the property before the next valuation date. A new subsection (1A) obliges a person who sells or otherwise transfers a relevant residential property in the period between two valuation dates to disclose to the purchaser or new liable person the chargeable value that was established on the first valuation date along with any relevant documentation. The amended section 35(5A), in turn, obliges the purchaser/transferee to submit a revised return and chargeable value where it appears to him or her that the chargeable value declared by the vendor/transferor was too low given the circumstances that would have prevailed at the valuation date on which that chargeable value was established. An amendment to section 146 imposes a penalty of €500 for failure to make the required disclosure.

Paragraphs (c) to (k) are a combination of minor technical amendments and amendments that clarify the operation of the Act in relation to the local adjustment factor.

*Section 6* inserts a new section 15A into the Finance (Local Property Tax) Act 2012 providing for a reduction in the chargeable value of a relevant residential property that has been adapted for occupation by a disabled person where the adaptation has been grant-aided by a local authority.

The reduction is limited to the lesser of the chargeable value attributable to the adaptation work carried out on the property and the maximum grant payable under the relevant local authority scheme.

The relief ends on the sale or transfer of a property that has been adapted, unless the person with the disability continues to reside in the property.

*Section 7* deals with residential properties in relation to which the liable person is a local authority or an approved housing body.

The chargeable value of such properties is deemed to fall into the first valuation band (i.e. zero to €100,000) until 1 November 2016, the valuation date for 2017. In addition, the payable date for the 2013 local property tax liability is extended to 1 January 2014.

*Section 8* makes several amendments to Part 7 of the Finance (Local Property Tax) Act 2012 in relation to the return to be prepared and delivered to the Revenue Commissioners by a person who is a liable person in relation to a relevant residential property.

Paragraph (a) to (c) are minor technical amendments.

Paragraph (d) is linked to the amendments in section 5.

Paragraph (e) substitutes more comprehensive provisions for section 38 of the Finance (Local Property Tax) Act 2012 in relation to the linking of the late submission of a local property tax return to a liable person's obligations in relation to submitting a return for income tax or corporation tax. Late delivery of a local property tax return can result in an income tax or corporation tax surcharge under section 1084(2) of the Taxes Consolidation Act 1997.

Paragraph (f) makes a minor technical amendment.

Section 9 makes several amendments to Part 8 of the Finance (Local Property Tax) Act 2012 in relation to estimates and assessments of local property tax made by the Revenue Commissioners.

Paragraph (b) will facilitate notification of Revenue estimates by electronic means. Paragraph (c) facilitates appeals where an assessment is made in respect of more than one property.

The other amendments are technical in nature.

Section 10 amends Part 9 of the Finance (Local Property Tax) Act 2012 to allow an appeal by a liable person against a determination of the Appeal Commissioners to be heard by the Circuit Court. Paragraph (c) amends section 63 so that the Appeal Commissioners can require a liable person to provide information in relation to any property and not just a relevant residential property.

Section 11 makes several amendments to Part 10 of the Finance (Local Property Tax) Act 2012 in relation to deduction of local property tax at source by employers, occupational pension providers and the Departments of Social Protection and Agriculture, Food and the Marine.

Paragraph (a) amends the definition of "net emoluments" in section 64 in two respects: firstly, to give priority in relation to deduction by an employer or occupational pension provider for a court order, such as an order for the payment of maintenance, over local property tax where such an order was issued before the direction to deduct local property tax was issued by the Revenue Commissioners and secondly, to allow deductions of local property tax to be made from a repayment of income tax, PRSI or universal social charge by an employer or occupational pension provider to a liable person.

Paragraphs (b) to (g) make minor technical amendments to ensure that the formulation used in several provisions is consistent and clear.

Section 12 makes several amendments to Part 11 of the Finance (Local Property Tax) Act 2012 in relation to collection and enforcement of local property tax by the Revenue Commissioners.

Paragraph (a) amends section 119 to clarify that local property tax is due on a liability date. However, subsection (1A) provides that local property tax is not payable until 1 July 2013, in respect of the liability date 1 May 2013 and 1 January in the year immediately following the year in which any liability date after 1 May 2013 falls.

Paragraph (b) amends section 120 in relation to a direction given by the Revenue Commissioners to employers, occupational pension providers and the Departments of Social Protection and Agriculture, Food and the Marine to deduct local property tax at source when making payments to a liable person. New subsections (2) and (3)

disapply the requirement for the Collector-General to issue a demand for outstanding tax when such a direction is given and allow the direction to be given after the local property tax is due but before it is payable. However, tax need not be deducted until it is payable.

Paragraph (c) and (d) are intended to clarify the original provisions.

Paragraphs (e) and (f) insert a new subsection (2) into section 126 to require a liable person who sells or otherwise transfers a relevant residential property after local property tax is due but before it is payable, to pay that tax on completion of the sale or transfer.

Paragraph (g) inserts a new section 147A that establishes a way of determining a liable person's local property tax liability for the purpose of charging a tax-gear penalty.

*Section 13* amends Part 12 of the Finance (Local Property Tax) Act 2012 to introduce three additional categories that may qualify for a deferral of the local property tax that is payable. These are the personal representatives of a deceased liable person, an individual who enters into an insolvency arrangement under the Personal Insolvency Act 2012 and those who satisfy the Revenue Commissioners that they have experienced a significant and unexpected financial loss or expense and where, as a consequence, payment of the tax would entail excessive hardship.

#### *Personal representatives*

Section 133A(1) allows a personal representative of a deceased liable person, where that person was the sole liable person in relation to a residential property, to qualify for a deferral on making the required valid claim. Paragraphs (a) to (c) provide that the deferral may be claimed in respect of: local property tax that was due and unpaid at the time of the liable person's death, local property tax that was deferred by the deceased liable person, and local property tax that falls due in the 3 years immediately following death.

Subsection (2) limits the period of time for which personal representatives may qualify for a deferral to 3 years commencing with the date of death. However, if the personal representatives are in a position to transfer the property to a beneficiary or to distribute the sales proceeds where the property has to be sold, the period of deferral ends at that point.

Subsection (3) makes the personal representatives responsible for payment of the deferred local property tax when the period of deferral comes to an end, regardless of the reason for its end.

#### *Insolvency arrangements*

Section 133B allows a person who has entered into an insolvency arrangement, i.e. a Debt Settlement Arrangement or a Personal Insolvency Arrangement under the Personal Insolvency Act 2012 to qualify for a deferral of the local property tax that falls due for payment by that person during the period for which the insolvency arrangement is in effect where a valid claim is made to the Revenue Commissioners.

#### *Excessive financial hardship*

Section 133C provides for the possibility of a deferral for liable persons who cannot without excessive hardship pay local property tax when it becomes payable, as a consequence of a significant and unexpected financial loss or expense. However, this particular

deferral operates on a different basis to the other deferral arrangements. It is not automatically available on the making of a valid claim. Instead, a liable person must apply in writing to the Revenue Commissioners for the deferral and meet the criteria that will be set out in guidelines to be published by the Revenue Commissioners. Deferral cannot commence until the Revenue Commissioners have received from a liable person whatever information and documentation they require to make a decision and, having made their decision, notify the liable person that a deferral is allowed, subject to whatever conditions they may impose in accordance with the guidelines that they will publish.

Paragraphs (e), (f) and (g) of *section 13* are minor technical amendments.

*Section 14* amends section 1094(1) of the Taxes Consolidation Act 1997 to ensure that outstanding local property tax liabilities are taken into account when tax clearance certificates are being sought in relation to the issue of certain licences, for example, for the sale of alcohol. Section 1095, containing the general tax clearance certificate provisions, is already applied in relation to outstanding local property tax liabilities.

*Section 15* makes minor technical amendments to several parts of the Finance (Local Property Tax) Act 2012.

*Section 16* contains the short title of this Bill, i.e. the Finance (Local Property Tax)(Amendment) Act 2013.

*Department of Finance,  
February, 2013.*