



DÁIL ÉIREANN

AN BILLE AIRGEADAIS (COVID-19 AGUS FORÁLACHA ILGHNÉITHEACHA), 2021 FINANCE (COVID-19 AND MISCELLANEOUS PROVISIONS) BILL 2021

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE AIRGEADAIS (COVID-19 AGUS FORÁLACHA ILGHNÉITHEACHA), 2021 —AN CHOISTE

FINANCE (COVID-19 AND MISCELLANEOUS PROVISIONS) BILL 2021 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 4

1. In page 6, to delete lines 12 to 23 and substitute the following:

- “(i) in paragraph (a)(i)(I), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 20 per cent,” after “10 per cent”,
- (ii) in paragraph (a)(i)(II), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 10 per cent,” after “5 per cent”,
- (iii) in paragraph (a)(ii)(I), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 20 per cent,” after “10 per cent”,
- (iv) in paragraph (a)(ii)(II), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 10 per cent,” after “5 per cent”, and”.

—An tAire Airgeadais.

SECTION 13

2. In page 24, to delete lines 11 and 12.

—Pearse Doherty, Eoin Ó Broin.

[SECTION 13]

3. In page 28, to delete lines 18 to 25 and substitute the following:

“

(b) for the consideration which is attributable to a relevant residential unit, within the meaning of section 31E, other than a relevant residential unit to which subsection (17) of that section applies.	17 per cent of the consideration, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.
---	---

”.

—Pearse Doherty, Eoin Ó Broin.

4. In page 30, to delete lines 1 to 13 and substitute the following:

“

(II) for the consideration which is attributable to a relevant residential unit, within the meaning of section 31E, in respect of instruments other than a relevant residential unit to which subsection (17) of that section applies.	17 per cent of the consideration, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.
--	---

”.

—Pearse Doherty, Eoin Ó Broin.

SECTION 15

5. In page 31, between lines 2 and 3, to insert the following:

“Repayment of stamp duty where certain residential units leased

15. (1) The Act of 1999 is amended by the insertion of the following section after section 83D:

“83E.(1) In this section—

‘Act of 1992’ means the Housing (Miscellaneous Provisions) Act 1992;

‘approved housing body’ means a body approved of or standing approved of, under, or for the purposes of, section 6 of the Act of 1992;

‘housing authority’ has the same meaning as it has in the Act of 1992;

[SECTION 15]

‘Minister’ means the Minister for Housing, Local Government and Heritage;

‘qualifying date’ means the date on which a qualifying lease is executed;

‘qualifying lease’ means a lease, for a term of not less than 10 years, in respect of a relevant residential unit entered into with a housing authority or an approved housing body for the purpose of the provision of social housing support;

‘qualifying relevant residential unit’ has the meaning assigned to it by subsection (3);

‘relevant instrument’ means an instrument executed on or after 20 May 2021 that has been stamped in accordance with—

- (a) paragraph (1)(b) of the heading in Schedule 1 titled ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’, or
- (b) paragraph (3)(a)(i)(II) of the heading in Schedule 1 titled ‘LEASE’, where the instrument was chargeable, in respect of the whole or part of the consideration under the instrument, to stamp duty at a rate of 10 per cent;

‘relevant residential unit’ has the same meaning as it has in section 31E;

‘social housing support’ has the same meaning as it has in the Housing (Miscellaneous Provisions) Act 2009.

- (2) In this section, a reference to acquisition shall include a reference to acquisition by way of a conveyance, transfer, lease, instrument, contract or agreement referred to in section 31E(2).
- (3) This subsection applies where a person executes a qualifying lease not later than 24 months after the date of execution of a relevant instrument effecting the acquisition of the relevant residential unit leased under the qualifying lease (and such a relevant residential unit leased within that period is referred to in this section as a ‘qualifying relevant residential unit’).
- (4) Where subsection (3) applies, subject to the other provisions of this section, stamp duty paid on a relevant instrument may be repaid in accordance with this section.
- (5) The amount of stamp duty to be repaid, in relation to a relevant instrument and a qualifying relevant residential unit shall be determined by the formula—

A - B

[SECTION 15]

where—

A is the amount of stamp duty paid on the relevant instrument, that was attributable to the qualifying relevant residential unit, and

B is the amount of stamp duty, attributable to the qualifying relevant residential unit, that would have been chargeable on the execution of the relevant instrument if the qualifying relevant residential unit had not been a relevant residential unit.

- (6) A claim for a repayment under this section shall—
 - (a) be made by an accountable person,
 - (b) without prejudice to paragraph (d), be made in a form and manner specified by the Commissioners,
 - (c) include a declaration, in such form as the Commissioners specify, stating that subsection (3) applies,
 - (d) be made by electronic means and through such electronic systems as the Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply, and
 - (e) not be made until such time as a qualifying lease has been executed.
- (7) Subject to the other provisions of this section, a repayment of stamp duty under this section shall—
 - (a) be made by the Commissioners pursuant to a claim made in accordance with subsection (6),
 - (b) not carry interest, and
 - (c) not be made pursuant to a claim made after the expiry of 4 years after the qualifying date.
- (8) Where the Commissioners are of the opinion that the requirements of this section have not been met in relation to a claim for repayment, they shall decide to refuse the claim and shall notify the claimant in writing of the decision and the reasons for it.
- (9) An accountable person aggrieved by a decision to refuse a claim for repayment, may appeal to the Appeal Commissioners against the decision in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notification of the decision.
- (10) Where—
 - (a) subsection (3) applies in respect of a qualifying lease of a qualifying relevant residential unit,

[SECTION 15]

- (b) a repayment of stamp duty has been made to an accountable person in respect of the qualifying relevant residential unit in accordance with this section by virtue of subsection (3) so applying, and
- (c) the qualifying lease is terminated before the expiry of 10 years after the qualifying date,

the accountable person shall be liable to pay to the Commissioners some or all of the stamp duty that had been repaid under subsection (7) to the accountable person (and that stamp duty to which the foregoing liability attaches is referred to in this section as a 'clawback').

- (11) The amount of a clawback shall be determined by the formula—

$$A \times [(10 - Y)/10]$$

where—

A is the amount of stamp duty repaid that was attributable to the qualifying relevant residential unit,

Y is the number of years (including a part of a year) that have expired, after the qualifying date, on the date on which the qualifying lease is terminated.

- (12) Interest shall be payable on the clawback calculated in accordance with section 159D from the date on which the repayment was made to the date of payment of the clawback to the Commissioners.
- (13) Where an accountable person fails to pay the clawback, the Commissioners may make an assessment of the amount of the stamp duty concerned as if the failure to pay were a failure to deliver a return under section 20(2).
- (14) Where there is more than one accountable person in relation to an instrument and a clawback, they shall be liable jointly and severally whether or not an assessment is made.
- (15) For the purposes of this section, section 128A shall apply as if the period of 6 years referred to in subsection (4) of that section commenced on the qualifying date.
- (16) Where a repayment has been made under this section and it is subsequently found that a declaration made in accordance with subsection (6)—
 - (a) was untrue in any material particular that would have resulted in a repayment, or part of a repayment, allowed by this section not being made, and
 - (b) was made knowing same to be untrue or in reckless disregard as to whether or not it was true,

then the person who made such a declaration shall be liable to pay to

the Commissioners as a penalty an amount equal to 125 per cent of the stamp duty that would not have been repaid had all the facts been truthfully declared, together with interest charged on that amount as may so become payable, calculated in accordance with section 159D, from the date on which the repayment was made to the date the penalty is paid.

- (17) Where a person is liable to pay, in relation to a qualifying relevant residential unit, a clawback under subsection (10) and a penalty under subsection (16), the total liability of the person under those subsections shall be limited to the greater of the clawback under subsection (10) and the penalty under subsection (16).
 - (18) Notwithstanding any enactment or rule of law, the Commissioners may, by notice in writing, request the Minister to provide them with such information as is in the possession or control of the Minister as the Commissioners may reasonably require for the purposes of verifying—
 - (a) the execution of a qualifying lease, or
 - (b) the termination of a qualifying lease within the period of 10 years immediately following the qualifying date.
 - (19) Where the Commissioners make a request under subsection (18), the Minister shall provide such information as may be specified in the notice within the period specified in the notice which period, in any case, shall not be less than 30 days.
 - (20) Taxpayer information within the meaning of section 851A(1) of the Taxes Consolidation Act 1997 may be disclosed by a Revenue officer to the Minister for the purposes of enabling the Minister to comply with a request made under subsection (18).”
- (2) *Subsection (1)* shall come into operation on the day after the date of the passing of this Act.”.

—An tAire Airgeadais.

6. In page 31, between lines 2 and 3, to insert the following:

“Report on application of a Stamp Duty Charge on the Purchase of Apartments by Investment Funds

15. The Minister shall, within 3 months from the passing of this Act, prepare and lay before Dáil Éireann a report on the impact of deleting section 31E(7) and including residential units in an apartment block as a relevant residential unit to which the higher rate of stamp duty will apply as a consequence of this resolution.”.

—Pearse Doherty, Eoin Ó Broin.

[SECTION 15]

7. In page 31, between lines 2 and 3, to insert the following:

“Report on Application of a 17 per cent Stamp Duty Charge on the Purchase of Residential Property by Investment Funds

15. The Minister shall, within 3 months from the passing of this Act, prepare and lay before Dáil Éireann a report on the imposition of a 17 per cent stamp duty charge on the purchase of all residential units by investment funds.”.

—Pearse Doherty, Eoin Ó Broin.

8. In page 31, between lines 2 and 3, to insert the following:

“Report on Ending the Tax Regime applicable to Investment Funds in the Residential Property Market

15. The Minister shall, within 3 months from the passing of this Act, prepare and lay before Dáil Éireann a report on the tax status enjoyed by investment funds in the residential property market and the application of corporation tax on the rental profits of, and the application of, capital gains tax on the disposal of assets by investment funds in the residential property market, including Irish Real Estate Funds and Real Estate Investment Trusts.”.

—Pearse Doherty, Eoin Ó Broin.

9. In page 31, between lines 2 and 3, to insert the following:

“Report on the number of Residential Units purchased by Investment Funds with respect to Forward Purchase Agreements entered into before 20 May 2021

15. The Minister shall, within 3 months from the passing of this Act, prepare and lay before Dáil Éireann a report on the number of residential units purchased by investment funds with respect to forward purchase agreements entered into between investment funds and private developers before 20 May 2021, where the instrument effecting the acquisition is executed before 20 August 2021.”.

—Pearse Doherty, Eoin Ó Broin.