

Student Accommodation Scheme



**Prepared by
Office of the Revenue Commissioners
Direct Taxes interpretation and International Division**

May 2007

This document is intended for guidance only. While every effort is made to ensure the accuracy of the content, it does not purport to be a legal interpretation of the relevant provisions and has no binding in law. Responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

Table of Contents	Page
1. Introduction	3
2. Original Guidelines on the Student Accommodation Scheme issued by the Minister for Education and Science in 1999	4
3. Further document issued by the Minister for Education and Science in July 2005 on issues arising since the publication of the original guidelines	12
4. Revenue Explanatory Note on the Student Accommodation Scheme of January 2004	24
5. Revenue Tax Briefing Article issued in August 2005 drawing attention to the Department of Education and Science publication of July 2005	29

STUDENT ACCOMMODATION SCHEME

Introduction

The student accommodation scheme was introduced in section 50 of the Finance Act 1999. It provides for 'section 23' type relief whereby expenditure incurred on student rental accommodation can be set against the rental income from the property and against other Irish rental income thus reducing the taxable income of the person incurring the expenditure.

Certain conditions must be met before a person or property can qualify for relief. These conditions are set out in the Tax Acts and also in original guidelines issued in 1999 by the Department of Education and Science in consultation with the Minister for the Environment, Heritage and Local Government and with the consent of the Minister for Finance. A further document, addressing a number of specific issues arising since publication of the original guidelines, was issued by the Minister for Education and Science in July 2005. These documents are available at www.education.ie. They are reproduced at pages 4 and 12, respectively.

The relevant provisions in the Taxes Consolidation Act 1997 are contained in Part 10, Chapter 11, sections 372AK to 372AV. The Finance Act 2003 introduced some further provisions – now subsections (9A) to (9C) of section 372AM. Revenue published an explanatory note on these new provisions in January 2004. This document is reproduced at page 24. Finally, an article in Revenue's Tax Briefing, Issue 60, drawing attention to the Department of Education and Science publication of July 2005, is reproduced at page 29.

To make the guidance material on the student accommodation scheme more accessible, all of the published material specific to the scheme has been reproduced and brought together in this single document. In addition, Revenue's general guidance note on 'Section 23 relief' contains generic material that pertains to section 23 relief for all of the property-based incentive schemes, including student accommodation. It also contains material that is specific to particular schemes. It is available at www.revenue.ie.

Original Guidelines on the Student Accommodation Scheme issued by the Minister for Education and Science in 1999

Note – these guidelines should be read in conjunction with the document issued by the Minister for Education and Science in July 2005 - reproduced after these guidelines on page 12.

Introduction

Section 50 of the Finance Act, 1999 provides for a scheme of tax relief for rented residential accommodation for third level students. The relief is along the lines of what is commonly referred to as section 23 relief. The Government attaches significance to this initiative, the purpose of which is the provision of additional rented accommodation to relieve current supply pressures in the private rented sector.

The legislation provides that 'relevant guidelines' may be issued by the Minister for Education and Science, in consultation with the Minister for the Environment and Local Government, with the consent of the Minister for Finance.

The following are the relevant guidelines. They are intended to assist developers and designers in formulating proposals for student residential development. They are not to be regarded as a substitute for appropriate professional advice on any project but should be of assistance in briefing professional advisers engaged on such projects.

The guidelines have been prepared with a view to ensuring that the overall standard of design and construction of accommodation being provided would promote the objectives of the Student Residential Accommodation tax incentives. The guidelines are issued without prejudice to the provisions of the Local Government (Planning and Development) Acts 1963-1998, the Building Regulations Act, 1998, any regulations made under those Acts, regulations under the Housing Acts relating to private rented housing accommodation and the relevant statutory local authority development plan. The design of student residential accommodation should also take into account the following Guides:- Fire Safety in Flats (1994), and Fire Safety in Hostels (1998), which have been published by the Minister for the Environment and Local Government pursuant to the Fire Services Act, 1981.

Planning authorities are asked to have regard to these guidelines in assessing applications received on or after 1st April 1999.

Definitions

For the purpose of these Guidelines-

An "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 which offers an approved course for the purposes of tax relief under section 474 of the Taxes Consolidation Act, 1997.

See appendix 1 for list of such educational institutions.

A "student" means a person who is a registered student of, and is pursuing a course of study on a full-time basis at an educational institution.

A "qualifying development" means a development of at least 20 bedspaces which complies with the requirements of these guidelines, and in respect of which a letter has been certified by an educational institution. Such a letter of certification will include:-

- a) the name of the individual/company which owns the development,
- b) the number of units and bedspaces to be provided for the use of students at the certifying educational institution.

This letter of certification will be requested where any claim for relief is subject to a Revenue audit.

"The scheme" means the scheme of tax relief for rented student accommodation introduced by section 50 of the Finance Act, 1999.

Qualifying Areas

Properties qualifying for relief under the scheme should be located within qualifying areas. For the purposes the scheme qualifying areas are:

- (1) Campus areas of the educational institutions, or
- (2) Areas, within an 8 km radius of the main campus, which are approved by the certifying educational institution as being an area within which a qualifying development may take place.

Consultation

In order to ensure orderly development there should be early consultation with, and approval by, an educational institution for any proposed development.

Qualifying Leases

A lease under the scheme shall comply with the following requirements:

Where the lease is for the whole of an academic year

- (a) the lease, in writing, governed by the provisions of the Landlord and Tenant code, of a unit in a qualifying development shall be granted to students of the certifying educational institution,
- or
- (b) the lease shall be granted to the certifying educational institution which subsequently on-lets the units in the qualifying development to students in accordance with the institution's normal policy for letting residential accommodation.

The academic year means the academic year of a course, including any examinations in connection with a course being pursued by the student by whom the unit is occupied.

Owners of qualifying developments should be in a position to provide evidence of letting to students. This evidence will be requested where any claim for relief is subject to a Revenue audit.

Such owners may let the units to non-students for periods outside of the academic year of the certifying institution.

These requirements apply for ten years from the date the property is first let to students.

Total Floor Areas of Qualifying Premises

Accommodation under the scheme shall be provided by groupings of study bedrooms in "house" units. Each unit shall consist of a minimum of 3 bed spaces and an overall minimum gross floor area of 55 sq. metres, up to a maximum of 8 bed spaces and a maximum of 160 sq. metres.

Study bedrooms shall be arranged in units sharing a common entrance hall and kitchen/living room. Rooms shall have reasonable shapes and proportions and have adequate space for normal living purposes. Accurate adult sized furniture shall be indicated on layout plans.

Units shall in turn share common entrances, access stairs and corridors, and ancillary facilities.

Kitchen/Living room

The provision of shared kitchen/dining/living room space shall be based on a minimum of 4 sq. m per bedspace in the unit. This shall be in addition to any shared circulation. At a minimum, basic kitchen units, with sink, cooker and fridge shall be installed.

Bedrooms

These will be used as study bedrooms requiring desk space, and storage. Therefore, one of the following minimum areas shall apply depending on provision of bathroom facilities:-

- Single study bedroom 8 sq. metres
- Single study bedroom with ensuite shower, toilet and basin 12 sq. metres
- Twin study bedroom 15 sq. metres
- Twin study bedroom with ensuite shower, toilet and basin 18 sq. metres
- Single Disabled study bedroom, with ensuite disabled shower, toilet and basin 15 sq. metres

Bathrooms

These shall be either ensuite with the study bedrooms or separately provided to serve a maximum of 3 bedspaces. Bathrooms shall have adult sized sanitary fittings, consisting of wash hand basin, water closet, and shower/bath, with sufficient room to ensure ergonomically adequate spacing in the layout.

Circulation and Storage

In addition to the above minimum requirements an adequate entrance hallway and circulation space shall be provided within each unit. A hot press/store should also be provided to facilitate use of the unit.

Site Planning

The planning and design of developments should take account of the nature and character of the area in which they are located. The completed development should make a positive contribution to the built environment and develop the integration of students into the wider community where located off campus. Necessary security arrangements should be planned in a way which avoids isolating developments from the surrounding community.

The disposition of blocks of residential accommodation on the site and the layout of accommodation within each block should be designed to give optimum orientation in terms of daylight and sunlight to habitable rooms. Regard should be had to the likely level of noise from adjoining sources in determining the optimum location and detailed design of, in particular, study bedrooms within units.

Where not located on campus, adequate open space should be provided within developments for the amenity of students. Where the limitations of sites do not allow for small parks or gardens, alternative provisions should be incorporated in developments through a combination of terraced open space/roof gardens, and/or balconies with good landscaping where appropriate.

Densities should be in line with the draft residential density guidelines with due regard to type of location and to the safeguards set out in the guidelines.

Communal Facilities and Amenities

Communal facilities to service the needs of student residents should be provided for. The definition of qualifying developments includes "house" units and ancillary spaces including:- caretaker/security office and apartment; centralised storage; laundry facilities; drying rooms and utility rooms; and a seminar room. The floor area of these facilities shall not exceed 12% of the total area of the development, and their cost shall not exceed 12% of the total qualifying expenditure.

Due consideration should be given to the needs of disabled students in the location, layout and design of any communal facilities.

Developments should include reasonable provision for secure bicycle storage within the site.

Facilities for the handling, storage and collection of refuse should be provided with access for frequent collection. Such facilities should be conveniently located, well ventilated and comply with all fire safety and public health requirements. As a general guide in determining storage capacity required, an output of 0.1 cubic metres of refuse per unit per week may be assumed.

Internal Design and Layout

Entrance hallways and corridors in developments should be well designed with good lighting and ventilation. Vertical and horizontal circulation should be arranged so that corridors do not extend more than 15 metres from a widened "landing" area which should include natural lighting where possible. Corridors should be widened at entrances to apartments.

Service ducts serving two or more apartments should as far as practicable be accessible from common circulation areas for maintenance purposes.

The number of apartment units per lift/core in a development should not exceed a maximum of 30.

Disabled Access and Provision of Accessible Bedrooms

Developments should provide a minimum of one out of every fifty, or part thereof, of the total number of bedspaces in a development designed for students with disabilities. These study bedrooms shall be fully wheelchair accessible complete with ensuite bathroom facilities.

Part M of the Building Regulations, 1997, sets out the legal requirements in relation to access to and use of building facilities by disabled persons. Part M of the regulations applies to public buildings and the common areas of apartment blocks. It is proposed to extend Part M to require new dwellings commencing on or after the 1st July, 2000 to be visitable by the disabled. The design of residential accommodation for students should take this pending development of Part M into account.

Data Connection

Internet services shall be made available to each student study bedspace, as a standard Ethernet connection (10 BASET). A minimum bandwidth of 64kb/s shall be provided by an Internet Service Provider (ISP) per each 30 student bedspaces.

Certificate of Reasonable Cost

Anybody, other than in the case of a new unit purchased from a builder, wishing to claim tax relief under the scheme will require a Certificate of Reasonable Cost in relation to the particular development. The claimant may be required to provide this certificate to the Revenue Commissioners in support of a claim.

A Certificate of Reasonable Cost certifies that the cost of providing the accommodation is reasonable, 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 these guidelines. In the case of refurbishment projects it also certifies that the work was necessary to ensure the suitability as dwellings of the accommodation.

In the case of refurbishment, to obtain tax relief it is necessary that the Department of the Environment and Local Government certifies that the work was necessary to ensure the suitability as dwellings of the accommodation.

Accordingly, application in respect of a refurbishment project should be made before commencement of work so that a prior inspection of the building can be carried out.

Application

To apply for a Certificate of Reasonable Cost a completed form HPF/1 must be returned, together with the appropriate documentation and fee, to the Department of the Environment and Local Government, Housing Grants Section, Room F9/10, Government Offices, Ballina, Co. Mayo.

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

- a) Drawings of student residential accommodation to scale 1:50 showing floor plans, sections and elevations (fully dimensioned)
- b) Site plan showing location of site, layout of site numbers and north point, with accommodation units delineated
- c) Detailed specification of construction

- d) Copy of planning permission and fire safety certificate
- e) Breakdown of costs:
 1. Where works are executed by the applicant, details of materials and labour cost plus any other expenses incurred.
 2. Where work is carried out under contract, details of tender, design fees, etc., and copy of final account.

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

Fees

A fee of £50 for unit 1 plus £20 for each additional unit is payable in respect of an application for a Certificate of Reasonable Cost. A separate application is requested for each different construction cost claimed and for each different dwelling type (i.e. to which different plans and specifications apply).

Appendix 1 - List of Educational Institutions

University College Cork - National University of Ireland Cork

University College Dublin, National University of Ireland Dublin

National University of Ireland, Galway

National University of Ireland, Maynooth

Trinity College Dublin

Dublin City University

University of Limerick

Pontifical University of Maynooth

National College of Art & Design, Dublin

National College of Ireland

Athlone Institute of Technology

Institute of Technology, Carlow

Cork Institute of Technology

Dundalk Institute of Technology

Galway-Mayo Institute of Technology

Letterkenny Institute of Technology

Limerick Institute of Technology

Institute of Technology, Sligo

Institute of Technology, Tallaght

Institute of Technology, Tralee

Waterford Institute of Technology

Dublin Institute of Technology

Dún Laoghaire Institute of Art, Design & Technology

Church of Ireland College of Education, Dublin

Coláiste Mhuire, Marino, Dublin

Mary Immaculate College, Limerick

St. Angela's College, Lough Gill, Sligo

St. Catherine's College, Sion Hill, Dublin

St. Patrick's College of Education, Drumcondra, Dublin.

Froebel College of Education, Sion Hill, Dublin.

Mater Dei Institute of Education

Milltown Institute of Theology and Philosophy, Dublin

All Hallows College, Drumcondra
St. Patrick's College, Carlow
Royal College of Surgeons in Ireland
The Law Society of Ireland, Blackhall Place
The Honourable Society of Kings Inns
Montessori College, (A.M.I.) Mount St. Mary's, Dundrum Road, Milltown, Dublin 14
Burren College of Art, Co. Clare
TRBDI, Co. Tipperary
Institute of Technology, Blanchardstown
Dublin Business School, Dublin 2
The American College, Dublin
Griffith College Dublin, Dublin 8
Clonliffe College, Dublin
Holy Ghost College, Kimmage Manor
HSI College, Limerick
Portobello College, Dublin 2
LSB College
Mid West Business Institute, Limerick
Montessori Education Centre (North Great George's Street)
Shannon College of Hotel Management
Skerrys Business College, Cork
St. John's College, Waterford
St. Nicholas Montessori College, Dun Laoghaire
St. Patrick's College, Thurles
St. Peter's College, Wexford

Further Document issued by Minister for Education and Science in July 2005 addressing issues arising since the publication of the original guidelines in 1999

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
 An Roinn Comhshaoil agus Rialtais Aitiuil

HPF/1



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 Work Mobile

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 20 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



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

Revenue Explanatory Note on the operation of the provisions of the Taxes Consolidation Act, 1997 in relation to the Student Accommodation Scheme issued in January, 2004

1. Introduction

Section 50 Finance Act, 1999 introduced tax relief in respect of expenditure incurred on the construction, refurbishment or conversion of residential property for use as student accommodation. The legislation governing this relief is contained in Chapter 11 of Part 10, Taxes Consolidation Act, 1997. Changes introduced by Section 32 Finance Act, 2003 are contained in section 372AM.

Relief is available in respect of developments that comply with the requirements of guidelines issued by the Minister for Education and Science. These guidelines are available on the Department of Education and Science website at <http://www.education.ie/> and should be consulted in conjunction with this document.

The purpose of this Explanatory Note is to clarify the Revenue practice in relation to a number of issues that have arisen following the changes made by the Finance Act, 2003. These issues are-

- the receipt of rent by persons other than investors
- investors' obligations in relation to monies borrowed by them
- what constitutes management and letting fees

In addition, the issue of rent pooling, while not specifically provided for in the legislation, is addressed.

This Explanatory Note applies where section 372AM(9A), Taxes Consolidation Act, 1997 applies and where eligible expenditure was incurred after 18 July 2002.

2. Who can receive rent

Section 372AM(9A)(a)(i) provides that all rent payable in respect of the letting of student accommodation during the 10 year holding period for the relief must be paid to investors. The section was introduced to close off tax avoidance schemes whereby rental income from student accommodation was not taxable in the hands of investors.

It has been brought to Revenue's attention that there are circumstances where it is necessary for a college or a management company appointed by investors to enter into tenancy agreements with students giving it an entitlement to rent and obliging it to incur expenditure in relation to the rental and upkeep of the accommodation. Typically these arrangements are covered by formal written agreements between a college and an investor and oblige a college or management company to pay an investor the net rent after deduction of expenses. Revenue is prepared to accept these arrangements provided that rent (after deduction of expenses) secured and taxable in the hands of investors under Schedule D Case V is the same as if investors contracted individually with students. The written agreement between a college or management company and an investor may provide for the retention of expenses incurred. However, only so much of those expenses that relate to management or letting fees of not more than 15% of gross rent received or receivable and other expenses that are properly allowable as Schedule D Case V deductions will be taken into account in the calculation of an investor's Case V liability (see section 4 below). A

college or management company, and not an investor, must be responsible for any pro rata allocation and direct payment of rent to investors in a situation where a property is jointly owned. Should rents fall below a certain level it is acceptable for a college or management company to guarantee investors a minimum level of rent provided that this is not less than the rent actually received from students less allowable deductions.

Investors may incur expenditure themselves outside of any arrangement with a college or management company. For example, an investor may pay mortgage interest in connection with the purchase of a property. The arrangements set out in this Explanatory Note will not preclude an investor from claiming his or her entitlement to a Schedule D Case V deduction in respect of this type of expenditure.

3. Investors' obligations in relation to monies borrowed by them

Section 372AM(9A)(b), Taxes Consolidation Act, 1997, requires that an investor must be personally responsible for the repayment of a loan, the payment of interest on a loan and the provision of any security required in relation to a loan. In addition, there must be no arrangement or agreement, whether or not known to the lender, whereby some other person agrees to be responsible for the obligations of an investor in relation to a loan.

It is not uncommon for a college to put a sinking fund arrangement in place to provide comfort to investors that a college will be in a position to pay the option price to investors if called upon to do so under a put and call option. Investors may seek to take a charge on the sinking fund and in turn a financial institution may seek to obtain an assignment of an investor's interest in the sinking fund. Such an assignment may create a situation whereby a financial institution may have access to monies in a college account or receive payments directly from a college. Revenue takes the view that any assignment of an investor's interest in a college account would breach the requirements of the legislation. It is, however, acceptable for a financial institution to take an assignment of an investor's interest in a put and call option.

All borrowing must be from a financial institution and expenditure by an investor that is funded partly by an interest free loan and partly by borrowing from a financial institution will disqualify all of that expenditure from tax relief.

4. Management and letting fees

An annual deduction is allowed for management and letting fees incurred in relation to the letting of student accommodation where those fees are shown to be bona fide fees that reflect the level and extent of services provided. Even where the fees are bona fide and reflect the level and extent of services provided the maximum deduction by law cannot exceed an amount equal to 15% of gross rent from the letting. Management and letting fees cannot be structured to reach the 15% threshold but must genuinely reflect the level and extent of services provided. If the fees exceed 15% this will not invalidate the entire claim but any amount exceeding 15% is not tax deductible and should not be claimed by an investor. In this context it should be noted that management and letting fees mean the VAT inclusive amount of such fees.

Listed below are the items that Revenue would normally regard as management and letting fees -

Management fees

- maintenance of accommodation, e.g. carrying out inspections and ensuring that repairs are carried out (the actual cost of any repairs will not be included in management fees)
- transferring names on utility bills when lettings change
- collection of rent

Letting fees

- advertising for and finding suitable tenants
- obtaining and verifying references
- drawing up letting agreements including legal fees
- taking deposits from tenants
- setting up names of tenants on utility bills
- setting up direct debits between tenants and landlords

An investor, college or management company must be able to show that management and letting fees incurred were bona fide and that they reflect the level and extent of services provided.

5. Other deductible expenses

Certain service charges and out of pocket expenses of a revenue nature allowable as deductions under Schedule D Case V will be allowed. Examples of such expenses are -

- accountancy fees incurred for the purpose of preparing a rent account
- repairs of a revenue nature, e.g. repair of a broken window
- landscaping costs of a revenue nature, e.g. grass cutting, hedge trimming etc.
- lift maintenance
- security costs (including cost of hiring security personnel, fitting and monitoring of alarms but not the alarm itself)
- heating, electricity and cleaning of common areas
- insurance costs
- charges for other services such as refuse collection.

A detailed schedule of expenses incurred must be made available if required by the Inspector of Taxes dealing with an investor's affairs. The Inspector must have access to receipts to vouch the cost of out of pocket expenses and to records relating to salary costs. Where an investor is preparing a Case V computation and where, for example, a college or management company pays for the cost of repairs and pays over the rent net of such costs to an investor, an investor should gross up the amount of rent received to include the repair costs where a tax deduction is being claimed. It should be noted that, should any expense be found not to be deductible at a subsequent date, Revenue will increase the level of income chargeable under Schedule D Case V on an investor.

6. Rent pooling

Rent pooling is a feature of many student accommodation schemes. Revenue recognise that it is a practical way for a college or management company to allocate rent appropriate to each investor without having to do a separate calculation in each case. Revenue is prepared to allow rent pooling in the particular circumstances and context of the student accommodation scheme and only in respect of rent received from students during the academic year. Revenue understands that rent pooling schemes have been devised using an allocation of rent based on bed space and accepts that this is a reasonable method.

It will not be appropriate to pool all deductible expenses. Revenue will accept a pooling of management and letting fees and other deductible expenses appropriate to all houses or apartments, e.g. expenses in relation to common areas. Expenses listed in section 5 above that are specific to an individual house or apartment should not be pooled. As indicated earlier, deductible pooled management and letting fees cannot by law exceed 15% of gross rent.

Rent pooling arrangements will determine the amount of net rent applicable to an apartment or a house. Where two or more investors have incurred expenditure in relation to a qualifying premises the rent determined by the pooling arrangement in respect of that premises should be divided by a college or management company and paid to each investor in proportion to the level of expenditure incurred by them. This is necessary to satisfy the requirements of Section 372AM (9A)(a)(ii) of the Taxes Consolidation Act, 1997, introduced by the Finance Act, 2003.

In some schemes investors have an interest in the entire development rather than in a particular house(s) and they have the same proportionate interest in all of the houses in the development. In such cases rent and expenses should be allocated among investors in proportion to the expenditure incurred by them.

In order to qualify for tax relief it is imperative that **all** of the accommodation is let at some stage. In order to be a 'qualifying premises' the accommodation must be let to and occupied **solely** by students during the academic year. Outside of the academic year the accommodation may be let to non-students. Temporary periods of disuse are allowed. Rent pooling will not be allowed in respect of rentals outside of the academic year and rent and expenses relating to such periods must be allocated in accordance with the provisions of the Taxes Acts.

A rent pooling arrangement must be entered into for genuine commercial reasons and must not be part of a scheme or arrangement intended to secure a tax advantage or tax avoidance for a particular taxpayer or group of taxpayers, as, for example, the diversion of a higher proportion of rent to investors with losses. Any such scheme or arrangement will lead to the withdrawal of the rent pooling facility and to a recalculation of the tax liability of investors based on the rent that would have been receivable in the absence of rent pooling.

Many schemes have been operating rent pooling arrangements in advance of the publication of this Explanatory Note and the procedures may not fully comply with its requirements. The new rent pooling arrangements will apply, going forward, from 1 January 2004.

7. Powers of inspection

Under the Self Assessment system the Revenue Commissioners are authorised to inspect investors' records to verify both rental income and deductible expenses. It should be noted that none of these arrangements (i.e. management companies, rent pooling etc.) will be acceptable unless investors, colleges and management companies have satisfactory arrangements for the maintenance of written records to ensure compliance with this Explanatory Note and the relevant legislation. In this regard investors in a scheme and

colleges or management companies should understand that an Inspector of Taxes dealing with the tax affairs of a particular investor may need to examine third party records relating to other investors. All such third party records must be made available for inspection if required.

Revenue Tax Briefing Article issued in August 2005 drawing attention to the July 2005 publication by the Department of Education and Science.

The Department of Education and Science has recently published a document on the student accommodation scheme that seeks to provide clarification on a range of issues that have arisen since that Department's guidelines on the scheme were published. It is available at www.education.ie. Some of the issues are of a minor technical nature while others are more substantive. The main changes are -

- The definition of a "student" has been amended to include certain foreign exchange students.
- A development can be certified by one or more educational institutions.
- There is a general requirement that a qualifying lease must be drawn up for the whole of the academic year regardless of whether the lease is drawn up between a certifying educational institution and another party or between any other parties. There are a limited number of situations where the qualifying lease can be for a shorter period than the full academic year. These are -
 - the year in which a development is first completed where it is not completed until after the start of the academic year
 - where the duration of the course is shorter than a full academic year in the case of certain foreign exchange students attending courses in Ireland
 - where a lease is unexpectedly terminated during an academic year. In such a situation, a new lease can be drawn up with another student of the certifying educational institution covering the remainder of that academic year.
- A lease that is drawn up between an owner of a student accommodation unit and a management company that will let the bed spaces to students of the certifying educational institution is regarded as a qualifying lease if certain conditions are met.
- The treatment of a caretaker unit is clarified. The original guidelines treated a caretaker unit as part of the "communal facilities and amenities". The intention was that such facilities and amenities would be provided for communal use and would also be owned communally. Under the Tax Acts the general position in relation to relief for investment in residential accommodation is that relief is only available where an investor owns a "house". Therefore, to qualify for relief for expenditure incurred on a share of the communal facilities and amenities, an investor must also have purchased a house. Relief is not available for expenditure incurred solely on communal facilities and amenities. However, expenditure incurred on a caretaker unit can qualify for relief, in its own right, as actual student accommodation if that caretaker unit meets the requirements of the guidelines, for example, occupation by at least three students of a certifying educational institution and the appropriate certification by the Department of the Environment, Heritage and Local Government. Essentially, the caretaker would have to be a student of the certifying educational institution.