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1. What is the Living City Initiative and where does it apply?

The Living City Initiative is a scheme of property tax incentives designed to regenerate both historic buildings and other buildings in specified cities. The scheme applies to certain "special regeneration areas" (SRAs) in the centres of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. These areas have been designated for the purposes of the scheme by Order of the Minister for Finance. The maps and boundaries of these SRAs can be found on the websites of the respective local authorities.

2. What does the relief apply to?

The relief applies to both residential and commercial refurbishment and conversion work that is carried out during the qualifying period only. It does not apply to "new build". These are important terms and are defined as follows in the legislation:

- **"refurbishment"**, in relation to a building, structure or house, means any work of construction, reconstruction, repair or renewal, including the provision or improvement, of water, sewerage or heating facilities, carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of the building, structure or house.

Definition of "conversion" for residential element:

- **"conversion",** in relation to any building, structure or house means any work of -
  - conversion into a house of a building or part of a building where the building or, as the case may be, the part of the building has not, immediately prior to the conversion, been in use as a dwelling, and
  - conversion into 2 or more houses of a building or part of a building where before the conversion the building or, as the case may be, the part of the building has not, immediately prior to the conversion been in use as a dwelling or had been in use as a single dwelling,

  including the carrying out of any necessary works of construction, reconstruction, repair or renewal, and the provision or improvement of water, sewerage or heating facilities, in relation to the building, or the part of the building, as the case may be.

Definition of "conversion" for commercial element:

- **"conversion"**, in relation to a building or structure, means any work of conversion, reconstruction or renewal, into a building suitable for use for the purposes of the retailing of goods or the provision of services only within the State and includes the provision or improvement of water,

sewerage or heating facilities carried out, or maintenance in the nature of repair.

These are the same definitions of refurbishment and conversion as used in previous property schemes. While the definitions of "conversion" seem complex they are an attempt to address most, if not all, of the normal real-life situations which might arise. A building, currently in use as a residence, could be converted into a retail outlet or a doctor's surgery, or vice versa. A large residence could be converted into a number of self contained apartments or units. Similarly, a building, currently split into a number of separate units could be converted back into a single residence. Where the nature of the works carried out does not involve any change along the lines set out above, the work would be classified as refurbishment.

There are 3 types of tax relief available under the Living City Initiative -

- an owner/occupier residential element,
- a rented residential element, and
- a retail/commercial element (owner-occupier and lessor).

The owner/occupier residential and retail/commercial elements of the scheme commenced on 5 May 2015 and the rented residential element commenced on 1 January 2017. All three elements will terminate on 4 May 2020. In order to qualify for the tax relief, the expenditure on refurbishment or conversion must be incurred within the appropriate period as set out above, which is referred to in this document as the “qualifying period”. As with all previous schemes, there are rules which determine whether expenditure is actually incurred in a period.

Owner/Occupier Residential Relief

3. Who can apply?

This residential relief is only available for owner-occupiers. Landlords cannot claim owner/occupier residential relief on properties they have rented out but may claim relief under the rented residential element of the scheme (see section 19). Property developers may carry out the refurbishment/conversion work under this scheme and then sell the refurbished/converted properties to individuals who can claim the relief. Furthermore, there is nothing to prevent an individual who is a property developer from claiming owner/occupier residential relief under this scheme on his own sole or main residence.

4. How does it work?

The individual who incurs the qualifying expenditure (which must be at least €5,000) is entitled to a deduction from their total income for each of 10 consecutive years of an amount equal to 10% of the qualifying expenditure.

Example:

An individual owns a house that is located in a Special Regeneration Area. The individual incurs €32,000 of expenditure in the qualifying period. The individual will be entitled to a deduction of €3,200 from their total income per annum for 10 consecutive years. Depending on the rate of income tax the individual pays this deduction of €3,200 could result in tax relief of up to

€1,280 per annum (i.e. €3,200 @ 40%). Owner/Occupier relief does not affect the amount of USC or PRSI which you otherwise pay.

There is no upper limit to the amount of qualifying expenditure that can be incurred.

It should be noted that if all the relief for one year cannot be used in that year because of insufficient income, the excess cannot be carried forward and is lost.

5. What conditions apply to the owner/occupier residential relief?

- The property must be located within a "special regeneration area" (SRA). The details of these areas are publicly available and it is the responsibility of the applicant to determine whether the property is within such an area. Every effort has been taken to ensure that the boundaries of these SRAs do not intersect properties. Under no circumstances will expenditure on a property located outside a SRA qualify for relief.
- The property must have been originally built prior to 1915.
- The expenditure on refurbishment/conversion must be at least €5,000. (See **Section 10: "How much can I claim?"** for further information).
- You must obtain a "Letter of Certification" from the Local Authority regarding the property before any claim for tax relief can be made. While the application for this letter should be made before the work has commenced, the letter will only be issued after the work has been completed.
- The first occupation of the property after the work has been completed must be by you as your sole or main residence. This establishes your right to the tax relief. If the property is put to some other use (i.e. let) before you move in, then the claim to owner/occupier relief is lost.

6. What does sole or main residence mean?

In order to qualify for this tax incentive, you must occupy the property as your sole or main residence. You must occupy it in that capacity for all or part of each year for which you are claiming the relief. You are not required to occupy the property for all of the 10-year period, but no relief is due for any year in which there was no period of occupation by you. If you have two residences and it is not possible to determine which of the two residences is your main residence, you may select (in writing) the residence that is to be regarded as your main residence on the understanding that the selection may have tax implications (for example, the charge to capital gains tax on any possible future sale).

7. Use of property

It is important to understand the process of claiming relief once the work is completed. Take the following example:

Example

- The expenditure commences in 2015 and is carried over into 2016. The refurbishment is completed in 2016.

- The property is left empty for the remainder of 2016 and you eventually move into it in 2017. For the purposes of claiming the relief, you are treated as having incurred all the expenditure in 2017. In other words, the first use of the property "starts the clock".
- If there is to be a delay in moving into the property after it is refurbished, it is vital that the property is not put to some other use, such as being let in that time. If it is, then this will mean no owner/occupier relief can ever be claimed on it. This is because its first use has determined what kind of property it is.
- If you move out of the house for a period of time during the 10 years (for example, transferred in work to another part of the country for a number of years, or where you rent the house out) this will have an effect on your right to claim relief. If you are absent for a calendar year then you are not entitled to the relief for that year. It is lost, not deferred. If you are absent for part of a calendar year, the relief is allowed for that year, provided that you have used the property as your sole or main residence at some time during that year. Likewise, if you move back into the property and use it as your sole or main residence (after a period of non-use or letting), you can claim the relief for that year, provided that this occurs during the 10 year period. You can then continue to claim the relief for the remainder of the 10 year period.

8. What happens if I sell the property within the 10 year period?

If you sell the property within the 10 year period, there is no clawback but you will not be able to avail of the full amount of relief as no relief can be claimed where the property ceases to be your sole or main residence. For example, if you sell the property in year 3 you will be entitled to claim 30% of the qualifying expenditure (i.e. 10% x 3 years) provided that you have used the property as your sole or main residence at some time during each of those years, including the year of sale. The relief is only available to the first owner-occupier of the property after it has been converted or refurbished and, as such, the new owner has no entitlement to claim any relief.

9. What happens if the residential applicant dies within the 10 year period?

If the applicant dies within the 10 year period, before obtaining relief for 100% of the expenditure, the tax relief does not pass to any other person (including the person who might inherit the relevant house) and as such, will not form any part of an inheritance. It is important to note that there is no claw-back of the relief for individuals in respect of residential accommodation. The deduction is only available each year where the individual continues to occupy the property as his/her sole or main residence.

10. How much can I claim?

There are a number of factors which may influence how much relief you can claim. Only expenditure incurred during the qualifying period is eligible for the relief. The qualifying period started on 5 May 2015 and ends on 4 May 2020.

- You may already live in the property and pay directly for the work to be carried out.
- You may buy a vacant or derelict property and pay directly for the work to be carried out.
- You may buy a fully refurbished/converted property (house or apartment) directly from a builder.

There are other possible scenarios but these are the main ones. In the first 2 cases it is easy to calculate how much refurbishment/conversion expenditure you incurred since you paid directly for it yourself. You do, however, need to spend a minimum of €5,000.

In the case of refurbished/converted property acquired from a builder you must be the first person occupying it after the refurbishment/conversion. You know how much you paid for the property (exclude stamp duty) but you don't know how much of the cost is broken down between the building and the refurbishment/conversion. The only person who knows this is the builder. In order for you to claim the correct amount of relief, the builder will have to tell you what percentage the refurbishment/conversion is of the total cost. This percentage has to be based on the builder's costs. It is unlikely that the builder will provide you with actual details of his/her costs since that might involve divulging sensitive information such as profit levels. But once you know the percentage, you can work out the amount of the claim. The following example illustrates the point:

- A builder purchases a derelict property for €75,000 and spends €25,000 on refurbishment (total cost €100,000).
- Fully refurbished property is sold for €150,000.

The builder spent 25% of his/her total costs on refurbishment. At the time of sale he/she informs the buyer of this percentage. This is then applied to the sale price resulting in a total claim for relief of €37,500 (€150,000 x 25%) spread evenly over 10 years (deduction of €3,750 per annum).

The builder will have to pass the Letter of Certification to the purchaser as proof that the house qualifies for tax relief under the scheme. A person claiming relief under the scheme should be able to show that he/she has fulfilled all the relevant conditions and that he/she is entitled to the relief. The fact that the Letter of Certification is not in the name of the person who is claiming the tax relief is not an issue as its main purpose is to ensure that the refurbished/converted house meets certain standards and that the amount spent on carrying out the works appears to be reasonable.

11. Grants

Any sum which you have received or are entitled to receive, directly or indirectly, from the State, any board established by statute or any public authority must be deducted when calculating the qualifying expenditure for the purposes of the residential owner occupier relief.

12. What does "expenditure incurred in a qualifying period" mean?

Relief is only available for expenditure on refurbishment or conversion work that is carried out during the qualifying period for the scheme. As previously

mentioned the qualifying period is 5 years starting on 5 May 2015 and ending on 4 May 2020.

Where work is carried out after the end of the qualifying period, the property will still be eligible for relief but only in respect of the amount of the expenditure incurred in the qualifying period. For the purposes of determining when expenditure is incurred, only the amount of the expenditure that is attributable to work that is actually carried out during the period is taken into account. Therefore, work actually carried out prior to the qualifying period but paid for during the period does not qualify. Similarly, there is no relief for advance payments for materials or for work that will be carried out after the end of the qualifying period.

13. What costs are taken into account in calculating qualifying expenditure?

Not all of the costs incurred on the refurbishment or conversion of a property are taken into account in calculating the amount of the qualifying expenditure. Broadly speaking, only the **direct** costs of refurbishment and conversion are allowable. However, Revenue practice is to allow the cost, when **first** installed, of fitted kitchens and bathroom suites and certain other items such as fireplaces that form part of the fabric of the building. The treatment of VAT as a cost is dealt with below. Costs that **are** allowed in calculating the amount of the qualifying expenditure include:

- Direct refurbishment or conversion costs such as the cost of building materials, hire of equipment, labour costs, administrative overheads, architects' and engineers' fees, painting and decorating, when undertaken as part of the refurbishment or conversion,
- The cost of certain items, when **first** installed, that form part of the fabric of the building such as fitted kitchens (excluding appliances), bathroom suites, fixed flooring, tiling and light fittings,
- Fees paid to local authorities for the provision of certain infrastructure and services that are **directly** related to the particular property.

Costs that are **not** allowed in calculating the amount of the qualifying expenditure include:

- The cost of the building prior to refurbishment or conversion,
- Costs associated with the acquisition of the building prior to refurbishment/conversion such as legal fees, stamp duty, and professional valuation fees,
- The cost of items that do not form part of the fabric of the building such as kitchen appliances, free-standing furniture, carpets, curtains and garden plants,
- Marketing and selling costs such as money spent on advertising the property and auctioneers' fees (this is only relevant in the case of a builder, for example, who refurbishes the property and then sells it to an owner/occupier),
- Costs attributable to a person's own labour,
- General contributions/levies that are paid to a local authority but are not directly related to the property.

These lists are not exhaustive.

VAT paid in connection with the refurbishment or conversion of a property or the purchase of a property can only be included as part of qualifying expenditure where it cannot be claimed back by the person who has paid it. In other words, relief is only available where VAT is a net cost to the person paying that VAT. In the case of a person who undertakes the work him/herself, there is no entitlement to reclaim any VAT paid as the property is not being used for business purposes. Qualifying expenditure can, therefore, be VAT inclusive. Conversely, in the case of a builder, since the VAT on his/her inputs can generally be reclaimed, the figure (qualifying expenditure) that is used to work out the percentage entitlement for the purchaser of the property is net of VAT. The purchaser can then apply this percentage to the purchase price (inclusive of VAT) to work out their qualifying expenditure figure.

Using the same figures as the example in **Section 10: "How much can I claim?"**)

Example

The builder spends €25,000 on refurbishment (total cost €100,000). This €25,000 is net of VAT. The purchaser then buys the property for €150,000 which is inclusive of VAT. The relief that the purchaser can claim over 10 years is 25% of €150,000 which is €37,500 (€3,750 can be claimed annually).

In the case of a person who purchases a fully refurbished/converted property, for the purposes of calculating the relief due, the price paid for the completed property does not include legal and other professional fees and stamp duty paid in connection with the purchase.

14. Does expenditure on an extension qualify for tax relief under the scheme?

Generally speaking, expenditure on an extension will **not** qualify for tax relief under the scheme except, of course, expenditure on a pre-1915 extension to an older building. Additionally, expenditure on an extension will qualify if building regulations require the provision of, for example, a bathroom extension to an old derelict house. However, expenditure on an extension of, for instance, an extra 2 or 3 bedrooms added on to the original building will not qualify for tax relief. An individual who has spent money on an extension cannot claim any tax relief on the expenditure incurred on that extension. However, this does not prevent him/her from claiming relief in relation to any refurbishment or conversion expenditure incurred on the original structure. It is the expenditure on the original house which the Local Authority will be commenting on in the Letter of Certification.

15. What is a "Letter of Certification"?

A Letter of Certification is a letter issued to you (or to the person who refurbished/converted the property to be passed on to you) by the relevant local authority in respect of the property (see **Section 16 "Application Process"** for further information). It contains the following four statements;

- That planning permission has been obtained for the works. In some cases, certain works will not require planning permission. If that is the case, it

will be stated in the letter.

- That the basic standards of facilities regarding water, sewerage and other services have been installed.
- That on the basis of the information provided, the cost of the works seems reasonable. This opinion will be based on the material supplied by you. Its purpose is to ensure that the amount of expenditure which is eligible for the relief is not excessive.

It should be noted that copies of these Letters of Certification will also be sent to the Revenue Commissioners. This is to enable aggregate data of uptake of the relief to be collected as well as providing early notification of future claims.

16. The Application Process

The application form is available on your local authority website. A separate application is required for each residential unit. You will be required to provide the following details:

- Your name and address.
- The address of the property (this may be the same).
- The property ID for Local Property Tax purposes (if available).
- Reference number of planning permission (if it is needed).
- A description of the works. This should be sufficient to enable the Local Authority to ultimately make a judgement that the cost is reasonable.

The local authority will issue an interim acknowledgement confirming that planning permission (if needed) was obtained. The acknowledgement will also contain a unique reference number (URN) referable to this application. When the work has been completed, you need to contact the local authority again, quoting the URN, confirming the exact cost of the works and requesting them to issue the Letter of Certification.

17. Are there any special requirements for statutory consents under the scheme?

No. You must ensure full compliance of the works with all statutory requirements. There are no exemptions, or special procedures, in this regard for works to properties located in an SRA.

It is important that you establish, at the outset, whether any part of the site or structure is protected by legislation and what types of notifications, permissions and/or consents it may be necessary to obtain. You should bear in mind that, because of the location and nature of the properties qualifying for tax relief, the building may be a protected structure or the area may be an architectural conservation area under the Planning and Development Act 2000 (as amended) and, if so, the advice of the architectural conservation officer in the local authority should be sought. In addition, there may be requirements under the National Monuments Acts (1930-2004) and the advice of the National Monuments Service of the Department of Arts, Heritage and the Gaeltacht should be sought in this regard.

18. How can I claim the relief?

If you pay your tax under the PAYE system, you will make the first claim, after the end of the first year for which you are entitled to the relief, using Revenue's online **eForm 12**. The relief for subsequent years will be given in your salary/wages by increasing your tax credits and will be included in your tax credit certificate each year for the remaining 9 years for which the relief is available. (Please note that this does not preclude Revenue from requesting you to complete and file a tax return during this period as may be the case for PAYE workers from time to time). If you pay your tax under the self-assessment system, you will make the claim in the return of income for each year that the relief applies. Any self-assessed individuals claiming the owner/occupier residential relief under the Living City Initiative are obliged to file their returns electronically (if they are not already obliged to do so) via the **Revenue Online Service (ROS)**.

Rented Residential and Commercial Relief:

19. How does the relief work?

The relief is given in the form of an accelerated capital allowance for qualifying expenditure on refurbishment or conversion of rented residential and certain commercial premises within the special regeneration areas. The capital allowance is given at the rate of 15% of qualifying expenditure for each of 6 years and 10% in year 7.

In addition to the capital allowances which the claimant is entitled to in any year any unused allowances from previous years can also be used. Capital allowances are unused if there is insufficient income in any year against which the capital allowances can be set. At the end of the 7 years, unused capital allowances from earlier years can, in general, be carried forward and set against future income of the business. However, in the case of passive investors, it should be noted that any unused capital allowances under this scheme which are carried forward beyond the tax life of the building to which they relate, are immediately lost.

20. What conditions apply?

There are a number of conditions:

- The premises must be located within the special regeneration area.
- In the case of a commercial premises it must be used, after refurbishment/conversion, for retail purposes or for the provision of services within the State or the premises must be let on bona fide commercial terms for such use.
- In the case of a rented residential premises, which must have been originally built prior to 1915, it must be let on bona fide commercial terms, after refurbishment /conversion, for use as a dwelling by the lessee.
- For a landlord of a rented residential premises to claim relief the relevant Local Authority must have issued a Letter of Certification (see sections 15 & 16 above for details and the application process).
- The expenditure must relate to refurbishment or conversion only and not to "new build". The precise meaning of these terms is set out above.
- The expenditure must be incurred within the qualifying period. This means the period commencing on 5 May 2015 in the case of commercial

premises and on 1 January 2017 in the case of rented residential premises and ending on 4 May in both cases.

- There are overall limits on the amount of capital expenditure on any project which is to be treated as qualifying expenditure.
- The expenditure on refurbishment/conversion must be at least €5,000.

21. How do I know what expenditure is incurred in the qualifying period?

Only expenditure related to work actually carried out in the qualifying period can qualify for the relief. Provided the work is carried out in the period, the date of actual payment is not relevant. A late payment for work carried out before the commencement of the period does not qualify, nor does a pre-payment for work carried out after the end of the period.

22. What are the limits to expenditure that qualifies for relief?

There is no limit to how much can be invested in the refurbishment/conversion of a premises. The limit is on the amount of relief which can be obtained. The limit is imposed on the project itself, so it does not matter how many investors there are, the relief is the same as if there were only one. A person can invest in more than one project and receive relief in respect of each project. Relief is only available for expenditure actually incurred.

There are a number of possible investment scenarios:

One investor:

If the investor is an individual the amount of expenditure that can qualify for relief is €400k, whereas if the investor is a company trading from the premises, the limit is €1.6m or if the investor is a company letting the premises, the limit is €800K.

2 or more individuals/2 or more companies.

If 2 or more individuals invest in a project, the amount of expenditure that qualifies for relief remains at €400k. So if one individual invested €200k and the other individual invested €600k (a ratio of 1:3) the amount of expenditure that can qualify for relief is likely to be split in the same ratio. In this case one investor would have €100k of expenditure and the other €300k. The legislation does not actually specify how the expenditure should be split but it does set the overall limit. From the point of view of the Exchequer, the cost is the same.

The situation is precisely the same in the case of 2 or more companies which invest, although in this case, the overall limit is €800k for companies in receipt of rental income and €1.6m for trading companies.

Individuals and companies investing together.

There are formulas in the legislation to help decide how to allocate the expenditure that can qualify for relief where individuals and companies invest together

(A x 50%) + (B x 12.5%) cannot exceed €200k.
Where -
A is the aggregate of qualifying expenditure by individuals, and
B is the aggregate of qualifying expenditure by companies trading from the premises.

(A x 50%) + (B x 25%) cannot exceed €200k.
Where -
A is the aggregate of qualifying expenditure by individuals, and
B is the aggregate of qualifying expenditure by companies letting the property.

When the actual expenditure by individuals and companies is inputted into this formula the result may or may not exceed €200k.

- If the result does not exceed €200k, then those actual expenditure figures are the figures for expenditure that can qualify for relief.
- If the result exceeds €200k, then the actual expenditure figures must be reduced so that the result is equal to or below €200k. How much each investor's share of the overall expenditure that can qualify for relief will be, is a matter for negotiation between the participants. It is not necessary for the legislation to prescribe how this should be done other than to set the overall limit.

23. Non availability of relief

Property developers or connected persons are precluded from getting relief under either the rented residential or retail/commercial elements of the scheme where either the property developer or the connected person incurred the capital expenditure on the refurbishment or conversion of the premises or it was incurred by some other person connected with the property developer.

Grants

Where any part of the refurbishment or conversion expenditure is met directly or indirectly by the State or any State bodies, the amount of expenditure qualifying for relief will be reduced by a multiple of three times the amount of that sum received or receivable.

January 2017

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