

Relief for Expenditure on Approved Buildings and Gardens in the State

Introduction

Tax relief is available to the owner/occupier of:

- an approved building (including surrounding garden) or
- an approved garden existing independently

in respect of expenditure incurred on the repair, maintenance or restoration of the approved building or garden.

All such expenditure is treated for tax purposes as if it were a loss in a separate trade carried on by that owner/occupier and the normal rules for giving loss relief apply. Unrelieved qualifying expenditure incurred in a particular year can be carried forward for a two year period.

Relief in respect of qualifying expenditure incurred in a chargeable period will be limited to the amount of the expenditure attributable to the actual work carried out during that chargeable period.

Structure of Relief

As outlined above, relief is provided from income tax and corporation tax to the owner/occupier of:

- an approved building (including surrounding garden),
- an approved garden existing independently, and
- approved buildings in use as guest houses subject to certain conditions.

Additional relief up to an aggregate of €6,350 is provided in respect of the following items:

- the repair, maintenance or restoration of approved objects in an approved building/garden provided the objects are on display for a period of at least two years from the year in which the expenditure is claimed (a separate leaflet IT56 sets out the detailed rules in relation to approved objects)
- the installation, maintenance or replacement of a security alarm system in the approved house/garden, and
- the provision of public liability insurance for the approved building/garden.

Approved Building/Garden

An approved building is one in respect of which determinations have been made:

- *by the Minister for Arts, Heritage, Gaeltacht and the Islands – that it is a building which is intrinsically of significant, historical, architectural or aesthetic interest, and*
- *by the Revenue Commissioners – that reasonable access to the building is afforded to the public.*

An approved garden is one in respect of which determinations have been made:

- *by the Minister for Arts, Heritage, Gaeltacht and the Islands – that it is a garden which is intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest, and*
- *by the Revenue Commissioners – that reasonable access to the garden is afforded to the public.*

Reasonable access in the case of an approved building/garden

Revenue examine each individual case by reference to the criteria which must be met with regard to reasonable access. Reasonable access should be afforded to the public at reasonable times and in a reasonable manner, subject to any temporary closure necessary for repair, maintenance or restoration work. However, the following requirements must be satisfied:

- access to the whole or a substantial part of the building/garden must be available at the same time,
- access is afforded for a period of at least 60 days in any one year including not less than 40 days (of which 10 days must be Saturdays or Sundays) during the period 1 May - 30 September inclusive, at reasonable times and in a reasonable manner, subject to any temporary closures necessary for repair, maintenance and restoration work,
- the daily viewing times must be at least four hours, and
- the admission price, if any, must be reasonable so as not to preclude the public from seeking access to the building/garden.

The Revenue Commissioners must be fully satisfied that the minimum access requirements are met. Before making a determination in respect of access clear evidence is required that the building is genuinely open to the public. The building's opening times must be advertised in local and/or national media. A sign should be erected outside the building indicating its opening times and the building should be advertised through Bord Failte or other tourism bodies. After the determination is made, the Revenue Commissioners check all buildings annually by means of correspondence in order to ensure that the level of public access indicated when the determination was made is continuing. Also, the public access to buildings in respect of which relief has been claimed can be examined as part of a Revenue audit on the owner/ occupier of those buildings.

Advising Bord Failte regarding reasonable access in the case of an approved building/garden

In addition to meeting the requirements regarding reasonable access set out above, claimants for tax relief must also advise Bord Failte regarding access to the approved building/garden in the manner set out below.

As respects qualifying expenditure incurred in a chargeable period, claimants for relief must, by 1 November in the specified periods set out below, advise Bord Failte regarding:

- the name, if any, and address of the approved building or garden, and
- the days and times during the year when access is afforded to the public.

This information is given to Bord Failte on the understanding that it may be published by Bord Failte or by another tourism body.

The information must be given to Bord Failte by 1 November in the chargeable period in respect of which the claim is made and for five subsequent accounting periods.

Approved building in use as a guest house

Following are the conditions which apply where the approved building is in use as a guest house:

- the approved building must be in use as a guest house for at least six months of the calendar year – of which four months must be in the period 1 May - 30 September inclusive,
- the owner/occupier must prove that he/she incurred the expenditure in respect of which the relief is being claimed,
- the building must be registered or listed with Bord Failte as a guest house, and
- Bord Failte must have been notified regarding the opening times of the guest house.

There is also provision whereby approved buildings can switch from qualification for relief under “reasonable access” to qualification under “guest-house” and vice versa without any clawback of relief.

Claiming tax relief in respect of an approved building/garden

In order to qualify for relief in respect of an approved building, including where the building is in use as a guest house, the expenditure must be incurred on the repair, maintenance or restoration of the building or on the maintenance or restoration of any garden or grounds of an ornamental nature occupied or enjoyed with that building.

In order to qualify for relief in respect of an approved garden the expenditure must be incurred on the maintenance or restoration of the garden.

Tax relief is not available, however, where any such expenditure is otherwise allowable for tax purposes or in respect of sums recoverable by a claimant by a grant or reimbursement from any source.

A claimant is obliged to afford facilities at any reasonable time to authorised officers of the Department of Arts, Heritage, Gaeltacht and the Islands and of the Revenue Commissioners to inspect the approved building/garden or to examine the work in respect of which the expenditure to which the claim relates was incurred.

Restriction of relief in the case of a passive investment scheme

Where a claim for relief is made in respect of qualifying expenditure incurred on an approved building, the amount of relief allowable to an individual who acquires ownership of the building through participating in a passive investment scheme is, subject to certain transitional arrangements, restricted to €31,750 in any year commencing on 1 January, 2002 where such expenditure was incurred on or after 5 December 2001.

Clawback of the Relief

There is provision for either the Revenue Commissioners or the Minister for Arts, Heritage, Gaeltacht and the Islands to revoke a determination made where the conditions for granting such a determination cease to exist. Any relief granted to a claimant in the five year period immediately before the determination is revoked by the Revenue Commissioners will be clawed back.

Information

Application forms for a determination by the Minister for Arts, Heritage, Gaeltacht and the Islands may be obtained from:

Dúchas,
The Heritage Service,
Dúnsceine,
Harcourt Lane,
Dublin 2.
Tel: (01) 4117146 /4117148,
Fax: (01) 4781335

Application for a determination that reasonable access is afforded to the public should be made to:

Direct Taxes: Administration,
Revenue Commissioners,
Dublin Castle,
Dublin 2.
Tel: (01) 6475000, ext. 48011
Fax: (01) 6799287

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