

Allowance for rent paid by certain tenants. ITA67 s142A and 195B(3) and (6); FA82 s5(1); FA85 s7(a); FA91 s8; FA93 s10(1); FA95 s5 473.—(1) In this section—

“residential premises” means property held under a tenancy, being—

(a) a building or part of a building used or suitable for use as a dwelling, and

(b) land which the occupier of a building or part of a building used as a dwelling has for his or her own occupation and enjoyment with the building or part of a building as its garden or grounds of an ornamental nature;

“rent” includes any periodical payment in the nature of rent made in return for a special possession of residential premises or for the use, occupation or enjoyment of residential premises, but does not include so much of any rent or payment as—

(a) is paid or made to defray the cost of maintenance of or repairs to residential premises for which in the absence of agreement to the contrary the tenant would be liable,

(b) relates to the provision of goods or services,

(c) relates to any right or benefit other than the bare right to use, occupy and enjoy residential premises, or

(d) is the subject of a right of reimbursement or a subsidy from any source enjoyed by the person making the payment, unless such reimbursement or subsidy cannot be obtained;

“tenancy” includes any contract, agreement or licence under or in respect of which rent is paid, but does not include—

(a) a tenancy which apart from any statutory extension is a tenancy for a freehold estate or interest or for a definite period of 50 years or more,

(b) a tenancy in relation to which the person beneficially entitled to the rent is a Minister of the Government, the Commissioners of Public Works in Ireland or a housing authority for the purposes of the Housing Act, 1966 , or

(c) a tenancy in relation to which an agreement or provision exists under which the rent paid or part of it is or may be treated as consideration or part consideration, in whatever form, for the creation of a further or greater estate, tenancy or interest in the residential premises concerned or in any other property.

(2) (a) In this subsection, “the relevant limit” means—

(i) in the case of a claimant entitled to a deduction under section 461 (a), £2,000,

(ii) in the case of a widowed person, £1,500, and

(iii) in any other case, £1,000.

(b) Where in relation to income tax for a year of assessment an individual (in this section referred to as “the claimant”) proves that—

(i) at any time during the year of assessment he or she was of the age of 55 years or over, and

(ii) in the year of assessment, he or she has made a payment on account of rent in respect of residential premises which, during the period in respect of which the payment was made, was his or her only or main residence,

the claimant shall be entitled to a deduction of an amount equal to the lesser of—

(I) the aggregate of such payments proved to be so made, and

(II) the relevant limit.

(c) For the purposes of this subsection, where the claimant is a married person assessed to tax for the year of assessment in accordance with section 1017, any payments made by the claimant's spouse, in respect of which that spouse would have been entitled to relief under this section if he or she were assessed to tax for the year of assessment in accordance with section 1016 (apart from subsection (2) of that section), shall be deemed to have been made by the claimant.

(3) (a) In this subsection—

“appropriate percentage”, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;

“the specified limit” means—

(1) in the case of a claimant entitled to a deduction under section 461 (a), £1,000,

(ii) in the case of a widowed person, £750, and

(iii) in any other case, £500.

(b) Where in relation to income tax for a year of assessment a claimant would but for paragraph (b)(i) of subsection (2) be entitled to relief in accordance with that subsection, the income tax to be charged on the claimant for that year of assessment, other than in accordance with section 16 (2), shall be reduced by an amount which is the least of—

(i) the amount equal to the appropriate percentage of the aggregate of the payments referred to in subsection (2)(b)(ii) proved to be so made,

(ii) the appropriate percentage of the specified limit, and

(iii) the amount which reduces that income tax to nil.

(4) (a) Where a payment is made partly on account of rent and partly on account of anything which is not rent, such apportionment of the payment shall be made as is necessary in order to determine for the purposes of this section the amount paid on account of rent.

(b) Any apportionment required by this subsection shall be made by the inspector according to the best of his or her knowledge and judgment.

(5) Where a payment on account of rent is made in respect of any period, that payment shall be deemed for the purposes of this section to be made in the year in which the period falls; but, if the period falls partly in one year and partly in another year, the amount of the payment made in respect of that period shall be apportioned to each year in the proportion which the part of the period falling in that year bears to the whole of the period, and the amount so apportioned to a year shall be deemed for the purposes of this section to be paid in that year.

(6) (a) Any claim for relief under this section in respect of rent paid in a year of assessment shall be accompanied by—

(i) a certificate and statement, in a form prescribed by the Revenue Commissioners, signed by the claimant setting out—

(I) the name, address and income tax reference number of the claimant,

(II) the name, address and, as may be appropriate, the income tax or corporation tax reference number of the person or body of persons beneficially entitled to the rent under the tenancy under which the rent was paid,

(III) the postal address of the premises in respect of which the rent was paid, and

(IV) full particulars of the tenancy under which the rent was paid,

and

(ii) a receipt or acknowledgement in respect of such rent given in accordance with subsection (8).

(b) Failure to furnish any of the particulars mentioned in paragraph (a)(i) or failure to furnish a receipt or acknowledgement mentioned in paragraph (a)(ii) shall be grounds for refusal of the claim; but—

(i) the inspector may waive the requirement at paragraph (a)(i)(II) on receipt of satisfactory proof

that the claimant's inability to comply with that requirement is bona fide, and

(ii) the inspector may waive the requirements at paragraph (a)(ii) on receipt of satisfactory proof of the total rent paid in the relevant period and on being furnished with the name and address of the person or body of persons to whom it was paid.

(7) (a) Any person aggrieved by a decision of the inspector on any question arising under subsection (4) or (6) may, by notice in writing to that effect given to the inspector within 30 days from the date on which notice of the decision is given to that person, make an application to have his or her claim for relief heard and determined by the Appeal Commissioners.

(b) Where an application is made under paragraph (a), the Appeal Commissioners shall hear and determine the claim in the like manner as an appeal made to them against an assessment to income tax, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

(8) (a) Where a person (in this subsection referred to as “the tenant”) who is entitled to relief under this section for a year of assessment, or who has reason to believe that he or she may be so entitled, requests a receipt or acknowledgement of the rent paid by him or her in that year, the person or body of persons beneficially entitled to the rent shall, within 7 days from the date of the request, give to the tenant a receipt or acknowledgement of the rent paid by the tenant in that year of assessment.

(b) Any receipt or acknowledgement given in accordance with this subsection shall be in writing and shall contain—

(i) the name and address of the tenant,

(ii) the name, address and, as may be appropriate, the income tax or corporation tax reference number of the person or body of persons giving the receipt or acknowledgement, and

(iii) the amount of the rent paid in the year of assessment and the period within that year in respect of which it is paid.

(9) (a) The Revenue Commissioners may make regulations, for the purpose of giving effect to this section, with respect to the allowance granted by this section, or to any matter ancillary or incidental thereto, or, in particular and without prejudice to the generality of the foregoing, to provide for—

(i) the proof by a claimant of a payment on account of rent,

(ii) the disclosure of information by a person in receipt of a payment on account of rent,

(iii) the maintenance of records and the production to and inspection by persons authorised by the Revenue Commissioners of such records and the taking by such persons of copies of or of extracts from such records, and

(iv) appeals with respect to matters arising under the regulations which would not otherwise be the subject of an appeal.

(b) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(10) Any deduction made under this section shall be in substitution for and not in addition to any deduction to which the individual might be entitled in respect of the same payment under any other provision of the Income Tax Acts.