



21TACD2019

BETWEEN/

NAME REDACTED

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This is an appeal against the refusal of relief in accordance with s.477C of the Taxes Consolidation Act 1997, as amended (hereafter 'TCA 1997') known as the *Help to Buy* ('HTB') scheme. The quantum of tax in dispute is €18,500.

Background

2. The Appellant entered into a loan agreement with a financial institution on 14 July 2016 in relation to the purchase of an apartment at no. [ADDRESS REDACTED] (hereafter 'the apartment'). The loan agreement provided for the advance by the financial institution, of the sum of €290,000 in relation to the purchase of the apartment, in accordance with specified terms and conditions. The purchase price of the apartment was €370,000 and the loan to value ratio was 78%.
3. On 15 July 2016, the Appellant signed a contract with the Company A Limited for the purchase of the apartment. On 2 August 2016, the transaction closed and the Appellant entered into possession of the apartment.

4. On 28 June 2017, the Appellant requested the Respondent to verify his entitlement to a refund of income tax in accordance with the HTB Scheme.
5. On 29 June 2017, the Respondent wrote to the Appellant stating that the Appellant was not entitled to avail of relief under the HTB scheme on the basis that the Appellant was outside the '*qualifying period*' of the HTB Scheme in accordance with s.477C(3)(a) TCA 1997. The Respondent stated that as the Appellant signed the contract in respect of the purchase of the apartment on 15 July 2016, four days prior to the commencement of the '*qualifying period*' on 19 July 2016, he did not qualify in accordance with s.477C(3)(a) of the HTB Scheme and was thereby unable to avail of relief in accordance with the scheme.
6. The Appellant appealed the Respondent's refusal of relief under the HTB Scheme.

Legislation

7. As set out in the **Appendix** below, the relevant legislative provision is section 477C TCA 1997, in particular s. 477C(3) TCA 1997 which provides;

Where an individual has, in the qualifying period, either-

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self- build qualifying residence, or

(b) drawn down the first tranche of a qualifying loan in respect of that individual's self-build qualifying residence,

that individual may make a claim for an appropriate payment.

Section 477C(1) provides;

'qualifying period' means the period commencing on 19 July 2016 and ending on 31 December 2019.

'self-build qualifying residence' means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf.



Submissions

Section 477C(3)(a) TCA 1997

8. The Appellant submitted that he was entitled to relief in accordance with section 477C(3)(a) TCA 1997 on the basis that although he executed the contract on 15 July 2016, he did not have access to or possession of the property until the closing date of 2 August 2016. The Appellant contended that the Respondent should treat the date of 2 August 2016, as the relevant date for the purposes of the expression '*qualifying period*' contained in section 477C(1). While the Appellant did not pursue this submission at hearing, the Appellant set out the submission in his outline of arguments and for completeness, I have addressed this submission in the analysis below.
9. The Respondent submitted that the Appellant was unable to bring himself within section 477C(3)(a) on the basis that he did not enter into the contract within the '*qualifying period*' in accordance with section 477C(3)(a) TCA 1997.

Section 477C(3)(b) TCA 1997

10. In the alternative, the Appellant submitted that he was entitled to relief in accordance with section 477C(3)(b) on the basis that his application related to a '*self-build qualifying residence*' in accordance with section 477C(1), whereupon the relevant date for the purposes of ascertaining the availability of the HTB Scheme in accordance with section 477C(3)(b) would be the draw down date of the qualifying loan, namely, 2 August 2016.
11. The Respondent submitted that the apartment purchased by the Appellant was not a '*self-build qualifying residence*' within the meaning of section 477C(1) TCA 1997 and that the Appellant's application for relief pursuant to the HTB Scheme did not fall within section 477C(3)(b) TCA 1997.



Analysis

Section 477C(3)(b) TCA 1997

12. The Appellant submitted that he qualified for relief pursuant to Section 477C(3)(b) TCA 1997, on the basis that he purchased a *'self-build qualifying residence'* within the meaning of s.477C(1) TCA 1997. The Appellant stated that he drew down his loan on 2 August 2016 and that this date fell within the qualifying period for the purposes of a *'self-build qualifying residence'* in accordance with s.477C(3)(b) TCA 1997.

Section 477C(1) provides;

'self-build qualifying residence' means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf.

Section 477C(3)(b) provides;

Where an individual has, in the qualifying period, either-

(a)

(b) drawn down the first tranche of a qualifying loan in respect of that individual's self-build qualifying residence,

that individual may make a claim for an appropriate payment.

13. The Appellant stated that the apartment was *'built'* by him on the basis that he was required to carry out additional works on the apartment after he purchased it such as laying floors and painting the interiors.
14. The Appellant also relied on his contract and in particular, references to the builder as *'the Contractor'*, the Appellant as *'the Employer'*, the apartment as *'the Works'* and the plot of ground situate at no. 10 as *'the Site'*. The Appellant stated that the contract for purchase showed him to be acquiring a site as *'the employer'* under the terms of a construction contract and as such, he had purchased a self-build property for the purposes of the HTB Scheme. He highlighted words in the contract stating that he was *"desirous of constructing a dwelling house/apartment on the site in accordance with the Plans"*



15. The Respondent submitted that the Appellant purchased an apartment within a completed block of apartments which were on the market for sale. The Respondent submitted that the Appellant did not acquire a site, did not apply for planning permission and did not subsequently construct a house upon the site. The Respondent also submitted that the loan was drawn down in full on the draw down date as opposed to the '*first tranche*' being drawn down in accordance with s.477C(3)(b). The Respondent submitted the Appellant did not purchase a '*self-build qualifying residence*' and that the applicable provision in relation to the Appellant's application for relief under the HTB Scheme was sub-section 477C(3)(a) TCA 1997.
16. The facts in this appeal are that the apartments were completed and were on the market for sale when the Appellant made the decision to purchase one of the apartments from the Company A. While the contract referred to the builder as '*the Contractor*', the Appellant as '*the Employer*' and the apartment as '*the Works*' the Appellant was not required to seek planning permission, to engage an architect, to draw up plans and specifications or to or direct builders to carry out works in accordance with those plans and specifications. I do not accept the Appellant's submission that the apartment was built directly or indirectly by him or that the terms of the contract were such as to render the apartment a '*self-build qualifying residence*' for the purposes of s.477C(1) TCA 1997.

Section 477C(3)(a) TCA 1997

17. The Appellant stated that it was unfair to be refused the HTB relief in circumstances where he fell short of the '*qualifying period*' by a margin of four days. He stated that had he been aware, he would have delayed signing the contract until 19 July 2016.
18. The Appellant stated that the date of acquisition of his property was the completion date of 2 August 2016 and not the date of the contract and hence he acquired the property within the qualifying period. He cited the payment date for stamp duty purposes on 3 August 2016 and the date of the conveyance on 2 August 2016, in support of his position. The Appellant also cited his liability date to LPT as an additional ground in support of his view that his purchase of the property came within the '*qualifying period*' for HTB purposes. The Appellant submitted that as he did not draw down his loan until 2 August 2016, he had not obtained mortgage approval at the date of the contract and he contended that, as a result, he came within the '*qualifying period*' in accordance with s.477C(3)(a).



Section 477C(3)(a) TCA 1997 provides;

Where an individual has, in the qualifying period, either-

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self- build qualifying residence, or

.....

that individual may make a claim for an appropriate payment.

19. Section 477C(3)(a) provides that the relevant date for the purposes of that sub-section is the date the individual '*entered into a contract*'. The Appellant signed the contract on 15 July 2016 and thereby entered into the contract on that date.
20. The payment dates in respect of the Appellant's liability to stamp duty and to LPT, the drawdown date of his loan and the completion date of his contract are not relevant to the interpretation of the expression '*entered into a contract*' contained in s.477C(3)(a) and cannot be substituted for the words '*entered into a contract*' as they appear in the legislation.
21. It is long established that the interpretative approach to be adopted in relation to taxation statutes, based on authorities including *inter alia*, *Revenue Commissioners v Doorley* [1933] IR 750, *Inspector of Taxes v Kiernan* [1982] ILRM 13, *Cape Brandy Syndicate v Inland Revenue Commissioners* [1921] 1 KB 64 and *Texaco (Ireland) Ltd v Murphy* [1991] 2 IR 449, is a literal interpretative approach. The literal approach will afford the words their ordinary and natural meaning. In *Revenue Commissioners v Doorley* [1933] IR 50, Kennedy C.J. in the Supreme Court stated; '*As the imposition of, so the exemption from the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as applicable.*' In short, this means that the Appellant, to succeed in his appeal, will be obliged to bring himself squarely within the terms of the relief if he is to be entitled to avail of the relief.
22. In cases where the provision in question is obscure, ambiguous or, which on a literal interpretation would fail to reflect the plain intention of the Oireachtas, section 5 of the Interpretation Act 2005 may be invoked. However, as the statutory provision in this appeal is neither obscure nor ambiguous, I do not consider that there are grounds for invoking section 5 of the Interpretation Act.



23. Section 477C(3)(a) TCA 1997 requires *inter alia*, that in order to avail of relief pursuant to the HTB Scheme, an individual must enter into a contract '*in the qualifying period*'. A literal construction of these words leads to the conclusion that the Appellant has not satisfied s.477C(3)(a) as the Appellant, having entered into his contract on 15 July 2016, has not entered into a contract '*in the qualifying period*' being the period; 19 July 2016 to 31 December 2019.
24. The Appellant stated that he was unaware of the HTB scheme at the time he entered into the contract and that it was unfair that he would be refused relief under the scheme. He requested that a common-sense approach to be taken to the interpretation of the provision bearing in mind that he was in a position to comply with the requirements of the HTB Scheme in all other respects.
25. While the Appellant made a detailed and articulate submission, the established law on the interpretation of taxation statutes provides that taxation statutes be interpreted strictly and literally. I am bound by the provisions of the relief as drafted and I do not consider that the legislation provides me with discretion to depart from the express statutory requirements and to grant relief in circumstances where the Appellant has, albeit inadvertently, failed to satisfy the requirements of section 477C(3)(a) TCA 1997.

Conclusion

26. For the reasons set out above, I determine that the Appellant did not purchase a '*self-build qualifying residence*' within the meaning of section 477C TCA 1997 and that the Appellant's claim for relief in accordance with the HTB Scheme cannot succeed.
27. In relation to the Appellant's submission in relation to section 477C(3)(a) TCA 1997, the Appellant's contract, having been signed on 15 July 2016, was signed outside the '*qualifying period*' as defined in section 477C(1) and as a result, I determine that the Appellant did not '*enter into a contract*' within the '*qualifying period*' and thus the Appellant's claim for relief in accordance with the HTB Scheme does not fall within section 477(3)(a) TCA 1997.
28. As the qualifying conditions in relation to the HTB scheme have not been met, I determine that the Appellant is not entitled to avail of relief pursuant to s.477C TCA 1997.





29. This appeal is determined in accordance with section 949AL TCA 1997

COMMISSIONER LORNA GALLAGHER

April 2019

The parties to this appeal have not requested the Appeal Commissioner to state and sign a case for the opinion of the High Court



APPENDIX

Section 477C TCA 1997 – Help to Buy

[(1)In this section—

“appropriate payment” shall be construed in accordance with subsection (4);

“appropriate tax” has the meaning assigned to it by section 256;

“approved valuation”, in relation to a self-build qualifying residence, means the valuation of the residence that, at the time the qualifying loan is entered into, is approved by the qualifying lender as being the valuation of the residence;

“first-time purchaser” means an individual who, at the time of a claim under subsection (3) has not, either individually or jointly with any other person, previously purchased or previously built, directly or indirectly, on his or her own behalf a dwelling;

“income tax payable” has the meaning assigned to it by section 3;

“loan” means any loan or advance, or any other arrangement whatever, by virtue of which interest is paid or payable;

“loan-to-value ratio” means the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence;

“PPS number”, in relation to an individual, means the individual’s personal public service number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

“purchase value” means—

(a)in the case of a qualifying residence, the price paid for the qualifying residence, being a price that is not less than its market value, or



(b) in the case of a self-build qualifying residence, the approved valuation;

“qualifying contractor” has the meaning assigned to it by subsection (2);

“qualifying lender” has the meaning assigned to it by section 244A(3);

“qualifying loan”, means a loan, which—

(a) is used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in—

(i) the purchase of a qualifying residence, or

(ii) the provision of a self-build qualifying residence (including, in a case where such acquisition is required for its construction, the acquisition of land on which the residence is constructed),

(b) is entered into solely between a first-time purchaser and a qualifying lender (but this does not exclude a loan to which a guarantor is a party), and

(c) is secured by the mortgage of a freehold or leasehold estate or interest in, or a charge on, a qualifying residence or a self-build qualifying residence;

“qualifying period” means the period commencing on 19 July 2016 and ending on 31 December 2019;

“qualifying residence” means—

(a) a new building which was not, at any time, used, or suitable for use, as a dwelling, or

(b) a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling,

and—

(i) which is occupied as the sole or main residence of a first-time purchaser,

(ii) in respect of which the construction work is subject to the rate of tax specified in section 46(1)(c) of the Value-Added Tax Consolidation Act 2010, and

(iii) where the purchase value is not greater than—

(I) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in subsection (3)(a) is entered into between a claimant and a qualifying contractor or the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by a claimant, €600,000, or



(11) in all other cases, €500,000;

“relevant tax year” means a year of assessment, within the 4 tax years immediately preceding the year in which an application is made under this section, in respect of which a claim for an appropriate payment, or part of such appropriate payment, is made by an individual;

“Revenue officer” means an officer of the Revenue Commissioners;

“self-build qualifying residence” means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf;

“tax reference number” means in the case of an individual, the individual’s PPS number or in the case of a company, the reference number stated on any return of income form or notice of assessment issued to that company by the Revenue Commissioners;

“tax year” means a year of assessment within the meaning of the Tax Acts;

“VAT registration number”, in relation to a person, means the registration number assigned to the person under section 65 of the Value-Added Tax Consolidation Act 2010.

(2) In this section, a “qualifying contractor” means a person who applies to the Revenue Commissioners for registration as a qualifying contractor (pursuant to arrangements for such registration that are put in place by the Revenue Commissioners) and in respect of whom the Revenue Commissioners are satisfied is entitled to be so registered and—

(a) who—

(i) complies with the obligations referred to in section 530G or 530H, or

(ii) in the case of a contractor who is not a subcontractor to whom Chapter 2 of Part 18 applies, complies with the obligations referred to in subparagraph (i), other than the obligations referred to in paragraphs (a) and (b) of subsection (1) of section 530G or 530H,

(b) who has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section, and

(c) who provides to the Revenue Commissioners—

(i) details of qualifying residences which the contractor offers, or proposes to offer, for sale within the qualifying period,

(ii) details of any planning permission under the Planning and Development Acts 2000 to 2015 in respect of the qualifying residences referred to in subparagraph (i),



(iii) details of the freehold or leasehold estate or interest in the land on which the qualifying residences referred to in subparagraph (i) are constructed or to be constructed, and

(iv) any other relevant information that may be required by the Revenue Commissioners for the purposes of registration of a person as a qualifying contractor.

(3) Where an individual has, in the qualifying period, either—

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, or

(b) drawn down the first tranche of a qualifying loan in respect of that individual's self-build qualifying residence,

that individual may make a claim for an appropriate payment.

(4) On the making of a claim by an individual referred to in subsection (3), a payment (in this section referred to as an "appropriate payment") shall, subject to the provisions of this section, be made in accordance with subsection (16).

(5)(a) An appropriate payment in relation to a qualifying residence or a self-build qualifying residence under this section shall not be greater than whichever of the amounts referred to in the following subparagraphs is the lesser, namely:

(i) the amount of €20,000,

(ii) the amount of income tax payable and paid by the claimant in respect of the 4 tax years immediately preceding the year in which an application is made under subsection (6), or

(iii) the amount equal to 5 per cent of the purchase value of the qualifying residence or self-build qualifying residence, as the case may be.

(b) In paragraph (a)(ii), income tax paid shall include any amount of appropriate tax which has, in accordance with sections 257 and 267AA, been deducted from payments of relevant interest made to the claimant in the 4 tax years immediately preceding the year in which an application is made under subsection (6).

(c) The amount of appropriate tax referred to in paragraph (b) shall be reduced by the amount of any appropriate tax repaid to the claimant under section 266A.

(d) Notwithstanding Chapter 1 of Parts 44 and 44A, where section 1017 or 1031C applied in respect of a tax year, the amount of income tax paid by a claimant, for the purposes of paragraph (a)(ii) shall be determined by the following formula—





$$\frac{A \times C}{B}$$

where—

A is the amount of the total income (if any) of the claimant for the tax year,

B is the sum of the amount of the total income (if any) of the claimant and the amount of the total income (if any) of the claimant's spouse or civil partner, and

C is the amount of income tax paid for the tax year.

(e) An appropriate payment under this section shall be made—

(i) in the first instance as a refund of income tax paid by the claimant in respect of the earliest relevant tax year and followed by each succeeding relevant tax year, and

(ii) thereafter as a refund of the amount of appropriate tax paid by the claimant in respect of the earliest relevant tax year and followed by each succeeding relevant tax year.

(6)(a) Prior to submitting a claim under subsection (3), an individual shall make an application to the Revenue Commissioners which shall include—

(i) an indication that he or she intends to make a claim under this section,

(ii) his or her name and PPS number, and

(iii) confirmation by the individual, where such is the case, that the conditions specified in paragraph (b) have been met.

(b) The conditions referred to in paragraph (a)(iii) are that—

(i) he or she is a first-time purchaser,

(ii) where the individual is a chargeable person within the meaning of Part 41A or, as appropriate, Part 41 for a tax year within the 4 tax years immediately preceding the year in which the application is made, he or she has complied with the requirements of that Part or, as appropriate, those Parts and has paid the amount of income tax payable and of universal social charge (within the meaning of Part 18D) which he or she is liable to pay, in respect of each such tax year,

(iii) where the individual is not a chargeable person within the meaning of Part 41A or, as appropriate, Part 41 for a relevant tax year, he or she has made a return of income, in such form as the Revenue Commissioners may require, and has paid the amount of income tax payable and of universal social charge which he or she is liable to pay, in respect of each such relevant tax year, and



(iv) in the case of an individual to which subparagraph (ii) refers, he or she has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section.

(c) Where section 1017 or 1031C applied in respect of a tax year, the individual who must meet the conditions referred to in subparagraphs (ii) and (iii) of paragraph (b) shall be the person assessed to tax under section 1017 or the nominated civil partner within the meaning of section 1031A.

(7) For the purposes of subsections (5)(a)(ii) and (6)(b)(ii) and (iii)—

(a)(i) an individual may elect to be deemed to have made his or her application under subsection (6) in the tax year 2016 where, in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in subsection (3)(a) is entered into between the applicant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by the applicant, provided the application is made on or before 31 March 2017, or

(ii) an individual may elect to be deemed to have made his or her application under subsection (6) in the tax year 2016 where, in the period commencing on 1 January 2017 and ending on 31 March 2017, a contract referred to in subsection (3)(a) is entered into between the applicant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by the applicant, provided the application is made on or before 31 May 2017,

and where an individual so elects, the application shall be deemed to have been made in the tax year 2016 and the corresponding claim under subsection (3), where it is made in the tax year 2017, shall be deemed to have been made in the tax year 2016,

(b) notwithstanding the obligation on an individual under paragraph (a)(i) to, as appropriate, make an application on or before 31 March 2017, where such an individual makes an application under subsection (6) in 2018 or 2019, the application shall be deemed to have been made in the tax year 2017, and the corresponding claim under subsection (3) shall be deemed to have been made in the tax year 2017.

(8)(a) An application made in any tax year shall cease to be valid on the earlier of the following events:

(i) failure by the applicant to satisfy the conditions specified in subsection (6)(b);

(ii) on the rescission of the applicant's tax clearance certificate in accordance with subsection (3A) of section 1095; or

(iii) on the falling of 31 December in the tax year in which the application is made.

(b) Notwithstanding paragraph (a) and subsection (25), where an application is made under this section in the period commencing on 1 October and ending on 31 December in any of the tax years 2017, 2018 or 2019 (hereafter in this paragraph referred to as the "first-mentioned period"), and the corresponding claim is made under subsection (3) in the period commencing on 1 January and ending



on 31 March of the following year, the applicant shall be deemed to have made his or her claim in the first-mentioned period.

(c) No claim may be made on foot of an application which ceases to be valid in accordance with paragraph (a).

(9) Where an application is made under this section and more than one individual is a party to the application, each such individual shall—

(a) confirm that he or she is a first-time purchaser,

(b) satisfy the conditions specified in subsection (6)(b),

(c) consent to provide to the other parties his or her name, address and PPS number, and

(d) agree with each of the other parties as to the allocation between the parties of the amount of the appropriate payment and notify the Revenue Commissioners of such allocation.

(10) Subject to the conditions specified in subsection (6)(b) being satisfied, the Revenue Commissioners shall notify the applicant of the maximum appropriate payment that would, following the making of a claim under this section, be available to or in respect of the applicant.

(11) The loan-to-value ratio in respect of a claim under this section shall not be less than 70 per cent.

(12)(a) On making a claim under subsection (3), where the qualifying residence is other than a self-build qualifying residence, the claimant shall provide to the Revenue Commissioners—

(i) his or her name and PPS number,

(ii) the address of the qualifying residence,

(iii) the purchase value of the qualifying residence,

(iv) details of the qualifying lender,

(v) confirmation that a qualifying loan has been entered into,

(vi) the qualifying loan application number or reference number used by the qualifying lender,

(vii) the amount of the qualifying loan,

(viii) evidence of the qualifying loan entered into,

(ix) evidence of the contract entered into with a qualifying contractor,



(x) the amount of deposit payable by the claimant to the qualifying contractor,

(xi) the amount, if any, of deposit paid by the claimant to the qualifying contractor,

(xii) confirmation that, on its completion, the qualifying residence will be occupied by the claimant as his or her only or main residence, and

(xiii) in the case of a claimant referred to in subsection (16)(a)(i), details of the claimant's bank account to which the appropriate payment shall, subject to the qualifying contractor having satisfied the requirements of subsection (13), be made.

(b) A claimant shall satisfy himself or herself that the contractor is a qualifying contractor.

(13) Following the making of a claim in accordance with subsection (12), the qualifying contractor shall provide to the Revenue Commissioners—

(a) the contractor's name,

(b) the contractor's tax reference number and VAT registration number,

(c) the name of the claimant,

(d) the address of the qualifying residence,

(e) the purchase value of the qualifying residence,

(f) the amount of deposit payable by the claimant to the qualifying contractor,

(g) the amount, if any, of deposit paid by the claimant to the qualifying contractor, and

(h) in the case of a contract to which subsection (16)(a)(ii) applies, details of the qualifying contractor's bank account.

(14) On making a claim under subsection (3) in the case of a self-build qualifying residence, the claimant shall provide to the Revenue Commissioners—

(a) his or her name and PPS number,

(b) the address of the self-build qualifying residence,

(c) the purchase value of the self-build qualifying residence,

(d) details of the qualifying lender,



(e) confirmation that a qualifying loan has been entered into,

(f) the amount of the qualifying loan,

(g) confirmation that, on its completion, the self-build qualifying residence will be occupied by the claimant as his or her only or main residence, and

(h) details of the qualifying loan bank account to which the appropriate payment shall, subject to a solicitor, acting on behalf of the claimant, having satisfied the requirements of subsection (15), be made.

(15) Following the making of a claim in accordance with subsection (14), a solicitor, acting on behalf of the claimant, shall provide to the Revenue Commissioners—

(a) the name of the claimant,

(b) the address of the self-build qualifying residence,

(c) evidence of the qualifying loan entered into between the claimant and the qualifying lender,

(d) evidence of the drawdown of the first tranche of the qualifying loan, and

(e) confirmation of the purchase value of the self-build qualifying residence.

(16)(a) Subject to the provisions of this section, the appropriate payment shall be made by the Revenue Commissioners—

(i) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in subsection (3)(a) is entered into between the claimant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by the claimant, to the claimant's bank account,

(ii) where in the period commencing on 1 January 2017 and ending on 31 December 2019, a contract referred to in subsection (3)(a) is entered into between the claimant and a qualifying contractor, to the qualifying contractor's bank account, or

(iii) where in the period commencing on 1 January 2017 and ending on 31 December 2019, the first tranche of a qualifying loan referred to in subsection (3)(b) is drawn down by the claimant, to the claimant's qualifying loan bank account.

(b) Where the appropriate payment is made in respect of a claimant to a qualifying contractor referred to in paragraph (a)(ii), the contractor shall treat the appropriate payment as a credit against the purchase price of the qualifying residence.



(c) Where paragraph (a)(ii) applies, the claimant shall consent to the appropriate payment in respect of him or her being paid by the Revenue Commissioners to the qualifying contractor.

(17)(a) On its completion, a qualifying residence or a self-build qualifying residence shall be occupied by the claimant as his or her only or main residence.

(b)(i) Where an appropriate payment is made on foot of a claim under this section, and the qualifying residence or self-build qualifying residence ceases to be occupied—

(I) by the claimant, or

(II) where more than one individual is a party to the claim, by all of those individuals,

within 5 years from occupation of the residence, the claimant shall notify the Revenue Commissioners and, in accordance with subparagraph (ii), pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment, or the lesser percentage there specified of the amount of the appropriate payment.

(ii) Where the residence ceases to be occupied as mentioned in subparagraph (i)—

(I) within the first year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment,

(II) within the second year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 80 per cent of the amount of the appropriate payment,

(III) within the third year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 60 per cent of the amount of the appropriate payment,

(IV) within the fourth year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 40 per cent of the amount of the appropriate payment, or

(V) within the fifth year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 20 per cent of the amount of the appropriate payment.

(18)(a) Where—

(i) arising from a claim under this section, an appropriate payment is made to, or in respect of, a claimant, and



(ii) any condition that imposes a qualification, as respects the claimant, in relation to the making of an appropriate payment under this section is not satisfied by the claimant,

the claimant shall, within 3 months from the date on which the appropriate payment is made, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment, or part of such an amount, as appropriate.

(b)(i) Where, arising from a claim under this section in respect of a self-build qualifying residence, an appropriate payment is made to an individual, the individual shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment—

(I) where the self-build qualifying residence is not completed within 2 years from the date on which the appropriate payment was made by the Revenue Commissioners, or

(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the self-build qualifying residence will not be completed within that period.

(ii) Payment to the Revenue Commissioners under subparagraph (i) shall be made within 3 months from the end of the 2 year period referred to in clause (I) of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the individual to the effect that they had formed an opinion in accordance with clause (II) of that subparagraph.

(c)(i) Where arising from a claim under this section, other than a claim to which paragraph (b) refers, an appropriate payment is made directly to an individual (who is not a qualifying contractor), the individual shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment—

(I) if the qualifying residence is not subsequently purchased by the individual within 2 years from the date on which the appropriate payment was made by the Revenue Commissioners, or

(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the purchase of the qualifying residence by the individual will not be completed within that period.

(ii) Payment to the Revenue Commissioners under subparagraph (i) shall be made within 3 months from the end of the 2 year period referred to in clause (I) of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the individual to the effect that they had formed an opinion in accordance with clause (II) of that subparagraph.

(d)(i) Where, arising from a claim under this section, an appropriate payment claimed by an individual is made to a qualifying contractor under subsection (16)(a)(ii), and—

(I) the qualifying residence is not subsequently purchased by the individual within 2 years from the date of the making of the appropriate payment by the Revenue Commissioners, or



(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the purchase of the qualifying residence by the individual will not be completed within that period,

the qualifying contractor shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment.

(ii) Payment to the Revenue Commissioners under subparagraph (i) shall be made within 3 months from the end of the 2 year period referred to in clause (I) of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the qualifying contractor to the effect that they had formed an opinion in accordance with clause (II) of that subparagraph.

(e) For the purposes of paragraph (d), an individual referred to in that paragraph may notify the Revenue Commissioners where he or she has reasonable grounds to believe that the purchase of the qualifying residence by the individual will not be completed within the 2 year period referred to in that paragraph.

(f) Where the Revenue Commissioners are satisfied that a qualifying residence or self-build qualifying residence—

(i) is substantially complete at the end of the 2 year period referred to in paragraph (b), (c) or (d), and

(ii) is likely to be completed thereafter within a period of time that, in the opinion of the Revenue Commissioners, is a reasonable one (and such opinion shall be communicated to the person concerned),

the aforementioned 2 year period shall, for the purposes of those paragraphs, stand extended by the period referred to in subparagraph (ii).

(19) Where more than one individual is a party to a claim under this section and a liability arises under subsection (17) or (18) in respect of payment to the Revenue Commissioners of an amount equal to the amount of the appropriate payment, or part of such an amount, each party to the claim shall be liable jointly and severally.

(20)(a) Where a person who is liable to pay to the Revenue Commissioners an amount referred to in subsection (17)(b) or paragraph (a), (b), (c) or (d) of subsection (18) fails to pay that amount, a Revenue officer may, at any time, make an assessment or an amended assessment on that person for a year of assessment or accounting period, as the case may be, in an amount that, according to the best of that officer's judgement, ought to be charged on that person.

(b) A person aggrieved by an assessment or an amended assessment made on that person under this subsection may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment or amended assessment.



(c) Where in accordance with paragraph (a), a Revenue officer makes an assessment or an amended assessment on a person in an amount that, according to the best of that officer's judgement, ought to be charged on that person, the amount so charged shall, for the purposes of paragraph (a) and Part 42, be deemed to be tax due and payable in respect of the tax year in which the person is liable to pay the amount involved and shall carry interest as determined in accordance with subsection (2) of section 1080 as if a reference in that subsection to the date when the tax became due and payable were a reference to the date the amount so charged is, under this section, payable to the Revenue Commissioners.

(d) Any liability to pay an amount to which paragraph (a) applies, including any interest thereon, which is due and unpaid by a qualifying contractor under this section shall be and remain a charge on the freehold or leasehold estate or interest in the land on which the qualifying residence was to be constructed, where the contractor retains such estate or interest in the land.

(e) Notwithstanding section 36 of the Statute of Limitations 1957, the charge referred to in paragraph (d) shall continue to apply, without limit as to time, until such time as it is paid in full.

(21) An individual aggrieved by a decision by the Revenue Commissioners to refuse a claim under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days of the notice of that decision.

(22) Anything required to be done by or under this section by the Revenue Commissioners may be done by any Revenue officer.

(23) Any application, claim, information, confirmation, declaration or documentation required by this section shall be given by electronic means and through such electronic systems as the Revenue Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 shall apply.

(24) Section 1021 shall not apply where an appropriate payment is made under this section.

(25) No application or claim may be made under this section after 31 December 2019.]

