



Circular Fin 08/2014

1 July 2014

Guidance associated with Local Property Tax (Local Adjustment Factor) Regulations 2014

I am directed by the Minister for Environment, Community and Local Government to refer to the Local Property Tax (Local Adjustment Factor) Regulations (S.I. 296 of 2014), which come into effect from 1 July 2014. Details in relation to these and related matters follow.

Summary

Under section 20 of the Finance (Local Property Tax) Act 2012, as amended by section 5 of the Finance (Local Property Tax) Act 2013, a local authority may as a reserved function resolve to vary the basic rate of the Local Property Tax within its functional area by a maximum of +/- 15%. This power will be available to local authorities effective from 2015, as the relevant sections of the Act will come into operation on 1 July 2014.

Any decision by a local authority to vary the basic rate of LPT must be taken by 30 September each year in order that it can have effect from 1 November (the liability date) and therefore determine the LPT liability for taxpayers in that local authority area the following year.

The Local Property Tax (Local Adjustment Factor) Regulations 2014 take account of relevant provisions in the Finance (Local Property Tax) Acts. The Regulations are set out in four Parts:

Part 1 - General Interpretations

Part 2 – Matters to which a local authority must have regard – These provisions provide that, in varying the rate, a local authority must take account of its financial position, and have regard to a number of factors:

- The local authority's estimation of the income it will receive and the expenditure it will incur in the period for which the varied rate is to have effect,
- The financial position of the local authority,
- The financial effect of the varied rate, and
- Feedback from any consultation held.

This financial information is to be made available to the members of the local authority in preparation for the meeting at which the local adjustment factor will be considered (September at the latest).

Part 3 – Consultation – These provisions relate to the public consultation process that must be followed by a local authority before the setting of the local adjustment factor for the Local Property Tax.

Part 4 – Meeting to consider the local adjustment factor –These provisions set out the requirements for a meeting to consider setting a local adjustment factor.

Part 5 – Notification of local adjustment factor –These provisions set out the notification process for a local authority that passes a resolution to vary the basic rate of LPT.

Appendix to this circular

Appendix 1 - Indicative timelines for setting the local adjustment factor

Detailed Guidance – Parts 2, 3, 4 and 5 of Regulations

Part 2 – Matters to which a local authority must have regard

The Finance (Local Property Tax) Act provides that, in taking a decision as to whether or not to pass a resolution to vary the basic rate of the local property tax, there are certain matters that the local authority must have regard to. To provide sufficient information to members on which to base their decision, the Regulations give further effect to the Act's requirements and set out the following matters to which the members of a local authority must have regard:

- Estimation of income and expenditure for the period for which the varied rate is to have effect
- Financial position of the local authority
- Financial effect of the varied rate
- Feedback from public consultation

Information in relation to each of these issues must be provided to the elected members at least 3 days before the day on which they will meet to consider setting a local adjustment factor for the period 1 November in the current year to 30 October in the following year.

2.1 Estimation of income and expenditure for the period for which the varied rate is to have effect

Section 20 (2A)(a) of the Act provides that a local authority shall have regard to “the local authority's estimation of the income it will receive and the expenditure it will incur in the period for which the varied rate will have effect.”

In proposing to increase or decrease the income of the authority, the members must be cognisant of the current levels and types of income, and the level of expenditure that is currently being met, including those elements of expenditure which are strategic, non-discretionary and cannot be reduced in the short term.

2.1.1 Basis for the estimation of income and expenditure

The timing of the requirement to prepare an estimate of income and expenditure falls in advance of the budget meeting. Therefore the local authority should prepare an estimation based on the current year, adjusting for the impact of any information or policies known. Financial assumptions should be noted.

2.1.2 Form of the presentation of the estimation of income and expenditure

The estimation of income and expenditure shall be given in a table that is prescribed in Schedule 1 to the Regulations.

| | <i>Current local financial year budget OR estimated outturn</i> | <i>Next local financial year</i> |
|---|---|----------------------------------|
| INCOME | | |
| Commercial rates | | |
| Local Property Tax | | |
| Grants and subsidies | | |
| Other income | | |
| Total Income | | |
| EXPENDITURE | | |
| Payroll expenses | | |
| Loan interest and principal repaid | | |
| Social benefits (transfer payments to households) | | |
| Capital grants paid | | |
| Other expenditure | | |
| Total Expenditure | | |

The report, while similar in layout to the Report required by the Department by 30 September (Preliminary Estimate of Income and Expenditure), is different in a number of important ways:

| LPT variation – estimation of income and expenditure | Report to Department – preliminary estimation of income and expenditure |
|---|--|
| Format prescribed in Regulations | Format set out in Fin 05/14 |
| Revenue income and expenditure only | Revenue and capital income and expenditure |
| Current financial year and next financial year | Next financial year only |
| To inform the members of the local authority | For compilation into general government budget information |
| Detailed information on preparation provided in this Circular | Detailed information on preparation will be provided in Budget Circular |

2.1.3 Basis of the preparation of the estimation of income and expenditure

As noted above, the basis of preparation is particular to this report, and is set out below.

Current local financial year budget OR estimated outturn

The information presented for the current local financial year, should be the local authority budget, or the estimated outturn, if anticipated to be significantly different than the budget position. In the case of 2014, the current year information should be the combined budget for the merged local authority, with eliminations if required to take account of budgetary provisions between county councils and town councils in the 2014 adopted budgets.

INCOME

Commercial rates

Commercial rates should be presented gross, as is currently the requirement for the Annual Financial Statement and Statutory Budget.

Local Property Tax

The total amount anticipated to be received by the local authority in respect of LPT. To account for the portion retained locally in addition to any portion provided for equalisation (if appropriate and as notified by the Department of Environment, Community and Local Government).

Grants and subsidies

To include all other grants and subsidies, including the pension related deductions retained.

Other income

The balance of revenue income of the local authority in the relevant year.

EXPENDITURE

Payroll expenses

To include the total of payroll costs (as is normally set out in Appendix 1 of the Annual Financial Statement).

Loan interest and principal repaid

The total expected to be paid by the local authority in loan servicing and repayments.

Social benefits (transfer payments to households)

The expenditure to be included should comprise homeless services, community employment scheme, RAS, mortgage allowance, and shared ownership/affordable housing subsidy.

Capital grants paid

This comprises grants paid through the revenue account to enterprises and individuals including where appropriate grants for voluntary housing, capital loan and subsidy scheme, community facilities voluntary housing, improvement works in lieu (grant aided portion),

affordable housing, sale of private sites scheme, new house grants, thatching grants, disabled persons and essential repairs grants.

Other expenditure

The balance of revenue expenditure of the local authority in the relevant year.

2.2 Financial position of the local authority

Section 20 (2A)(b) of the Act provides that a local authority shall have regard to “the financial position of the local authority, including the amounts standing as its accumulated assets and liabilities not less than one month before the date on which it is proposed to pass the resolution”.

The statement of financial position relates to the current year. In considering the capacity of the local authority to balance its budget, to collect the income due to it, and to meet the costs of servicing its borrowings, the members must consider the overall financial position. For example, the members may note in particular where a combination of factors exist, such as where: a significant general revenue deficit exists, particularly where it has been disimproving further from losses incurred in recent years; the loan book of the authority is very high in comparison to annual revenue income (e.g. in excess of 150%); and the ratio of current assets to current liabilities is concerning (e.g. a ratio of 2:1 would be considered positive). Members should consider if any reduction in LPT income combined with such matters as set out above or any other relevant factors may therefore result in unmanageable pressure on the cash flow of the local authority.

2.2.1 Basis for preparation

The legislation requires that this report should provide financial information to members as at a date at least one month before the meeting. As the financial position is to be provided at a point during the financial year, the Quarterly Report on Income and Expenditure, and the GGB returns may be used as the basis for this report. The most recently completed quarter end information should be used, provided it is at least one month before the meeting. For example, if the meeting is to be held in September, the financial position should be prepared as at the end June, using the Quarter 2 year to date information.

2.2.2 Form of presentation of financial position

The financial position of the local authority shall be given in a table that is prescribed in Schedule 2 to the Regulations. The financial information presented is a sub-set of the Balance sheet, and the individual lines should not be added together.

| | <i>As at Year To Date</i> |
|---|--|
| ASSETS | € |
| Current assets (including cash and investments) | |
| General revenue reserve (if surplus) | |
| Loans receivable | |
| LIABILITIES | € |
| Current liabilities (including overdraft) | |
| General revenue reserve (if deficit) | |
| Loans payable | |
| Voluntary housing/mortgage loans | |
| Non mortgage loans | |
| INDICATORS | % |
| Ratio of loans payable to revenue income | |
| Ratio of current assets to current liabilities | |

2.3 Estimation of financial effect

Section 20 (2A)(c) of the Act provides that a local authority shall have regard to “the local authority’s estimation of the financial effect of the varied rate on the economy of its functional area, including on those persons who will be liable to pay local property tax.”

Any variation in the Local Property Tax rate will have an impact including on the local authority, on those paying LPT, and on those receiving council services. The effect of a variation on all stakeholders must be considered.

2.3.1 Financial effect

The estimation of financial effect shall be set out in a report prepared under the direction of the Chief Executive. The report must, at a minimum, contain the sections set out below. The latest available statistics on Local Property Tax will be published on www.revenue.ie

- (a) Potential impact on a liable person
- (b) Potential impact on the LPT revenue in the forthcoming financial year
- (c) Potential impact on the service delivery plans of the local authority
- (d) Any other information the Chief Executive considers necessary

2.4 Feedback from consultation

Sections 20(6)(b) and (c) of the Act provide that the Minister may make regulations on the nature and extent of consultations that a local authority must undertake with other persons before setting a local adjustment factor. See Part 3 below for further details in respect of the public consultation process that should be undertaken.

Consultation with the Corporate Policy Group (CPG)

In accordance with the general guidance in the Strategic Policy Committee (SPC) and CPG Guidelines, the CPG will need to be involved from the preliminary phases of preparation of the budget, and should assist in the setting of overall parameters, identification of issues to be addressed and approaches to be taken.

The Local Government Act 2001 (as amended by the Local Government Reform Act 2014) (subsection 133(1)) made provision for early presentation of proposals to the local authority connected with the formulation, development, monitoring and review of policy, and this includes the annual budget. The Chief Executive is required to discuss, in outline form, or on the basis of very preliminary papers if available, the development of the budget with the CPG.

The consultation with the CPG should focus on the overall financial position of the local authority and, in a pre-budget context, should discuss a number of key items of budget policy and strategy including the financial consequences of any variation in basic rate of Local Property Tax (LPT) (See Local Government (Financial and Audit Procedures) Regulations 2014 and Circular Fin 05/14 for further details in respect of broader budgetary issues).

2.5 Decision making process

The local authority must consider all of the elements as set out above and reach a decision on that basis.

Appendix 1 of the guidance circular sets out a suggested indicative timeline for the necessary actions required to pass a resolution to set a local adjustment factor to vary the basic rate of local property tax. This is not a prescribed timeframe and local authorities are free to adapt it as necessary.

Part 3 – Consultation

3.1 Public Consultation Process

The requirements in respect of a public consultation process are set out in Part 3 of the Regulations. The local authority should invite the views of the public in respect of the potential impacts of any variation in LPT rates on businesses, individuals and on local authority services. Notice of the public consultation must be published on the local authority's website and in one or more newspapers circulated in the local authority's administrative area and it must provide at least 30 days for the public to provide written submissions. Written is understood to include submissions provided by email, to a website, or delivered to the office. Submissions received should generally be published on the website of the local authority, subject to the normal data protection and freedom of information requirements.

The members of the local authority must consider the feedback received from the public consultation as part of the decision-making process and a report must be prepared under the direction of the Chief Executive, to provide them with a summary of the written submissions received, for this purpose.

3.2. Notice of Consideration of Setting a Local Adjustment Factor

The local authority shall publish a statutory Notice of Consideration of Setting a Local Adjustment Factor in at least one newspaper circulating in the area for which the local adjustment factor is to be made and on their website. The form of the Notice is set out in Schedule 3 of the Regulations.

Part 4 – Setting of a local adjustment factor

4.1 Local authority meeting

The Chief Executive must provide the documents set out in Regulations 4 to 7, to a meeting of the local authority.

The meeting

Not less than 3 days' notice must be given of the date of the meeting, and the documents referred to above must be provided to members 3 days before the date of the meeting.

At that meeting, the members may decide to set a local adjustment factor by resolution, not to vary the basic rate, or to consider the matter further at a later meeting. It should be noted that the statutory deadline for passing a resolution to set a local adjustment factor is 30 September.

A local authority may not set a local adjustment factor unless it has considered all of the relevant documents as set out in Regulations 4 to 7.

Part 5 – Notification of a local adjustment factor

5.1 Persons who must be informed when a local adjustment factor is set

Section 20(6)(d) of the Act provides that the Minister can specify the persons who must be informed when a local adjustment factor is set.

The Revenue Commissioners

Section 21 of the Finance (Local Property Tax) Act 2012, as amended, sets out the requirement whereby the local authority must notify the Revenue Commissioners of the local adjustment factor in the form and manner specified by them on or before 30 September in the year in which the resolution is passed.

The Minister for the Environment, Community and Local Government

Section 20(4) of the Act requires the local authority to notify the Minister for the Environment, Community and Local Government in writing that it has passed a resolution to set a local adjustment factor and of the local adjustment factor itself. The Regulations state that notification must be received by the Minister on or before 30 September in the year in which the resolution is passed using the prescribed format as set out in Schedule 4 of the Regulations.

Public Notification

Regulation 9 provides that, within 14 days of a local authority passing a resolution to vary the rate of local property tax in their functional area, the local authority shall publish a Statutory Notice of Variation of the Local Adjustment Factor for the inspection of the public;

- (a) in at least one newspaper circulating in the area for which the local adjustment factor is to be made;
- and
- (b) Published on the website of the local authority.

The notice shall at a minimum specify the following-

- (a) Name of the local authority,
- (b) Address of the local authority,
- (c) Notice that the local authority has passed a resolution that the basic rate of local property tax stands varied in respect of residential properties situated in the local authority's administrative area for the period specified in the resolution (the next local financial year) and with effect from the relevant liability date (1 November), and

(d) The local adjustment factor.

The Statutory notice shall be signed by the Chief Executive

Any queries in relation to this Circular should be made to Emma Reeves at 053 911 7417.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Fiona Quinn'.

Fiona Quinn

Principal Officer

Local Government Finance

To: Chief Executives and CC Heads of Finance

Appendix 1

Suggested indicative timelines for Local Property Tax (Local Adjustment Factor)

| | |
|--|--|
| Mid July | Notices of public consultation of LPT to be published, advising that the local authority will be considering whether to vary the basic rate of LPT in September 30 day period of consultation to commence during which written submissions will be accepted from the public |
| Mid August | Report of feedback on public consultation to be prepared |
| Late August | Chief Executive to meet with CPG to discuss the overall budget strategy including LPT and feedback from public consultation |
| 5 - 18 September | The members must receive information for the council meeting setting out the matters to which they must have regard in making a decision on LPT |
| 8 -21 September | Council meeting to make decision on variation of Local Property Tax. |
| 30 September | Revenue commissioners to be notified of any resolution passed |
| (at latest) | Minister for Environment, Community and Local Government to be notified of any resolution passed |
| (At latest) 14 days after Resolution passed | Public notice of decision to be published |