

OHT Guide to the Household Charge & NPPR Charge



€100 Household Charge (“HC”)

The Government introduced an annual household charge on 19 December 2011, in the Local Government (Household Charge) Act 2011. The €100 charge is intended to be a temporary measure as the Minister for Finance indicated in Budget 2012 that a value based property tax will apply in 2014. The Act provides that the Minister may increase the charge from time to time, to reflect inflation.

Properties subject to the HC and Exemptions

All residential properties in the State are liable for the charge but it does not apply to foreign property.

The residential properties that are exempt from the charge include:-

- properties held as trading stock in a business which have not been sold or generated income since construction,
- properties held by a housing authority,
- properties subject to commercial rates,
- property owned by a discretionary trust or a company that is an approved charity
- a property the owner has left due to long-term infirmity (e.g. stay in nursing home)

A room let under the Revenue Rent-a-Room Scheme is not regarded as a separate residence. A waiver is available for properties in unfinished housing estates or individuals in receipt of mortgage interest supplements.

Liability Date for the HC

The liability date is 01 January of the relevant year of assessment, and the payment is due within 3 months (i.e. by 31 March 2012). If an individual acquires a property after 01 January the household charge will not arise until the following year.

Who pays the HC?

The charge is payable by the owner of the property. If the property is rented to a tenant or occupied by another person the owner remains liable, but if a residence is let on a long lease (more than 20 years) the tenant is

regarded as the owner. Where there are co-owners they are all liable for the charge.

Multiple Units

Where a property is divided into a number of different units the charge will apply separately to each unit, so if a dwelling is divided into four bedsits, four separate household charges are payable (€100 x 4 = €400).

Estates & the HC

The Act provides that if the sole owner of a residential property dies his personal representative is only liable to pay the household charge if the liability date falls after the date of issue of the Grant of Representation. If more than one grant issues the first grant triggers the liability.

Once a representative is appointed to administer the estate of a deceased person he is liable to pay any pre-death household charge owed by the deceased up to the date of death, and he has 3 months from the date of issue of a Grant of Representation to make the payment. If the payment is made later than the 3 month deadline a late payment fee and interest will arise.

Example

Aidan died on 02 March 2012, leaving an estate which includes 3 residences. If a Grant of Probate issues on 10 September 2012 his executor is liable to pay €300 in pre-death 2012 household charges by 10 December 2012.

The estate will have no liability for household charge in 2012 (the Grant issued after the liability date) but the executor will be liable to pay €300 in estate 2013 household charges by 31 March 2013 if the estate is not distributed before 1 January 2013.

Paying the HC

There are a number of methods of paying the Household Charge. An owner can register the property on www.householdcharge.ie and pay online.

The charge can also be paid by cheque, bank draft or postal order to a Local Government Management

Agency, which administers the Household Charge centrally for all the Local Authorities [at Household Charge, PO Box 12168, Dublin 1]. Payment can also be made through local city/county council offices.

The household charge can be paid by 4 instalments of €25 each, and the instalment payment dates for 2012 are 13 March, 14 May, 13 July, and 10 September (per Household Charge website).

An instalment arrangement must be applied for online and the direct debit mandates for paying the charge must be registered by 01 March in the year of assessment.

Legal Charge on Property for Unpaid HC

Any unpaid household charge is charged on the property to which it relates, and the charge remains live for 12 years from the due date, after which a bona fide purchaser takes free of the charge. If a residential property is sold the vendor is liable under the legislation to pay all household charges, late payment fees and interest due to the local authority before the completion of the sale of the property. He can then seek a certificate of discharge, waiver or exemption from the charge which he can pass to the purchaser.

“Sale” is defined to include a CPO or gift and “vendor” is defined to include an agent of the owner of the residential property, who receives the proceeds of the sale of the property or provides legal advice to the owner in connection with a gift. It follows that a solicitor advising on a gift of a residential property, which has unpaid household charge arrears, is liable for those arrears under the legislation.

HC Interest & Penalties

If the owner of a residential property fails to pay a household charge (or an instalment) when due he will also be liable to pay a “late payment fee” of 10% if the payment is less than 6 months late, 20% if it is between 6 and 12 months late and 30% for later payments, together with interest at 1% per month or part thereof (total of 12% per annum). The rate of interest is higher than the standard “late tax” rate of 0.0219% per day (circa 8% per annum).

Can the HC be deducted for Income Tax?

The Irish Taxation Institute have confirmed with Revenue and the Department of Finance that the HC cannot be deducted when calculating income tax arising on rental income.

€200 Non-principal Private Residence (“NPPR”)

The Local Government (Charges) Act 2009 was passed on 10 July 2009 and it introduced a local authority charge of €200 on residential properties from 2009 (excluding principal residences). The Act provides that the Minister may increase the charge from time to time, to reflect inflation. The Act was amended by the 2011 Local Government (Household Charge) Act (“the 2011 Act”). The 2011 Act introduced changes to the way penalties are charged for late payment provided for the secondary liability agents and legislation for estates.

Properties subject to NPPR Charge & Exemptions

All residential properties in the State are subject to the charge, including apartments, bedsits, granny-flats, holiday homes, vacant properties and residential properties held by companies. The charge does not apply to foreign property, vehicles or vessels.

The properties which are not subject to the NPPR charge include:-

- the principal private residence (or “PPR”) of the taxpayer (or a spouse if there is a decree of separation or divorce)
- properties occupied by a person who is not paying rent, and who is related to the taxpayer or his spouse/partner, or is a ward of court or child in the owner’s care. The second property must be within 2 kilometres of the taxpayer’s home, or a self-contained residence on the property (a “granny flat”).
- a mobile home, caravan or vehicle;
- a property that is part of the trading stock of a business and has not been used as a dwelling or been the source of any income since construction;
- a residential property owned by a discretionary trust, or a company that is an approved charity;
- a residential property vested in a Minister, a housing authority or the HSE;
- a residential premises owned by a person who lives elsewhere in a property he does not own because of long term physical or mental incapacity (e.g. an owner in a nursing home); or
- a building liable to commercial rates.

A room let under the Revenue Rent-a-Room Scheme is not regarded as a separate residence. The PPR exemption may be extended where a person is moving house and temporarily owns two properties.

A refund can be applied for in relation to the second residential property, provided that it is acquired within one year of the relevant liability date and the first property is sold within six months of the liability date.

NPPR Liability Date

The liability date is 31 March and payment is due within two months (by 31 May). Prior to the 2011 Act there was a one month's period of grace so there was no penalty if the payment is made by 30 June, however this provision has now been removed with effect from 01 January 2012. In 2009 (which was the first year for the charge) the liability date was 31 July 2009 and payment was due on 30 September 2009. There is no provision for payment of the NPPR Charge by instalments.

Who pays the NPPR Charge?

The charge is payable by the owner of the property. "Owner" means a person who is entitled to receive the rent of the property, whether in his own right or as trustee or agent for any other person. If property is held on a lease of 20 years or longer the "owner" is the tenant. An individual becomes the owner of residential property when he or she becomes entitled to possession of it. Where there are co-owners then each co-owner is jointly and severally liable to pay the charge and payment by one discharges the others.

An overseas owner is liable to the charge, and the online forms can be filed without an owner's PPS number if the non-resident checkbox is ticked.

Where the property is being sold or transferred by way of gift any individual who receives the sales proceeds or gives advice in relation to the transfer of the property is secondarily liable for any outstanding charges and late payment fees on the property. This secondary liability came into effect on 01 January 2012.

Multiple Units

Where a property is divided into a number of different units the charge will apply separately to each unit, so if a dwelling is divided into four bedsits, four separate NPPR charges are payable (€200 x 4 = €800). A house let as a single unit to a number of separate tenants is only subject to one NPPR charge.

Estates & the NPPR

The 2011 Act introduced measures for property estates. If the owner of the property is deceased and there are pre death NPPR charges and/or late payment fees outstanding the personal representative of the estate will not be liable until the first Grant of Representation issues. No further late fees will arise between the period from the date of death to the date of issue of the Grant. The personal representative must pay the liability within 3 months of the Grant or else additional late fees will accrue to the Estate from the date of Grant.

The Act provides that the personal representative will not have a liability to pay the NPPR charge in a relevant year if the Grant has not issued by the liability date (i.e. 31 March).

Paying the NPPR Charge

An owner can register and pay the charge online at www.nppr.ie. Local Authorities (City or County Councils) will also accept completed NPPR registration forms, and payment types accepted with a registration form are credit card, debit card, bank draft, postal order and cheque.

Legal Charge on Property for Unpaid NPPR

Any unpaid household charge is charged on the property to which it relates), and the charge remains live for 12 years from the due date, after which a bona fide purchaser takes free of the charge. The local authority is required to give a receipt for the payment under the Act and, on application in writing, to give a certificate to the owner of the amount of the charge paid by the owner.

NPPR Penalties

If payment is not made by the due date (31 May in 2012) there is a late payment penalty of €20 for each month or part of a month that the charge remains unpaid. An NPPR owner is also required to make a declaration to the relevant local authority in the form prescribed by the Minister, and failure to file this is an offence carrying a fine not exceeding €2,000 on summary conviction. The Department of the Environment, Heritage and Local Government has indicated to the Irish Taxation Institute that a declaration by one co-owner will satisfy the declaration requirement for all the co-owners.

Can the NPPR Charge be deducted for Income Tax?

No the charge cannot be deducted when calculating tax on rental income.

In a Practice Note published in the January/February 2012 Gazette, the Law Society indicated that a new item will be added to the non-title information sheet attached to the standard contract for sale or a new requisition will be added to the next edition of the Law Society's Objections and Requisitions on Title. In the meantime, solicitors acting for purchasers should raise the matter at pre-contract stage or raise an additional requisition on title, so as to ensure that a certificate of discharge will be available at closing.

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Caveat: These notes are intended as a general guide only. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.

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