

Minute of the Minister for Finance
on the Committee of Public Accounts – Second Interim Report
on Taxation of Rental Income Receipts

The Minister for Finance has examined the Committee's Second Interim Report on Taxation of Rental Income Receipts and has taken account of its conclusions. In relation to the Committee's recommendations, his response is as follows:

Recommendation No. 1

The Private Rented Tenancies Act 2004 should be amended to enable access to the full landlord records held by PRTB for the purpose of enabling tax compliance checks.

While any legislative change in relation to the PRTB is a matter for the Minister for the Environment, Heritage and Local Government in the first instance, the Minister for Finance is informed by the Department of the Environment, Heritage and Local Government that an amendment to the Residential Tenancies Act 2004 to give effect to this recommendation is under examination at present with a view to its inclusion in the Housing (Miscellaneous Provisions) Bill 2008. The purpose of this amendment, on which the Revenue Commissioners are being consulted, is to give them full access to PRTB records relating to landlords and the corresponding tenancies and tenants.

Recommendation No. 2

Information on State funded payments should contain the PPSN identifier when being made available to Revenue.

The Minister for Finance is informed by the Department of Social and Family Affairs that this recommendation is accepted and that that Department continues to support other agencies in the use of the PPS number. The Minister is also informed that the Department of Social and Family Affairs has recently implemented an upgrade to its computer systems which will enable the landlord's PPS number to be sought in respect of new rent supplement claims and, where provided, transmitted to the Revenue Commissioners. The full address of the tenancy, the name and address of landlord/agent and a statement of all payments arising from each individual tenancy will also be transmitted.

The Minister for Finance is informed by the Office of the Revenue Commissioners that the Department of Social and Family Affairs upgrade of its computer system in November 2008 enables the association of the landlord PPS number with the data provided to Revenue in respect of new rent supplement claims from November 2008. This data will be included as part of the annual transfer of data to Revenue in September 2009 at which stage this initiative will be formally reviewed by the Department of Social and Family Affairs and the Revenue Commissioners to see what further action, if any, may be required.

The Minister is further informed by the Department of the Environment, Heritage and Local Government that this recommendation is accepted and that returns made to Revenue by that Department for the purposes of the Rental Accommodation Scheme, both for 2006 and 2007, included the PPS number of the landlord. In addition, the Minister is advised that guidance was issued to local authorities in 2006 and 2007 to ensure that the authorities were made aware of the requirement to obtain this information. The Department of the Environment, Heritage and Local Government will continue to advise Local Authorities of their requirements in relation to tax clearance, including the need to obtain PPS numbers.

Recommendation No. 3

Revenue should run a credibility test for tax compliance based on a sample of landlords identified through tax credits on rent claimed by tenants and from a random selection of landlords on the PRTB register.

The Minister for Finance is informed by the Office of the Revenue Commissioners that this recommendation is accepted. The Revenue Commissioners did run a substantial credibility-checking programme in 2007-08. The high levels of compliance reported on page 13 of the Committee's report have risen as more cases have been finalised. Revenue will continue to run similar checks in future.

Recommendation No. 4

The Private Residential Tenancies Board should, on receipt of the monthly list of applications for rent supplement from the Department of Social and Family Affairs, confirm to that Department the details of those landlords that appear on the PRTB register.

The Minister for Finance is informed by the Department of Social and Family Affairs that this recommendation is accepted and that the Department is committed to working closely with the Private Residential Tenancies Board (PRTB) to help ensure that rent-supplemented tenancies comply with the statutory system of tenancy regulation and safeguards.

The Minister is advised by the Department of Social and Family Affairs that not all tenancies are required to be registered with the PRTB as the relevant legislation, the Residential Tenancies Act, provides for certain exceptions. Where registration is required, the landlord has up to one month after the commencement of the tenancy to register it with the PRTB at the standard fee and longer to register at a higher fee. The Minister is also advised by the Department of Social and Family Affairs that it is not, therefore, practical for that Department to insist that a tenancy be registered before any payments can be made to the landlord.

The Minister is also informed by the Department of Social and Family Affairs that that Department does however, and will continue to, advise the PRTB of all new rent-supplemented tenancies to assist them in implementing tenancy regulations and will co-operate in any initiatives taken by the PRTB to ensure compliance with the provisions of the Residential Tenancies Act.

The Minister is also advised by the Department of Social and Family Affairs that, while it has been suggested in the past that that Department should cease paying rent in respect of a tenancy which the landlord has failed to register, it has received legal advice to the effect that entitlement to rent supplement is the property of the tenant and not the landlord and that the contract between the landlord and the tenant is not affected by non-registration of a tenancy. The Minister is further informed that as termination of payment of rent supplement to a tenant would have the likely effect of rendering a tenant unable to meet his or her legal obligations under the tenancy, the Department of Social and Family Affairs' legal advice is that non-registration by the landlord should not in itself extinguish the tenant's entitlement to rent supplement.

The Minister is further informed that the Department of Social and Family Affairs agrees that there is a need to ensure that all landlords, including those renting out property to people in receipt of rent supplement, comply with the terms of the Residential Tenancies Act. He is also informed that the PRTB has been given powers to deal with unregistered landlords and the information provided by the Department of Social and Family Affairs to the Board should help them to exercise these powers, while not placing rent supplement recipients in an unworkable and vulnerable position.

The Minister is also informed by the Department of Environment, Heritage and Local Government that this recommendation is accepted by the Private Residential Tenancies Board. The Minister is further informed by that Department that the Private Residential Tenancies Board and the Department of Social and Family Affairs are in the process of exploring the possible ways of putting in place information and communication technology (ICT) arrangements to facilitate this exchange.

Recommendation No. 5

Computer development work in the three State Agencies should be coordinated so as to ensure that information is capable of being shared through its capture in a form that can be matched and effectively processed.

The Minister for Finance is informed by the Department of Social and Family Affairs that this recommendation is accepted. The Department of Social and Family Affairs has been working with the Office of the Revenue Commissioners, the Private Residential Tenancies Board (PRTB) and the Department of the Environment, Heritage and Local Government in relation to data exchange. The Minister is further informed by the Department of Social and Family Affairs that, as mentioned in the response to Recommendation No. 2 above, an upgrade of its computer system in November 2008 enables the association of the landlord PPS number with the data provided to Revenue in respect of new rent supplement claims from November 2008 and that this will improve the effectiveness of the data exchange arrangements.

The Minister for Finance is informed by the Department of the Environment, Heritage and Local Government that the Private Residential Tenancies Board also accepts this recommendation and that the Board is in ongoing discussions with the Department of Social and Family Affairs on information exchange.

The Minister is also informed by the Office of the Revenue Commissioners that it is in the preliminary stages of working towards sharing information in a form that can be easily processed between the Revenue Commissioners, the Department of Social and Family Affairs and the Private Residential Tenancies Board. The Minister is advised that when the legal provisions are in place Revenue will work with the two State Agencies on effectively sharing information in an approved format.

Recommendation No. 6

Systems should be put in place in the Department of Social and Family Affairs to apply withholding tax on direct payments made by the Department to non-resident landlords.

The Minister for Finance is informed that the Department of Social and Family Affairs will give further consideration to this recommendation following the review which the Minister for Finance has initiated of the statutory requirement on tenants to make deductions from rent paid direct to landlords living abroad. This review is ongoing and will be completed shortly. The Minister is advised that in the meantime, the Department of Social and Family Affairs will continue to provide the Office of the Revenue Commissioners with details of non-resident landlords who have rent supplement payments nominated directly to them, in order that compliance with Revenue legislation may be monitored.

The Minister is also informed by the Office of the Revenue Commissioners that they will continue to work with the Department of Social and Family Affairs to ensure that any tax risks are kept to a minimum.

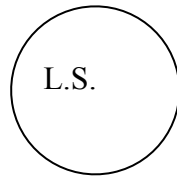
Recommendation No. 7

Revenue and the Department of Social and Family Affairs should set targets for data that can be automatically matched and have all issues relating to unmatchable data resolved by 2010.

The Minister for Finance is informed by the Department of Social and Family Affairs that this recommendation is accepted and that that Department continues its work with the Office of the Revenue Commissioners on an ongoing basis to progress the matching of data relating to landlords in the rent supplement scheme, with the aim of resolving outstanding data issues at the earliest possible date.

The Minister of Finance is informed by the Office of the Revenue Commissioners that they accept this recommendation and that they are working with the Department of Social and Family Affairs and expect all issues relating to unmatchable data to be resolved by 2010.

Given under the Official Seal
of the Minister for Finance on
this the 19th day of March,
2009



David Doyle
Secretary General
Department of Finance