



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government



LG 22/2014

3 September 2014

**Local Government Act 2001
Taxation of Expenses under Section 142, and Allowances under Section 143,
of the Local Government Act 2001**

Dear Chief Executive

1. I am directed by the Minister for the Environment, Community and Local Government to refer to expenses and allowances to paid to elected members under sections 142 and 143 of the Local Government Act 2001 (2001 Act) with particular regard to -
 - rates in relation to travelling expenses as set out in -
 - DECLG Circular EL 03/2009 of 12 March 2009, and
 - Part II of the Directions issued under Article 17 of the Local Government (Expenses of Local Authority Members) Regulations 2014 (S.I. No. 236 of 2014) which accompanied DECLG Circular LG 12/2014 of 30 May 2014, and
 - the allowances that municipal district members may set for their Cathaoirligh as set out in DECLG Circular LG 12/2014 of 30 May 2014
2. Arising from queries that were raised within the local government service, the Revenue Commissioners were asked for advice on the tax treatment of –
 - travel rates for local authority members payable under DECLG Circular EL 03/2009, which (at the up to 6,437 km rate) are slightly higher at 40.11 cent, 47.82 cent and 60.88 cent per km respectively than the travel rates set out in D/Finance Circular 7/2009 of 5 March 2009, and
 - the allowances that municipal district members may set for their Cathaoirligh.

3. The Revenue Commissioners has examined the rate of payment of travel expenses to elected members and has advised that the differences between the rates set out in DECLG Circular EL 03/2009 and D/Finance Circular 7/2009 are taxable.

In light of the foregoing, guidance is outlined below as regards the amount per kilometre that is taxable –

Circular	Official Motor Travel in a calendar year	Engine Capacity Up to 1,200cc (Cent)	Engine Capacity 1,201cc to 1,500cc (Cent)	Engine Capacity 1,501cc and over (Cent)
DECLG Circular EL 03/2009 of 12 March 2009	Up to 6,437 km	40.11	47.82	60.88
	6,438 km and over	21.70	24.33	29.43
D/Finance Circular 7/2009 of 5 March 2009	Up to 6,437 km	39.12	46.25	59.07
	6,438 km and over	21.22	23.62	28.46
Amount Taxable	Up to 6,437 km	0.99	1.57	1.81
	6,438 km and over	0.48	0.71	0.97

In order to minimise the administrative burden in the deduction of tax when ensuring full compliance with the Tax Code, it is open to local authorities (subject to the agreement of the elected member concerned in each instance) to apply the travel rates applicable to D/Finance Circular 7/2009 of 5 March 2009 instead of those applicable to DECLG Circular EL 03/2009 of 12 March 2009 and advised in the Directions issued under Article 17 of the Local Government (Expenses of Local Authority Members) Regulations 2014 (S.I. No. 236 of 2014) which accompanied DECLG Circular LG 12/2014.

4. The Revenue Commissioners has also provided clarification with regard to the allowances that may be set for Cathaoirligh of municipal districts and has advised that any references to Cathaoirligh of local authorities in the circular dated 11 July 2002 (a copy of which is attached for reference) may also be construed as references to Cathaoirligh of municipal districts.

This provides confirmation that the guidance issued by the Revenue Commissioners on 11 July 2002 in respect the “*Taxation of Allowances paid to Cathaoirligh and Leas-Chathaoirligh of Local Authorities*” also applies in respect of allowances paid to Cathaoirligh of municipal districts.

5. A copy of this circular, which is available on the SharePoint system, should be given to each elected member and to former members.

6. Any queries in relation to matters covered by this circular letter should be directed to Jeanette Young (Tel. 01 888 2728 or email jeanette.young@environ.ie) Local Government Policy Section, Custom House, Dublin 1.

Queries relating to the tax treatment of allowances for elected members and former elected members should be directed to local tax offices.

Yours sincerely



Sean O'Suilleabhain
Local Government Policy

Phone: 01 888 2800

Fax: 01 888 2643

Email: sean.osuilleabhain@environ.ie

To Chief Executive of each County, City and County, and City

Copy for information to: AILG and LAMA

To:

1. The Secretary/Town Clerk
2. Payroll Sections

11 July 2002

Re: Taxation of allowances paid to Cathaoirligh and Leas-Chathaoirligh of Local Authorities

Dear Sir/Madam

The purpose of this note is to advise on the future taxation treatment of allowances paid to Cathaoirligh and Leas-Chathaoirligh of Local Authorities

Under the provisions of Section 143 of the Local Government Act, 2001, a local authority may pay an allowance for reasonable expenses to its Cathaoirleach and Leas-Chathaoirleach. It is Revenue's understanding that the decision whether to pay any such allowance and the determination (subject to Section 143(3)) of the amount is a matter for the individual local authority and that it is paid on a round sum basis. The correct treatment of such unvouched expenses is that the payment should be included as pay and subjected to PAYE/PRSI in the normal way. This does not affect an individual's right to claim a deduction for allowable expenses for tax purposes. In general, a deduction is allowed from emoluments for expenses which the holder of the office or employment is obliged to incur and defray out of those emoluments which are expended **wholly, exclusively and necessarily** in the performance of the duties of the office or employment.

The requirement to deduct PAYE/PRSI on expenses payments and the submission of individual expenses deduction claims may be obviated in cases where an employer reimburses an employee in respect of expenses incurred based on an agreed scale where the scale no more than reimburses the employee for the actual expenditure involved. For example, Revenue has set out in information leaflets IT51 and IT54, in relation to Employees' Motoring Expenses and Employees' Subsistence Expenses respectively, the circumstances under which allowable travel and subsistence expenses may be made free of tax. The terms and conditions covering such tax free payment includes the maintenance of records and a proper control system, and these are subject to audit.

In the present circumstances given the unique nature of the duties involved, Revenue recognises that the Cathaoirligh and Leas-Chathaoirligh would, in performing the duties of their office, incur a certain amount of expenditure which would be deductible for tax purposes. For ease of administration and efficiency, Revenue are prepared to accept that 50% of the allowance subject to a fixed minimum amount of €5,000 and a maximum of €10,000 in respect of the term of office may be paid tax-free with PAYE/PRSI deducted on the

balance. The intention is to obviate the need for individual claims in every case. However, as indicated above, this does not affect the individual's right to make a fully vouched claim at the end of the year in respect of expenses incurred wholly, exclusively and necessarily in the performance of the duties of the **office**. (Note that such expenses do not include matters already covered by the councillor's annual allowance payable in accordance with Regulations made under Section 142 of the Local Government Act, 2001.)

The following is a summary of the position:

- 1) Each local authority determines the allowance, if any, to be paid to the Cathaoirleach and Leas-Chathaoirleach.
- 2) The payroll section can pay 50% of the allowance tax free (subject to a fixed minimum amount of €5,000 and a maximum of €10,000 in respect of the term of office) – see examples at appendix 1.
- 3) Any balance in excess of the amount determined at 2) must be included as taxable pay and subject to PAYE/PRSI
- 4) Each local authority will already have received a certificate of tax credits and standard rate cut-off point for the individuals involved following the instructions relating to the taxation of the Representational Payment which issued in January 2002. Any taxable portion of the allowance should be added to the Representational Payment and taxed accordingly.

These procedures should be adopted in relation to all new appointees to the office of Cathaoirleach and Leas-Chathaoirleach with effect from the annual meeting in 2002 and following years. The position may be reviewed by Revenue at the end of the year to see how the system is operating in practice. Any queries in relation to these instructions should be addressed to the local tax office.

Yours sincerely,

Rosemary O'Rahilly
Technical Services

APPENDIX 1

Examples:

Allowance payable	50%	Fixed Minimum amount	Restriction €10,000	Payable tax-free	Taxable
€5,000 or less	€2,500	€5,000	Not Applicable	Up to €5,000	Nil
€6,000	€3,000	€5,000	N/A	€5,000	€1,000
€7,000	€3,500	€5,000	N/A	€5,000	€2,000
€8,000	€4,000	€5,000	N/A	€5,000	€3,000
€9,000	€4,500	€5,000	N/A	€5,000	€4,000
€10,000	€5,000	€5,000	N/A	€5,000	€5,000
€12,000	€6,000	N/A	N/A	€6,000	€6,000
€15,000	€7,500	N/A	N/A	€7,500	€7,500
€20,000	€10,000	N/A	N/A	€10,000	€10,000
€22,000	€11,000	N/A	€10,000	€10,000	€12,000
€30,000	€15,000	N/A	€10,000	€10,000	€20,000
€40,000	€20,000	N/A	€10,000	€10,000	€30,000