

FIRST-TIME BUYERS: FREQUENTLY-ASKED QUESTIONS

Who is a first-time buyer?

A first-time buyer is a person (or, where there is more than one buyer, each of such persons):

- Who has not on any previous occasion, either individually or jointly, purchased or built on his/her own behalf a house (in Ireland or abroad), and
- Where the property purchased is occupied by the purchaser, or a person on his behalf, as his/her only or principal place of residence, and
- Where no rent, other than rent under the rent-a-room-scheme, is derived from the property for five years after the date of the current purchase.

What is the rent-a-room scheme?

Under this scheme, there is no clawback of the first-time buyer relief where rent is received by the person in occupation of the house on or after 6 April 2001 for the letting of furnished accommodation in part of the house.

When does a clawback arise?

A clawback arises if rent is obtained from the letting of the house, other than under the rent-a-room scheme. The clawback amounts to the difference between the higher stamp duty rates and the duty paid and it becomes payable on the date that rent is first received from the property.

What is the position where a first-time buyer purchases a new house where the floor area is under 125 square metres?

The purchase of a new house by a first-time buyer, where the floor area is under 125 square metres, is exempt from stamp duty only where a floor area compliance certificate has been issued in respect of the house by the minister for the environment, heritage and local government. If there is no floor area compliance certificate, the full rates of stamp

duty apply, as first-time buyer relief is not available for such a purchase.

What is the position where the purchase monies are not provided entirely by the first-time buyer?

To qualify for the relief, the entirety of the purchase monies, including any borrowings, must be provided by the first-time buyer. Any person who provides part of the purchase monies or who is a party to any borrowings relating to such purchase is also regarded as a buyer of the house and the relief will not be available unless that other person is also a first-time buyer.

The basis for this treatment is that, in such circumstances, the house is held for the person providing the monies used in the purchase of the house by way of a resulting trust presumed in favour of that person. This treatment applies whether or not all the parties providing the purchase monies, or all the parties to any borrowings, are actually named in the deed of transfer.

What is the position in the case of a gift of part of the purchase monies?

Where a first-time buyer receives an unconditional gift of monies which are used to purchase a house, he/she will not be precluded from claiming first-time buyer relief.

What is the position where a person, being a first-time buyer, purchases a house using the proceeds of the sale of a house owned by their spouse or partner who is not a first-time buyer?

Where a person who is a first-time buyer uses the proceeds of the sale of the house they previously occupied which was owned solely by their spouse or partner to buy a house solely in their own name, first-time buyer relief

would not be available as the spouse or partner (not being a first-time buyer) would be providing the purchase monies for the house.

Can I qualify as a first-time buyer if I have previously purchased a house abroad but not in Ireland?

No. A person who has previously purchased a house, either in Ireland or abroad, is not entitled to claim first-time buyer relief.

What is the position where there is more than one purchaser and all of the purchasers are not first-time buyers?

The first-time buyer relief is not available and stamp duty is chargeable at the full rate on the entire purchase price. In order to obtain the relief, all of the purchasers must qualify as first-time buyers.

Can I avail of first-time buyer relief if I previously received a gift of a house?

The relief can be claimed where the gift of the house was received prior to 22 June 2000 (or prior to 27 June 2000 in the case of part of a house). A gift received after the above date(s) is regarded as a prior purchase and would preclude a person from claiming the relief.

Can I avail of first-time buyer relief if I have previously inherited a house?

Yes. An inheritance is not regarded as a previous purchase and the first-time buyer relief can be claimed provided all other conditions of the relief are satisfied.

Can the first-time buyer relief apply to a gift of a house?

Yes. A gift of a house is treated in the same manner as a purchase and the first-time buyer relief can be claimed provided all other conditions of the relief are satisfied.

What is the position where a person, who had obtained first-time buyer relief on the joint purchase of a house with another first-time buyer, subsequently acquires the other joint owner's interest in the house?

A person who obtained first-time buyer relief on the purchase of an interest in a house would not be precluded from obtaining first-time buyer relief on a subsequent purchase of another interest in the same house, provided that person has not purchased another house or part of another house in the intervening period.

Are there any special situations where a person who is not a first-time buyer can avail of first-time buyer relief?

Yes. There are two particular situations where a person is deemed to be a first-time buyer:

- a) The trustees of a trust (to which section 189A of the *Taxes Consolidation Act, 1997* applies), whose trust funds are raised by public subscriptions for the benefit of permanently incapacitated persons, in respect of the first house(s) bought after the establishment of the trust, for occupation by the beneficiary or if more than one, each of the beneficiaries
- b) A spouse to a marriage the subject of a decree of judicial separation, a decree of separation, a decree of divorce or a decree of nullity in the case of the first acquisition of a house by the spouse following the separation or divorce provided that the spouse had, in relation to the former marital home,
 - left that home
 - not retained an interest in that homewhose separated/former spouse continues to occupy that home, which home was occupied by both spouses prior to the separation or dissolution of the marriage.