



1TACD2018

NAME REDACTED

Appellant

V

REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This is an appeal against the refusal of relief in accordance with s.477C of the Taxes Consolidation Act 1997, as amended (hereafter "TCA 1997") known as the help to buy ('HTB') scheme. By agreement of the parties, this appeal is adjudicated in accordance with the provisions of s.949U TCA 1997.

Background

2. The Appellant purchased her home in 2016 for €279,000. She drew down a mortgage in respect of the property in the sum of €195,000. Section 477C(1) provides; *'loan-to-value ratio' means the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence.* The loan-to-value ratio was 69.89%. The conditions to be satisfied in order to avail of the relief include the requirement of a loan-to-value ratio of *"not ... less than 70%"* and the Revenue online service declined to process the Appellant's application for relief as the loan-to-value ratio did not meet the required statutory minimum.
3. The Appellant contacted the Respondent stating that her loan offer letter from the bank confirmed the loan-to-value ratio as 70% as the Bank rounded up to the nearest percentage. The Respondent submitted that the HTB scheme, being an online process,

was built to reflect the requirements set out in the legislation and was thereby unable to accept an application for relief where the loan-to-value ratio was less than 70%. The Respondent stated that as the Appellant's loan-to-value ratio was 69.89%, the Appellant did not meet the minimum statutory requirements and was thereby unable to avail of the relief.

Legislation

4. As set out in **Appendix I** below, the relevant legislative provision is section 477C TCA 1997, in particular s. 477C(11) which provides; *'The loan-to-value ratio in respect of a claim under this section shall not be less than 70 per cent.'*

Submissions

5. The Appellant contended that it was unfair that she was denied the HTB relief in circumstances where the 70% loan-to-value ratio required by the provisions of s.477C TCA 1997 was supported by the loan offer letter from her bank. She stated that the bank had characterised the loan-to-value ratio as 70% on the basis of rounding up to the nearest whole percentile and stressed the relevance of the fact that she met all other qualifying criteria. She stated that in her previous dealings with the Respondent she was requested to round up figures when completing her income tax return. She submitted that it was inconsistent of the Respondent to seek now to depart from the rounding up process.
6. The Respondent submitted that the rounding up or down of cents to whole euro was incomparable to the rounding of percentiles. The Respondent also submitted that section 477C TCA 1997 required a loan-to-value ratio of "*not ... less than 70%*" and that as the loan-to-value ratio in this appeal was less than 70%, being 69.89%, the Appellant failed to meet the minimum loan-to-value requirements of the HTB scheme.

Analysis and findings

7. The rounding up or down of cents to whole euro is incomparable to the rounding of percentages and I accept the Respondent's submission in this regard. The rounding up or down of a euro will result in a difference of cents but the rounding of a



percentage may result in a substantial differential, depending on the circumstances. The percentile differential in this appeal between 69.89% and 70% amounted to €300, an insubstantial amount. Had the Appellant's mortgage been €195,300 as opposed to €195,000, she would have qualified for the HTB scheme, all things being equal.

8. Turning to the legislation, the relevant subsection is s.477C TCA 1997 which provides; *'The loan-to-value ratio in respect of a claim under this section shall not be less than 70%.'* [emphasis added].
9. As is well established, the interpretative approach to be applied to the interpretation of taxation statutes is a literal one as supported by the long history of jurisprudence in relation to same and based on authorities including *inter alia*, *Revenue Commissioners v Doorley* [1933] IR 750, *Inspector of Taxes v Kiernan* [1982] ILRM 13, *Cape Brandy Syndicate v Inland Revenue Commissioners* [1921] 1 KB 64 and *Texaco (Ireland) Ltd v Murphy* [1991] 2 IR 449.
10. In particular, in relation to exemption legislation, Kennedy C.J. in the Supreme Court authority of *Revenue Commissioners v Doorley* [1933] IR 50, stated; *'As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as applicable.'*
11. In short this means that the Appellant, to succeed in her appeal, is obliged to bring herself squarely within the terms of the relief/exemption if she is to be entitled to avail of same.
12. The statutory requirements of s.477C necessitate a loan-to-value ratio of *'not .. less than 70%.'* The loan-to-value ratio in this case was only fractionally less than 70% however, to the disadvantage of the Appellant, it was still less. Based on the relevant jurisprudence, I do not consider that I have the authority or jurisdiction to depart from the express statutory requirement of *'not .. less than 70%.'*

Conclusion

13. Albeit marginally, the Appellant's loan-to-value ratio fell short of the required statutory minimum of 70% specified in sub-section 477C(11) TCA 1997 and the





Appellant is thus unable to satisfy the qualifying conditions in relation to the HTB scheme. As a result, I determine that the Appellant is not entitled to avail of the relief pursuant to s.477C TCA 1997 on this occasion.

14. The appeal is determined in accordance with section 949AL TCA 1997

APPEAL COMMISSIONER

January 2018

Appendix I

Section 477C TCA 1997 – Help to Buy

[(1)In this section—

“appropriate payment” shall be construed in accordance with *subsection (4)*;

“appropriate tax” has the meaning assigned to it by *section 256*;

“approved valuation”, in relation to a self-build qualifying residence, means the valuation of the residence that, at the time the qualifying loan is entered into, is approved by the qualifying lender as being the valuation of the residence;

“first-time purchaser” means an individual who, at the time of a claim under *subsection (3)* has not, either individually or jointly with any other person, previously purchased or previously built, directly or indirectly, on his or her own behalf a dwelling;

“income tax payable” has the meaning assigned to it by *section 3*;

“loan” means any loan or advance, or any other arrangement whatever, by virtue of which interest is paid or payable;



“loan-to-value ratio” means the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence or the self-build qualifying residence;

“PPS number”, in relation to an individual, means the individual’s personal public service number within the meaning of [section 262](#) of the Social Welfare Consolidation Act 2005;

“purchase value” means—

(a) in the case of a qualifying residence, the price paid for the qualifying residence, being a price that is not less than its market value, or

(b) in the case of a self-build qualifying residence, the approved valuation;

“qualifying contractor” has the meaning assigned to it by *subsection (2)*;

“qualifying lender” has the meaning assigned to it by *section 244A(3)*;

“qualifying loan”, means a loan, which—

(a) is used by the first-time purchaser wholly and exclusively for the purpose of defraying money employed in—

(i) the purchase of a qualifying residence, or

(ii) the provision of a self-build qualifying residence (including, in a case where such acquisition is required for its construction, the acquisition of land on which the residence is constructed),

(b) is entered into solely between a first-time purchaser and a qualifying lender (but this does not exclude a loan to which a guarantor is a party), and

(c) is secured by the mortgage of a freehold or leasehold estate or interest in, or a charge on, a qualifying residence or a self-build qualifying residence;

“qualifying period” means the period commencing on 19 July 2016 and ending on 31 December 2019;

“qualifying residence” means—

(a) a new building which was not, at any time, used, or suitable for use, as a dwelling,
or



(b) a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling,

and—

(i) which is occupied as the sole or main residence of a first-time purchaser,

(ii) in respect of which the construction work is subject to the rate of tax specified in section 46(1)(c) of the Value-Added Tax Consolidation Act 2010, and

(iii) where the purchase value is not greater than—

(I) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in *subsection (3)(a)* is entered into between a claimant and a qualifying contractor or the first tranche of a qualifying loan referred to in *subsection (3)(b)* is drawn down by a claimant, €600,000, or

(II) in all other cases, €500,000;

“relevant tax year” means a year of assessment, within the 4 tax years immediately preceding the year in which an application is made under this section, in respect of which a claim for an appropriate payment, or part of such appropriate payment, is made by an individual;

“Revenue officer” means an officer of the Revenue Commissioners;

“self-build qualifying residence” means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf;

“tax reference number” means in the case of an individual, the individual’s PPS number or in the case of a company, the reference number stated on any return of income form or notice of assessment issued to that company by the Revenue Commissioners;

“tax year” means a year of assessment within the meaning of the Tax Acts;

“VAT registration number”, in relation to a person, means the registration number assigned to the person under [section 65](#) of the Value-Added Tax Consolidation Act 2010.

(2) In this section, a “qualifying contractor” means a person who applies to the Revenue Commissioners for registration as a qualifying contractor (pursuant to arrangements for





such registration that are put in place by the Revenue Commissioners) and in respect of whom the Revenue Commissioners are satisfied is entitled to be so registered and—

(a) who—

(i) complies with the obligations referred to in *section 530G* or *530H*, or

(ii) in the case of a contractor who is not a subcontractor to whom *Chapter 2 of Part 18* applies, complies with the obligations referred to in *subparagraph (i)*, other than the obligations referred to in *paragraphs (a) and (b) of subsection (1) of section 530G* or *530H*,

(b) who has been issued with a tax clearance certificate in accordance with *section 1095* and such tax clearance certificate has not been rescinded under *subsection (3A)* of that section, and

(c) who provides to the Revenue Commissioners—

(i) details of qualifying residences which the contractor offers, or proposes to offer, for sale within the qualifying period,

(ii) details of any planning permission under the Planning and Development Acts 2000 to 2015 in respect of the qualifying residences referred to in *subparagraph (i)*,

(iii) details of the freehold or leasehold estate or interest in the land on which the qualifying residences referred to in *subparagraph (i)* are constructed or to be constructed, and

(iv) any other relevant information that may be required by the Revenue Commissioners for the purposes of registration of a person as a qualifying contractor.

(3) Where an individual has, in the qualifying period, either—

(a) entered into a contract with a qualifying contractor for the purchase by that individual of a qualifying residence, that is not a self-build qualifying residence, or

(b) drawn down the first tranche of a qualifying loan in respect of that individual's self-build qualifying residence,

that individual may make a claim for an appropriate payment.



(4) On the making of a claim by an individual referred to in *subsection (3)*, a payment (in this section referred to as an “appropriate payment”) shall, subject to the provisions of this section, be made in accordance with *subsection (16)*.

(5)(a) An appropriate payment in relation to a qualifying residence or a self-build qualifying residence under this section shall not be greater than whichever of the amounts referred to in the following subparagraphs is the lesser, namely:

(i) the amount of €20,000,

(ii) the amount of income tax payable and paid by the claimant in respect of the 4 tax years immediately preceding the year in which an application is made under *subsection (6)*, or

(iii) the amount equal to 5 per cent of the purchase value of the qualifying residence or self-build qualifying residence, as the case may be.

(b) In *paragraph (a)(ii)*, income tax paid shall include any amount of appropriate tax which has, in accordance with *sections 257* and *267AA*, been deducted from payments of relevant interest made to the claimant in the 4 tax years immediately preceding the year in which an application is made under *subsection (6)*.

(c) The amount of appropriate tax referred to in *paragraph (b)* shall be reduced by the amount of any appropriate tax repaid to the claimant under *section 266A*.

(d) Notwithstanding *Chapter 1* of *Parts 44* and *44A*, where *section 1017* or *1031C* applied in respect of a tax year, the amount of income tax paid by a claimant, for the purposes of *paragraph (a)(ii)* shall be determined by the following formula—

$$\frac{A \times C}{B}$$

where—

A is the amount of the total income (if any) of the claimant for the tax year,

B is the sum of the amount of the total income (if any) of the claimant and the amount of the total income (if any) of the claimant’s spouse or civil partner, and

C is the amount of income tax paid for the tax year.

(e) An appropriate payment under this section shall be made—





(i) in the first instance as a refund of income tax paid by the claimant in respect of the earliest relevant tax year and followed by each succeeding relevant tax year, and

(ii) thereafter as a refund of the amount of appropriate tax paid by the claimant in respect of the earliest relevant tax year and followed by each succeeding relevant tax year.

(6)(a) Prior to submitting a claim under *subsection (3)*, an individual shall make an application to the Revenue Commissioners which shall include—

(i) an indication that he or she intends to make a claim under this section,

(ii) his or her name and PPS number, and

(iii) confirmation by the individual, where such is the case, that the conditions specified in *paragraph (b)* have been met.

(b) The conditions referred to in *paragraph (a)(iii)* are that—

(i) he or she is a first-time purchaser,

(ii) where the individual is a chargeable person within the meaning of *Part 41A* or, as appropriate, *Part 41* for a tax year within the 4 tax years immediately preceding the year in which the application is made, he or she has complied with the requirements of that Part or, as appropriate, those Parts and has paid the amount of income tax payable and of universal social charge (within the meaning of *Part 18D*) which he or she is liable to pay, in respect of each such tax year,

(iii) where the individual is not a chargeable person within the meaning of *Part 41A* or, as appropriate, *Part 41* for a relevant tax year, he or she has made a return of income, in such form as the Revenue Commissioners may require, and has paid the amount of income tax payable and of universal social charge which he or she is liable to pay, in respect of each such relevant tax year, and

(iv) in the case of an individual to which *subparagraph (ii)* refers, he or she has been issued with a tax clearance certificate in accordance with *section 1095* and such tax clearance certificate has not been rescinded under *subsection (3A)* of that section.



(c) Where *section 1017* or *1031C* applied in respect of a tax year, the individual who must meet the conditions referred to in *subparagraphs (ii)* and *(iii)* of *paragraph (b)* shall be the person assessed to tax under *section 1017* or the nominated civil partner within the meaning of *section 1031A*.

(7) For the purposes of *subsections (5)(a)(ii)* and *(6)(b)(ii)* and *(iii)*—

(a)(i) an individual may elect to be deemed to have made his or her application under *subsection (6)* in the tax year 2016 where, in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in *subsection (3)(a)* is entered into between the applicant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in *subsection (3)(b)* is drawn down by the applicant, provided the application is made on or before 31 March 2017, or

(ii) an individual may elect to be deemed to have made his or her application under *subsection (6)* in the tax year 2016 where, in the period commencing on 1 January 2017 and ending on 31 March 2017, a contract referred to in *subsection (3)(a)* is entered into between the applicant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in *subsection (3)(b)* is drawn down by the applicant, provided the application is made on or before 31 May 2017,

and where an individual so elects, the application shall be deemed to have been made in the tax year 2016 and the corresponding claim under *subsection (3)*, where it is made in the tax year 2017, shall be deemed to have been made in the tax year 2016,

(b) notwithstanding the obligation on an individual under *paragraph (a)(i)* to, as appropriate, make an application on or before 31 March 2017, where such an individual makes an application under *subsection (6)* in 2018 or 2019, the application shall be deemed to have been made in the tax year 2017, and the corresponding claim under *subsection (3)* shall be deemed to have been made in the tax year 2017.

(8)(a) An application made in any tax year shall cease to be valid on the earlier of the following events:

(i) failure by the applicant to satisfy the conditions specified in *subsection (6)(b)*;





(ii) on the rescission of the applicant's tax clearance certificate in accordance with *subsection (3A) of section 1095*; or

(iii) on the falling of 31 December in the tax year in which the application is made.

(b) Notwithstanding *paragraph (a)* and *subsection (25)*, where an application is made under this section in the period commencing on 1 October and ending on 31 December in any of the tax years 2017, 2018 or 2019 (hereafter in this paragraph referred to as the "first-mentioned period"), and the corresponding claim is made under *subsection (3)* in the period commencing on 1 January and ending on 31 March of the following year, the applicant shall be deemed to have made his or her claim in the first-mentioned period.

(c) No claim may be made on foot of an application which ceases to be valid in accordance with *paragraph (a)*.

(9) Where an application is made under this section and more than one individual is a party to the application, each such individual shall—

(a) confirm that he or she is a first-time purchaser,

(b) satisfy the conditions specified in *subsection (6)(b)*,

(c) consent to provide to the other parties his or her name, address and PPS number, and

(d) agree with each of the other parties as to the allocation between the parties of the amount of the appropriate payment and notify the Revenue Commissioners of such allocation.

(10) Subject to the conditions specified in *subsection (6)(b)* being satisfied, the Revenue Commissioners shall notify the applicant of the maximum appropriate payment that would, following the making of a claim under this section, be available to or in respect of the applicant.

(11) The loan-to-value ratio in respect of a claim under this section shall not be less than 70 per cent.

(12)(a) On making a claim under *subsection (3)*, where the qualifying residence is other than a self-build qualifying residence, the claimant shall provide to the Revenue Commissioners—



- (i) his or her name and PPS number,
- (ii) the address of the qualifying residence,
- (iii) the purchase value of the qualifying residence,
- (iv) details of the qualifying lender,
- (v) confirmation that a qualifying loan has been entered into,
- (vi) the qualifying loan application number or reference number used by the qualifying lender,
- (vii) the amount of the qualifying loan,
- (viii) evidence of the qualifying loan entered into,
- (ix) evidence of the contract entered into with a qualifying contractor,
- (x) the amount of deposit payable by the claimant to the qualifying contractor,
- (xi) the amount, if any, of deposit paid by the claimant to the qualifying contractor,
- (xii) confirmation that, on its completion, the qualifying residence will be occupied by the claimant as his or her only or main residence, and
- (xiii) in the case of a claimant referred to in *subsection (16)(a)(i)*, details of the claimant's bank account to which the appropriate payment shall, subject to the qualifying contractor having satisfied the requirements of *subsection (13)*, be made.

(b) A claimant shall satisfy himself or herself that the contractor is a qualifying contractor.

(13) Following the making of a claim in accordance with *subsection (12)*, the qualifying contractor shall provide to the Revenue Commissioners—

- (a) the contractor's name,
- (b) the contractor's tax reference number and VAT registration number,
- (c) the name of the claimant,



- (d) the address of the qualifying residence,
- (e) the purchase value of the qualifying residence,
- (f) the amount of deposit payable by the claimant to the qualifying contractor,
- (g) the amount, if any, of deposit paid by the claimant to the qualifying contractor, and
- (h) in the case of a contract to which *subsection (16)(a)(ii)* applies, details of the qualifying contractor's bank account.

(14) On making a claim under *subsection (3)* in the case of a self-build qualifying residence, the claimant shall provide to the Revenue Commissioners—

- (a) his or her name and PPS number,
- (b) the address of the self-build qualifying residence,
- (c) the purchase value of the self-build qualifying residence,
- (d) details of the qualifying lender,
- (e) confirmation that a qualifying loan has been entered into,
- (f) the amount of the qualifying loan,
- (g) confirmation that, on its completion, the self-build qualifying residence will be occupied by the claimant as his or her only or main residence, and
- (h) details of the qualifying loan bank account to which the appropriate payment shall, subject to a solicitor, acting on behalf of the claimant, having satisfied the requirements of *subsection (15)*, be made.

(15) Following the making of a claim in accordance with *subsection (14)*, a solicitor, acting on behalf of the claimant, shall provide to the Revenue Commissioners—

- (a) the name of the claimant,
- (b) the address of the self-build qualifying residence,
- (c) evidence of the qualifying loan entered into between the claimant and the qualifying lender,
- (d) evidence of the drawdown of the first tranche of the qualifying loan, and



(e) confirmation of the purchase value of the self-build qualifying residence.

(16)(a) Subject to the provisions of this section, the appropriate payment shall be made by the Revenue Commissioners—

(i) where in the period commencing on 19 July 2016 and ending on 31 December 2016, a contract referred to in *subsection (3)(a)* is entered into between the claimant and a qualifying contractor or, as appropriate, the first tranche of a qualifying loan referred to in *subsection (3)(b)* is drawn down by the claimant, to the claimant's bank account,

(ii) where in the period commencing on 1 January 2017 and ending on 31 December 2019, a contract referred to in *subsection (3)(a)* is entered into between the claimant and a qualifying contractor, to the qualifying contractor's bank account, or

(iii) where in the period commencing on 1 January 2017 and ending on 31 December 2019, the first tranche of a qualifying loan referred to in *subsection (3)(b)* is drawn down by the claimant, to the claimant's qualifying loan bank account.

(b) Where the appropriate payment is made in respect of a claimant to a qualifying contractor referred to in *paragraph (a)(ii)*, the contractor shall treat the appropriate payment as a credit against the purchase price of the qualifying residence.

(c) Where *paragraph (a)(ii)* applies, the claimant shall consent to the appropriate payment in respect of him or her being paid by the Revenue Commissioners to the qualifying contractor.

(17)(a) On its completion, a qualifying residence or a self-build qualifying residence shall be occupied by the claimant as his or her only or main residence.

(b)(i) Where an appropriate payment is made on foot of a claim under this section, and the qualifying residence or self-build qualifying residence ceases to be occupied—

(I) by the claimant, or

(II) where more than one individual is a party to the claim, by all of those individuals,



within 5 years from occupation of the residence, the claimant shall notify the Revenue Commissioners and, in accordance with *subparagraph (ii)*, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment, or the lesser percentage there specified of the amount of the appropriate payment.

(ii) Where the residence ceases to be occupied as mentioned in *subparagraph (i)*—

(I) within the first year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment,

(II) within the second year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 80 per cent of the amount of the appropriate payment,

(III) within the third year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 60 per cent of the amount of the appropriate payment,

(IV) within the fourth year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 40 per cent of the amount of the appropriate payment, or

(V) within the fifth year from occupation, the claimant shall, within 3 months from the residence ceasing to be so occupied, pay to the Revenue Commissioners an amount equal to 20 per cent of the amount of the appropriate payment.

(18)(a) Where—

(i) arising from a claim under this section, an appropriate payment is made to, or in respect of, a claimant, and



(ii) any condition that imposes a qualification, as respects the claimant, in relation to the making of an appropriate payment under this section is not satisfied by the claimant,

the claimant shall, within 3 months from the date on which the appropriate payment is made, pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment, or part of such an amount, as appropriate.

(b)(i) Where, arising from a claim under this section in respect of a self-build qualifying residence, an appropriate payment is made to an individual, the individual shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment—

(I) where the self-build qualifying residence is not completed within 2 years from the date on which the appropriate payment was made by the Revenue Commissioners, or

(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the self-build qualifying residence will not be completed within that period.

(ii) Payment to the Revenue Commissioners under *subparagraph (i)* shall be made within 3 months from the end of the 2 year period referred to in *clause (I)* of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the individual to the effect that they had formed an opinion in accordance with *clause (II)* of that subparagraph.

(c)(i) Where arising from a claim under this section, other than a claim to which *paragraph (b)* refers, an appropriate payment is made directly to an individual (who is not a qualifying contractor), the individual shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment—

(I) if the qualifying residence is not subsequently purchased by the individual within 2 years from the date on which the appropriate payment was made by the Revenue Commissioners, or

(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the





purchase of the qualifying residence by the individual will not be completed within that period.

(ii) Payment to the Revenue Commissioners under *subparagraph (i)* shall be made within 3 months from the end of the 2 year period referred to in *clause (I)* of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the individual to the effect that they had formed an opinion in accordance with *clause (II)* of that subparagraph.

(d)(i) Where, arising from a claim under this section, an appropriate payment claimed by an individual is made to a qualifying contractor under *subsection (16)(a)(ii)*, and—

(I) the qualifying residence is not subsequently purchased by the individual within 2 years from the date of the making of the appropriate payment by the Revenue Commissioners, or

(II) if within that 2 year period, there are, in the opinion of the Revenue Commissioners, reasonable grounds to believe that the purchase of the qualifying residence by the individual will not be completed within that period,

the qualifying contractor shall pay to the Revenue Commissioners an amount equal to the amount of the appropriate payment.

(ii) Payment to the Revenue Commissioners under *subparagraph (i)* shall be made within 3 months from the end of the 2 year period referred to in *clause (I)* of that subparagraph or, as appropriate, within 3 months from the Revenue Commissioners issuing notice to the qualifying contractor to the effect that they had formed an opinion in accordance with *clause (II)* of that subparagraph.

(e) For the purposes of *paragraph (d)*, an individual referred to in that paragraph may notify the Revenue Commissioners where he or she has reasonable grounds to believe that the purchase of the qualifying residence by the individual will not be completed within the 2 year period referred to in that paragraph.

(f) Where the Revenue Commissioners are satisfied that a qualifying residence or self-build qualifying residence—





(i) is substantially complete at the end of the 2 year period referred to in *paragraph (b), (c) or (d)*, and

(ii) is likely to be completed thereafter within a period of time that, in the opinion of the Revenue Commissioners, is a reasonable one (and such opinion shall be communicated to the person concerned),

the aforementioned 2 year period shall, for the purposes of those paragraphs, stand extended by the period referred to in *subparagraph (ii)*.

(19) Where more than one individual is a party to a claim under this section and a liability arises under *subsection (17) or (18)* in respect of payment to the Revenue Commissioners of an amount equal to the amount of the appropriate payment, or part of such an amount, each party to the claim shall be liable jointly and severally.

(20)(a) Where a person who is liable to pay to the Revenue Commissioners an amount referred to in *subsection (17)(b) or paragraph (a), (b), (c) or (d) of subsection (18)* fails to pay that amount, a Revenue officer may, at any time, make an assessment or an amended assessment on that person for a year of assessment or accounting period, as the case may be, in an amount that, according to the best of that officer's judgement, ought to be charged on that person.

(b) A person aggrieved by an assessment or an amended assessment made on that person under this subsection may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with *section 949I*, within the period of 30 days after the date of the notice of assessment or amended assessment.

(c) Where in accordance with *paragraph (a)*, a Revenue officer makes an assessment or an amended assessment on a person in an amount that, according to the best of that officer's judgement, ought to be charged on that person, the amount so charged shall, for the purposes of *paragraph (a) and Part 42*, be deemed to be tax due and payable in respect of the tax year in which the person is liable to pay the amount involved and shall carry interest as determined in accordance with *subsection (2) of section 1080* as if a reference in that subsection to the date when the tax became due and payable were a reference to the date the amount so charged is, under this section, payable to the Revenue Commissioners.



(d) Any liability to pay an amount to which *paragraph (a)* applies, including any interest thereon, which is due and unpaid by a qualifying contractor under this section shall be and remain a charge on the freehold or leasehold estate or interest in the land on which the qualifying residence was to be constructed, where the contractor retains such estate or interest in the land.

(e) Notwithstanding [section 36](#) of the Statute of Limitations 1957, the charge referred to in *paragraph (d)* shall continue to apply, without limit as to time, until such time as it is paid in full.

(21) An individual aggrieved by a decision by the Revenue Commissioners to refuse a claim under this section may appeal the decision to the Appeal Commissioners, in accordance with *section 949I*, within the period of 30 days of the notice of that decision.

(22) Anything required to be done by or under this section by the Revenue Commissioners may be done by any Revenue officer.

(23) Any application, claim, information, confirmation, declaration or documentation required by this section shall be given by electronic means and through such electronic systems as the Revenue Commissioners may make available for the time being for any such purpose, and the relevant provisions of *Chapter 6 of Part 38* shall apply.

(24) *Section 1021* shall not apply where an appropriate payment is made under this section.

(25) No application or claim may be made under this section after 31 December 2019.]¹

