REPORT OF THE WORKING GROUP ON THE TAX AND FISCAL TREATMENT OF RENTAL ACCOMMODATION PROVIDERS

September 2017
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Executive Summary

The private rental accommodation sector has expanded considerably in recent years. Census data indicate that over 18% of households are in the private rented sector. As a result of a growth in the provision of social housing supports via the private rental sector, this figure also includes many households for whom the State subsidises some or all of the rent paid.

The rental and owner-occupied sectors are intrinsically linked and both are characterised by increasing affordability pressures, particularly amongst moderate to low income households. Average monthly rents have increased by 56% nationally since their low point in 2011, and are now almost 13% above the previous peak registered in 2008. Price inflation in residential rental markets is outstripping general measures of inflation and wage growth, further contributing to the deterioration in affordability within the sector.

Supply is not responding to this increased demand for rental accommodation, notwithstanding the potential for increased returns. Buy-to-let mortgage lending has collapsed since 2009, reflecting relatively low levels of investor interest together with more recent policy intervention in the form of tighter macro-prudential lending rules. Other policy interventions, such as enhanced minimum accommodation standards, rent certainty measures for tenants and limitations on expense deductibility, have imposed new obligations on landlords and limited potential returns in the short term. More recently, incentive measures have been introduced to encourage property owners to renovate property for rental accommodation, but uptake to date has been slow.

Further changes to the taxation of rental income may have the capacity to stimulate housing supply in high-demand urban areas. However, attracting increased investment while ensuring cyclical stability would require targeted and ongoing management. Ireland’s past experience with tax incentives in the housing sector strongly suggests the need for a cautionary stance when considering intervention.

Landlords in Ireland

Landlords are an essential feature of a fully functioning residential property market. Just under 180,000 taxpayers (some 8% of the total) were in receipt of rental income from residential and/or commercial property in 2014. The sector is dominated by small-scale landlords – almost 86% residential of landlords have just one or two tenancies – and the sector remains highly indebted, with mortgage arrears among buy-to-let landlords remaining a problem.
The tax treatment of rental income is arguably more restrictive in some aspects than the taxation of active self-employment income, but is also more favourable, particularly with regard to interest deductibility, than many other forms of investment income. This treatment is linked to the categorisation of rental income as ‘passive income’. It has been argued that operating a rental property has become a more ‘active’ endeavour in recent times in view of increased legal and regulatory requirements on landlords. The data examined in profiling the rental sector confirms that, while a small but growing share of large corporate landlords is beginning to emerge, the vast majority of landlords in Ireland are individuals with low levels of rental income in addition to other sources of income, which would indicate that property rental is still largely a part-time occupation.

**Public Consultation**

The Working Group conducted a public consultation in order to seek the views of interested parties and almost 70 responses were received from landlords, representative bodies and charitable organisations. Most submissions requested increased deductibility for income and/or capital expenditure, but there was a notable lack of consensus in the responses received, particularly with regard to the detailed consultation questions asked.

It was also notable that many submissions to the consultation requested relief for capital refurbishment costs, but uptake of existing incentives available to landlords – including tax-based measures such as the Living City Initiative and the Home Renovation Incentive and expenditure-based measures such as the Repair and Lease Scheme and the Buy and Renew Scheme – has been slow to date. This may indicate a need for improved information campaigns to inform landlords of available reliefs, together with research to determine what, if any, barriers may be preventing greater uptake of the incentives.

**Addressing the Market Failure**

The analysis in this report provides clear evidence of market failure in the supply of property in the residential rental market, which is resulting in increasing upward pressure on rental prices and contributing to increased demand for social housing supports funded by the State.

The means by which an increase in supply could be achieved, and the resulting economic impact that any tax expenditure measures may have both on the recipients of the expenditure and the wider economy, inevitably give rise to broader questions about the nature of the rented residential property market in Ireland. For example:
• Should State supports for landlords be targeted at landlords of a particular size or scale? Small, highly-gear ed landlords are more exposed to risk from property price and financial market fluctuations and from rogue tenants. Larger-scale ‘professional’ landlords have entered the market in more recent years, but they have to date concentrated on the premium end of the market and have not increased supply of affordable property.

• The long-term direction of the model for provision of social housing supports and its interaction with the private rented accommodation sector must be considered when evaluating potential tax expenditures.

• Landlords often operate at or below break-even point in the early years of property ownership, when the capital element of mortgage borrowings is being repaid. This may contribute to stability in the market if the landlord is planning on a long-term gain, but conversely it could contribute to instability where landlords sell up to cut expenses or realise a capital gain. Would a focus on steady rental income returns be more beneficial to market stability than a highly-leveraged model focused on future gains?

Consideration of these questions, while outside the scope of this Group’s work, would be advised before undertaking significant future policy interventions in the rented residential property market, including the potential short-term, medium-term and long-term options set out below.

**Policy Options**

With these considerations in mind, the Working Group has developed 10 potential policy options, split into measures that could potentially be implemented in the short, medium and long term. Having regard to the linkages between the rental and owner-occupier property markets, measures which have potential to influence an increase in overall supply of residential property, rather than a diversion of property from owner-occupiers to the rental market, were considered to be of particular merit.

Short-term options are measures which could potentially be implemented within the next 18 months, i.e. within Budgets 2018 and 2019. Medium-term options are measures which work with the current tax system but might take longer to develop and implement, and as such would require a longer lead-in period. The long-term options look at the potential for more fundamental changes
to the tax system, or changes in the context of an overall review of the pensions system, and so would require significantly greater resource commitments to progress.

<table>
<thead>
<tr>
<th>Short-term Options</th>
<th>Tax Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Accelerated restoration of full mortgage interest deductibility for landlords of residential property.</td>
<td>c.€48 million (c.€24 million in each of 2018 and 2019)</td>
</tr>
<tr>
<td>2. Introducing Local Property Tax deductibility for landlords.</td>
<td>c.€28 million p.a.</td>
</tr>
<tr>
<td>3. Enhancing loss relief for landlords (or a sub-set of landlords), to allow relief for rental losses against other income sources in the same year.</td>
<td>Tentative estimate of c.€43 million per annum.</td>
</tr>
<tr>
<td>4. Introducing deductibility for pre-letting expenditure for previously vacant properties.</td>
<td>Potential cost of c.€4m per annum.</td>
</tr>
<tr>
<td>5. Improvements in the collection and sharing of data on the rental accommodation sector.</td>
<td>n/a</td>
</tr>
</tbody>
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<table>
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<tr>
<th>Medium-term Options</th>
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<tbody>
<tr>
<td>6. Allow a deduction against rental income for an element of the capital cost of the rental property in the initial years of ownership, with a corresponding reduction in the base cost of the property for Capital Gains Tax purposes on a future disposal.</td>
</tr>
<tr>
<td>7. Capital Gains Tax relief for properties acquired and retained as rental accommodation.</td>
</tr>
<tr>
<td>8. Incentive to attract investment capital into the construction of property, in areas of need, to be let at social / affordable rents.</td>
</tr>
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<tr>
<th>Long-term Options</th>
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<tr>
<td>10. Consideration of developing a separate method of taxing rental income, for example, a flat tax or a separate rate of tax, as a policy lever to support the sector as a whole or specific sub-sectors (for example, affordable housing/urban housing).</td>
</tr>
</tbody>
</table>
1. Introduction

The residential rental sector is currently experiencing a period of significant, if not unprecedented, change and challenge. There are now more people renting their accommodation than at any time in the last 45 years – nearly a third of all households. The economic recovery, population growth and challenges in the home ownership market are all driving demand for rented housing. However, more fundamental factors are also at work. The changing nature of work and the economy also contribute to the growth in demand in the sector. The labour market increasingly requires more mobile workforces; changing location and employer has become a more common feature of people’s careers.

The rental market is not responding sufficiently to this increased demand. In many parts of the country, particularly urban areas of high population density, demand for rental accommodation is far outstripping supply. In these areas rents have increased considerably. Despite the introduction of policy measures intended to help contain rental price inflation, such as Rent Pressure Zones, affordability remains a pressing concern for many ordinary households. This situation is causing uncertainty and hardship for many and it is contributing to homelessness and to the high numbers of people in emergency accommodation. Unchecked, it could threaten our economic recovery by driving up wage demands and undermining competitiveness, thereby making Ireland a less attractive investment destination.

A lack of overall housing supply – and the failure of the sector to respond to the increased demand for, and growing dependence on, rental accommodation – is the underlying problem. Two Government policy documents, Rebuilding Ireland\(^1\) and the Strategy for the Rental Sector\(^2\), lay out a range of measures to accelerate overall housing supply. These include the use of public land, changes to the regulatory and planning processes, and schemes to make vacant properties available for social tenants.

The Strategy for the Rental Sector, published in December 2016, also contained a commitment to establish a Working Group to examine and report on the tax treatment of landlords (or rental

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accommodation providers), and to put forward, where appropriate, options for amendments to such treatment.

The Working Group was chaired by the Department of Finance and its membership includes officials from the Department of Housing, Planning and Local Government (DHPLG), the Revenue Commissioners and the Residential Tenancies Board (RTB).

One of the aims of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers was to determine if the current taxation system is fit for purpose in the current housing market and in the longer term. In order to inform its deliberations the Group conducted a focused public consultation on taxation issues related to the rental accommodation sector. Almost 70 submissions were received to this focused consultation and they were reviewed in detail by the Working Group.

This report outlines the current situation in the rental accommodation sector, the main issues raised in the public consultation, and outlines a number of options for change in this area of taxation. The options fall under three categories – those that can possibly be introduced in the short, medium or long term.

**Establishment and terms of reference**

The Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers was established on 19 January 2017 and its terms of reference were:

- To examine the contribution of rental accommodation providers to the Irish economy and analyse the tax system as it applies to rental accommodation providers/landlords (both individual and collective), focussing primarily on the tax treatment of rental income, including any relevant existing reliefs, incentives, deductions allowed and tax return requirements.

- To analyse the likelihood and associated implications of the exit and entry of rental accommodation providers from/to the rental sector and consider the balance between the achievement of policy objectives in relation to the availability of rental properties (and rent levels) and the provision of homes for owner occupiers (and home prices). The group will also compare the tax treatment of certain alternative investment choices available to
potential or existing landlords, as compared to investment in residential rental accommodation.

- Taking account of the tax expenditure guidelines, to assess the potential for changes in the tax treatment of rental accommodation providers to influence behaviour. The group will set out any estimates of resulting costs or savings to the Exchequer and assess the potential impact on the supply of rental property in the context of the overall housing market.

- To analyse the potential for changes to the tax treatment of rental accommodation providers to support the supply of rental property, consistent with other housing and rental policies, while ensuring that any such proposals for change do not conflict with, or act as a compensation for, other measures introduced by the Government. In addition, the potential for any such proposals to lead to market distortion, state aid issues and potential infringements of the EU Treaties will be considered.

- To put forward options for consideration in its report.

**Membership of the Working Group**

**Department of Finance:**
Joe Cullen  
Seamus Milne  
Deirdre Donaghy  
Laura Weymes

**Revenue Commissioners:**
Lyndsay Smyth  
Sheila Hanley

**Department of Housing, Planning and Local Government:**
Earnán Ó Cléirigh  
Paula O’Reilly  
Eoin Corrigan

**Residential Tenancies Board:**
Rosalind Carroll  
Caren Gallagher

**Secretariat:**
Heather Cuddy, Secretary  
Cillian Byrnes, Secretary
2. Economic Considerations

Key Points:

- Residential rental markets form part of a wider housing system and play an important economic and social role in the wider economy.
- Changes to taxation policy need to be consistent with objectives across areas of planning, regulation and standards, as well as wider financial and macro-prudential policies.
- An expanded rental sector could help avoid the risks to overall macro-economic stability associated with financial market volatility and asset price cycle dynamics.
- Rental price inflation impacts the macro economy through consumption and wage demand channels and, if left unchecked, has the potential to damage competitiveness.
- Changes to the taxation of rental income may have the capacity to stimulate housing supply in high-demand urban areas. However, attracting increased investment while ensuring cyclical stability would require targeted and ongoing management. Ireland’s past experience with tax incentives in the housing sector strongly suggests the need for a cautionary stance when considering intervention.
- Taxation measures alone are likely to have a limited impact on supply. A consistent, integrated policy approach is of paramount importance.

The purpose of this short chapter is to provide a brief overview of some of the principal economic considerations relevant to the taxation of the rental sector. These considerations have informed the deliberations of the Working Group. Overall, given recent growth in the rental sector, its careful management is a significant concern from a number of cross-cutting policy perspectives, including macroeconomic stability and distributional equity.

Residential rental markets form part of a wider housing system, composed of owner occupied housing markets, credit markets, land markets and the social housing system, and operate in the context of a range of institutional and regulatory environments. The taxation of the rental sector must therefore be considered as a component of a wider system. Changes to the tax treatment of the sector can have negative and positive spillover, displacement and other impacts and critically will interact with wider institutional and regulatory systems.
Residential rental markets play an important economic and social role, providing accommodation for mobile, transient, and other households which opt, or are not in a financial position, to own property. Residential rental markets have also, increasingly, become a channel for the delivery of social housing supports.

The taxation of housing as an economic good has welfare implications. From the perspective of household consumption, housing accounts for a large proportion of household spending; therefore housing taxes, depending on their incidence, can impact on the income distribution and on the efficiency of consumption. Transaction costs, such as legal fees and taxes, can limit the short-run substitution options open to households in response to changes in prices. Crucially, for the lowest income households renting in the private market, there are often no market substitution options available.

Landlords as a distinct cohort of actors are difficult to identify given data limitations; a point which is discussed further in Chapter 4. However, the Irish experience mirrors that of many other OECD (Organisation for Economic Co-operation and Development) countries in that there has been extensive growth of non-professional, small-scale landlordism since the mid-1990s. Many such landlords tend to perceive returns in terms of both rental incomes and house price gains. Therefore house (and wider asset) price dynamics, are likely to shape behaviour. Notwithstanding the focus on capital appreciation, changes to the regulation of the sector and rent price developments, including changes in house prices, also affect the behaviour of both landlords and tenants.

The private rented sector has expanded considerably in recent decades. This expansion has been anchored in changes to the housing system which were in train prior to the turn of the century, such as the removal of grants targeted to support owner-occupation, i.e. the expansion is not simply a legacy effect of the 2000-2008 period.

The expansion has had wider implications, such as:

- The macroeconomic significance of the private rented sector has grown. For instance, price inflation in residential rental markets has spillover effects on consumption patterns, saving, and standards of living;
- For labour market flexibility, as an expanded rental sector has implications for labour mobility. However, the sector’s expansion and exposure to volatile rental increases
can also weigh on labour market and wider economic considerations, to the extent
that these rises fuel wage demands thereby acting as a drag on national
competitiveness.

- For pensions, in view of the potential need to support continued rental costs in
  retirement, and the provision of housing services to retired, non-homeowner
  households.

Renting households are heterogeneous and the profile of tenant households has changed
considerably.

In part, the observed shift in tenure choice in favour of the private rental sector is a consequence
of changes associated with the post-2000 period of strong macroeconomic growth and the
subsequent contraction, and is in line with international dynamics common to other similar
economies, such as in New Zealand, the United Kingdom, and several European
countries. However, policy changes originating in the 1980s and 1990s, such as the ending of owner-occupier
grants, have also contributed to the tenure shift.

There is considerable interplay between tenures. The distinction between the private rented
sector and social housing has blurred in many respects. The size of the rental and owner-occupied
sectors are inversely correlated; the rental sector has increased in relative size reflecting a
contraction in the owner-occupied sector. The interplay between the range of the taxes and
subsidies which apply to housing partly shapes the incentives for housing consumption of renting
and owner-occupier households and may impact on the distribution of welfare between those
categories of household.

The expansion of the rental sector raises the question of whether there is an optimal size of the
private rented sector, in terms of the proportion of households renting. This is a question which,
although not possible to answer directly, is worth considering, and is influenced by the idea of a
sustainable level of owner-occupation.Labour markets have become more flexible and job
certainty has decreased in many occupations. Our recent economic history points to the
importance of ensuring that cyclical vulnerabilities are not amplified by policies that promote an
inappropriate level of homeownership in which some households are highly exposed to labour or

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Sustainable Owner-occupation and the Economy. York: Joseph Rowntree Foundation.
credit market changes. It is also important to note that future cycles may be different in terms of timing and amplitude both in aggregate, and crucially, across regions. An expanded rental sector could help avoid the risks to overall macro-economic stability associated with excessive financial market volatility and exposure to asset price cycle dynamics.

Tax policy in any given domain is usually assigned certain objectives, including to:

- Raise revenue;
- Promote efficiency (i.e. non-distortive, while correcting for externalities);
- Promote equity (i.e. the tax system should promote progressivity, broadly defined); and
- Promote simplicity and transparency in the tax system.

A broadening of the tax base has also been an important objective in recent years, including through the introduction of the Local Property Tax. The recent past and current circumstances suggest that consideration be given to two possible further goals of the tax treatment of the rented sector, alongside the traditional tax objectives:

(i) Helping to generate new supply, in the required locations, of housing; and,

(ii) Reducing the scope for the housing system to be a source of macroeconomic volatility.

Ireland’s past experience with tax incentives in the housing sector strongly suggests the need for a cautionary stance when considering intervention. Taxation is just one channel through which to boost rental and overall housing supply. Policy intervention must be carefully weighed against alternative levers and the prospect of unintended consequences.

In this context it is important to note that taxation is only one of the policy levers available to the Government and that, in line with the Tax Expenditure Guidelines, consideration of whether a tax measure is the most appropriate policy tool for a given purpose would be required. Changes to the taxation of rental income may have the capacity to help overcome a pressing economic and social challenge. However, attracting increased investment to the rental sector while ensuring cyclical stability will require targeted and ongoing management, particularly in the context of an economic recovery which remains impaired by persistent balance sheet challenges for households, the State, and the construction and development industry.

Any tax system will have some distortive impact on prices, impacting on production, consumption and the distribution of income and welfare. Although not the most significant factor driving tenure
preferences (more significant factors in these decisions are likely to be affordability and desire for security or flexibility of housing), a non-neutral tax treatment of housing due to, for example, lenient taxation of owner-occupier capital gains, low property tax rates and/or the non-taxation of imputed rent for owner-occupiers, will tend to have some influence on investment in and consumption of owner-occupation housing over rental housing. In addition, subsidies geared at one form of housing consumption will affect the allocation of risks in society; homeowners face considerable price risks linked to movements in property prices, for example, and many younger households are attracted to a position of highly geared homeownership, possibly in part due to existing tax advantages. Households with minimal equity are particularly susceptible to price changes.\(^4\) A less distortive tax system could dampen such distortions. It should be noted that the existence of macro-prudential rules offers a degree of protection on this front. However, it must also be acknowledged that reducing the concentration of risk in the owner-occupier market would inevitably increase the exposure of households to rental price changes.

Society’s expectations concerning urban rental market price affordability, and the potential for changes to the tax system to alter affordability need to be contextualised. Absent appropriate policy intervention, a pattern of spatially concentrated economic growth, low urban housing supply elasticity, high income-elasticity and price-inelastic demand for urban housing could result in a persisting affordability challenge. Put another way, housing and land values may rise faster than overall growth and incomes.

Whilst the tax system may potentially have a role to play in encouraging appropriate levels of housing supply, any proposed changes must be considered in the context of wider policy levers already laid out in the 2016 *Strategy for the Rental Sector*, including the areas of planning, regulation and standards. It is also important to ensure overall consistency with policy measures taken elsewhere, including in the financial and macro-prudential space. In this regard a consistent, integrated policy approach to solving these issues is of paramount importance.

3. Recent Trends in the Rental Property Market

**Key Points:**
- The rental and owner-occupied sectors are intrinsically linked and are characterised by increasing affordability pressures, particularly amongst moderate to low income households.
- Average monthly rents have increased nationally by 56% since their low point, and according to Daft.ie data, are now 12.6% above the previous peak registered in 2008. The RTB Rental Index indicates that, as of Q1 2017, rent prices were up almost 7.4% in annual terms.
- Trends at national level however hide considerable variation at regional level. Outside of Dublin, RTB data indicates that rents remain 8% off their previous Q4 2007 peak.
- There is some suggestion that property price increases are prompting a de-leveraging in rented property holdings.
- Across all tenure types, the proportion of total expenditure spent on housing has grown considerably, and now amounts to c. 30%.
- Price inflation in residential rental markets is outstripping general measures of inflation and wage growth, further contributing to the deterioration in affordability within the sector.
- House price affordability considerations are likely to drive continued rental tenure choice decisions for many households.

Landlords are an essential feature of a fully functioning residential property market. The current shortage of supply of residential rental properties is driving upward pressure on rental prices and making it difficult for prospective tenants to find affordable homes.

At the same time, increases in house prices are facilitating the exit from the market of individuals who did not wish to become landlords, but found themselves in the position of needing to rent out a property they own while living elsewhere, for a variety of reasons. Property price increases may also be prompting some multi-property landlords to reduce their property holdings to minimise debt levels and/or the administrative burden of property management. This may be further constricting the supply of residential rental property.

The rental housing market is also intrinsically linked with the owner-occupier housing market. In the short term, increases in supply to the rental market may be achieved at the cost of a reduction
in supply to the owner-occupier market, and vice versa. Policy actions targeted at the rental market must therefore take cognisance of the potential consequential impacts in other areas of the housing market, in addition to the Government’s policies of tenure neutrality and of increasing overall housing supply and new residential construction activity.

Both the private rental sector, and the owner occupied sector are characterised by increasing affordability pressures, particularly among households on moderate to low incomes. The pace of price inflation in residential rental markets has undergone a marked change in recent years.

The most recent RTB Rent Index report, for Q1 2017, indicates that private sector rents continue to trend upwards. Nationally, rents grew at 7.4 per cent annually, at a broadly similar pace to what was observed in the previous quarter. The standardised average national rent is €987 per month. Quarter on quarter growth was relatively flat for Q1 2017, increasing by less than 0.1 per cent, down from 2.8 per cent the previous quarter. Rents in Dublin and surrounding commuter counties were amongst the highest relative to the national average, with parts of Cork and Galway cities also above average.

With regard to the sub-set of property advertised on Daft.ie, the most recent Daft Rental Report ‘The Daft.ie Rental Price Report: An analysis of recent trends in the Irish rental market for 2017 Q2’ published in August 2017, states that the average rent nationally was €1,159. Nationwide, the average rent has risen by 56% since bottoming out in late 2011 and is now 12.6% above the previous high, having exceeded its 2008 peak in 2016. The Daft.ie report indicates that in Dublin rental asking prices are now an average of 18.1% above their previous peak, while in Cork and Galway cities, prices are 11.2% and 21.4% above levels recorded nine years ago. Outside the cities, the average asking price rent is 5.8% above its previous peak.

The difference between the average rental prices stated in the Daft.ie Report and the RTB Report is due to the different methodologies used. The RTB figures are based on actual registered rents

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5 However increased supply in the owner-occupier market may also lead to reduced demand in the rental market as individuals move between tenures.
6 The Residential Tenancies Board (RTB) Rent Index is based on private rental property registered with the RTB and produced in conjunction with the Economic and Social Research Institute (ESRI). It is based on actual rents for new tenancies in a particular quarter. In the latest Rent Index, Q1 2017, there were 23,866 new tenancies registered. Available at: [http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-(3).pdf?sfvrsn=2](http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-(3).pdf?sfvrsn=2)
for new tenancies in a particular quarter whereas the Daft report uses a weighted average rent based on advertised asking price rents. More information about the RTB and Daft rent index methodologies is provided in Appendix 1.

**Recent Trends in Rental Market Dynamics**

**Availability**

Figure 1 highlights the national shortage of rental stock as measured by Daft.ie. The stock of properties listed on Daft.ie as available for rent (supply) has followed a consistent downward trajectory since the middle of 2010; in Dublin, there were just over 1,121 properties available to rent as of 1 August 2017, more than 20% fewer than on the same date in 2016.

It is likely that the Daft.ie measure of rental availability underestimates the true new stock available given not all registered properties are advertised on Daft. However, given lags in registration reporting (both in terms of inflow and outflows), RTB data on the net flow of new registrations by quarterly intervals, shown in Figure 2, is currently not sufficiently robust to enable direct comparisons.

*Figure 1: Stock of Properties to Rent (Daft.ie)*

![Graph showing stock, inflow, and outflow of properties to rent](https://www.daft.ie/report/2017-Q2-rentalprice-daft-report.pdf)

**Source:** Daft.ie *Rental Price Report: An analysis of recent trends in the Irish rental market for 2017 Q2.* The index is based on asking rents for properties advertised to let on Daft.ie. Available at: [https://www.daft.ie/report/2017-Q2-rentalprice-daft-report.pdf](https://www.daft.ie/report/2017-Q2-rentalprice-daft-report.pdf)

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8 Note that the Daft customer base does not include the entire market for a range of factors; not all landlords advertise through Daft or competitor platforms. Tenancies may also be renewed with tenants in situ or properties may be re-let on the basis of waiting lists via letting agents.
Figure 2: Stock of registered tenancies (RTB database)

Source: Residential Tenancies Board (RTB). Data underpinning RTB quarterly rental index. Data on new registrations each quarter is not shown as the lagged nature of de-registration of properties means that new registrations plus implied outflows do not equate to total registrations in a given quarter.

Affordability

Both the private rental sector, and the owner occupied sector are characterised by increasing affordability pressures, particularly among households on moderate to low incomes. The pace of price inflation in residential rental markets has undergone a marked change in recent years. On a national basis, as of Q1 2017, rents have risen by almost 30% since their low-point in Q1 2012. Nationally residential rent price inflation has grown considerably during the last 4 years as measured by a range of indices.

Figure 3 presents several national indices measuring the change in rents over time. Rents were 7.37% higher on an annual basis in Q1 2017, according to the RTB Rental Index. Other measures also confirm a high degree of price inflation. The CSO’s CPI Private Rent inflation was 7.3% in the 12 months to July 2017. According to the Daft.ie Rental Price Report, rents increased 11.8% on an annual basis in Q2 2017 marking the fifth consecutive quarter where growth in rents exceeded 10 percent leaving rent levels 13% above their 2008 peak.
Trends at national level however hide considerable variation at regional level. In terms of regional disparity in rent developments, indices by location collated by the RTB (Figure 4) indicate that:

- The annual year-on-year rate of growth in rents outside of Dublin (9.8%) has begun to exceed the pace of growth in Dublin (7.37%);
- Rents in Dublin were 8% higher than their Q4 2007 peak; and,
- Outside of Dublin, rents remain 8% off their previous Q4 2007 peak.

**Figure 3: National Rent Indices**

**Figure 4: Regional Rent Indices**

**Data Sources:** CSO, Daft, RTB

**Source:** RTB Rent Index
Affordability considerations linked to house price purchase are likely to drive continued rental tenure choice decisions for many households.

Figure 5 indicates that average house prices were 12.7 times average disposable income per capita in Q1 2017. Based on the latest EBS-DKM housing affordability index (July 2017), mortgage debt servicing absorbs 21.2% of net income nationally, with the corresponding figure rising to almost 37.4% in Dublin.

Figure 5 House Price: Disposable Income per capita

![Graph showing the annual ratio of house price to disposable income per capita from 2010 to 2017.]

Source: CSO, ESRI/PTSB
Notes: House price series is based on CSO average house price in Q4 2016 which is then indexed to the CSO House Price Index and the PTSB/ESRI index. Long term average is for the period 1999 Q4 to 2017 Q1.

Often used as a measure of housing market (dis)equilibrium, the ratio of house prices to rents rose from 2013 as illustrated in Figure 6 and then plateaued for much of 2015 and 2016, which is indicative of the rising pressure experienced in the rental sector relative to developments in the owner occupancy sector.

---

Figure 6: House Price: Rent Ratio

Source: CSO, RTB.
Note: Long term average is for period 2002 Q1-2017 Q1.

A further metric used to gauge trends in affordability within the rental sector is the rent-to-disposable income ratio. In terms of the proportion of income devoted to rental outlays, as of Q1 2017 rents accounted for some 21.2% of median disposable income per household, with the rent-to-income ratio now standing above its long-term average for the past 12 consecutive quarters. This can be seen in Figure 7.

Figure 7: Average National Rent: Disposable Income per Household

Source: CSO, RTB.
Note: Long term average is for period 2002 Q1-2017 Q1.
For lower income households, especially those living in urban areas, the rent to disposable income ratio seems likely to be considerably higher than the national average, placing additional strain on such households.

Price inflation in residential rental markets is outstripping general measures of inflation (economy wide price growth) and wage growth, as illustrated in Table 1, further contributing to the deterioration in affordability within the sector.

**Table 1: Changes in Consumer Price Index and Average Weekly Wage**

<table>
<thead>
<tr>
<th>Year</th>
<th>CPI Annual % Change</th>
<th>Average Weekly Earnings</th>
<th>€</th>
<th>Annual % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>0.2</td>
<td>703.91</td>
<td></td>
<td>1.3</td>
</tr>
<tr>
<td>2015</td>
<td>-0.6</td>
<td>712.02</td>
<td></td>
<td>1.1</td>
</tr>
<tr>
<td>2016</td>
<td>0.1</td>
<td>716.07</td>
<td></td>
<td>0.5</td>
</tr>
<tr>
<td>2017</td>
<td>0.3</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** Consumer Price Index Annual % Change, as measured in January of the Relevant Year\(^{10}\)
Average Weekly Earnings, as measured in Q4 of the Relevant Year\(^{11}\)

Beyond these more recent indicators, there is a long standing trend of accommodation outlays rising as a proportion of overall expenditure, with the share rising most significantly amongst those in the private rental sector: Figure 8 on the next page shows that the share has risen steadily from 12.5% in 1987 to reach 26.8% in 2016\(^{12}\).

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\(^{12}\) Household Budget Survey (HBS), Central Statistics Office, various years.
Figure 8: Weekly rent or mortgage expenditure as a % of total household expenditure (by household tenure)

4. Profile of the Rental Sector

Key Points:

- The private rented sector has grown considerably and is different from other tenure types in terms of unit characteristics such as age, type, and urban concentration.
- Census data indicates that c.18.2% of households are in the private rented sector, and that the characteristics of the rental stock differ from owner-occupied property.
- Just under 180,000 tax units (c.8% of the total) were in receipt of rental income in 2014.
- The sector is dominated by small-scale landlords – almost 86% of landlords have just one or two tenancies. The 20 largest landlords account for just under 3% of all registered tenancies.
- Tax cases with rental income tend to be older than the general population, with peak ownership of rental property occurring in landlords between 40 and 50 years of age.
- Landlords are spread throughout the overall income distribution for all taxpayers, tend to have sources of income independent of their rental income, and tend to have higher incomes than other income taxpayers.
- The sector remains highly indebted. Given data limitations the exact extent is difficult to estimate, however mortgage arrears among buy-to-let landlords remains a problem.
- Buy-to-let mortgage lending has collapsed since 2009, reflecting relatively low levels of investor interest, together with more recent policy intervention in the form of tighter macro-prudential lending rules.

Having briefly outlined recent trends in rental market dynamics together with high-level driving factors in the preceding chapter, this chapter uses official data sources to describe the private rental sector in further detail, profiling both the composition of the rental stock and certain aspects of landlords’ financial position. This chapter focuses on various characteristics of the stock, the credit conditions facing the sector, and profiles landlord income using available information.

Although significant progress has been made in developing the empirical data available on the rental market, such as the quarterly release of the Residential Tenancies Board’s rent index, data limitations remain. Qualitative information regarding the current attitudes and motivations of landlords, together with potential investors into the sector, is somewhat outdated or is unavailable. For this reason the Working Group undertook a public consultation as part of this review process, and the responses received are summarised later in this report.
Data sources used for the purposes of this report include:

- Residential Tenancies Board data on registered tenancies.
- Revenue Commissioners data from tax returns submitted by landlords.
- Census data on households in the State.

When considering the taxation of the rental sector, including the taxation of rental transactions made between tenants and landlords, the landlord is the tax unit of relevance. As such, the tax treatment of tenants is not directly addressed in this chapter; the *Strategy for the Rental Sector*, published in December 2016\(^{13}\), has a greater focus on tenants.

**The Rental Stock**

Comprehensive data on the existing rental stock is difficult to ascertain. Census 2016 collected data concerning the private rental sector, but is subject to some caveats. Firstly, census information is restricted to units occupied on the night of the census and therefore temporarily vacant units, such as those between tenancies or vacant due to other factors such as commuting workers, hospitalisation, or whose owners are in residential elder care, are not captured. Also, Census data is self-reported and therefore may not accurately reflect the composition of the sector.\(^{14}\) Lastly, the composition of the rental sector is not static as, for instance, residential units shift from tenure type to tenure type. However, notwithstanding these limitations, the Census data provide a valuable snapshot of information on the stock of residential rental accommodation.

According to Census 2016 the private rented sector amounts to approximately 310,000 units, or 18.2\% of all households (Table 2: Size of the Rental Sector, 2016). This compares to some 337,000 RTB-registered tenancies at around the same date. The sector’s share of overall households has grown considerably in recent decades. This tenure shift reflects changes in the structural demand for housing (driven by changing demographics, together with migration, headship and household formation patterns), as well as policy-induced spillover effects. For example, the recent macro-prudential rules, whilst promoting overall financial sustainability, may have contributed to further pent-up demand amongst prospective home buyers. Such pent-up demand has also been fuelled by an overall deterioration in housing affordability of late, driven by house price increases outpacing trends in income per capita.

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\(^{13}\) Published by the Department of Housing, Planning, Community and Local Government.

\(^{14}\) Due, for instance, to potential tenant uncertainty concerning whether their landlord is a local authority, an approved housing body, or a private landlord.
Table 2: Size of the Rental Sector, 2016

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Households</td>
<td>1,697,665</td>
<td>100%</td>
</tr>
<tr>
<td>Households renting from a Private Landlord</td>
<td>309,728</td>
<td>18.2%</td>
</tr>
</tbody>
</table>

Source: Central Statistics Office, Census 2016, Statbank Table E1006

The experience in Ireland of a growing private rental sector is not unusual; a similar tenure shift has also occurred in several other developed countries in recent decades, including Australia, New Zealand and the United Kingdom.

In Census survey responses, households provided information concerning the year in which the units they reside in were built (see Table 3). A far greater proportion of households renting in the private sector appear to reside in newer stock; 35.6% of such households live in units built from 2001 onwards, as compared to 27.4% of all households. Compared to the overall household population a greater proportion of households renting in the private sector did not state the year in which the unit they live in was built, which can be plausibly attributed to a greater degree of uncertainty on that point among such households.

Table 3: All Private Households in Permanent Housing Units by Period Built, 2016

<table>
<thead>
<tr>
<th>Year Built</th>
<th>All Households %</th>
<th>Households Renting from a Private Landlord %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1919</td>
<td>8.3</td>
<td>7.4</td>
</tr>
<tr>
<td>1919 to 1945</td>
<td>6.5</td>
<td>4.2</td>
</tr>
<tr>
<td>1946 to 1960</td>
<td>7.4</td>
<td>4.1</td>
</tr>
<tr>
<td>1961 to 1970</td>
<td>6.8</td>
<td>3.8</td>
</tr>
<tr>
<td>1971 to 1980</td>
<td>12.6</td>
<td>5.8</td>
</tr>
<tr>
<td>1981 to 1990</td>
<td>10.1</td>
<td>7.1</td>
</tr>
<tr>
<td>1991 to 2000</td>
<td>14.2</td>
<td>15.1</td>
</tr>
<tr>
<td>2001 to 2010</td>
<td>25.4</td>
<td>34.6</td>
</tr>
<tr>
<td>2011 or later</td>
<td>2.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Not stated</td>
<td>6.7</td>
<td>15.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Central Statistics Office, Census 2016, Statbank Table EY040

As shown in
Figure 9, in terms of unit type, the majority of rental stock is composed of detached, semi-detached or terraced houses. In excess of a third is composed of apartments or flats, compared to a share of roughly 10% amongst owner-occupiers.

**Figure 9: Rental Stock – Type of Accommodation**

<table>
<thead>
<tr>
<th>Type of Accommodation</th>
<th>All Private Households</th>
<th>Households Renting from a Private Landlord</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>%</td>
</tr>
<tr>
<td>Detached house</td>
<td>715,133</td>
<td>42.1</td>
</tr>
<tr>
<td>Semi-detached house</td>
<td>471,948</td>
<td>27.8</td>
</tr>
<tr>
<td>Terraced house</td>
<td>284,569</td>
<td>16.8</td>
</tr>
<tr>
<td>Flat or apartment in a purpose-built block</td>
<td>172,096</td>
<td>10.1</td>
</tr>
<tr>
<td>Flat or apartment in a converted house or building</td>
<td>28,783</td>
<td>1.7</td>
</tr>
<tr>
<td>Bed-sit</td>
<td>3,266</td>
<td>0.2</td>
</tr>
<tr>
<td>Not stated</td>
<td>21,870</td>
<td>1.3</td>
</tr>
<tr>
<td>Total</td>
<td>1,697,665</td>
<td>100</td>
</tr>
</tbody>
</table>

**Source:** Central Statistics Office, Census 2016, Statbank Table E1006

The type of accommodation leased by private landlords and occupied by private households differs considerably from private aggregate housing stock, as Table 4 illustrates.
In terms of location, the stock of housing in the private rented sector is more concentrated in urban areas, relative to the owner occupation tenure. 63.7% of all households are located in the aggregate town area, while 83.3% of households renting from a private landlord are located in the aggregate town area. Therefore less than 17% of households renting live in rural areas, as opposed to approximately 36% of all households.

The median tenure share of the private rental sector across all local authorities is 15.2%. Households renting from a private landlord have a particularly strong tenure share in Galway City, at 35.5%, Dublin City, at 29.7%, and Cork City, at 26.3%. The share of the private rental tenure in the other Dublin local authorities varies somewhat; in Fingal it is 21.3%, in Dun Laoghaire-Rathdown it is 20.2% and in South Dublin it is 16.4%. The tendency to urban concentration is not universal however and certain predominantly rural local authorities, such as Westmeath, have higher private rental sector shares than urban local authorities such as Limerick or Waterford.

Profile of Landlords

In considering the taxation of the rental sector it is important to quantify the number of owners of rental units in receipt of residential rental income, and to understand the scale of rental income received. Establishing a clear picture is not straightforward. Landlords are not as readily identifiable as tenants or owner occupiers in some official data sources, such as Census data. The information collected by organisations such as the Residential Tenancies Board in respect of registered tenancies is primarily focussed on tenancies and specific residential units, as opposed to ownership of those units. Landlords are identifiable via tax returns, but returns for the years prior to 2016 did not require the separation of information on residential rental units from information on commercial rental units when declaring rental income and expenses for tax purposes. However, using data received from the RTB, Revenue were able to isolate for further analyses for the purposes of this report a sub-set of taxpayers with rental income who also have registered tenancies with the RTB. While it is likely that some of these landlords may have some element of rental income from commercial property, this dataset was the closest approximation of residential landlords available for analysis at this time.

15 Source: CSO Statbank Table E1006.
16 Source: CSO Statbank Table E1015.
17 Westmeath 18.7%; Limerick 18.0%; Waterford 15.2%.
In spite of these difficulties, it is possible to provide a partial description of an industry which notwithstanding the emergence of a tier of corporate landlords of scale, is diverse and somewhat fragmented and remains dominated by small-scale landlordism.

In 2014, the most recent year for which comprehensive data was available at the commencement of the analysis for this report, 178,467 tax units, out of a total of 2.224 million, were in receipt of Irish rental income, i.e. just over 8% of tax units subject to income tax were in receipt of rental income in 2014.

The majority of landlords in Ireland are individuals, owning one or two rental properties. Data from the RTB, set out in Table 5 below, show that almost 70% of landlords have a single tenancy, and over 91% of landlords have three or fewer tenancies. As of May 2017, the top-20 landlords – large professional landlords including corporate vehicles, Real Estate Investment Trusts (REITs), investment funds and individuals – accounted for just 2.83% of residential tenancies.

<table>
<thead>
<tr>
<th>No of Tenancies</th>
<th>Individuals</th>
<th>Companies</th>
<th>Total Landlords</th>
<th>% of Landlords</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>120,485</td>
<td>3,375</td>
<td>123,860</td>
<td>69.71%</td>
</tr>
<tr>
<td>2</td>
<td>27,677</td>
<td>898</td>
<td>28,575</td>
<td>16.08%</td>
</tr>
<tr>
<td>3</td>
<td>9,975</td>
<td>416</td>
<td>10,391</td>
<td>5.85%</td>
</tr>
<tr>
<td>4</td>
<td>4,597</td>
<td>257</td>
<td>4,854</td>
<td>2.73%</td>
</tr>
<tr>
<td>5</td>
<td>2,491</td>
<td>188</td>
<td>2,679</td>
<td>1.51%</td>
</tr>
<tr>
<td>6</td>
<td>1,563</td>
<td>163</td>
<td>1,726</td>
<td>0.97%</td>
</tr>
<tr>
<td>7</td>
<td>1,022</td>
<td>116</td>
<td>1,138</td>
<td>0.64%</td>
</tr>
<tr>
<td>8</td>
<td>677</td>
<td>82</td>
<td>759</td>
<td>0.43%</td>
</tr>
<tr>
<td>9</td>
<td>521</td>
<td>70</td>
<td>591</td>
<td>0.33%</td>
</tr>
<tr>
<td>10-20</td>
<td>1,792</td>
<td>385</td>
<td>2,177</td>
<td>1.23%</td>
</tr>
<tr>
<td>20+</td>
<td>541</td>
<td>386</td>
<td>927</td>
<td>0.52%</td>
</tr>
<tr>
<td>Total</td>
<td>171,341</td>
<td>6,336</td>
<td>177,677</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Data Source: RTB

A standard measure of the concentration of an industry is the C4 Concentration Ratio, a measure based on the sales of the largest four firms in a given industry.\(^\text{18}\) Using residential units as a proxy for sales, the C4 Ratio for the national residential rental sector is less than 2%, although this varies by area depending on the degree of corporate land holdings. Compared to many other industries,

that is very low. The C4 Ratio is lower in some rental markets in specific geographic areas, due to
the absence of larger firms, and higher in other markets, for instance parts of South Dublin, due to
the presence of corporate landlords owning considerable volumes of units.

Large Landlords and the Corporate Sector
The Residential Tenancies Board’s Register of Tenancies indicates that the largest 20 landlords, by
number of tenancies, each have in excess of 150 tenancies, with the top 5 each having 400 or
more. Within the top 20, 6 of the landlords are classed as individuals, the remaining 14 are
corporate entities including REITs and investment funds.

In recent years a small number of relatively large commercial entities have begun operations either
specialising wholly in residential rental or combining residential rental with commercial rental
operations. Several of these companies are also currently engaged in development activities,
particularly in Dublin locations. A number are REITs, established following the introduction of the
REIT framework in 2013, while others are Irish arms of established international property firms.

*Figure 10: Share of Non-Household Residential Dwelling Buyers as a Proportion of All Buyers*

![Graph showing the share of non-household residential dwelling buyers as a proportion of all buyers from 2010Q1 to 2017Q2.](data:image/png;base64,iVBORw0KGgoAAAANSUhEUgAAAIUA==)

*Data Source: Central Statistics Office, Statbank Table HPM02*
Figure 10 illustrates the growing market share of non-household purchasers of residential dwellings; that is purchasers which are not households.\textsuperscript{19} It is worth noting however that this classification of buyer, as well as private companies (REITs and investment funds), also includes transactions by State/Semi-State bodies, and charitable/religious organisations including purchases by Approved Housing Bodies. It is hoped that the CSO will publish a breakdown of non-household buyers into the above categories from Q4 2017 onwards.

Notwithstanding that the total number of rental units operated by large commercial entities is relatively small, these companies have a strong presence in certain geographic markets, and often cater for a specific higher-end market segment. The presence of this sector has been growing in recent years and seems likely to grow further, especially in certain urban rental markets.

\textit{Age Profile}

The records held by the Revenue Commissioners on individuals in receipt of taxable rental income provide some information concerning the ages of landlords and permits a comparison with other taxpayers. Figure 11 illustrates that tax cases with a rental income from residential or commercial property tend to be considerably older than the population of all tax cases. 29.2\% of all tax cases record an age of 51 or more, as compared to 58.5\% of cases with a rental income.

It should be noted however that these percentages, and Figure 11, are based on tax cases which declared their age. 11.4\% of all tax cases and 30.7\% of tax cases with a rental income did not declare an age. Individuals aged over-65 are more likely to declare their age to the Revenue Commissioners in order to claim the additional Age Tax Credit, so it is likely that a significant majority of the tax cases not declaring an age are aged under 65.

\textsuperscript{19} That is, not owner occupiers or household ‘non-occupiers’, such as households investing in buy-to-let properties. Note: The data show the number of filings, i.e. the stamp duty event reported.
Notwithstanding these limitations, the available data indicate a concentration of landlords in the age range of 30 to 70 years of age, with peak ownership of rental property occurring in landlords between 40 and 50 years of age.

**Rental Income and Tax**

Records held by the Revenue Commissioners provide information concerning the incomes, including rental incomes, of landlords, and aggregate data on this cohort of taxpayers was analysed by the Working Group. Tax records for the tax year 2014, the most recent year for which comprehensive data were available, were used for the purposes of this exercise.

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*Figures are based on returns to Revenue in respect of 2014. Rental Income includes income returned in respect of both residential and commercial properties. In the case of joint assessment, the age of the ‘self’ on the return is used. Furthermore, the percentages are based on tax cases which declared their age; note that 11.4% of all tax cases and 30.7% of tax cases with a rental income did not declare an age.*
Based on these tax returns, 2,224,048 cases\textsuperscript{21} are recorded in the 2014 Revenue Income Tax data with a total gross income\textsuperscript{22} of €84.1bn. Of these, 178,467, or just over 8\%, declared gross rental income totalling just under €4 billion. This 8\% cases reported gross income totalling €14.4bn, of which €2.1bn was net rental income (in this context, ‘gross’ income includes net rental income after deduction of allowable letting expenses). Note however, that rental income in this instance encompasses income returned in respect of both residential and commercial properties.\textsuperscript{23} Due to the structure of tax return forms for tax years prior to 2016\textsuperscript{24} it is not possible to distinguish between commercial and residential rental income. Whilst these statistics provide a reference point they are not especially useful in the absence of a clearer distinction between the commercial and rental sectors in terms of relative size and ownership patterns.

To help overcome this difficulty, the Working Group requested that the Revenue Commissioners conduct a matching exercise reconciling records held by the Residential Tenancies Board with the 2014 Income Tax data. Doing so excludes many, although not all, tax units in receipt of rental income from commercial premises.\textsuperscript{25} RTB systems are designed to register tenancies whereas Revenue systems record information from tax units, including jointly-assessed couples, therefore the two datasets do not lend themselves to direct comparison. The matched dataset includes in excess of 92,000 tax units, although it has not been possible to fully match all files. Therefore, the following information should be regarded as partial and indicative, rather than comprehensive.

Comparisons of the 2014 income tax data and the matched data permit an examination of the decile shares, that is the share of total income going to those in the bottom 10\%, the next 10\%, etc. of tax units. Deciles are shown in Table 6, for all cases and for matched landlords. Note that gross income is income before tax, and that it includes net rental income after deduction of allowable letting expenses. Note also that the ‘Matched Landlords’ category is a subset of ‘All

\textsuperscript{21}A case is a tax unit; married persons or civil partners who have elected or who have been deemed to have elected for joint assessment are counted as one tax unit. As such, cases may represent two taxpayers and several incomes, but count as one tax unit.

\textsuperscript{22} Gross income is income before adjustments are made in respect of capital allowances, interest paid, losses, allowable expenses or retirement annuities but after deduction of superannuation contributions by employees. Gross income includes certain income belonging to individuals whose total income is below the exemption limits. It does not include any income which is not income for tax purposes or which is exempt from tax. Note that gross income includes net rental income after deduction of allowable letting expenses.

\textsuperscript{23} Note that this data relates specifically to rental income received by individuals and does not include, for example, rents received by companies.

\textsuperscript{24} The Revenue Commissioners have since introduced form fields to disaggregate residential and commercial rental income.

\textsuperscript{25} Presumably some landlords have mixed property portfolios including residential and commercial rental assets.
The first point is that the relative shares of the ‘All Cases’ and ‘Matched Landlords’ deciles are quite similar throughout each distribution; the bottom deciles had shares of 0.5% and 0.7% while the top deciles had shares of 34.9% and 37.7% respectively. However, whilst the decile shares might be similar, the ranges within each decile are not. The ‘Matched Landlords’ have a considerably higher income within each decile; the midpoint within each decile is at least twice that found among ‘All Cases’. Put another way, landlords tend to have higher incomes than non-landlords, however it is not the case that all landlords have high incomes.

Table 6: Decile Comparison of Gross Income for All Cases and Matched Landlords, 2014

<table>
<thead>
<tr>
<th>Decile</th>
<th>All Cases</th>
<th></th>
<th></th>
<th>Matched Landlords</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gross Income Range, €k</td>
<td>Income Share, %</td>
<td></td>
<td>Gross Income Range, €k</td>
<td>Income Share, %</td>
</tr>
<tr>
<td>Bottom</td>
<td>0–4.6</td>
<td>0.5</td>
<td></td>
<td>0 – 13.3</td>
<td>0.7</td>
</tr>
<tr>
<td>2</td>
<td>4.6 – 10.8</td>
<td>2.1</td>
<td></td>
<td>13.3 – 29.1</td>
<td>2.4</td>
</tr>
<tr>
<td>3</td>
<td>10.8 – 16.5</td>
<td>3.6</td>
<td></td>
<td>29.1 – 41.0</td>
<td>3.9</td>
</tr>
<tr>
<td>4</td>
<td>16.5 – 21.7</td>
<td>5.0</td>
<td></td>
<td>41.0 – 52.4</td>
<td>5.1</td>
</tr>
<tr>
<td>5</td>
<td>21.7 – 27.4</td>
<td>6.5</td>
<td></td>
<td>52.4 – 64.2</td>
<td>6.4</td>
</tr>
<tr>
<td>6</td>
<td>27.4 – 33.8</td>
<td>8.1</td>
<td></td>
<td>64.2 – 77.5</td>
<td>7.7</td>
</tr>
<tr>
<td>7</td>
<td>33.8 – 42.0</td>
<td>10.0</td>
<td></td>
<td>77.5 – 94.2</td>
<td>9.4</td>
</tr>
<tr>
<td>8</td>
<td>42.0 – 53.9</td>
<td>12.6</td>
<td></td>
<td>94.2 – 118.4</td>
<td>11.5</td>
</tr>
<tr>
<td>9</td>
<td>53.9 – 75.8</td>
<td>16.8</td>
<td></td>
<td>118.4 – 171.3</td>
<td>15.4</td>
</tr>
<tr>
<td>Top</td>
<td>Over 75.8</td>
<td>34.9</td>
<td></td>
<td>Over 171.3</td>
<td>37.7</td>
</tr>
</tbody>
</table>

Data Source: Revenue Income Tax IDS

The following boxplots graphically depict the income distributions of 2014 tax cases. Note that due to the application of the Revenue Commissioners’ Statistical Disclosure Controls the distributional graphics are based on aggregated data and therefore the distributions should be regarded as stylised and approximate.

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26 Each box represents the interquartile range, the white line within the box represents the median. 50% of the observations of any given year lie within this box. The whiskers, which are the horizontal lines extending either side of the boxes end with lines known as fences; the upper fences is the highest observation less than or equal to the third quartile plus 1.5 times the interquartile range. The lower fence is similarly calculated by reference to the first quartile. Outliers have been omitted. Outliers, for the purposes of the boxplots presented in this Chapter, are defined as observations lying outside of the interquartile range and which are less than or equal to the first quartile minus 1.5 times the interquartile range, or greater than or equal to the third quartile plus 1.5 times the interquartile range.
Figure 12 depicts the gross income distribution of all tax cases in 2014. Median income is below €30,000 and the distribution extends to below €90,000.

**Figure 12: Income Distribution of Gross Income 2014 for All Cases**

As illustrated in Table 6, the gross incomes of matched landlords tend to be considerably higher than those found among all tax cases in 2014. Figure 13 depicts net rental income received by the matched 92,000 landlords in 2014. Net Rental Income is rental income after expenses (used) but before tax and before capital allowances and losses brought forward. For ease of comparison, the axes of Figure 12 and Figure 13 are scaled identically.

Figure 13 indicates that the higher incomes among matched landlords are not primarily a result of income arising from residential rental property; net rental income received by matched landlords in 2014 is a small proportion of the gross income received by matched landlords. Put another way, residential landlords tend to have higher incomes than other income tax payers independent of their rental income received.

**Figure 13: Income Distribution of Net Rental Income 2014 for All Matched Landlords**
Analysis of the tax returns of the cohort of matched landlords also provides some further insight into the rental income and other income earned by residential landlords.

- When split into deciles by net rental income, the first decile (i.e. the lowest 10%) has average net rental income of €940 per year, and the top decile has average net rental income of €83,450 per year.

- The distribution of landlords by average gross income (which includes net rental income after deduction of allowable letting expenses) ranges from an average of €5,964 in the first decile to an average of €344,225 in the tenth decile, with an average gross income across all deciles of over €90,000 (see Figure 14).

- When distributed by net rental income (see Figure 15), it can be seen that the average gross income of landlords in the first 7 deciles of net rental income is quite steady, ranging from c. €66,800 to c. €86,200. This would suggest that there is no particular correlation of low average rental profits with lower average gross income – i.e. profitable rental properties seem to be spread across landlords of varying gross incomes.
Figure 14: Gross Income and Net Rental Income of Landlords: Gross Income

Data Source: Revenue Income Tax IDS

Figure 15: Gross Income and Net Rental Income of Landlords: Net Rental Income

Data Source: Revenue Income Tax IDS
Rental Expenses

Revenue records for the 178,467 individual landlords declaring rental income (both commercial and residential) in 2014 show that just under 10% of landlords (17,592 tax cases) were loss-making under current expense deduction rules which, in 2014, allowed a deduction for 75% of qualifying mortgage interest. Over 37% of landlords had taxable rental profits of between €1 and €5,000 – it could be speculated that this would include some landlords who would have had no taxable rental profit if full interest deductibility had been available in that year, and over 82.5% of landlords have profits of less than €15,000 (including loss-making landlords). In general mortgaged landlords would, in addition, be making capital repayments on their mortgage borrowings, and deduction for such capital repayments is not available against rental income.

Analysis of the tax returns of the cohort of matched landlords also provides some further insight into the rental expenses incurred by residential landlords. These are detailed in summary form under the following categories: repairs; allowable interest; Section 23-type relief; exempt income from leasing of farmland; other. Capital allowances and rental losses carried forward are also itemised. Analysis of these records shows that:

- Just over 70% claimed interest expense deductions – this accords with the responses to the 2014 DKM survey of landlords referenced below.
- 76% claimed deductions for repairs, 56% claimed wear & tear allowances, and 12% claimed relief for losses carried forward.

Figure 16: Percentage of Landlords Claiming Expense Deductions 2014

Data Source: Revenue Income Tax IDS

![Figure 16: Percentage of Landlords Claiming Expense Deductions 2014](image-url)
2014 Survey of Landlords

Although some time has passed since its completion, the most recent large survey of landlords was conducted in June 2014 on behalf of the Residential Tenancies Board. A random sample of landlords drawn from the Residential Tenancies Board’s register of landlords was used; 400 interviews were completed.

Given the somewhat small sample size and the passage of time since the survey was undertaken, these results should be interpreted with a degree of caution, however they do provide valuable insights.

The principal findings of the survey were that:

- 61% of landlords interviewed were male, 39% were female. Most landlords are married or in a long-term relationship, only 10% are single;
- With regard to socio-economic group, the B and C1 categories (corresponding to the middle and lower-middle demographic classifications, respectively) accounted for 51% of responses. Landlords in social class E, whose main income source are social welfare payments, accounted for 14% of respondents;
- The average age of a landlord was 52 years. 23% were aged between 35 and 44 years, 32% between 45 and 54 years, 23% between 55 and 64 years, and 16% aged 65 years or more;
- On average respondents had been landlords for close to 9 years. Two thirds of landlords were “longer-term” landlords, having been a landlord for over 5 years. One in five respondents had been a landlord for more than 10 years. Just over a third of landlords had been so for less than 5 years;
- 65% of landlords owned one property. A further 17% owned two properties and 9% owned three properties. 10% of landlords owned more than three properties. 91% of landlords indicated they had not changed the number of properties that they owned over the preceding 3 years;
- 80% of landlords were responsible for their properties themselves, 14% used a property letting company and 6% used a property management company;
- As regards motivation to become a landlord, 39% of respondents stated that they considered property to be a good investment, including for additional income and to provide income during retirement, and 8% bought a property for future use by children.
• 36% of landlords were described as ‘accidental’, that is people who did not make a positive decision to become landlords. Of this cohort, 82% have one property available to rent. The majority of ‘accidental’ landlords had been landlords for 5 years or less;
• 70% of landlords indicated that they had an outstanding debt on the rental property; and,
• Of those landlords with an outstanding debt, 71% stated that the rental income they received did not cover the mortgage or loan repayments.27 6% stated that rental income exceeded debt repayments.
• In terms of future plans, at the time of the survey some 62% stated that they intended to remain as landlords, while 29% stated they intended to sell their properties as soon as circumstances permitted.

**Financing and Buy to Lets**
This section reviews mortgage-based lending to landlords. Banking and Payments Federation Ireland (BPFI) issue monthly statistics on mortgage approvals and drawdowns. By definition, these figures exclude transactions funded through non-mortgage based means.28 However as gross lending data reportedly covers roughly 90% of the mortgage market across each of the customer sectors, it provides a useful description of credit market dynamics within the property sector.

Several types of property-related lending are tracked by BPFI, including the residential investment letting (RIL) category, composed of mortgage loans issued for the purchase of residential investment properties or holiday homes. With regard to mortgage approvals, the RIL proportion of the total value of approvals29 has fallen from 4.0% in September 2014 to 3.2% in February 2017.30

The BPFI also provides data on mortgage drawdowns, which provide a more direct indication of investment activity in rental property than mortgage approval data. Figure 17 illustrates the very considerable decline in RIL lending, both in absolute terms and as a proportion of overall lending.

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27 Note that an income tax liability could still arise where rent received does not cover loan repayments as loan repayments generally include both interest and capital elements.
28 The BPFI data relates to loans approved by BPFI member institutions which are secured by a mortgage on residential Irish property. Therefore cash transactions are not captured, nor are loans issued by non-BPFI sources.
29 The other categories being first-time-buyer, mover, re-mortgage and mortgage top-up.
30 Data unavailable prior to September 2014. A 3-month rolling average is applied by the BPFI.
Total RIL lending peaked at €2.2bn in Q2 2006, falling by over a third to €1.4bn by Q2 of 2008. Lending levels collapsed to €50m by Q2 of 2010, reaching a low of just €11m in Q1 of 2013, and has remained negligible ever since. Of the total lending to all purchasers, the RIL component accounted for 32.4% of credit drawn down by purchasers in Q1 of 2008, with this share declining steeply to 4.9% in Q1 of 2010. RIL lending has remained at 4.0% or less of total lending drawn down since Q3 2012.

Figure 17: Quarterly Residential Investment Lending Volumes, Credit Drawdowns 2005 to 2017

Data Source: Working Group’s calculations based on data supplied by the Banking and Payments Federation Ireland.

Notwithstanding that many purchasers of buy-to-let properties are not credit dependent, that some buy-to-let borrowing may be misclassified as other types of lending and that further financing may originate from non-bank sources, it is clear from this data that a structural break in investment into RIL property occurred in 2008. Causal interpretation, however, is not entirely straightforward. The decline in lending may be due, on the one hand, to an inability or unwillingness on the part of financial institutions to expand the availability of credit to buy-to-let investors, and, on the other hand, to reduced demand from potential investors and holiday-home purchasers. It is likely to be a combination of the two, however given rental market price

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31 i.e. RIL purchasers, first-time buyers and mover-buyers
32 The Working Group wishes to express its gratitude to BPFI for providing access to this dataset.
movements in recent years it seems plausible that a general reluctance may exist on the part of the banking system to greatly expand RIL credit provision. The relatively more restrictive macro-prudential lending rules applied by the Central Bank to the buy-to-let cohort\textsuperscript{33} are also likely to have had a bearing.

**Buy-to-Let Mortgage Profile\textsuperscript{34}\textsuperscript{35}\textsuperscript{36}**

In terms of indebtedness experienced by the mortgage holding cohort of landlords, at end-December 2016 there were 130,710 residential mortgage accounts for buy-to-let (BTL) properties, with a combined value\textsuperscript{35} of €24.04bn. These represent, in value terms, 19.4% of overall mortgage lending outstanding. Since June 2012 the number of BTL accounts outstanding fell by 13.0% in terms of their number and by 23.1% in terms of their value.

*Figure 18: Balance of Loan Accounts Outstanding for Principal Dwelling Home and Buy-to-Let Loans, June 2012 to December 2016*

**Figure 18: Balance of Loan Accounts Outstanding for Principal Dwelling Home and Buy-to-Let Loans, June 2012 to December 2016**

![Balance of Loan Accounts Outstanding for Principal Dwelling Home and Buy-to-Let Loans](image)

**Data Source:** Working Group’s calculations based on Central Bank of Ireland’s Residential Mortgage Arrears and Repossession Statistics Data Release Q4 2016

\textsuperscript{33} Buy to let investors are subject to a 70% Loan-to-Value limit under Central Bank residential mortgage lending requirements.

\textsuperscript{34} Source: Central Bank of Ireland’s Residential Mortgage and Repossession Statistics Date Release, Q4 2016.

\textsuperscript{35} i.e. the outstanding mortgage.
Figure 18 shows that the trend since June 2012 is consistent with deleveraging underway by a wide range of economic actors, including households, since the onset of the 2008 economic contraction. Note however that the decline in the aggregate balance outstanding of BTL mortgages since June 2012 is steeper than that for Principal Dwelling Home (PDH) mortgages, a 23.1% fall as compared to an 11.1% fall in the value outstanding of PDH mortgage accounts over the same period.

**Arrears**

In terms of the servicing capacity of landlords holding these BTL mortgages, some 25,218 accounts were in arrears as of December 2016, having fallen 38% from peak levels. On a value basis, 19.3% of BTL accounts were in arrears, with a value\(^ {36}\) of €6.64bn, with 10.7% of these in arrears for 720 days or more.

Despite sustained rental market price inflation which, as outlined earlier in this report, has seen rent prices increase to near or above previous peak levels, these arrears reached their highest level outstanding, in value terms, in September of 2016, before improving marginally in December 2016. The Central Bank has expressed concern that despite improvements over the past 2 years, the stock of arrears in BTL portfolios is significant with approximately 1 in 6 BTL accounts in arrears over 90 days.\(^ {37}\)

Persistent, worsening arrears of many BTL mortgage accounts will require an ongoing focus on resolution; the Central Bank, the government and the banking system have been working to reduce arrears by providing options to restructure mortgage accounts, particularly for principal dwelling homes. However, BTL mortgages are not covered by the Code of Conduct on Mortgage Arrears unless the property is the borrower’s only residential property in the Irish state.

Table 7 compares some of the arrears metrics relevant to the PDH and BTL sectors of the mortgage market. It is evident that the arrears challenge is more severe in the BTL sector. Added to this, many PDH mortgages which initially pertained to owner occupied properties may now relate to the rental market, without a re-classification in mortgage origination, as owners may for example

\(^ {36}\) The value of arrears is the amount outstanding plus arrears, accrued interest, unpaid fees and legal costs (where added to the balance), as reported in the Central Bank of Ireland’s Residential Mortgage and Repossession Statistics Date Release.

have moved for reasons such as migration, changing household composition, financial stress etc. Consequently, it is difficult to gauge the exact extent of indebtedness in the rental sector, with the BTL statistics representing a likely lower bound. It may be the case that some of the PDH mortgage accounts in arrears are currently occupied by renting households.

Table 7 Mortgage Arrears in the Principal Dwelling Home and Buy-to-Let Sectors, December 2016

<table>
<thead>
<tr>
<th></th>
<th>Principal Dwelling Home</th>
<th>Buy-to-Let</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Loans</td>
<td>736,894</td>
<td>130,710</td>
</tr>
<tr>
<td>In Arrears</td>
<td>82,092</td>
<td>25,218</td>
</tr>
<tr>
<td>% in Arrears</td>
<td>10.5%</td>
<td>19.3%</td>
</tr>
<tr>
<td>In arrears over 720 days</td>
<td>33,447</td>
<td>14,028</td>
</tr>
<tr>
<td>% in arrears over 720 days</td>
<td>4.7%</td>
<td>10.7%</td>
</tr>
</tbody>
</table>

Data Source: Central Bank of Ireland’s Residential Mortgage Arrears and Repossession Statistics Data Release Q4 2016

There is a concern that arrears developments in both the PDH and BTL sectors have the potential to impact on rental markets resulting in units being removed from the rental market if sold or left vacant during periods of arbitration.

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Note that Census 2016 records 535,675 households as being ‘owner occupied with loan or mortgage’ on April 24 2016. The Central Bank information from the financial institutions states a total of 743,700 residential mortgage loan accounts outstanding at the end of Q1 2016.
5. Current tax treatment of landlords

Key Points:

- Rental income, after deduction of allowable letting expenses is subject to tax as part of the total taxable income of the landlord.
- Individual landlords are subject to income tax, including USC and PRSI where appropriate. Corporate landlords are liable to corporation tax, including the close company surcharge where appropriate. Specific rules apply to other entities such as REITs and funds.
- Revenue expenses incurred in connection with the letting are generally deductible and wear & tear allowances are allowed for furnishings and fittings. In general no deduction against rental income is allowed for the capital cost of the property.
- Mortgage interest deductibility is currently restricted to 80% but is increasing incrementally by 5 percentage points per year, with full restoration due from 2021.
- The tax treatment of rental income is slightly more restrictive in some ways than the treatment of active self-employment income. However it is more generous than the treatment of other forms of investment income.

One of the tasks assigned to the Working Group was to examine the current tax treatment of landlords. A clear understanding of the provisions currently applying to landlords is required before options for amendments to that treatment can be considered.

This section therefore sets out the basis of taxation for landlords in receipt of rental income from Irish property. It details the tax treatment applying to different types of landlord, the manner in which rental profits are calculated and the allowable expenses which can be deducted. For the purposes of comparison, this section also sets out the tax treatment applying to other sources of employment and investment income, together with some worked examples. It should be noted that the examples are generated for illustrative purposes only, using generic figures for the purposes of comparison, and should not be interpreted as representative of any particular sector or investment product.
Rental Income:

For tax purposes, rental income is the net income of property owners arising from the occupation or use of the property by others. Sources from which rental income may be derived include:

- the letting or rental of residential, commercial or agricultural property (in Ireland or elsewhere);
- easements, that is a right of use of the property of others;
- the granting of sporting rights and permits, and,
- insurance payments received to compensate for non-payment of rent.

Rental income earned by an Irish resident from a property situated in the State is taxable under Case V of Schedule D\textsuperscript{39} of the Taxes Consolidation Act 1997. This basis of taxation makes no distinction between rental income from property let for residential occupation and property let for commercial occupation.

Prior to 2016 the Return of Income which self-assessed taxpayers are obliged to file included a single field for the return of rental income taxable under Case V. The Tax Return and Self-Assessment Form 11 for the tax year 2016 will, for the first time, require separate returns of rental income from residential property and commercial property. For 2016 and later years it will be possible to identify how much of rental income returned derives from residential property.

While the same computational rules to calculate taxable rental income are generally applied to both individuals and companies, income earned by individuals from the letting of domestic and foreign residential or commercial property is taxable under self-assessment income tax, while rental income earned by companies is assessable under self-assessed corporation tax.\textsuperscript{40}

Rates of Tax

Income tax is an annual tax charged on income in respect of all profits or gains in the nature of income. The sources of income that are chargeable to income tax are detailed in the Income Tax Acts and are split into Schedules and Cases, where each has its own rules for calculating the amount of income liable to income tax.

\textsuperscript{39} S 18 TCA 1997
\textsuperscript{40} S 75 TCA 1997
The total taxable income calculated under each Case and Schedule is generally added together and then charged to income tax. The current rates applying to income tax are the ‘standard rate’ of 20% and a higher rate of 40% on that part of a taxpayer’s taxable income for a tax year which exceeds the ‘standard rate band’. PRSI and USC may also be chargeable.

Case V income of companies is chargeable to corporation tax at 25% and a further 20% “close company surcharge” may also apply where the rental profits are held within the company. “Close companies” are closely owned companies, that is, companies controlled by five or fewer participators or by participators who are directors, whatever the number. In the case of close companies a surcharge applies to the undistributed rental income (referred to as “estate income”), for an accounting period. A close company must distribute its estate or investment income to its participators in the accounting period in which the income is earned or be liable for a surcharge of 20% on the amount not so distributed. As distributions are taxed at the marginal income tax rate of the individual recipient (i.e. the company shareholder) this measure acts to prevent rental profits being accumulated in close companies thereby avoiding the higher rate of income tax.

**Computational Rules and Deductible Expenses**

Owners of rental properties are entitled to claim deductions and reliefs from gross rents for various expenses relating to their rental property. The computational rules and expenses that may be allowed as deductions against gross rent are specified in Section 97 of TCA 1997. A surplus (profit) or a deficiency (loss) must be calculated separately for each rental source. The total Schedule D Case V income arising in the year is then arrived at as the aggregate of all the surpluses as reduced by the aggregate of all the deficiencies.

The specific rules regarding the computation of rental income are set out in Section 97, and include a number of over-riding principles that apply in determining deductibility of letting expenses:

- Broadly speaking, deductible expenditure is only allowable to the extent that it is actually incurred by the landlord during the currency of the lease.

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41 There are different standard rate bands for single persons, single parents and married couples/civil partners who are jointly assessed as set out in S 15 TCA 1997
42 S 21A(3)(a) TCA 1997
43 Essentially any person who has or is entitled to acquire share capital or voting rights in the company : S 443 (1) TCA 1997
44 S 440 TCA 1997.
45 S97(1) TCA 1997
• As with trading expenses, to be allowed as a deduction the expense must be incurred wholly and exclusively for the purpose of earning the rent and must be of a revenue and not of a capital nature.

• Pre-letting expenses, with the exception of auctioneers letting fees, advertising fees and legal expenses incurred on first letting, are not deductible in principle as they are not an expense incurred in the period in which the rent is earned; in the pre-letting period there is no income against which they can be set.

• Landlords may not claim a deduction for their own labour in the management of premises. The cost of travelling between let premises for the purposes of managing the premises is an allowable deduction, and in practice actual cost of travel to a let premises from home is deductible provided the journey is wholly and exclusively for the purpose of managing the premises.

The following are examples of permissible deductions which can be claimed in calculating taxable rental income:

• Any rent payable in respect of the premises;
• General repairs & maintenance (capital expenditure excluded);
• Insurance and management fees;
• Rates;
• Service Charges;
• Accountancy Fees;
• Mortgage Protection policy premiums relating to the rental property;
• Interest on loans used to purchase, improve or repair a property, subject to the limitations set out below.

For residential properties deductibility of mortgage interest is conditional on the registration of all tenancies in the premises with the Residential Tenancies Board (RTB). With effect from 2009 the deduction for mortgage interest relating to residential rental property was limited to 75% of qualifying interest. In Budget 2017 the phased restoration of full interest deductibility was announced. The allowable deduction has increased to 80% in 2017, and Finance Bill 2016 provided that the deductible percentage will continue to increase incrementally by 5 percentage points per year, with full deductibility scheduled to apply from 2021.

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46 S 97(2J) TCA 1997
47 S 97(2J) TCA 1997
An incentive allowing increased interest deductibility to landlords of social housing tenants was introduced in Finance Act 2015 and came into operation from 1 January 2016. The incentive allows an increase to 100% interest deductibility where the landlord registers a commitment to let the property to tenants in receipt of social housing supports for a minimum period of 3 years. Relief for the additional deductions is granted by way of a claim to Revenue after the end of the 3-year period, subject to the qualifying conditions having been met. As discussed elsewhere in this report, uptake of this incentive to date has been low.

**Capital Allowances – Furniture and Fittings**

Capital expenditure is specifically excluded as a deductible expense when calculating taxable rental income, but wear and tear allowances are available to landlords in respect of expenditure on furniture and fittings incurred by a landlord on a rental property which is let furnished. The rate of the wear and tear allowance is 12.5% a year for eight years. The expense deduction is spread over a number of years as it relates to assets which have an expected useful life of more than one year. This is similar to the deduction which applies in respect of plant and machinery purchased by a sole trader for the purposes of his/her trade.

In circumstances where the taxpayer has incurred a loss following deduction of expenses and capital allowances from gross rental income, the unused capital allowances may be carried forward to offset against tax on rental income only in future years.

**Rental Losses**

A Schedule D Case V rental loss occurs if the aggregate of the rent deficiencies arising in any year of assessment exceeds the aggregate of the surpluses in the same year. Any surplus or deficiency from an uneconomic letting is excluded, that is to say, a case in which the rent reserved under a lease is insufficient, taking one year with another, to defray the cost to the lessor of meeting the expenses of maintaining and managing the premises.

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48 S 97(2K) TCA 1997
49 S 284 TCA 1997, the same rate is in force for assets used for a Case 1 trade (other than taxis and motor vehicles).
50 S 406 TCA 1997
51 S 75(4) TCA 1997
A Schedule D Case V loss can be carried forward and set off against Schedule D Case V income arising for the next subsequent year, and thereafter against the Schedule D Case V income for the following years\textsuperscript{52}. There is no time limit and any unrelieved Schedule D Case V loss can be carried forward indefinitely. Unlike with trading losses the carry forward does not cease if there is a cessation of Schedule D Case V source income followed by a resumption of Schedule D Case V income in some later year\textsuperscript{53}.

**Rent-a-Room Relief**

The Rent-a-Room scheme was introduced in Finance Act 2001 as an incentive to encourage individuals to let rooms in their principal private residence in order to bring about an increase in the availability of rental accommodation, particularly for the student sector. The scheme provides an exemption from Income Tax, PRSI and USC on rent received where a person rents out a room or rooms in his or her principal private residence and the rent received, including amounts paid for meals and any other services provided in connection with the letting, does not exceed €14,000 per year from 1 January 2017. This was increased from €12,000 in Budget 2016\textsuperscript{54}. In 2015, there were 6,460 claims under Rent-a-Room with a cost of €6.9 million\textsuperscript{55}.

In establishing whether the income arising in respect of residential accommodation and ancillary services exceeds the exempt limit, the gross amount of that income is taken into account, before deduction of any expenses incurred in connection with obtaining the income. Where the gross income exceeds the exemption limit the Rent-a-Room relief cannot be claimed and taxable rental profits must be computed in respect of the full gross income in the normal manner, not just on the amount that exceeds the exemption limit.

In order to qualify for the exemption, it is necessary for the residential premises to be situated in the State and occupied by the individual as his or her sole or main residence during the tax year. The relief only applies to individuals. It does not apply to companies or partnerships. It also does not apply to income from the carrying on of a trade, such as the trade of operating a Bed &

\textsuperscript{52} S 384 (2) TCA 1997  
\textsuperscript{53} S 384(3) TCA 1997  
\textsuperscript{54} It had been €10,000 from 2008 and prior to that the threshold was €7,620 from 2002.  
Breakfast (B&B). In addition, an individual cannot avail of the relief in respect of payments for accommodation in the family home by a child of the individual. There is no restriction where rent is paid by other family members, for example, nieces or nephews.\(^{56}\)

It is not possible to claim Rent-a-Room relief in respect of income from the letting of an entire residence because the room or rooms that are let must form part of a residence occupied by the individual receiving the rent as his or her sole or main residence.

The tax exemption for income received under the Rent-a-Room scheme does not remove the obligation to make a return.\(^ {57}\) Self-assessed taxpayers are obliged to submit an annual Return of Income and the exempt income should be included in the Return. Taxpayers who have income to which the rent a room relief exemption applies and whose only other source of income is employment income taxed under PAYE must also file an income tax Return. In that case filing a Form 12 return which includes the exempt income meets the requirement.

Where a room in a house is let under the rent-a-room relief it is not subject to the Residential Tenancies Act as the room is occupied under a licence agreement rather than a tenancy agreement. This means that the rights and obligations applying to landlords and tenants under the RTA do not apply to such lettings.

The Union of Students in Ireland, with support from the Department of Education and Skills, ran the #homesforstudy campaign in 2016 which resulted in 2,478 students taking up “digs” accommodation in private family homes by the end September 2016\(^ {58}\) which is the type of accommodation that is targeted by the Rent-a-Room scheme. It is stated in the recently published National Student Accommodation Strategy\(^ {59}\) that the Department of Education aims to increase the number of students taking up digs accommodation to around 4,000 per year by 2019 which would be an increase of 1,500 per annum compared to 2016.
Capital Gains on Disposal of Property

Capital Gains Tax (CGT), currently at the rate of 33%, is chargeable on the gain arising on assets sold, including the sale of a property operated as a rented residential property by a landlord. The gain liable to CGT is the difference between the sale proceeds and the aggregate of the cost of the asset, plus the acquisition and disposal costs and any enhancement expenditure incurred during the period of ownership\textsuperscript{60}.

By contrast an owner-occupier is not generally liable to CGT on the disposal of their Principal Private Residence. The disposal of a property (a house, apartment, etc.) which was occupied by the taxpayer or by a dependent relative of the taxpayer as a sole or main residence does not give rise to a chargeable gain. Restrictions may apply where the property was not fully occupied as a main residence throughout the period of ownership or where the sale price reflects development value\textsuperscript{61}. Availing of the Rent-a-Room relief does not affect an individual’s full entitlement to this CGT exemption on the subsequent disposal of the property.\textsuperscript{62}

IREFs and the taxation of IREF unit-holders

Irish Real Estate Funds (IREFs)\textsuperscript{63} are investment vehicles regulated by the Central Bank of Ireland (CBI). Investor protection is provided by the CBI regulation, and IREFs can be regulated as suitable for either wholesale or retail investors.

As a fund, IREFs are taxed under the gross roll-up basis meaning that tax arises only at the investor level upon the unit holder receiving a distribution from the fund. Prior to 1 January 2017 Irish funds operated a 41% exit tax on payments to Irish individuals while no exit tax was operated on payments to non-resident investors. From 1 January 2017 a new IREF withholding tax of 20% applies on distributions to non-resident investors. Non-resident investors who hold less than 10% of the units in an IREF may be entitled to a refund of some or all of the IREF withholding tax under a double tax agreement.

\begin{itemize}
\item \textsuperscript{60} S 28 TCA 1997
\item \textsuperscript{61} S 604 TCA 1997
\item \textsuperscript{62} S 216A(8) TCA 1997
\item \textsuperscript{63} Chapter 1B Part 27 TCA 1997
\end{itemize}
IREF withholding tax will not apply to any capital gains distributed to non-residents provided the fund held the property for 5 years prior to its sale. There are certain anti-avoidance rules to prevent the IREF being under the control of a small number of unit holders.

**REITs and Taxation of REIT Shareholders**

Real Estate Investment Trusts (REITs)\(^{64}\) are widely held, publicly quoted companies whose income is derived from the rental of commercial and/or residential property. The REIT framework is recognised internationally - REITs originated in the USA in the 1960s and aspects of the REIT model have now spread to over 35 countries worldwide, including the majority of the world’s developed investment jurisdictions. The overarching objective of the REIT system of taxation is to remove a double layer of taxation which typically discourages collective investment in property through a company and tends to result in individual investors holding highly-mortgaged properties. This can expose investors to significant risk in times of falling equity and falling rental returns.

As set out above, when individuals invest directly in property they are subject to income tax on their rental profits and capital gains tax on sales proceeds. Where the individual invests through a company, the company must pay corporation tax on rental profits and gains and then subsequently, when the company’s after-tax profits are paid out to the investors as dividends, income tax is then payable on the dividends received (i.e. on the profits which have already been subject to corporation tax). By removing this double layer of taxation, the REIT investor should get broadly the same after-tax return from a REIT investment as if they had invested directly in property. REITs also have significant benefits for small retail investors as compared to direct property investment, such as low entry cost, risk diversification, liquidity, and access to returns from investment grade commercial property. The costs and governance requirements associated with stock market listing mean that REITs are typically large in scale – the three REITs listed to date in Ireland have market capitalisations ranging from €565 million to €1 billion (in August 2017).

REITs are not chargeable to either corporation tax in respect of income from their property rental business or chargeable gains accruing on disposal of assets of their property rental business, provided certain strict conditions are met, including a requirement to distribute 85 per cent of property income by way of property income dividend. For investor protection purposes, there is a

\(^{64}\) Part 25A TCA 1997
financing cost ratio that must be adhered to and a requirement that the REIT hold at least three properties, with no one property making up more than 40% of the market value of the properties.

All investors will suffer Dividend Withholding Tax (DWT) at 20% on distributions from a REIT. Non-resident investors who hold less than 10% of the shares in the REIT may be entitled to a refund of some or all of their DWT under a double tax agreement. Irish resident individuals are taxable on the distribution received at their marginal rate with credit for the DWT suffered.

Where a REIT develops a property it must rent out that property for a period of at least three years before any sale, or corporation tax at 25% will be chargeable on the profits on disposal.

**Figure 19: Worked Example: Taxation of REIT Profits**

<table>
<thead>
<tr>
<th>Income within REIT</th>
<th>€</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental income</td>
<td>800,000</td>
</tr>
<tr>
<td>Rental expenses</td>
<td>500,000</td>
</tr>
<tr>
<td>Net rental profit</td>
<td>300,000</td>
</tr>
</tbody>
</table>

| Tax payable within REIT | Nil |

<table>
<thead>
<tr>
<th>Distribution of €300,000 profits</th>
<th>REIT</th>
<th>Shareholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory minimum distribution (85%)</td>
<td>-</td>
<td>255,000</td>
</tr>
<tr>
<td>Maximum profit that can be retained within REIT</td>
<td>45,000</td>
<td>-</td>
</tr>
<tr>
<td>Dividend withholding tax</td>
<td></td>
<td>(51,000)</td>
</tr>
<tr>
<td>Net cash distribution to shareholders</td>
<td></td>
<td>204,000</td>
</tr>
<tr>
<td>Balance of tax payable (see below)</td>
<td></td>
<td>(73,950)</td>
</tr>
<tr>
<td>Net return to shareholders</td>
<td></td>
<td>130,050</td>
</tr>
</tbody>
</table>

**Taxation of Irish shareholders***

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross dividend</td>
<td>255,000</td>
</tr>
<tr>
<td>Total Tax, USC and PRSI payable (49%)</td>
<td>124,950</td>
</tr>
<tr>
<td>Less: Dividend Withholding Tax</td>
<td>(51,000)</td>
</tr>
<tr>
<td>Balance of tax due</td>
<td>73,950</td>
</tr>
</tbody>
</table>

**Taxation of non-resident shareholders**
The taxation of non-resident shareholders will be determined by their country of tax residence. Shareholders resident in a tax treaty partner country who hold less than 10% of the shares in the REIT may be entitled to a refund of some or all of their DWT under a double tax agreement.

*Assuming all income liable to 40% income tax, 5% USC and 4% PRSI
Comparison to other employment/investments

A number of the responses to the public consultation conducted by the Working Group compared the tax treatment of rental income to the tax treatment of other income sources, or to the reliefs given to other forms of investment. In order to aid this comparison, the following section sets out the tax treatment of the various income sources and investments in further detail, together with some information on relevant policy considerations.

Income from a Trade or Profession

Some submissions to the public consultation compared the operation of a rental property to a trade or employment and suggested that the comparative tax treatment was unfavourable to landlords. Rental income is viewed for tax purposes as ‘passive’ investment income, whereas a trade or profession is regarded as an ‘active’ income source.

Income from a trade (or profession) is subject to Income Tax under Case I (Case II) of Schedule D. Similar to the calculation of taxable Case V rental income, certain expenses are deductible from total trading income in calculating taxable Case I income. To be deductible expenditure must be incurred wholly and exclusively for the purposes of the trade, and not capital in nature.

In respect of property in use for a trade, such as a shop or pub, interest on money borrowed to acquire or repair the premises is allowable as a tax deduction against trade income, subject to the prohibition against the deduction of capital expenditure. For example, where a mortgage is taken out to purchase the property, a deduction may be claimed for mortgage interest paid but not for the capital element of the mortgage repayment.

Capital allowances relating to the purchase or construction of a property are only available in respect of capital expenditure incurred on the construction of certain buildings or structures that are ‘industrial buildings’ occupied for the purposes of a specific type of trade, such as a mill, factory, dock, airport runway, market garden etc. The majority of buildings used in a trade, such as offices or shops, do not qualify for the relief. Relief for the specific types of ‘industrial building’ property is available as they are generally depreciating assets with a limited expected useful life. Industrial buildings allowances are granted at a rate of 4% per annum over 25 years.

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65 For a full list of the activities see S 268 (1) TCA 1997
Capital allowances are available in respect of some capital expenditure, for example on plant and machinery used for the purposes of the trade. The allowances are granted at a rate of 12.5% per annum over 8 years, in the same way as landlords can claim relief for expenditure on furnishings and fittings.

As in the case of a landlord, no deduction is allowed in respect of travel from home to the trader’s place of business as such expenditure is not laid out wholly and exclusively for the purposes of the trade. Unlike Case V, certain pre trading expenditure is available as a deduction when calculating taxable income once the trade or profession commences.\(^{66}\)

**Figure 20: Worked example: Comparison of trading and rental income taxable profits**

<table>
<thead>
<tr>
<th></th>
<th><strong>Rental Income</strong></th>
<th><strong>Active Trade</strong></th>
<th><strong>Cash Outlay</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gross income</strong></td>
<td>30,000</td>
<td>30,000</td>
<td>30,000</td>
</tr>
<tr>
<td><strong>Deductions:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mortgage (rental property / premises)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Interest paid: €10,000</td>
<td>(8,000)</td>
<td>(10,000)</td>
<td>(10,000)</td>
</tr>
<tr>
<td>• Capital repayment: €6,000</td>
<td>-</td>
<td>-</td>
<td>(6,000)</td>
</tr>
<tr>
<td>Local Property Tax: €225</td>
<td>-</td>
<td>n/a</td>
<td>(225)</td>
</tr>
<tr>
<td>Other expenses</td>
<td>(5,000)</td>
<td>(5,000)</td>
<td>(5,000)</td>
</tr>
<tr>
<td>New fixtures &amp; fittings: €5,000*</td>
<td>(625)</td>
<td>(625)</td>
<td>(5,000)</td>
</tr>
<tr>
<td><strong>Taxable profit</strong></td>
<td><strong>16,375</strong></td>
<td><strong>14,375</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Net cash position (pre-tax)</strong></td>
<td><strong>3,775</strong></td>
<td><strong>4,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Allowed as a Wear & Tear allowance at a rate of 12.5% per year over 8 years

**Investment Income**

As rental income is regarded as ‘passive’ investment income for tax purposes, it is worth considering also the tax treatment of other forms of investment income. Most investment income is treated as part of the investor’s gross income for the relevant tax year and is therefore liable to tax at the individual’s marginal rate, including USC and PRSI where appropriate.

\(^{66}\) Section 82 TCA 1997
In general, tax relief is not available for interest paid on monies borrowed for the purposes of investment. For example, interest paid on money borrowed to invest in shares or in a fund is not deductible against the investment return received.

**Pensions**

Investment in a rental property has often been seen as an addition, or an alternative, to traditional pension fund investments, and a number of submissions to the consultation proposed that the landlord’s capital outlay and/or any net rental loss supplemented from other income should be treated for the purposes of taxation as a pension contribution.

The purpose of contributing to a pension is to provide for an income in retirement to substitute for employment, trade or professional earnings during the person’s working life, and is subject to conditions regarding, for example, the minimum and maximum age at which retirement benefits can commence, the nature and extent of such benefits and arrangements for next of kin. By contrast investment income such as rental income, where there is no “retirement” from the activity as long as the source is retained, does not give rise to the same replacement need.

Subject to qualifying criteria, contributions to an approved retirement scheme or fund qualify for tax relief at the taxpayer’s marginal rate of tax (i.e. up to 40% at current rates). Tax relief for contributions to approved schemes is subject to two main controls. This first is an age-related percentage limit of an individual’s income from the employment, trade or profession in question. The second control places an overall upper limit on the amount of such income that make be taken into account for tax relief purposes. Investment income, such as rental income, is not included when calculating income for these purposes.

In addition to the aforementioned controls, tax relief for pension contributions is tied to strict conditions, such as a restriction on access to the fund until retirement age and restrictions on the nature of benefits that can be accessed in retirement. Contributions must be made to Revenue approved retirement benefit arrangements which involves, inter alia, such arrangements being managed by trustees, insurance companies and approved administrators (depending on the nature of the arrangement) and meeting the conditions set out in the Taxes Consolidation Act 1997.
Special additional requirements apply in relation to small self-administered pension (SSAP) schemes. Their purpose is to ensure that the scheme is in fact “bona fide established for the sole purpose of providing relevant benefits”\(^{67}\), and not a scheme designed for tax avoidance. SSAP schemes can invest in property but it must be acquired and disposed of at arm's length from the scheme and the employer including its directors and associated companies. The purpose of the property acquisition must not be for disposal or letting to the employer, including its directors and associated companies. Also required is that the scheme has sufficient liquid investments to ensure that the requirement to provide benefits, including ill-health and early retirement benefits, can be met. Where the main or only asset is property, it is considered that the concentration of investments in an asset not readily realisable does not satisfy the overriding need to match investment of the assets with a scheme's liabilities with particular reference to the requirement to provide benefits. The situation could arise when the first or subsequent individual retirements take place that a scheme would be compelled to realise its only or main asset in order to comply with the requirement to provide benefits\(^{68}\).

**Employment and Investment Incentive (EII)**

There are, however, some forms of investment which benefit from tax relief, including the Employment and Investment Incentive (EII)\(^ {69}\). The EII is targeted at job creation and retention and provides for tax relief of up to 40% in respect of risk finance investments made in start-up\(^{70}\) EII certified qualifying unquoted micro, small and medium sized trading companies.\(^ {71}\) The largest of these categories, a medium-sized company, must have less than 250 employees and an annual turnover not exceeding €50 million or an annual balance sheet total not exceeding €43 million.

The EII scheme allows an individual investor to obtain income tax relief on investments for shares in certain companies up to a maximum of €150,000 per annum in each tax year up to 2020. Relief is initially available to an individual at a rate of up to 30% of the amount invested. A further 10% of tax relief is available in the fourth year after the year of investment, where it has been proven that employment levels have increased at the company after 3 years or where evidence is provided.

\(^{67}\) Section 772 (2)(a) TCA 1997
\(^{68}\) Revenue Pension Manual Chapter 19
\(^{69}\) Part 16 TCA 1997 The EII replaces the former Business Expansion Scheme (BES) and will run until 2020.
\(^{70}\) i.e. Under 7 years of age
\(^{71}\) Eligible undertakings which, at the time of initial risk finance investment, are unlisted SMEs that have either (a) not been operating in any market, or (b) have been operating in any market for less than 7 years following their first commercial sale.
that the company used the capital raised to increase expenditure on research and development over the three year period\(^{72}\).

The tax relief is provided to assist companies to raise finance to allow them to expand and create or retain jobs. The company must use the money raised from the share issue for the purpose of carrying on a qualifying trade\(^{73}\) or, if the company has not yet commenced to trade, in incurring expenditure on research and development. In addition, the use of the funds must contribute directly to the maintenance or creation of employment in the company [e.g. the money raised can be used to pay the wages of the qualifying employees of the company].

For 2016, the estimated cost to the Exchequer of the EII scheme was €32.5 million and the number of investors (including funds) was 1,768\(^{74}\).

**Leasing Farm Land**

A specific tax regime currently applies to the leasing of land for the purpose of farming. Subject to criteria, such as a minimum leasing term of 5 years and a requirement that the land not be leased to a close relative, the taxable rental income is reduced subject to a maximum reduction depending on the term of the lease. The relief cannot be used to create a loss and each individual can only qualify for one reduction regardless of the number of qualifying leases they may have. Currently the relief is equal to the amount of the income subject to a maximum reduction ranging from €18,000 of rental income for leases of more than 5 years but less than 7 years, up to a maximum reduction of €40,000 where the term of the lease exceeds 15 years.

**Summary Table**

The following table sets out a summary of interest and capital deductibility for a selection of common investment options, together with the rate of tax payable on income and/or gains from the investment.

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\(^{72}\) To assess the increase in spend on qualifying R&D activities, the R&D spend in the accounting period preceding the year of assessment is compared against that in the accounting period ending the year before the year which the 4 year holding period ends.

\(^{73}\) There are a range of trades excluded, including dealing in and developing land.

### Figure 21: Interest and Capital Deductibility and Tax Rates on Various General Investment Options

<table>
<thead>
<tr>
<th></th>
<th>Residential Property</th>
<th>Commercial Property</th>
<th>Investment in Pension</th>
<th>Investment in Funds</th>
<th>Investment in Shares*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest relief on</td>
<td>80%(^b)</td>
<td>100%</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>borrowings to invest</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deduction / tax relief</td>
<td>None</td>
<td>No general</td>
<td>Yes – subject to</td>
<td>None</td>
<td>No general</td>
</tr>
<tr>
<td>on capital investment</td>
<td></td>
<td>allowance(^c)</td>
<td>limits</td>
<td></td>
<td>allowance(^d)</td>
</tr>
<tr>
<td>Loss relief on income</td>
<td>Available</td>
<td>Available</td>
<td>n/a(^e)</td>
<td>None</td>
<td>n/a(^e)</td>
</tr>
<tr>
<td></td>
<td>against other</td>
<td>against other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>rental profits</td>
<td>rental profits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>in current year and</td>
<td>in current year and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>future years</td>
<td>future years</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rate of tax on income</td>
<td>Marginal rate income</td>
<td>Marginal rate income</td>
<td>Tax-free lump sum.</td>
<td>41%(^g)</td>
<td>Marginal rate income</td>
</tr>
<tr>
<td>profit</td>
<td>tax, USC &amp; PRSI</td>
<td>tax, USC &amp; PRSI</td>
<td>Marginal rate income</td>
<td></td>
<td>tax, USC &amp; PRSI</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>tax, USC &amp; PRSI on</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>income(^f)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rate of tax on capital</td>
<td>33%</td>
<td>33%</td>
<td>n/a</td>
<td>41%</td>
<td>33%</td>
</tr>
<tr>
<td>gain</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

- a. Including REIT shares
- b. 80% in 2017, increasing by 5 percentage points per year, full 100% deductibility from 2021.
- c. With the exception of certain depreciating assets which qualify for 4% per annum Industrial Buildings Allowances.
- d. With the exception of specific incentives such as the Employment and Investment Incentive (EII) detailed above.
- e. A pension or company cannot make a negative distribution.
- f. Taxation on drawdown of pension in retirement.
- g. Based on investment in a UCITS (Undertakings for Collective Investment in Transferable Securities) fund where the investor does not have a controlling interest.
6. Recent Policy Developments in the Rental Accommodation Sector

Key Points:

- A wide range of policy measures affecting the rental accommodation sector have been introduced and/or amended in recent years.
- Mortgage interest deductibility for residential landlords was restricted to 75% in 2009. A phased restoration of full deductibility in increments of 5% commenced in 2017.
- A number of incentives have been introduced or extended to landlords: the Living City Initiative and Home Renovation Incentive, which allow tax relief for capital refurbishment costs, were both extended to landlords; and new Repair & Lease and Buy & Renew schemes have been introduced. However, uptake to date by landlords has been low.
- Significant changes to the regulatory environment for landlords have taken place, including:
  - The 2004 Residential Tenancies Act legislation on rights and obligations of tenants and landlords, and establishing the RTB.
  - Improved minimum Buildings Regulations standards for rented accommodation.
  - Increased notice periods for both landlords and tenants.
  - The minimum period between rent reviews was increased in 2015, followed by the introduction of rent increase limits in Rent Pressure Zones from 2017.
- The Central Bank macro-prudential measures introduced in February 2015 set new loan-to-value and loan-to-income ratios for buy-to-let property.
- The emergence of online short-term letting platforms has opened up alternatives to residential letting, potentially reducing supply of accommodation to the longer-term accommodation market.
- Recent years have also seen an increased dependence on the private rental market to provide accommodation to tenants in receipt of social housing supports, and this reliance is expected to continue into the future.

There have been a substantial number of policy changes directly related to the rental accommodation sector and landlords in recent years. These include both tax policy measures and non-tax legislation or regulations directly affecting tenants and/or landlords.
Tax Policy Developments

Mortgage Interest

There have been a number of changes in the deductibility of mortgage interest as a rental expense in recent years.

- In supplementary Budget 2009, mortgage interest deductibility for landlords of residential property was restricted to 75 per cent of qualifying interest, in the context of the fiscal crisis and the need to broaden the income tax base. Interest deductibility for borrowings relating to commercial rental property remained at 100 per cent.

- In Finance Act 2015, a relief was introduced which allows a full 100 per cent mortgage interest deduction where a landlord undertakes, for a period of at least three years, to provide accommodation to tenants in receipt of social housing supports and registers such undertakings with the Residential Tenancies Board within certain time limits.

- In Budget 2017, to further support the provision of accommodation by landlords while also maintaining the social housing tenancy incentive in the short term, a phased unwinding of the restriction on interest deductibility over five years for all residential landlords was provided for. The first step, an increase from 75% to 80% deductibility, took effect from January 2017.

Living City Initiative

The Living City Initiative was commenced and launched on 5th May 2015. It is an urban regeneration incentive focusing on the regeneration of the historic centres of six cities (Dublin, Cork, Limerick, Galway, Waterford and Kilkenny). Following a review of this Initiative prior to Budget 2017, several changes were made to the scheme, including extending the residential element of the scheme to landlords. These changes came into effect from 1 January 2017. To date, there have been a total of 31 applications for the Living City Initiative, 9 of which are in the rented residential category.

The scheme provides for tax relief for qualifying expenditure incurred on both residential and certain commercial refurbishment and conversion work that is carried out during the qualifying period. In the most recent Budget, the Living City Initiative was extended to landlords in order to encourage an increased take-up of the scheme and to potentially release rental accommodation to the market. Other amendments included the removal of the restriction on the maximum floor size of the property, removal of the requirement that the property must have been previously used as a dwelling, and reducing the minimum amount of expenditure needed to qualify.
The relief is given in the form of an accelerated capital allowance for qualifying expenditure on refurbishment or conversion of rented residential and certain commercial premises within the special regeneration areas. The capital allowance is given at the rate of 15% of qualifying expenditure for each of 6 years and 10% in year 7.

In addition to the capital allowances which the claimant is entitled to in any year any unused allowances from previous years can also be used. Capital allowances are unused if there is insufficient income in any year against which the capital allowances can be set. At the end of the 7 years, unused capital allowances from earlier years can, in general, be carried forward and set against future income of the business. However, in the case of passive investors, it should be noted that any unused capital allowances under this scheme which are carried forward beyond the tax life of the building to which they relate, are immediately lost.

**Home Renovation Incentive**

The Home Renovation Incentive (HRI) came into operation on 25 October 2013 and it was extended to landlords from 15th October 2014. It was further extended from 1st January 2017 to tenants of local authorities, where such tenants have the approval of the local authority to complete renovation works. It provides tax relief by way of a tax credit at 13.5% of qualifying expenditure incurred on repair, renovation or improvement work carried out on residential property. Qualifying work must cost a minimum of €5,000 including VAT at 13.5% rate. The maximum qualifying cost for the purpose of the incentive is €30,000 including VAT at 13.5%. This equates to a maximum tax credit of €4,050. The tax credit is payable over the two years following the year in which the work is paid for.

One of the aims of the HRI is to support increased economic activity by tax compliant building contractors, and to also move activity out of the shadow economy into the legitimate economy. Since the introduction of the HRI Scheme, the cumulative total of tax credits available to be claimed by those who have completed qualifying works is €105.9m and the value of credits claimed to date is €66.08m.

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75 S 477B TCA 1997
Covering the period from the introduction of the HRI Scheme in October 2013 until May 2017, over 90,000 works have been registered with the scheme across more than 60,400 individual properties nationwide. Within the Scheme itself, the number of properties that have been declared as ‘Rental’ is an estimated 1,450 with the remaining properties being declared as ‘Main Home’77. While it is possible that some rental properties have incorrectly been listed as main homes, it is notable that the uptake for rental properties to date has been limited, at just 2.4% of the total properties on which work has been carried out under the scheme.

**Help to Buy**

A further tax initiative relevant to the property market but not targeted at landlords is the Help to Buy incentive which was introduced in Budget 2017. It is designed to assist first-time buyers with obtaining the deposit required to purchase or build their first home. With a view towards increasing the supply of new housing, the relief is only available in respect of new builds. Broadly, the relief takes the form of a rebate of income tax, including DIRT, paid over the previous four tax years. The maximum rebate is the lower of:

- €20,000,
- The amount of income tax and DIRT paid in the previous 4 years, or
- 5% of the purchase price (or valuation for a self-build).

**Ending of Legacy Property Reliefs**

The Programme for Government “Government for National Recovery 2011-2016” committed to reducing, capping or abolishing property tax reliefs (and other tax shelters which benefit very high income earners). In line with this, the Department of Finance undertook an economic impact assessment into the effects of changes to the legacy property tax reliefs. Organisations and individuals were invited to submit their views in a public consultation in 2011 as part of the assessment process and over 700 individual responses were received.

Legacy property tax reliefs can be described in terms of two broad categories: reliefs relating to rented residential property (commonly referred to as “Section 23” reliefs as they were introduced

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77 Due to how the HRI Scheme is operated, for example, how details of the works are inputted by Qualifying Contractors, this figure may be an under representation of the true number of rental properties which have had work undertaken within the Scheme.
in Section 23 of Finance Act 1981); and reliefs which allowed for accelerated capital allowances in respect of investment in industrial buildings (referred to as “accelerated capital allowances”).

In the case of Section 23 properties, investors deducted the full amount of qualifying relief against rental income from the Section 23 property in the first year of letting. Where the amount of relief exceeded the rental income of the property the excess relief could be set off against other Irish rental income. Any unused relief was treated as a rental loss for the year and could be carried forward against any Irish rental income arising in later years until fully used up. In addition, to avoid a claw-back of reliefs, the property had to continue being let for a period of 10 years from the first letting.

In respect of certain industrial buildings, such as certain hotels, car parks and child care facilities, capital allowances could be claimed at an accelerated rate (as compared to the standard 4% per annum rate for industrial buildings allowances), thus increasing the net present value of the allowances to investors. For the majority of the non-area-based property reliefs on industrial buildings the reliefs were for either 7 or 10 year periods. The area-based reliefs were spread over a longer period. Others, including investments in childcare facilities could be recovered in their entirety in the first year.

Passive investors and lessors of industrial buildings could use their annual capital allowances against related trading income or rental income, as appropriate, and excess capital allowances could be used against other income up to a maximum of €31,750 (with the exception of investments in hotels, holiday camps or registered holiday cottages, where excess capital allowances could not be set against other income). Thereafter unused capital allowances could be carried forward into subsequent years but could only be used against the income from the business which gave rise to it.

The recommendations from various reviews of the reliefs and from the economic impact analysis\(^78\) were that, while the various property relief schemes had contributed to economic regeneration and employment, in general they outlived their usefulness and contributed to excess supply in certain sectors, namely residential housing and hotels. It was also recommended that, in the future, tax relief schemes should not be extended without a thorough ex ante cost benefit analysis.

The termination of the carry forward of unused capital allowances in respect of the various accelerated property and area-based capital allowances schemes was introduced in Finance Act 2012. The provisions apply solely to passive investors, persons who are actively engaged in their respective trades are not affected. Finance Act 2012 provided that, with effect from the beginning of 2015, any unused accelerated capital allowances which are carried forward beyond the tax life\(^{79}\) of the building or structure to which they relate are immediately lost. Before this change (which brought an end to the legacy reliefs for passive investors), the allowances could be carried forward for an indeterminate period into the future\(^{80}\).

**Other Non-Tax Developments**

Population growth, economic recovery, the changing nature of work and challenges in the home ownership market are all driving increased demand for rented housing. A lack of supply to satisfy this demand, together with other factors such as the high costs that highly indebted landlords face in servicing their loans, has led to the rapid inflation in rent prices in areas of highest demand. Rapidly rising rent prices now constitute the most significant threat to accommodation security.

To address this, the Government has introduced a number of policy measures focusing on improving security and encouraging increased supply of residential rental accommodation.

**Recent changes to Standards and Building Regulations**

In 2008, DHPLG introduced the Housing (Standards for Rented Houses) Regulations to update and modernise the minimum standards for rented accommodation. The revised standards did not specifically target bedsits but were based on a review of minimum standards dating back to 1993 which tolerated things such as external toilets, cold water only, and having an open fireplace as the only heating source. In consultation with key stakeholders including organisations representing landlords and tenant rights, such as Threshold and the IPOA (Irish Property Owner’s Association), the revised minimum standards Housing (Standards for Rented Houses) Regulations, 2008, were agreed.

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\(^{80}\) Sections 409F and 409G TCA 1997
The Regulations took effect in their entirety for all newly rented properties being let for the first time from 1st February 2009, however a four year phasing in period was afforded to existing rented properties requiring certain significant refurbishment works, to facilitate the improvement works that needed to be carried out. On the 1st of February, 2013, Articles 6, 7 and 8 of the Housing (Standards for Rented Houses) Regulations 2008 came into effect for all existing residential rented accommodation. This meant that all rental accommodation must have its own separate sanitary facilities which resulted in the phasing-out of the traditional “bed-sit”, where sanitary facilities are shared between different rental units. The requirements in relation to heating and facilities for cooking, food storage and laundry were also updated.

According to the 2011 Census, there were a total of 5,448 rented housing units described as ‘bedsit’; down from a figure of 8,751 in 2006. Of the 5,448 rented bedsits in 2011, some 80% (4,350) were classed as being rented from a private landlord. The majority of these were in Dublin.

**Residential Tenancies Board**

The Residential Tenancies Board (RTB)\(^{81}\) was established in September 2004 under the Residential Tenancies Act 2004, which regulates the landlord-tenant relationship in the private rented residential sector and sets out the rights and obligations of landlords and tenants. The RTB was established as an independent statutory body under the Act to operate a national tenancy registration system and to resolve disputes between landlords and tenants. The RTB replaces the Courts for the vast majority of landlord and tenant disputes.

The rented sector has grown significantly since the RTB was established, with the number of households in the sector doubling between 2006 and 2011. This growth is reflected in the number of disputes coming before the RTB, which have increased by 193% since 2008 (from 1,650 in 2008 to 4,837 in 2016). Enforcement requests have increased by 256% since 2008 (from 100 in 2008 to 356 in 2016) and tenancy registration has increased by 58% since 2008 (from 206,054 in 2008 to 325,372 in 2016).

\(^{81}\) The Residential Tenancies Board (RTB) was originally called the Private Residential Tenancies Board (PRTB). However, it was renamed to the Residential Tenancies Board by the Residential Tenancies (Amendment) Act 2015. Throughout this report it is called the Residential Tenancies Board in most cases.
Other developments include:

- Free mediation was introduced by the Residential Tenancies Board in 2015 to help resolve disputes quickly and efficiently.
- In April 2016 Approved Housing Bodies were brought under the remit of the RTB so that their tenants would enjoy the protections provided for by the Residential Tenancies Act.
- The 2016 Act provided for the ‘Tyrrelstown amendment’ which will improve security for tenants by preventing the termination of multiple tenancies in a single development when an investor wishes to sell.
- Options for securing tenants’ rights when their homes are placed in receivership and how the obligations of landlords might transfer to receivers in these cases are also being assessed.

Section 148 of the Residential Tenancies Act 2004 provides for the supply by the RTB of tenancy registration details or confirmation of the fact of registration to the Revenue Commissioners. Such data can be supplied at the request of the landlord. Also where the Revenue Commissioners give the identification number of a landlord of a dwelling, or the name of a landlord of a dwelling and the identification number of his or her agent, the RTB is obliged on request to —

i. confirm to Revenue whether the landlord has registered a tenancy in respect of a dwelling, and

ii. in the event of there being one or more than one tenancy so registered, to give Revenue such of the particulars registered in respect of it or them as Revenue may require.

**Notice Periods/Security of tenure**

Security for both landlords and tenants is essential if the rental sector is to be both an attractive option for tenants and a safe and viable investment choice for investors. Tenants who are renting need to have the certainty that, as long as they pay the agreed rent and meet their other obligations, they will be able to stay in the property they are renting. Equally, landlords and investors – from the individual wishing to secure an income into the future to the institutional investor looking to build a balanced investment portfolio – must have confidence in the long term value of their investment and the income they derive from it.

With effect from December 2015, notice periods for both landlords (Table 8) and tenants (Table 9) were extended in respect of termination of longer term tenancies – up to 224 days for landlords and 112 days for tenants – and stronger verification procedures are in place regarding terminating
a tenancy in certain circumstances, such as where the landlord intends to sell or refurbish a property or requires it for their own occupation or for occupation by a family member.

Table 8 Notice Periods for Termination of Tenancy by Landlord

<table>
<thead>
<tr>
<th>Duration of Tenancy</th>
<th>From December 2015</th>
<th>Prior to December 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>28 days</td>
<td>28 days</td>
</tr>
<tr>
<td>6 months or more, but less than 1 year</td>
<td>35 days</td>
<td>35 days</td>
</tr>
<tr>
<td>1 year or more but less than 2 years</td>
<td>42 days</td>
<td>42 days</td>
</tr>
<tr>
<td>2 years or more but less than 3 years</td>
<td>56 days</td>
<td>56 days</td>
</tr>
<tr>
<td>3 years or more but less than 4 years</td>
<td>84 days</td>
<td>84 days</td>
</tr>
<tr>
<td>4 years or more but less than 5 years</td>
<td>112 days</td>
<td>112 days</td>
</tr>
<tr>
<td>5 years or more but less than 6 years</td>
<td>140 days</td>
<td>112 days</td>
</tr>
<tr>
<td>6 years or more but less than 7 years</td>
<td>168 days</td>
<td>112 days</td>
</tr>
<tr>
<td>7 years or more but less than 8 years</td>
<td>196 days</td>
<td>112 days</td>
</tr>
<tr>
<td>8 or more years</td>
<td>224 days</td>
<td>112 days</td>
</tr>
</tbody>
</table>

Table 9 Notice Periods for Termination of Tenancy by Tenant

<table>
<thead>
<tr>
<th>Duration of Tenancy</th>
<th>From December 2015</th>
<th>Prior to December 2015</th>
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<tbody>
<tr>
<td>Less than 6 months</td>
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<td>6 months or more, but less than 1 year</td>
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</tr>
<tr>
<td>1 year or more but less than 2 years</td>
<td>42 days</td>
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</tr>
<tr>
<td>2 years or more but less than 3 years</td>
<td>56 days</td>
<td>56 days</td>
</tr>
<tr>
<td>3 years or more but less than 4 years</td>
<td>56 days</td>
<td>56 days</td>
</tr>
<tr>
<td>4 years or more but less than 5 years</td>
<td>84 days</td>
<td>56 days</td>
</tr>
<tr>
<td>5 years or more but less than 6 years</td>
<td>84 days</td>
<td>56 days</td>
</tr>
<tr>
<td>6 years or more but less than 7 years</td>
<td>84 days</td>
<td>56 days</td>
</tr>
<tr>
<td>7 years or more but less than 8 years</td>
<td>84 days</td>
<td>56 days</td>
</tr>
<tr>
<td>8 or more years</td>
<td>112 days</td>
<td>56 days</td>
</tr>
</tbody>
</table>

Security of tenure under the Residential Tenancies Act 2004 is provided for in Part 4 of the Act and, up to December 2016, was based on rolling four-year tenancy cycles. Where a tenant has been in occupation of a dwelling for a continuous period of 6 months, and no notice of termination has been served in respect of that tenancy before the expiry of the period of 6 months, the tenancy is established for the remainder of the four year period. This is referred to in the Act as a ‘Part 4’ tenancy. As a first step towards tenancies of indefinite duration, the Residential Tenancies Act was amended in December 2016 to move “Part 4” tenancies from 4 to 6 year tenancy cycles, for tenancies that commence after 24 December 2016.
Landlords also need a degree of security, for example in situations where large rent arrears accumulate while a dispute is being dealt with. New fast track procedures for terminating tenancies where rent is not being paid, including provisions for emergency applications to the District Court to enforce orders for possession, will address that concern. In addition, changes in the procedures for enforcement of RTB orders will be introduced which will allow more enforcement cases to be taken. Enforcement cases will be heard in the District Court.

**Rent Pressure Zones/Rent Certainty Measures**

To address insecurity caused by rapidly rising rents, the Rent Certainty Measure was introduced in 2015. This provided for a minimum two year period between rent reviews, a minimum notice period of 90 days (previously 28 days) in respect of an increase in rent, and limited rent levels to the prevailing market rate. Following continued increases in market rents, at the end of 2016 the Government introduced the Rent Predictability Measure which established the system of Rent Pressure Zones (RPZ). Areas where rents are at a high level and are rising quickly are designated as rent pressure zones and rent increases in these areas are limited to a maximum of 4% annually for a period of three years. The measure now covers 57% of tenancies nationally, consisting of over 186,000 households.

The rent certainty measure for properties in RPZs applies to the property and not to the tenancy. The limit on rents chargeable therefore extends from one tenancy to the next and, if the rental property is sold, to tenancies under the new owner. While this measure is acting to restrain rental price inflation for existing tenanted properties in RPZs, it may also be a further factor prompting some landlords to leave the market where they are restricted to charging a rent below market rates.

Properties which have been substantially refurbished\(^2\) can be exempted from the Rent Pressure Zone measure. However the existing requirement that the rent set for a property must be in line with local market rents for similar properties in the area still applies. If the tenant feels that the conditions for the exemption are not met, they may refer a dispute to the Residential Tenancies Board.

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\(^2\) A ‘substantial refurbishment’ must be a significant change to the dwelling resulting in increased market value of the tenancy. Therefore this would involve significant alterations or improvements which add to the letting value of the property - usually involving major building works or works requiring planning permission. For example, simple repainting or replacement of white goods would not be sufficient.
DHPLG is currently reviewing the Rent Predictability Measure and, on the basis of the RTB rent data and of the recently conducted consultation on the operation of the Rent Pressure Zones, is examining whether there is avoidance, either through the unjustified use of the exemptions or the introduction of extra charges by landlords or the implementation of increases beyond those allowed under the legislation, and whether new approaches to ensuring compliance are necessary. Where changes are recommended on foot of the review, they will be implemented as a matter of priority.

**Macro-Prudential Lending Rules**

In February 2015, the Central Bank of Ireland introduced macro-prudential measures for the Irish mortgage market in the form of limits on new lending based on loan-to-value (LTV) and loan-to-income (LTI) ratios. The objectives of the measures were to enhance resilience of banks and households to financial shocks and to curb cyclical tendencies in the mortgage market. The LTV limits of 90% for first-time buyers (available on the full value of the property from 2017 after having initially been limited to the first €220,000 of the property value), 80% for other owner-occupiers and 70% for buy-to-let properties have increased the initial capital outlay required when purchasing a property. These more stringent deposit requirements may result in increased demand for rental property as individuals spend longer timeframes than before saving the required deposit to buy a home, while at the same time reducing the ability of landlords to invest in highly-leveraged rental property.

**Online Short-Term Letting Platforms**

The emergence of new online short-term letting platforms has had an effect on residential accommodation supply in recent years. Where previously options for the letting of a room in a residential unit were limited mainly to house-sharing or to ‘digs’ style arrangements for students or workers, online platforms have facilitated the matching of tourists with available property. The accommodation available via such sites can range from a spare bed in the host’s house to a full apartment or house.

In some cases the lettings are of property that was already dedicated to the tourist market or of rooms that would not otherwise have been let. However it is also likely that some of the accommodation let via these sites has been diverted from longer-term residential accommodation, in view of the higher potential return from short-stay lets in areas of high tourist demand.
The most well-known of these online platforms, AirBnB, was founded in 2008. Data from AirBnB\textsuperscript{83} suggest that in 2016, a typical AirBnB host in Dublin City earned €5,000 and hosted for approximately 51 nights. In more suburban and rural areas, the numbers were lower. Looking at County Dublin as a whole, 3,838 entire home listings were booked at some point in 2016, some 85% of which were rented for fewer than 161 nights. 16 entire home listings were booked for more than 320 nights. 85% of hosts who have an entire home listing in County Dublin only have one such listing.

The 2016 \textit{Strategy for the Rental Sector} called for the establishment of a Working Group on Short-term Lettings. Its purpose is to provide clarity on the appropriate regulatory approach to short-term tourism-related lettings from a planning perspective, in order to address the unintended consequences of short term lettings including withdrawal of supply from the residential rental market. The Group is expected to outline guidance for planning authorities on the application of the current regulatory framework and if necessary make recommendations for any legislative change.

\textbf{Evolution of Social Housing Supports}

The Social Housing Strategy, published in 2014, set as target for the provision of 35,000 social housing units over a 6-year period, and Rebuilding Ireland adjusted this target to 47,000 by 2021. Notwithstanding this commitment, the private rental sector has, in recent years, taken on a more significant role in the delivery of social housing supports. Households which would have previously been accommodated in local authority or approved housing body units are now often accommodated in the private rented sector, increasing demand-side pressures on rental prices.

A key feature in the delivery of social housing via the private rental market was the emergence of Rent Supplement in the provision of long term housing support. While Rent Supplement was originally intended to act as a short-term income support, the scheme has in effect become a form of long-term housing support for a significant number of households in the State.

More recently, the Rental Accommodation Scheme (RAS) and Housing Assistance Payment (HAP) social housing support schemes have been introduced. Over time it is envisaged that RAS will be phased out, HAP will become the entry point for all persons who require long term social housing, and Rent Supplement will revert to its original intended scope as a short term income support for persons temporarily in need.

As both Rent Supplement and HAP involve the tenant sourcing accommodation in the private rental market, it is clear that the private rental market will continue to be a key feature of social housing delivery in the future, and this must be borne in mind when considering policy measures which may potentially affect the sector. A short description of each support payment is set out below.

**Rent Supplement**

Rent Supplement was introduced in 1977 and it is administered by the Department of Social Protection (DSP). Rent Supplement is an income support scheme intended to assist persons in private rented accommodation who are unable to provide for their accommodation costs from their own resources. Originally, Rent Supplement payments were intended to deal with emergency and short-term need caused by unexpected changes in household circumstances, however over time they have become a long-term housing support for many households.

The payment is provided directly to the recipient by DSP. As such, the responsibility for sourcing accommodation and entering into a tenancy arrangement lies with the recipient of the payment and DSP typically has no direct relationship with the landlord.

Rent Supplement payments are based on defined rent limits set out on a regional basis and for different types of households. However, in certain circumstances DSP does allow some flexibility to pay rent above the limits.

With the introduction and availability of the Housing Assistance Payment (HAP) nationwide, it is intended that Rent Supplement will return to its original objective of supporting eligible households with a short-term need as, once HAP is rolled out in a local authority, Rent Supplement ceases to be available to households with a long-term housing need in that local authority.
**Rental Accommodation Scheme**

In 2005, the Rental Accommodation Scheme (RAS) was introduced on an administrative basis. It is a targeted scheme catering for the accommodation needs of persons in receipt of Rent Supplement, generally for more than 18 months, and who are assessed by housing authorities as having a long-term housing need. RAS was designed to be an accommodation based approach using private sector landlords.

Under RAS, local authorities source accommodation and draw up contracts with landlords to provide housing for an agreed term for people with a long-term housing need. The local authority pays the rent directly to the landlord on behalf of the tenant, and the tenant in return pays a contribution towards their rent to the local authority based on the differential rent scheme of that local authority. Where a person in receipt of RAS support obtains employment, they retain their housing support and their differential rent is adjusted according to their income.

**Housing Assistance Payment**

The Housing Assistance Payment (HAP) was introduced to local authorities on a phased statutory basis from September 2014 to March 2017 and replaces Rent Supplement for those with a long-term housing need who qualify for social housing support.

HAP is a demand based scheme (as is Rent Supplement), i.e. once a person has been assessed as being eligible for social housing support they source their own accommodation in the private rented market. Under HAP, local authorities pay the monthly rent to the landlord on the HAP tenant’s behalf, subject to terms and conditions including rent limits. In return, the HAP tenant pays a weekly contribution towards the rent to the local authority. This ‘rent contribution’ is based on the household income and is calculated in the same way as the rent paid by a tenant of a local authority owned property.

HAP has been designed to simplify the current system of housing supports, and it allows households that get full-time employment to remain in the scheme.

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84 Part 4 of the Housing (Miscellaneous Provisions) Act 2014 provides for the HAP scheme and section 49(1) of this Act amends s.19 (Provision of social housing support) of the Housing (Miscellaneous Provisions) Act 2009 to include HAP as a form of social housing support.
Under ‘Rebuilding Ireland: An Action Plan on Housing and Homelessness’ an accelerated roll-out of the HAP scheme is included with a target of 15,000 new tenancies to be provided in 2017. The Government has allocated €152.7m to HAP in 2017 in order to achieve this target. Over 20,000 active HAP tenancies are now in place.

A comparison of the three different schemes is shown in Table 10 below:

**Table 10: A comparison of HAP, Rent Supplement and RAS**

<table>
<thead>
<tr>
<th>Category</th>
<th>HAP</th>
<th>Rent Supplement</th>
<th>RAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing Organisation</td>
<td>Local Authorities</td>
<td>DSP</td>
<td>Local Authorities</td>
</tr>
<tr>
<td>Who Sources Accommodation</td>
<td>Tenant</td>
<td>Tenant</td>
<td>Local Authorities</td>
</tr>
<tr>
<td>Tenancy Relationship</td>
<td>Tenant and Landlord</td>
<td>Tenant and Landlord</td>
<td>Local Authority, Tenant and Landlord</td>
</tr>
<tr>
<td>Agreement Term</td>
<td>Length of tenancy</td>
<td>Length of tenancy</td>
<td>Length of tenancy (or 5-10 years)</td>
</tr>
<tr>
<td>Who Pays Landlord</td>
<td>Local Authority *</td>
<td>Tenant</td>
<td>Local Authority*</td>
</tr>
<tr>
<td>How is Tenant’s Contribution Paid</td>
<td>Tenant pays differential rent to Local Authority</td>
<td>DSP makes reduction in RS by contribution amount</td>
<td>Tenant pays differential rent to Local Authority</td>
</tr>
<tr>
<td>How is Rent Calculated</td>
<td>Agreed within rent limits set by Government (with some flexibility for Local Authorities)</td>
<td>Agreed within rent limits set by Government (with some flexibility)</td>
<td>Approximately 92% of market rate</td>
</tr>
<tr>
<td>Does Tenant Pay Deposit</td>
<td>Yes, if landlord requires one</td>
<td>Yes, if landlord requires one</td>
<td>No</td>
</tr>
<tr>
<td>Standards Requirements</td>
<td>Housing (Standards for Rented Housing) Regulations and verified by Local Authorities</td>
<td>Required Housing (Standards for Rented Housing) Regulations</td>
<td>Required Housing (Standards for Rented Housing) Regulations verified by Local Authorities</td>
</tr>
<tr>
<td>Can Recipients Work Full-Time</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Can Tenants be on LA Housing Waiting Lists</td>
<td>No, but recipients can go on Housing Transfer List</td>
<td>Yes, if eligible</td>
<td>No**</td>
</tr>
</tbody>
</table>

*recouped from DHPLG

** those in RAS before 2011 are eligible for the Housing Waiting List
A breakdown of the total number of households supported by the three schemes at the end of 2016 can be seen in the table below:

<table>
<thead>
<tr>
<th>Scheme</th>
<th>Households/Recipients at end 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>HAP</td>
<td>16,493</td>
</tr>
<tr>
<td>RAS</td>
<td>20,306*</td>
</tr>
<tr>
<td>Rent Supplement</td>
<td>48,041</td>
</tr>
<tr>
<td>Total</td>
<td>84,624</td>
</tr>
</tbody>
</table>

Data Source: DHPLG

*According to local authority 2016 end of year activity returns there were 20,306 active RAS tenancies on 31 December 2016.

Approved Housing Bodies

Approved Housing Bodies (AHBs) have also taken on a significant role in the provision of social and affordable housing in Ireland. In the 2011-2016 Programme for Government a commitment was made to facilitate larger housing associations in accessing private sector funding for social housing. More recently, Construction 2020 and the Social Housing Strategy 2020 have affirmed the key central role in which AHBs have been placed under the Housing Policy Statement published in 2011, and further underpinned by Rebuilding Ireland. This was in recognition of the proven track-record of the AHB sector in the provision of social housing.

Approved Housing Bodies (AHBs) consist mainly of voluntary or co-operative organisations registered under the Companies Acts; societies registered under the Industrial & Provident Societies Acts; and/or Trusts incorporated under the Charities Acts. There are currently 538 housing bodies with approved status in Ireland and they have provided over 28,000 residential units to date. A further 2,700 properties are leased and / or managed by AHBs.

In previous years, significant levels of capital funding were available to AHBs through DHPLG’s Capital Funding Schemes (namely the Capital Assistance Scheme (CAS) and the Capital Loan and Subsidy Scheme (CLSS, which has been stood down since 2011)) and, by end 2016, over €2.9 billion had been paid to AHBs under these schemes. The Capital Loan and Subsidy Scheme has now been

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replaced by a new funding model based mainly on private finance supported by more modest levels of State funding (up to 30%).

While the Social Housing Strategy provides for additional funding of €3.8bn for the delivery of new social housing units, the new social housing provision will rely significantly on debt-finance and revenue-funded housing options such as leasing and on private investment into the sector. A statutory regulatory framework for AHBs is needed to achieve this and regulation is a critical tool in developing the capacity of the sector to borrow off balance sheet and in building confidence with lenders and investors to invest in the sector.

Regulation has a key role in underpinning the financial health of the AHBs sector if it is to move its operations from the low risk environment of virtually 100% Exchequer funding that has prevailed in the past, to one where AHBs have the standards of governance and management capacity to increasingly access private finance. The very nature of social housing or subsidised rent makes a strong case for regulation, as tenants do not have the same choice of movement in housing. There is also a need to protect the interests of the taxpayers who are investing in social housing.

In July 2013 Building for the Future, A Voluntary Regulation Code for Approved Housing Bodies in Ireland, was published as a first step towards a statutory regulatory framework. To date, over 280 AHBs have signed up to the voluntary regulation code (VRC). The code was always understood to be a stepping stone to a legally binding statutory regulatory framework, and the forthcoming Housing (Regulation of Approved Housing Bodies) Bill 2017 is expected to make provisions in a number of key areas in order to improve governance and financial viability for the AHB sector.

The objective of the forthcoming Bill is to provide a framework that will enable the AHB sector to grow, that will provide reassurance to stakeholders that the sector is governed well and that it is a stable and significant avenue for investment for the future.

**Other Housing Measures**

As part of the wider actions under Rebuilding Ireland to increase housing supply, twenty-two Major Urban Housing Delivery Sites (MUHDS) have been identified nationally with the potential to deliver a significant step change in the scale of the supply of new homes including, in particular, the supply of homes for rent. Several of these sites are moving towards purpose-designed and built rental developments at significant scale. For example, Cherrywood SDZ in Dun Laoghaire/Rathdown is at
an advanced stage in the design of its town centre with planning applications for over 1,000 rental units scheduled to be lodged for planning permission next month.

The DHPLG has also developed a comprehensive database of publicly owned lands in key development areas with a view to identifying suitable development lands and formulating mixed-tenure housing projects. Local authorities have been encouraged to kick-start the supply of rental units on publicly-owned land in key rent pressure zones. Dublin City Council is seeking partners to deliver a mix of social, affordable and private housing on the three sites at O’ Devaney Gardens, Oscar Traynor road and St. Michaels, Inchicore.

The Planning and Development (Housing) and Residential Tenancies Act, 2016 provides for the fast tracking of planning applications for large scale developments and for student accommodation developments directly to An Bord Pleanála, and also provides for Higher Education Institutes to borrow from the Housing Finance Agency for the purposes of financing student accommodation provision.

**Vacant Properties**

A number of initiatives are also under way to address the number of vacant properties in the State, to encourage their return to active use:

- The Repair and Lease Scheme, under which Local Authorities will refurbish vacant properties and lease them from their owners, was rolled out nationwide in February, 2017. The Scheme will pay for the repairs up-front in return for the property being leased to a local authority or Approved Housing Body (AHB) to be used as social housing for a period of at least 10 years. Under the scheme, the cost of the repairs will be repaid by the owner by offsetting it against the rent due to the owner for the property over the period of the lease agreement. The maximum funding available is €40,000, inclusive of VAT. It is projected that this will deliver 3,500 properties by 2021 at a cost of €150m.

- The Buy and Renew Scheme, also introduced in 2017, supports Local Authorities and AHBs to purchase and renew housing units that require remediation and make them available for social housing use in areas of housing need. The primary focus of the scheme is on older stock, in particular derelict properties. Up to €25 million is available for the ‘Buy and Renew’ Scheme in 2017 and, depending on interest, up to €50 million in 2018.

- An examination is underway of the possibility of adjusting the financial assessment of rental income under the “Fair Deal” scheme, to explore whether it could be amended to encourage more letting of properties where the owner is in long-term residential care.
More broadly, the Housing Agency is currently developing a National Vacant Housing Re-Use Strategy which will identify the causes of vacancy and develop measures to address them.
7. Public Consultation

The public consultation was conducted over four weeks from Friday 10 March to Friday 7 April 2017 and it received 69 submissions from landlords, representative bodies and individuals. In the public consultation document that provided the framework for this exercise, the Minister for Finance invited interested parties to make submissions on the tax and fiscal treatment of landlords in general and also the option was given to answer any or all of 10 consultation questions which are outlined later on in this report. Only 16 submissions included responses to one or more of the consultation questions.

A summary of the main points raised in the responses to the public consultation is set out below and a full summary of the consultation responses is included in Appendix 2. With regard to the 10 consultation questions which are listed in Appendix 2, only 16 submissions (23% of the submissions) included responses to one or more of the questions. The responses spanned a wide variety of viewpoints and are fully outlined in the Appendix.

**Rental Expenses:**
With regard to the category Rental Expenses the main issues raised were the deductibility of expenses including Mortgage Interest, Local Property Tax (LPT), refurbishment and repair costs and the personal time spent managing and maintaining rental properties.

**Income Tax Rates/System:**
With regard to the category Income Tax Rates/System the main issues raised were the rates of tax on rental income, the types of tax charged on rental income, for example, PRSI, USC, the rates of taxation that should apply to rental income from long-term leases, the rates of tax that should apply to ‘accidental landlords’\(^\text{87}\) and suggestions to reintroduce some types of capital allowances.

**Other Taxes**
With regard to the category Other Taxes, the main issues raised were suggestions to allow rental income to be taxed similarly to how pensions are taxed, altering VAT rates on construction of new residential buildings, altering the rates of Capital Gains Tax, Capital Acquisitions Tax and Inheritance Tax and the introduction of penalty taxes for unoccupied property or land.

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\(^{87}\) In this context, ‘accidental landlord’ is taken to refer to individuals who purchased a property at the peak of the property market but who, as a result of a growing family or changes in employment, are now renting out their mortgaged property and living in another rented property as a tenant.
Specific Schemes/Incentives:
With regard to the category Specific Schemes/Incentives, proposals included alterations to the Rent-a-Room Scheme, the Employment and Investment Incentive Scheme, the DIRT Refund Scheme and the Home Renovation Incentive Scheme. Other suggestions included introducing a new system of tax for short-term leases, altering the rates of tax applicable to Owner Management Companies and REITs, and allowing REITs from other countries to access the Irish REIT regime.

Calculated Examples
An issue that was referenced in many submissions to the public consultation was the potential for a landlord to have a tax liability, notwithstanding that he/she may be at a net cash loss on a monthly basis. The following example can illustrate this point. Columns 1 and 2 relate to a landlord with a 70% mortgage on a property, and column 3 relates to a landlord of a comparable property with no mortgage (perhaps a longer-term landlord who has paid down previous borrowings).

Assumptions:
- Apartment in Galway, cost €179,000. Mortgage is €125,000 for 20 years at 5% interest
- Deposit: €54,000
- Rent: €996 per month (average rent Galway City Daft Report)
- Other deductible expenses: €600 per annum (insurance, management fees, repairs, RTB)
- Non-deductible expenses: €90 per annum Local Property Tax

<table>
<thead>
<tr>
<th></th>
<th>Mortgaged Landlord</th>
<th></th>
<th>Non-Mortgaged Landlord</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cash Position</td>
<td>Tax Position</td>
<td>Cash Position</td>
<td>Tax Position</td>
</tr>
<tr>
<td>Annual rent</td>
<td>11,952</td>
<td>11,952</td>
<td>11,952</td>
<td>11,952</td>
</tr>
<tr>
<td>Mortgage repayment</td>
<td>(9,899)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allowable mortgage interest (80%)*</td>
<td>-</td>
<td>(4,932)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other deductible expenses</td>
<td>(600)</td>
<td>(600)</td>
<td>(600)</td>
<td>(600)</td>
</tr>
<tr>
<td>Non-deductible expenses</td>
<td>(90)</td>
<td></td>
<td>(90)</td>
<td></td>
</tr>
<tr>
<td>Taxable profit</td>
<td></td>
<td>6,420</td>
<td></td>
<td>11,352</td>
</tr>
<tr>
<td>Tax payable**</td>
<td>(3,146)</td>
<td></td>
<td>(5,562)</td>
<td></td>
</tr>
<tr>
<td>Net cash position</td>
<td>(1,783)</td>
<td></td>
<td>5,700</td>
<td></td>
</tr>
</tbody>
</table>

Notes: *Assumes €9,899 annual repayment of which €3,734 is principal and €6,165 interest
**Tax payable assumes marginal rate income tax at 40%, USC at 5% and PRSI at 4%

While the mortgaged landlord is in a negative net cash position, he/she has repaid €3,734 of the principal of the mortgage and so has improved his/her capital position.
Using the example of the mortgaged landlord above, the following would be the difference to his / her net cash position if some of the additional deductibility as requested in the public consultation submissions were to be allowed:

<table>
<thead>
<tr>
<th></th>
<th>Current Situation (as above)</th>
<th>If LPT was deductible</th>
<th>If 100% mortgage interest was deductible</th>
<th>If both were deductible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual gross income</td>
<td>11,952</td>
<td>11,952</td>
<td>11,952</td>
<td>11,952</td>
</tr>
<tr>
<td>Allowable expenses</td>
<td>5,532</td>
<td>5,622</td>
<td>6,765</td>
<td>6,855</td>
</tr>
<tr>
<td>Taxable profit</td>
<td>6,420</td>
<td>6,330</td>
<td>5,187</td>
<td>5,097</td>
</tr>
<tr>
<td>Tax Payable*</td>
<td>3,146</td>
<td>3,102</td>
<td>2,542</td>
<td>2,498</td>
</tr>
<tr>
<td>Annual net cash position</td>
<td>(1,783)</td>
<td>(1,739)</td>
<td>(1,179)</td>
<td>(1,135)</td>
</tr>
</tbody>
</table>

**Notes:** *Tax payable assumes marginal rate income tax at 40%, USC at 5% and PRSI at 4%
8. Options for Change

One of the aims of the Working Group was to determine if a policy rationale exists to introduce new reliefs, or to otherwise alter the tax system, to incentivise landlords to enter or to remain in the residential accommodation market. This involved considering the proposals received in submissions to the public consultation, in addition to other potential options developed by Working Group members.

The Tax Expenditure Guidelines\(^8\), published in October 2014, set out the criteria to be considered when reviewing an existing expenditure or evaluating proposals for a new tax expenditure. In broad terms, where some imperfection in the market mechanism is preventing the achievement of economic efficiency, referred to as a market failure, a tax expenditure can potentially play a role in mitigating the cause or effect of the market failure.

Two of the key evaluation questions when considering the introduction of a tax expenditure require identification of:

- the objective that the expenditure aims to achieve, and
- the economic impact that the expenditure is likely to have.

The market failure in this instance is the constrained supply of property in the residential rental market, which is resulting in increasing upward pressure on rental prices and contributing to increased demand for social housing supports funded by the State. Having regard to the linkages between the rental and owner-occupier property markets, measures which have potential to increase overall supply of residential property rather than diversion of property from the owner-occupier to rental markets were considered to be of particular merit.

The means by which such an increase in supply could be achieved, and the resulting economic impact that any tax expenditure measures may have both on the recipients of the expenditure and the wider economy, inevitably give rise to broader questions about the nature of the rented residential property market in Ireland. For example, relevant considerations in this regard would be:

1. Should State supports for landlords be targeted at operations of a particular size or scale? The Irish private residential property market has traditionally been dominated by small landlords owning one or two rental properties. In recent years, large institutional investors such as investment funds and REITs have entered the market, largely concentrating on the higher-value segment of the market. Consideration should be given to the type of landlord, or the appropriate mix of landlords, which would be most beneficial to the stability of the market in the long term.

2. The long-term direction of the model for provision of social housing supports and its interaction with the private rented accommodation sector must be considered when evaluating potential tax expenditures. For example, in the longer term, should State support for social housing take the form of subsidising a market rent payable by the tenant or by subsidising the construction of property to be let at a social and/or affordable rent to qualifying tenants?

3. Would a focus on current, on-going rental income returns be more conducive to long-term stability of rental accommodation supply? A landlord may enter the rental market with a view to generating a current net rental income, or with a view to making an income or capital profit at a future date. In the latter case, the landlord is more likely to maximise their initial borrowings and operate on a break-even or net loss-making rental return in the early years of ownership. Is either form of investment return more conducive to long-term stability in the rental market and, if so, does the State have any role to play in favouring one form over the other?

Consideration of these questions, while outside the scope of this Group’s work, would be advised before undertaking significant future policy interventions in the area, including the potential medium-term and long-term options set out below.

**Tax Expenditure or Direct Subsidy**
The evaluation must also consider whether a tax expenditure is the most appropriate form of intervention as opposed to a direct subsidy, each of which has particular benefits and limitations.

- Tax expenditures have the potential to encourage investment or business activity by taxpayers which may not have occurred in the absence of the incentive. Tax expenditures may also be more administratively efficient to operate than a direct subsidy. However it must
also be considered that a tax expenditure results in an increase in the proportion of tax collected from taxpayers who do not benefit from the expenditure. Tax expenditures are also regressive by nature, as only those who pay taxes and have sufficient income to fund the expenditure can benefit from the tax relief.

- Direct expenditures can be more transparent and can allow for more specific targeting of the government support than a tax expenditure. However this may involve a higher administrative cost linked to the assessment, selection and monitoring of subsidy recipients, as compared to the (still considerable) administrative and compliance costs of tax expenditures.

- Both tax expenditures and direct subsidies have potential deadweight costs, whereby a certain amount of the incentivised investment or expenditure would have taken place even in the absence of the incentive. Other existing policy interventions must also be taken into account, to establish whether the proposed incentive adds to the existing suite of policy interventions as distinct from causing duplication or conflict. The Tax Expenditure Guidelines also require the review of any new tax expenditure at certain set periods after its introduction, and for that reason any new expenditure must include provision for the collection of the data necessary for that future review.

**State Aid Considerations**

State aid control is a basic pillar of EU competition policy, with the aim of ensuring that state interventions do not interfere with the smooth functioning of the internal market or harm the competitiveness of EU undertakings. Therefore any new tax or fiscal measures must be assessed for compatibility with State Aid rules before introduction.

A tax measure will be regarded as State Aid if it is a selective measure, granted by the State, which confers an advantage to an undertaking and may affect competition and trade between Member States. Competition may be affected where the taxpayer benefitting from the measure carries on any economic activity in sectors open to competition. Most selective measures which benefit undertakings are likely to be considered State Aids. In contemplating any such policy measure therefore, the potential for the measure to fall within existing State Aid exemptions must be considered (such as de-minimis aid and General Block Exemption Regulations), or to be a compatible aid under the terms of EU Treaties, such as aid to promote the economic development
of areas with economic or social problems or to remedy a serious disturbance in the economy of a Member State. If a measure were to be introduced and subsequently found to be harmful State Aid, any relief granted to taxpayers would have to be recovered from the taxpayers by the Irish State.

**Existing Investment Vehicles**

Finally, in considering options for potential new policy measures, existing initiatives or structures should also be borne in mind. In the context of rental property, investment vehicles already exist that provide a tax efficient mechanism for investing in rental property, including REITs and IREFs as described in Chapter 5. These investment vehicles offer significant benefits for small retail investors as compared to direct property investment, such as low entry cost, risk diversification, liquidity and access to returns from investment-grade commercial property.

**Potential Policy Options**

With these considerations in mind, the Working Group has developed 10 potential policy options, split into measures that could potentially be implemented in the short, medium and long term.

Short-term options are measures which could potentially be implemented within the next 18 months, i.e. within Budget 2018 and 2019. Medium-term options are measures which work with the current tax system but might take longer to develop and implement, and as such would require a longer lead-in period. The long-term options look at the potential for more fundamental changes the tax system, or changes in the context of an overall review of the pensions system, and so would require significantly greater resource commitments to progress.

Where possible, estimated costs have been included for each of the options. However in some cases, particularly the medium-term and long-term options, costs would depend on the specific detail of any decisions taken. In those cases, matters to be considered in costing potential measures have been included, in place of a specific cost estimate.

In summary, the policy options developed by the Working Group are as follows:
Short-term Options
1. Accelerated restoration of full mortgage interest deductibility for landlords of residential property.
2. Introducing Local Property Tax deductibility for landlords.
3. Enhancing loss relief for landlords (or a sub-set of landlords), to allow relief for rental losses against other income sources in the same year.
4. Introducing deductibility for pre-letting expenditure for previously vacant properties.
5. Improvements in the collection and sharing of data on the rental accommodation sector.

Medium-term Options
6. Allowing a deduction against rental income for an element of the capital cost of the rental property in the initial years of ownership, with a corresponding reduction in the base cost of the property for Capital Gains Tax purposes on a future disposal.
7. Capital Gains Tax relief for properties acquired and retained as rental accommodation.
8. Incentive to attract investment capital into the construction of property, in areas of need, to be let at social / affordable rents.

Long-term Options
10. Consideration of developing a separate method of taxing rental income, for example, a flat tax or a separate rate of tax, as a policy lever to support the sector as a whole or specific sub-sectors (for example, affordable housing/urban housing).
Short-Term Options

Option 1: Accelerated restoration of full mortgage interest deductibility for landlords of residential property

Description
The measure would restore 100% mortgage interest deductibility for landlords of residential property with effect from 1 January 2018.

Interest deductibility for residential rental premises was restricted to 75% of qualifying interest in Budget 2009 in the context of the fiscal crisis and the need to broaden the tax base. Finance Bill 2016 provided for the phased restoration of full deductibility over five years in increments of 5 percentage points, commencing in 2017. 80% of qualifying interest incurred in 2017 is allowable in respect of rented residential property, and this will rise to 85% from 1 January 2018.

Overall Objective
The objective would be to improve the net cash position of landlords with mortgaged properties by reducing their taxable profits / income tax payable. It may assist in the retention of rental accommodation stock of properties owned by landlords who currently subsidise their rental properties and who are considering exiting the rental market as house prices increase.

Requirements that are needed for this measure to be introduced/operate successfully
A legislative change.

Analysis of Policy Option
As shown in the Profile of Landlords section earlier in this report, mortgage interest is often the largest single rental expense incurred by landlords and many submissions to the public consultation requested immediate or accelerated restoration of full interest deductibility. Landlords may be in a position where their rental income each month may only cover letting expenses or result in a net loss, but yet a taxable profit still arises due to the restriction on allowable mortgage interest. In such cases the landlord must subsidise the annual tax liability, and the monthly rental loss where relevant, from other net income. There is anecdotal evidence that rising property prices and increased regulatory burden (allied in some cases to rent restrictions) are prompting such landlords to sell their rental property in order to cut this additional expense. Restoration of full interest deductibility would improve the net cash position for indebted landlords and could encourage them to remain in the rented residential property market.
It has been noted that the current interest restriction favours investment in commercial rental property over residential rental property. Restoration of full interest deductibility for residential property would remove a distortion from the system and could encourage more investment in this sector, thereby improving the supply of residential rental accommodation for tenants.

It should be noted that an immediate restoration of full 100% deductibility would negate the incentive introduced in Finance Act 2015 which allows landlords who rent their property to social housing tenants for a minimum of 3 years to qualify for a 100% mortgage interest deduction against their rental profits. However, take-up of this incentive to date has been low, therefore the impact of negation is likely to be marginal.

The measure may not make a big difference to each individual landlord in cash terms so may not be regarded as sufficient to encourage them to stay in the market. It would have no impact on the approximately 30% of landlords who do not have mortgage debt in connection with their rental property. The measure could also have significant deadweight costs in respect of landlords who do not intend to leave the rental market.

It is possible that the relief could be capitalised into higher property prices in the buy-to-let market, due to the increased net return for landlords. Capitalisation of interest relief into property prices was one of the reasons for the phasing out of mortgage interest relief for owner-occupiers. In the short term it is unlikely that increased interest deductibility would lead to reduced rents for tenants due to the strong demand-side pressures driving prices, but it may have a stabilising influence on rents through supporting existing supply levels.

**Cost**

Legislation to restore full 100% interest deductibility over the period 2017 to 2021 was introduced in Finance Act 2016, and this has been provided for in the tax base over the period 2017 to 2022 (taking carry-over costs into account). Therefore an acceleration of this restoration would result in an additional tax cost being incurred, over and above the cost currently provided for. It is estimated that the cost of full completion of 100% deductibility with effect from January 2018 would be approximately €24 million in 2018 with a further carryover cost of c.€24 million in 2019.
Option 2: Allowing Local Property Tax (LPT) deductibility for landlords when calculating rental profits

Description
The measure would allow landlords to deduct LPT from their rental income as an expense in calculating taxable profits for the purposes of income tax.

Overall Objective
The objective would be to protect existing rental supply by improving the net cash position for existing landlords. It could also stimulate a new supply of rental accommodation by improving the return on investment for new landlords of properties which are liable for LPT.

Requirements that are needed for this measure to be introduced/operate successfully
Legislative change

Analysis of Policy Option
This proposal relates to allowing an expense that is routinely incurred by residential property owners, including landlords, to be deductible. The current non-deductibility of LPT is one aspect that has been highlighted in submissions to the public consultation as a factor leading to the non-profitability of landlords and a consequent reluctance to enter or remain in the residential rental property market.

Landlords may be in a position where their rental income each month may only cover letting expenses or result in a net loss, but yet a taxable profit still arises due to the fact that some expenses are not allowed as tax deductions, in this case, the LPT. In such cases, the landlords must pay the annual tax liability on the rental income, and also cover any rental expenses over the amounts allowed as a deduction where relevant, from other net income. There is anecdotal evidence that rising property prices and increased regulatory burden (allied in some cases to rent restrictions) are prompting such landlords to sell their rental property in order to cut this additional expense. The allowance of LPT as a deductible expense would improve the net cash position for indebted landlords and could encourage them to remain in the rented residential property market.
A 2012 Inter-Departmental Group chaired by Dr. Don Thornhill on the Design of the Property Tax recommended that LPT be allowed as a deduction to landlords of residential properties on the basis that it was an expense of the transaction under which rents are received. However, the subsequent 2015 Thornhill report, which conducted further analysis on the issue, recommended that a deduction should not be allowed on the basis that the concept of the LPT is linked to the amenity value of residential property which is of benefit to the tenant in addition to the landlord.

LPT is a relatively small expense and therefore the measure is unlikely to make a significant difference to the position of any individual landlord in cash terms, so may not be regarded by landlords as a sufficient measure to encourage them to stay in or enter the rental market. The measure would also have a deadweight cost in respect of landlords who do not intend to leave the rental market.

The measure would create a different treatment of LPT between landlords and owner-occupiers, who cannot claim a deduction for LPT. However there are other pre-existing differences in the tax treatment of owner occupiers and landlords.

**Estimated Cost**

Initial estimates suggest a current cost in the region of €28 million per year. Property valuations for the purposes of LPT are due to be reviewed in November 2019, any change to LPT valuations would have an impact on the cost of this option.
Option 3: Enhance loss relief for landlords (or a sub-set of landlords), to allow relief for rental losses against other income sources in the same year.

Description
This measure would allow landlords to offset current-year rental losses, arising under current Case V taxation rules, against other taxable income in the same year. Case I (trade) and II (professional) losses are available to offset sideways against other income, subject to restrictions in respect of non-profitable businesses.

Overall Objective
The objective would be to retain the existing stock of rental property in the market by improving the net cash position of landlords whose allowable expenses exceed rental income. It could also attract additional investment into rental property as it could reduce the net costs to landlords in the early years of the investment when net losses (most probably linked to mortgage interest costs) are more likely to occur.

Requirements that are needed for this measure to be introduced/operate successfully
- Consideration of tax-planning opportunities that could take advantage of this measure
- Consideration of loss relief against the income of a spouse under joint assessment rules

Analysis of Policy Option
Currently, landlords can carry-forward their rental losses for offset against future rental profits, but cannot offset rental losses against other net taxable income in the current year, other than other rental profits from other properties. By contrast, losses from a trade or profession can be offset against some other sources of income in a current year (subject to certain conditions).

However, rental losses can currently be carried forward indefinitely against future rental income, even after the loss-making property has ceased to be a rental property. This is in contrast to trading income chargeable under Case I, where the loss relief effectively ceases when the trade ceases. The current system of rental loss relief has the effect of encouraging landlords to remain in the market, in order to avail of the loss relief against future streams of rental income. Allowing offset of rental losses against all other income could potentially encourage landlords to exit the market at an earlier date, once their losses had been fully relieved against other income.
It is open to question whether the tax system should facilitate an individual in acquiring a capital asset through the offset of rental losses against other income. This would allow the landlord to part-fund the cost of borrowing to acquire an investment asset through loss relief claimed against active employment / self-employment income. However some other jurisdictions, such as Australia, France and Germany, permit ‘negative gearing’ in respect of rental property.

For most landlords mortgage interest is the largest single expense and is therefore likely to be a significant factor in determining profitability. Introducing the offset of rental losses against other sources of income could encourage higher levels of indebtedness among landlords when purchasing new property (albeit that the macro-prudential rules should limit potential for over-gearing).

It should be noted that where the mortgage costs, both capital and interest, exceed rental income there will be an economic loss but there may in fact be a taxable profit in that only the interest element qualifies for relief. This measure would have no effect in such a case.

Consideration would need to be given as to what impact this provision could have on owner-occupiers – in making property more attractive to landlords, owner-occupiers including first-time buyers could experience increased competition when bidding for homes.

Enhanced loss relief for rental losses would be a large departure from a well-established practice spanning many decades. In this regard, it may be appropriate to consider linking the enhanced relief to a desired policy outcome, for example, the measure could be linked to a requirement to charge a social/affordable rent.

This option would require a systems change within Revenue’s tax administration systems in addition to a legislative change and would therefore require a longer lead-in time. As such, while it is presented as a short-term option, it would be a potential option for Budget 2019 rather than Budget 2018.

It is possible that there could be significant deadweight cost if this measure were to be generally available, as some landlords with long-term plans may enter the market with the expectation of making initial losses but being profitable in the longer term.
This option could, as an alternative to wide application, be targeted at the cohort of individuals referred to as “accidental landlords” – i.e. individuals who purchased their first property during the peak years of the property boom, who have found it necessary to rent alternative accommodation more suited to their current household while renting out the owned property. It should be noted however that it may be difficult in practice to define and identify the intended “accidental landlords” for the purposes of any relief.

**Estimated Cost**

A very tentative costing for this potential measure has been estimated on the following basis:

- As noted in the report above, Revenue records indicate that just under 10% of landlords are loss making under current Case V computation rules, (i.e. 17,592 landlords out of a total sample size of 178,467 landlords). This figure is based on data from 2014 tax returns to Revenue and consists of both residential and commercial landlords.\(^{89}\)
- Taking into account the predominance of landlords owning one or two properties, in addition to the macro-prudential rules which limit loan-to-value borrowings, an average annual loss of €5,000 has been assumed.
- This would suggest losses in the region of €88 million might be incurred by landlords. Assuming that the landlords have sufficient other taxable income against which to offset this loss, at a marginal tax rate of 49% (income tax of 40%, USC of 5% and PRSI of 4%), this could result in a tax cost to the Exchequer of c.€43 million per annum.

As noted above, this is a very tentative initial estimate of the potential cost. Further work would be required to develop a more detailed costing, including consideration of the following factors:

- As noted above, the annual loss figure of €5,000 is wholly estimated. Detailed examination of Revenue records at a more micro level could be used to further inform this costing.
- The figures above for loss-making landlords relate to the year 2014, in which mortgage interest deductibility was restricted to 75%. This has now increased and will stand at 85% in 2018, therefore it is possible that the number of landlords making allowable losses may increase. If the restoration to 100% deductibility were to be accelerated, as contemplated under Option 1, this would need to be factored into the costing of this measure.

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\(^{89}\) This data has been discussed previously in ‘Chapter 4: Profile of the Rental Sector’ and all of the caveats and limitations to this data stated in Chapter 4 apply to this estimated costing.
• Balanced against this increase in deductibility however, there have also been significant increase in rental prices since 2014, so it is possible that the number of landlords who are loss-making in revenue terms has reduced.
• Over time, the costs of this measure would continue to be influenced by the market as rental price movements would change landlords’ profitability over time.
• Behavioural changes in response to the introduction of this option could result in significant increases to this cost over time.
Option 4: Deductibility for pre-letting expenditure for previously vacant properties

Description
A deduction could be allowed for pre-letting expenses incurred by a landlord in bringing a property which has been vacant for a minimum period of time, for example one year\(^90\), on to the rental market. Expenses of a type which would be allowable if incurred during/between lettings would be allowed – such as, for example, repairs and maintenance. The expenses would be deemed to have been incurred on the date the first letting commenced.

Overall Objective
The objective would be to increase the supply of rental accommodation by incentivising the owners of vacant property to bring the property up to standard and on to the rental market.

Requirements that are needed for this measure to be introduced/operate successfully
- A robust method to verify claims that the property had been vacant for the relevant period would need to be determined and may not be realistically achievable.
- The types of expenses, and time period in which they could be incurred, would need to be defined.

Analysis of Policy Option
Measures to incentivise property owners to bring currently vacant property into the rental market have greater potential to deliver short-term results to ameliorate the current housing crisis than measures designed to stimulate property construction.

In the case of property which has been vacant for a period of time, in some instances a certain amount of repairs and maintenance may be required to make it fit for rental purposes. While expenses of this type are deductible if incurred during the course of a letting or between lettings, they are not allowable when incurred before a first letting.

Landlords can only claim expenses actually incurred during the currency of a lease and in accordance with the conditions of a lease and which are an expense of the transaction under which the rents are received. Prior to the first letting there is no income against which the expenses can

\(^{90}\) If this option is pursued, the minimum vacancy period chosen should take account of any relevant initiatives in the forthcoming DHPLG Vacant Home Re-Use Strategy.
be set. Pre-letting costs which are currently allowable, as exceptions to the general rule, are expenses such as letting fees, advertising fees and legal fees before the first letting.

Census 2016 data suggests the presence of some 183,000 vacant housing units throughout the country, equivalent to 9 per cent of the national housing stock. However preliminary analysis of these vacancy figures carried out by a sample of local authorities in specific urban areas found that the true level of vacancies that can be targeted for effective re-use is in fact far lower. This analysis suggests that roughly one-third of dwellings are short-term vacant in nature (i.e. under sale/between tenancies). In urban areas in particular, for example Dublin, as few as 10 per cent of Census-identified vacancies are thought to be long-term in nature. This appears consistent with the transition analysis conducted by the CSO, where up to 70% of formerly vacant properties identified in Census 2011 were rented at the time of Census 2016.

Whilst vacant properties are the focus of an alternative report being progressed by DHPLG (Vacant Home Re-use Strategy, forthcoming), there is evidence to suggest that the majority of vacant property is located in rural areas with a somewhat limited pipeline of units in urban areas. In this regard, significant deadweight may be incurred unless such an initiative were tied to areas of high housing demand.

Taking into account the objective of increasing long-term supply of rental property, a claw-back provision could be considered whereby the additional pre-letting expenses are added back if letting of the property ceases within 5 years.

It should be noted that a Repair and Lease Scheme, under which Local Authorities will refurbish vacant properties and lease them from their owners, was rolled out nationwide from February 2017. The interaction of this option with the Repair and Lease Scheme would have to be considered. There have been over 400 applications for the Repair and Lease Scheme to date (as of August 2017) and 8 agreements to lease have been signed (note that Q2 figures for some local authorities were not available at the time of this report). Landlords can also already avail of the Home Renovation Incentive (HRI) tax incentive to assist in cost of renovating properties but the uptake by landlords to date has been low, at just 2.4% of the total properties on which work has been carried out under the scheme.
Estimated Cost

A tentative costing for this potential measure has been estimated on the following basis:

- As noted in the report above, while Census data suggest the presence of some 183,000 vacant units, further work by local authorities suggests that the true longer-term vacancy level may be closer to 10% of that figure – we therefore assume c.18,300 potential units.
- Taking into account the limited uptake of other incentives aimed at bringing vacant property back into use, such as the Repair-and-Lease and the Buy-and-Renew schemes, we estimate that a maximum of 10% of property owners might use this scheme and bring their property onto the rental market.
- We estimate an average allowable cost per property of €4,500 – as the Home Renovation Incentive is already available to landlords for expenditure on repairs, renovation or improvement works to a property over an expenditure threshold of €5,000 (VAT inclusive), it may be appropriate to consider capping the relief at this level.
- This would suggest eligible expenses in the region of €8.2million might be incurred by landlords. Assuming a marginal tax rate of 49% (income tax of 40%, USC of 5% and PRSI of 4%), this would result in a tax cost to the Exchequer, based on the above assumptions, of c.€4 million per annum.
Option 5: Improvements in the collection and sharing of data on the rental sector

Description
While Revenue and the RTB were not set up for the purpose of collecting statistical data, it is an inevitable consequence of their operations that they acquire large volumes of data. Accurate and comprehensive data is a pre-requisite when considering the introduction of new or review of existing tax measures. Future reviews of data collection systems, for example by the RTB and Revenue, should aim to improve the quality of data collected without unduly increasing administrative burdens.

The linkages between existing data sources should also be improved, where feasible and appropriate, to facilitate more in-depth analysis of the sector. For example, requiring the use of a property identifier for each tenancy registration with the RTB, such as an Eircode or a Local Property Tax property ID, would facilitate the linking of data collected by different State agencies.

The CSO and the Office of the Government Chief Information Officer (OGCIO) are driving the development of the National Data Infrastructure (NDI) in Ireland. This is being actively supported by Revenue, for example through the collection of Eircodes from customers. Work is also underway in revising the RTB database infrastructure.

Overall Objective and Analysis of Policy Option
As outlined in this report, analysis of the rented residential accommodation sector, and as a result the construction of suitably tailored policy suggestions, has been significantly hampered by the lack of robust data. In order to monitor the effectiveness of any newly introduced policy, integrated and complete data on the sector is a prerequisite.

While data are currently collected by a number of sources for varying purposes, these operate in isolation and are not designed to interact.

- The RTB collects data on registered tenancies, but their current systems do not permit differentiation between new tenancies and roll-over tenancies, and notification of a property leaving the rental stock is not required. Compiling robust data series over time is also rendered difficult by the lagged nature of many registrations.
- Revenue collects data on ‘tax units’ with rental income for the purposes of taxation but do not link this income to specific tenancy types or locations and, prior to the tax year 2016, did not require differentiation of residential property income from commercial property income.
- The Census collects self-reported data on tenancy type and bands of monthly rent payment. However, it relies on occupancy on the night, and cannot directly distinguish between short-term lettings (of an on-line portal nature) and registered tenancies of a more continuous type. Detailed data on the duration of tenancy is not collected, and information on date which building was constructed is incomplete.

The objective would be to improve the quality of data available so that:

- A stock and flow of rented residential accommodation (including rollover and first time registrations) can be ascertained.
- It can be identified more promptly when property is leaving the rented accommodation sector.
- The tax unit attached to a rental property in question can more easily be aligned with the RTB-registered landlord.
- The Eircode or Local Property Tax identifier for the property can be aligned across data sources, allowing greater integration and analysis of data.

A point to note in connection with this Option is that there is significant work under way on a number of data issues across the public sector in Ireland. For example:

- As referenced above, the CSO and the OGCIO (in the Department of Public Expenditure and Reform (DPER)) are the lead agencies in the development of the NDI.
- DPER are progressing the Data Sharing & Governance Bill as well as leading on the Open Data Initiative.
- All public bodies are preparing for the General Data Protection Regulation (GDPR) coming into force on the 25th May 2018.
- The Irish Government Economic & Evaluation Service (IGEES) is working to develop evaluation capacity across the civil service.
- Under the Rebuilding Ireland strategy there is a Housing Analytics Group also tasked with improving the consistency of publicly available housing related data and Revenue and the RTB are members of this Group.
Requirements that are needed for this measure to be introduced/operate successfully
Continued engagement of, and between, Revenue, RTB and the CSO.

Estimated Cost
Costs and lead-in time related to implementation of these changes would need to be considered, however this would not be a tax expenditure.
Medium-term Options

Option 6: Allow a deduction against rental income for the capital cost of the property in the initial years of ownership of a rental unit, with a corresponding reduction in the base cost of the property on a future disposal

Description
The measure would allow a tax deduction against rental income for an element of the capital cost of a property in the initial years of ownership of a residential rental unit, with a corresponding reduction in the base cost of the property on a future disposal for Capital Gains Tax (CGT) purposes. For instance, 4% of the capital cost per annum for the first 5 years, or 2% per annum for the first 10 years.

Overall Objective
The objective would be to support the supply of property in the residential market by improving the net cash position of landlords in the early years of property ownership by reducing their current taxable profit.

Requirements that are needed for this measure to be introduced/operate successfully
A method of accurately tracking the reduction in the base cost for a future sale of the property, potentially occurring some decades in the future.

Analysis of Policy Option
A landlord currently cannot offset the capital costs of a property against rental income (or any income) and this would be a major change.

Landlords may be in a position where their rental income each month may not cover, or only just cover, their mortgage repayment and letting expenses, but yet a taxable profit still arises due to the capital repayment element of the mortgage. In such cases, the landlords must subsidise the annual tax liability, and the monthly payment shortfall where relevant, from other net income. There is anecdotal evidence that rising property prices and increased regulatory burden (allied in some cases to rent restrictions) are prompting such landlords to sell their rental property in order to cut their expenses.

An example of how this option would work would be for a property costing €300,000, a rental expense of €12,000 i.e., 4% of the capital cost, would be allowed to be offset against rental income
in each of the first 5 years of letting. The base cost of the property for CGT purposes on a future disposal would be €240,000.

This would, in effect, partially subsidise the capital cost of a property for a landlord, which would be out of step with the position of other property owners and give rise to equity issues. Owner-occupiers cannot claim a deduction for the capital or interest costs of acquiring their property. Business property owners can claim a deduction for mortgage interest costs but cannot claim a deduction for the capital cost of the business premises (other than for specific types of industrial buildings which are considered to be wasting assets).

There are instances in which a CGT liability does not arise on disposal of a property – for instance the transfer of a property on death. Such cases would result in a permanent loss from the tax base of the relieved amount.

The incentive would be less attractive to individuals liable to income tax at the standard rate only. At current tax rates, a standard-rate income tax payer would get greater value from a CGT deduction at 33% than an income tax deduction at 29% (income tax at 20%, USC at 5%, PRSI 4%). However it is likely that a current relief at 29% may be considered more valuable than a future deduction at 33%, and the proportion of landlords liable to pay income tax at the lower rate is likely to be low.

The phased restoration to 100% of mortgage interest deductibility for all residential landlords should already be contributing to an improvement in the cash position for indebted landlords by reducing income tax payable on net rental income.

Consideration would need to be given to whether the relief would apply to existing property holdings or only to property purchased after the introduction of the relief. Introducing the incentive for new purchases only could be viewed unfavourably by existing landlords and could lead to some increased property churn from current property owners seeking to avail of the relief. Alternatively, extending the relief to existing property owners would have a significant deadweight costs and may give rise to difficulties in identifying the appropriate capital cost to use.

As an alternative to wide application, this option could be targeted at the cohort of individuals referred to as “accidental landlords” – i.e. individuals who purchased their first property during
the peak years of the property boom, who have found it necessary to rent alternative accommodation more suited to their current household while renting out the owned property. It should be noted however that it may be difficult in practice to define and identify the intended “accidental landlords” for the purposes of any relief.

**Considerations Relevant to Potential Cost**

Three factors relevant for the costing would be: the reduction in current income tax revenues; in the longer term, the claw-back of the deduction as CGT rather than income tax, USC and PRSI; the potential for loss to the Exchequer if the property is not subject to CGT in future.
Option 7: CGT relief for properties acquired and retained as rental accommodation

Description
Where a property is purchased with a tenant in situ and is retained as a rental property for a minimum of 5 years, a Capital Gains Tax relief of 4% per annum would accrue on an annual basis for the length of time it remains as a rental property.

The measure would apply where a property is purchased with a sitting tenant and continues to be let as residential accommodation for a minimum of 5 years. If it is sold or ceases to be let to tenants in less than 5 years, no relief applies. If it is sold or ceases to be let after more than 5 years, the taxable gain is reduced by 4% for each year that it was held as a rental property.

For example:

i. A rental property purchased for €300,000 in 2018, is operated as a rental property until 2028 and then sold for €400,000. The gain of €100,000 is reduced by €40,000 (10 x 4%), net taxable gain is €60,000.

ii. A rental property purchased for €300,000 in 2018, is operated as a rental property until 2026 and then sold in 2028 for €400,000. The gain of €100,000 is reduced by €32,000 (8 x 4%), net taxable gain is €68,000.

Overall Objective
The objective would be to retain existing rental accommodation in the rental market when current landlords choose to sell the property. It would also aim to promote the long-term retention of property in the rental sector and an increase in the duration of tenancies.

Requirements that are needed for this measure to be introduced/operate successfully

- Anti-avoidance provisions to prevent the abuse of the relief (through, for example, lettings to connected parties) would need to be included.

- A review of regulations may be required to maintain tenant rights through a change of landlord.
Analysis of Policy Option
In some areas, rental price inflation has given rise to a significant disparity in the accommodation costs faced by households renting as compared to owner-occupiers with mortgages, resulting in a comparative economic disadvantage for renters as compared to owner-occupiers in similar properties. A consequence may be a greater demand for property for home ownership than for investment in rental accommodation and a corresponding price premium for residential property sold with vacant possession.

There is also anecdotal evidence that some landlords are choosing to exit the market or reduce their property holdings as property prices rise and rental yields are restricted in Rent Pressure Zones. Where such properties are sold to owner-occupiers, this results in a reduction in stock in the rental sector (albeit that it may also reduce demand to the extent that the new owner-occupier was formerly a tenant in another rented property).

An incentive of this type would encourage a prospective investor to purchase a property with a tenant in-situ, thereby preserving the existing tenancy. Reduction in tenancy churn in rental markets and greater continuity of tenancies could result in reduced call on social housing services by households evicted as a result of disposals of rental properties.

By supporting potential buy-to-let purchasers, the measure could reduce incentives for landlords planning to exit the market to seek vacant possession in order to sell their rental properties into the home ownership market.

It would also encourage the retention of the property as rental stock in the longer term. The minimum qualifying period of 5 years would ensure the preservation of stock in the short term, but the continuing incremental benefit would also act as a longer-term incentive.

The current rent pressure zone regulations may inhibit uptake of this model, in cases where the current tenant’s rent is below the market rent for the property and the property is therefore less attractive to a buy-to-let purchaser.

Potential Cost
Following determination of the relevant parameters for the relief, further work would be required in order to develop a potential cost for this option.
Option 8: Incentive to attract investment capital into the construction of property, in areas of need, to be let at social / affordable rents.

Description
A relief similar to the Employment and Investment Incentive (EII) could be developed for use by Approved Housing Bodies and/or private development companies to attract equity-based finance from individual investors for the construction of property for the low to moderate income rental market.

An investor would subscribe for shares in a company set up to develop and manage the rental properties. Similar to EII, the relief could be phased – for example relief for three-quarters of the investment could be allowed initially (at construction stage) with relief on the balance allowed when letting commences.

The investor would be required to hold the shares for a minimum of years. Once letting has commenced the project should generate an ongoing income return to the investor. The investor would also hold an equity stake in the company owning the property which could be sold after the minimum holding period.

The relief would be available in respect of construction projects in designated areas of social/affordable housing need, and the management company would be required to let an agreed proportion of the housing units at social and/or affordable rents to qualifying households.

Overall Objective
The objective would be to increase the financing available for the development of accommodation for low income households in areas experiencing high demand, as there is currently a weak market capacity and/or preference to supply rental units to this market segment.

The incentive would be tied to a requirement that some/all of the units would be let at a social / affordable rent, below market rent.
Requirements that are needed for this measure to be introduced/operate successfully

- This option would subsidise the construction of property to be rented out at social/affordable rents. The current model for State supported rental accommodation for low-income households is subsidising payment of a market rent. These approaches would need to be reconciled.

- Methods for determining and monitoring the appropriate social and/or affordable rents would need to be established.

- As with any targeted incentive, State Aid approval would be a consideration and, if deemed to be a State Aid, approval as compatible aid or an exemption from State Aid rules would need to be sought for this measure.

- A process of engagement with relevant stakeholders would be required in order to develop a structure that is operational in practice at both construction phase and the long-term rental management phase of the project. Previous initiatives tied to requirements to supply property at below market rent, such as reduction in local authority development levies, have had poor levels of uptake.

- Controls to ensure the measure did not just inflate the price of construction would need to be in place.

Analysis of Policy Option

The chief goal would be to increase the supply of rental housing for low-to-moderate income households in urban areas, thereby reducing price pressures in that market. Given the linkages between accommodation sub-markets, there is potential for the increased supply of housing units to have a beneficial consequential impact on general rental accommodation price levels.

Diversified funding options for the developers of rental accommodation would reduce the sector’s reliance on the financial sector and potentially encourage greater diversification into equity-based funding sources, and could reduce financial system exposure to housing-price dynamics.

The incentive would reduce the ongoing financial supports required for households accommodated in the incentivised properties at social/affordable rents. It could also potentially have a price-dampening effect in the wider rental accommodation market as a result of the additional supply of accommodation.
The efficacy of such a measure would depend on the degree of tax relief and the scale of market interest, however supply-side tax measures with similar objectives are a major element of public housing programmes in other jurisdictions, such as, for example, the Low Income Housing Tax Credit which is a longstanding programme operated by the Federal Government in the United States.

In view of the mixed outcomes that have resulted from tax-based incentives in the housing market in recent years this option would need to be weighed very carefully as, depending on the design of the measure, it could give rise to unintended and undesirable consequences.

An investment of this nature would be relatively low-risk as compared to other tax-supported investments such as the Employment & Investment Incentive (EII), which is aimed at innovative companies. The minimum holding period for EII Shares is 4 years. In order not to divert potential funding from EII companies and cause a crowding out of investment, and to meet the objective of stable supply of accommodation for lower-income households, a longer holding period would appear appropriate, perhaps up to 10 years.

The ability for the State to claw-back the tax relief granted in the event of a failure to let the required number of properties at social and/or affordable rents would cease at the end of the minimum holding period, when the original investor who received the relief is able to sell the shares.

As an alternative to an equity-based structure, a debt-based model where investors contribute loan finance to the company could be considered, again subject to stakeholder consultation.

A point to consider is that the ‘Rebuilding Ireland Pillar 3 ‘Build More Homes’ Working Group’ led by DHPLG is examining construction costs and housing delivery, and the outcomes of this Working Group would be relevant to the design of any tax incentive focused on supporting construction costs.

It should also be noted that previous initiatives tied to requirements to supply property at below market rent, such as reduction in local authority development levies, had poor levels of uptake.
Considerations Relevant to Potential Cost
Following determination of the relevant parameters for the relief, further work would be required in order to develop a potential cost for this option. Considerations would include:

- Such a scheme would be demand-led, but costs could be controlled through targeting the qualifying construction projects to areas of particular rent pressures and to specific design characteristics.
- It would also be envisaged that the scheme would be time-limited, both in order to encourage early uptake and to ensure that it is targeted to address the current market failure.
- In addition to the cost of tax foregone by the Exchequer, there would also be administration costs associated with the development, implementation and monitoring of the scheme through the tax system.
- When qualifying households are accommodated at the lower social/affordable rents, there should be a reduction in the ongoing income support payments (HAP and Rent Supplement) required to support those households and, over time, this may offset some or all of the incentive cost.
Long-term Options

Option 9: Review of provisions for the holding of rental property via pension vehicles

Description
In the context of a planned wide-ranging review of pensions policy, the current provisions allowing for investment in property via pension funds could be reviewed to determine if they are appropriate for the Irish property market.

Overall Objective
To ensure pension funds can invest in residential rental property in a manner that is compatible with the long-term provision of pension benefits to the prospective pensioner(s) and with stability of tenure and supply in the rental accommodation market. This could encourage / retain investment in rental accommodation by small scale landlords and encourage planning for retirement income. For example, the review may consider allowing (in effect) a current year tax relief for the capital cost of the property to improve affordability for indebted landlords.

Requirements that are needed for this measure to be introduced/operate successfully
Investment in rental property has traditionally been regarded as an alternative or additional pension investment as it has the potential to provide an income source in retirement or a capital lump sum on sale of the property. There are already existing pension products that allow for investment in property within the existing pensions governance and oversight frameworks. Furthermore, pension schemes can currently invest in REITs or IREFs as part of their investment strategy. A review of these products, in the context of a wide-ranging review of pensions policy, could be undertaken to determine if the current products are appropriate for the current Irish market and operating effectively, and to determine if alterations could or should be made.

The use of a pension fund to hold such property has potential benefits for both the investor (future pensioner) and the rental market:

- The fund member can receive tax relief, subject to the applicable age and income-related contribution limits, on the monies invested in the pension fund. As is the case for other forms of income within pension funds, rental profits within a pension fund are exempt from tax.
- Pension funds are long-term investments as the investor is restricted from accessing the pension fund until retirement. Rental accommodation investments structured through
pension funds are therefore likely to be long-term in nature, providing stability of supply to tenants.

Pension funds (and the associated reliefs) are linked to the need to replace employment income in retirement. By contrast, income from an investment property does not cease when the landlord reaches retirement age.

For a small pension fund, investment in a single rental property is likely to represent a significant concentration of risk. It would also be a highly geared investment assuming mortgage borrowings were used to fund the property purchase. It may be an unsuitable investment strategy for many pension funds to follow and might result in a level of liquid investments that are insufficient to meet obligations relating to benefits, including ill-health and early retirement benefits.

The objective of improving stability of tenure for tenants would require the property to be retained for a significant period of time, which in turn could limit the active asset-management options open to the pension fund trustees.

The existing tax relief which is available to regular pension contributions is tied to strict conditions, such as a restriction on access to retirement benefits until retirement age and the nature of benefits that can be accessed in retirement. Property investors may need to be cognisant of this long-term commitment when deciding to hold rental property through a pension vehicle.

Treating a landlord’s capital outlay on rental property and rental losses as pension contributions would involve a significant shift from the existing position and would be expected to result in calls for similar treatment from taxpayers in respect of other sources of investment income, for example income from dividends.

**Considerations Relevant to Potential Cost**

Further work would be required in order to develop a potential cost for this option, following development of specific proposals.
Option 10: Consideration of developing a separate method of taxing rental income, for example, a flat tax or a separate rate of tax, as a policy lever to support the sector as a whole or specific sub-sectors (for example, affordable housing/urban housing)

Description
As rental income is distinguishable for tax purposes from other sources of income, consideration could be given to the development of a separate system of taxation for rental income in order to support particular policy objectives within the sector.

For example, other jurisdictions use flat tax rates or notional profit rates for the taxation of rental income arising to certain types of landlord.

Overall Objective
The objective would be to support the rental sector, or specific sub-sectors of the rental sector. For example, a mechanism to apply different rates of tax to income from residential lettings could be used to influence supply.

Requirements that are needed for this measure to be introduced/operate successfully
Legislative change
This would represent a significant departure from current tax policy and so would require a detailed analysis of options, and the development of new administrative systems for tax collection.

Analysis of Policy Option
A consideration of the question of if it is appropriate to support one sector of the economy, i.e. the rental sector, over other areas. However, while horizontal equity is an over-arching consideration for the design of tax systems, it is also acknowledged that targeted tax reliefs and/or incentives can be, and are, used as a tool to achieve agreed policy outcomes, where appropriate.

A flat rate of tax system would be simple for taxpayers to understand and easy to operate and could be effective at incentivising increased activity. However it would not be beneficial to landlords operating at low profit margins or at a loss. In the event that a flat rate of tax were to be considered, review of previous Irish experience would be relevant. Up to the mid-1970s, farmers were taxed on a flat tax basis based on land valuation. While this system was discarded after extensive study, on grounds including comparative fairness with other income earners, it could
provide insights into the design of a more viable flat-rate system if such a measure were to be considered.

Other forms of bespoke taxation already exist in the Irish tax system. For example, a specific regime currently applies to the leasing of land for the purpose of farming. Subject to criteria, such as a minimum leasing term of 5 years and a requirement that the land not be leased to a close relative, the taxable rental income is reduced subject to a maximum reduction depending on the term of the lease. The relief cannot be used to create a loss and each individual can only qualify for one reduction regardless of the number of qualifying leases they may have. Currently the relief is equal to the amount of the income subject to a maximum reduction ranging from €18,000 of rental income for leases of more than 5 years but less than 7 years, up to a maximum reduction of €40,000 where the term of the lease exceeds 15 years.

Considerations Relevant to Potential Cost

Following determination of the relevant parameters for the relief, further work would be required in order to develop a potential cost for this option. Considerations would include:

- In addition to the cost of tax foregone by the Exchequer, there would also be administration costs associated with the development and implementation of a new system of taxation for rental income.
Appendix 1 – RTB and Daft.ie Rent Index Methodologies

There are three different rent datasets which are commonly referred to in Ireland – the RTB Average Rents Dataset (hosted by the Central Statistics Office), the RTB Rent Index, and the Daft Rent Report.

The RTB Rent Index

The Rent Index (available at www.rtb.ie) is produced in association with the Economic and Social Research Institute and is based on private rental property registered with the RTB. The Rent Index is based on actual (as opposed to advertised) registered rents for new tenancies in a particular quarter. The RTB’s average quarterly rent dataset is based on approximately 25,000 new registered tenancies.

The Rent Index contains a table of standardised rents which is a mix-adjusted rent, i.e. a measure of rents that takes account of the changing mix of properties rented in different time periods. The standardised rent is based on the average rent in the base period which is then updated using the values contained in the rent index table. A hedonic regression methodology is used to mix adjust. Hedonic regression is a method of estimating demand or prices i.e. it decomposes the item being researched into characteristics (e.g. dwelling size, property type, location etc.) and obtains estimates of the value of each characteristic.

The key point of the standardised index is that it takes into account the changing mix of properties rented in different time periods, whereas the average rents on their own do not.

The RTB Average Rents Dataset hosted by CSO

The average rent dataset, which is also available on the RTB website at www.rtb.ie, contains average rents being paid for particular time periods for five different categories of dwelling types in 446 locations throughout the country, in both urban and rural areas. The average rents dataset is useful for people who want to check what is the actual rent being paid for, say, a semi-detached house or a two-bed apartment in their local area, and in other parts of the country. However average rent changes if the mix of properties rented changes, therefore there is a need to mix–adjust to get a standardised rent.
The RTB Rent Index Methodology

1. The rents data is mapped to Local Electoral Area (LEA), so that each tenancy registered with the RTB could be identified at an LEA level. This exercise was undertaken by an Eircode Accredited Encoder, through an encoding process, which mapped the RTB’s addresses to Eircodes, which were then mapped to LEAs utilising built in linkages within the Eircode database. A matching rate of 95.74% was achieved.

2. A methodology developed by the ESRI is applied to provide for a standardised rent index for Irish Local Electoral Areas (LEAs). The primary focus was to create a mix-adjusted measure of rents; that is, a measure of rents that takes account of the changing mix of properties rented in different time periods.

The data are also examined prior to any mix-adjustment to identify outliers and/or data entry errors. This is not a check of all the variables, but is focused on those that will form a part of the mix-adjustment process. A hedonic regression method is then used to provide indices.

The original (pre Q4 2016) hedonic regression model used for the rent index had to be amended to take account of the new LEA information. The original model used rolling data going back over 6 quarters and the new model (since Q4 2016) is a pooled approach using all data since 2007 in one estimation. This is to ensure there are enough observations from which to generate satisfactory results. The results of the new model was compared with the existing rent index at a national level and they are broadly consistent.

It should be noted that as the RTB move forward to analyse future quarters’ rents data there may be revisions to earlier quarters due to retrospective or late registrations, as all of the RTB’s rent data are based on tenancy registrations.

3. The standardised rent is based on the average rent in the base period, which is then updated using the mix-adjusted index. This is as per the published Q1 2017 and other quarterly rent index.
The Daft rent report
The Daft.ie Report uses a weighted average rent for each of 54 markets, where the market-level weights come from the Census, in particular the fraction of the national total of rented households. Within each market, the rents reflect the mix in that market (e.g. more 1-beds in Dublin 1, more 4 beds in Leitrim). All figures are based on hedonic rental price regressions, as is standard in Residential Property Price Indices, with monthly rents expressed as a function of size, type, location and other features such as utilities. This report is based on advertised rents, which may in some cases differ from the final rent agreed between landlord and tenant.
Appendix 2 – Public Consultation

The public consultation was conducted over four weeks from Friday 10 March to Friday 7 April 2017 and it received 69 submissions from landlords, representative bodies and individuals.

In the public consultation document that provided the framework for this exercise, the Minister for Finance invited interested parties to make submissions on the tax and fiscal treatment of landlords in general and also the option was given to answer any or all of 10 consultation questions which are outlined later on in this report. Only 16 submissions included responses to one or more of the consultation questions. Below is a description of the main points raised in the responses to the public consultation.

General Overview of Consultation Submissions

The issues raised most frequently in the submissions can be allocated to four broad categories which are Rental Expenses, Income Tax Rates/System, Other Taxes, Specific Schemes/Incentives and Other Issues and are outlined in the four tables below. In summary, the most common issues raised overall (raised over 20 times each) were deductibility of Mortgage Interest, Local Property Tax, Capital Gains Tax, the Rent-a-Room Scheme and ‘Travel and Personal Time’.
### Rental Expenses:

<table>
<thead>
<tr>
<th>Category</th>
<th>Suggestion (no. of submissions raising the issue)</th>
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| **Mortgage Interest**            | (1) Restore deductibility to 100% with immediate effect *(26)*  
(2) Interest deduction to be conditional on management/service charges being paid *(1)*  
(3) Introduce 110% interest deductibility to incentivise vacant property owners to get their property back into use *(1)* |
| **Repairs/replacement**          | (1) Full upfront deduction for furniture and fittings *(9)*  
(2) Deduction for furniture and fittings accelerated, for example, to 20% over 5 years *(2)*  
(3) Increased tax relief for refurbishment work (possibly tied to minimum standards/energy efficiency) *(1)*  
(4) Full upfront deductions for furniture and fittings on newly repaired/refurbished premises let for the first time *(1)*  
(5) Expenses available as a deduction against rental income under section 97 TCA should become less prescriptive and more in line with normal trading deductions *(3)* |
| **Local Property Tax**           | (1) LPT should be an allowable expense *(21)*  
(2) Transfer payment of LPT to tenants *(2)*  
(3) NPPR should be tax deductible against rental profits *(3)* |
| **NPPR**                         |                                                                                                                                 |
| **Travel time/mileage**          | (1) Travelling expenses to and from property to maintain properties and deal with tenants should be an allowable expense. *(9)* |
| **Time spent looking after property** |                                                                                                                                 |
| **Other expenses**               | (1) Tax deduction for management fees only when tenancy is registered with RTB, and only on a paid basis, not accruals *(1)*  
(2) Tax deduction for mortgage protection payments *(1)*  
(3) Double deduction for professional letting fees (to improve standards) *(1)*  
(4) Deductibility for pre-letting expenses *(1)* |
| **Capital refurbishment expenditure** | (1) Allow relief for capital expenditure on refurbishment / upgrading *(5)*  
(2) Allow relief for renovation of vacant housing for rental market *(1)* |
### Income Tax Rates/System:

<table>
<thead>
<tr>
<th>Income Tax Rates/System</th>
<th>Suggestion (no. of submissions raising the issue)</th>
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<tbody>
<tr>
<td>Rental taxation</td>
<td>(1) A reduced rate of tax (e.g. 25%, 12.5%) (7)</td>
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<tr>
<td></td>
<td>(2) Abolish income tax on rental property and introduce a 15% rate on the rental value payable to local council (1)</td>
</tr>
<tr>
<td></td>
<td>(3) Introduce a tax exemption for a 7-year period in respect of qualifying properties which are placed on the rental market for the first time (2)</td>
</tr>
<tr>
<td></td>
<td>(4) Taxation of income from a property rented to fund accommodation in sheltered housing for an elderly owner is unfair (1)</td>
</tr>
<tr>
<td></td>
<td>(5) Remove rental income from residential property from the close company surcharge (1)</td>
</tr>
<tr>
<td></td>
<td>(6) Income tax exemption for income from long-term lettings (1)</td>
</tr>
<tr>
<td>Long Term leases</td>
<td>(1) A reduced tax rate on profits from long-term tenancies (5)</td>
</tr>
<tr>
<td></td>
<td>(2) Introduce exemption from income tax on long-term letting of residential property (1)</td>
</tr>
<tr>
<td>Loss Relief</td>
<td>(1) Improve loss relief for landlords – allow carry-back or offset against other income (5)</td>
</tr>
<tr>
<td>Self-employment</td>
<td>(1) Allow landlords to claim Earned Income Credit (2)</td>
</tr>
<tr>
<td>PRSI</td>
<td>(1) PRSI should not be payable on rental income (6)</td>
</tr>
<tr>
<td></td>
<td>(2) PRSI paid on rental income should count towards State pension(^{91}) (1)</td>
</tr>
<tr>
<td>USC</td>
<td>(1) USC shouldn’t be payable on rental income (10)</td>
</tr>
<tr>
<td></td>
<td>(2) Remove 3% USC surcharge on rental income over €100k (1)</td>
</tr>
<tr>
<td>Accidental Landlords(^{92})</td>
<td>(1) Should be exempt from paying tax on rental income (2)</td>
</tr>
<tr>
<td></td>
<td>(2) Temporary (5-year) exemption from Income Tax (2)</td>
</tr>
<tr>
<td></td>
<td>(3) A tax rebate / credit where a negative equity property is sold (1)</td>
</tr>
<tr>
<td></td>
<td>(4) Offset the cost of renting their new property against rental income (1)</td>
</tr>
<tr>
<td></td>
<td>(5) Allow them to engage a letting agent at no cost to themselves (1)</td>
</tr>
</tbody>
</table>

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\(^{91}\) In general PRSI charged on income, including rental income, is reckonable for benefits including State pension. Employees whose only source of self-employed income is unearned (i.e. rental income) were, prior to 2014, exempt from PRSI. Since then PRSI under Class K is charged on these employee’s unearned income and Class K is not reckonable for benefits. However employees can generate social insurance entitlements based on their employment income, where appropriate.

\(^{92}\) In this context, ‘accidental landlord’ is taken to refer to individuals who purchased a property at the peak of the property market but who, as a result of a growing family or changes in employment, are now renting out their mortgaged property and living in another rented property as a tenant.
### Capital Allowances

<table>
<thead>
<tr>
<th>Suggestion (no. of submissions raising the issue)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Introduce capital allowances for new property that will remain as rental stock for 20 years</td>
<td>(1)</td>
</tr>
<tr>
<td>(2) Introduce a Section 23 type tax relief for a 3-year period for investors in new rental accommodation supplied in high-demand locations</td>
<td>(1)</td>
</tr>
<tr>
<td>(3) Introduce capital allowances for new residential property in high demand areas</td>
<td>(1)</td>
</tr>
<tr>
<td>(4) Deduction / capital allowances for capital element of mortgage payments</td>
<td>(2)</td>
</tr>
<tr>
<td>(5) Capital allowances for capital cost of property with corresponding reduction in base cost for CGT purposes</td>
<td>(1)</td>
</tr>
</tbody>
</table>

### Other Taxes

#### Pensions

<table>
<thead>
<tr>
<th>Suggestion (no. of submissions raising the issue)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Relax Revenue rules as regards small self-administered pension (SSAP) funds borrowing to invest in property to make it easier to organise same by allowing cross collateralisation amongst properties in a SSAP</td>
<td>(1)</td>
</tr>
<tr>
<td>(2) Allow rental income to be held in a nominated bank account with no taxation until withdrawn. Payments by the landlord into the account (e.g. when rental property is loss-making) to be treated as pension contributions and afforded the same tax reliefs</td>
<td>(1)</td>
</tr>
<tr>
<td>(3) Rental income should be reckonable income for the purposes of tax relief on pension contributions</td>
<td>(1)</td>
</tr>
<tr>
<td>(4) Allow the capital repayment element of a loan to receive tax relief as a pension contribution</td>
<td>(1)</td>
</tr>
<tr>
<td>(5) Facilitate a one-off transfer of a property into a pension fund without tax or legal consequences</td>
<td>(1)</td>
</tr>
</tbody>
</table>

#### VAT

<table>
<thead>
<tr>
<th>Suggestion (no. of submissions raising the issue)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) There should be a reduced /zero rate of VAT on the cost of construction of rental accommodation</td>
<td>(4)</td>
</tr>
<tr>
<td>(2) Allow VAT on the supply of new buildings to be reclaimed over a period of time (e.g. 6 years) where a property is supplied for rental purposes.</td>
<td>(1)</td>
</tr>
</tbody>
</table>

#### CAT / Inheritance Tax

<table>
<thead>
<tr>
<th>Suggestion (no. of submissions raising the issue)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Reduce CAT rates / increase CAT thresholds. German inheritance tax system suggested as alternative</td>
<td>(1)</td>
</tr>
<tr>
<td>(2) Allow succession reliefs to apply to rental businesses</td>
<td>(3)</td>
</tr>
</tbody>
</table>
CGT

(1) Reinstate indexation relief for gains on disposal of rental property (3)

(2) A CGT reduction / exemption in respect of residential property held and let out long term (e.g. 15-20 years). Germany (exempt from CGT if property rented for 10 years and Switzerland (has a graduated exemption from CGT) suggested as alternatives (6)

(3) Lower rate of CGT where tenancy remains in place after sale (5)

(4) Remove double layer of CGT for corporate landlords (1)

(5) Allow retirement relief to apply to rental businesses (2)

(6) Introduce rollover relief for rented residential property (3)

(7) Special CGT relief for owners selling properties (1)

(8) There should be a CGT exemption for REITs (1)

(9) Reduce rate of CGT (1)

(10) Introduce a replacement property CGT relief to free up land currently used for industrial commercial purposes for housing development (1)

Penalty taxes

(1) Introduce penalty taxes for unoccupied property / development land (2)

Specific Schemes/Incentives:

<table>
<thead>
<tr>
<th>Specific Schemes/Incentives</th>
<th>Suggestion (no. of submissions raising the issue)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent-a-Room Scheme</td>
<td>(1) Abolish it altogether. (3)</td>
</tr>
<tr>
<td></td>
<td>(2) Extend to lettings of whole properties (4)</td>
</tr>
<tr>
<td></td>
<td>(3) Increase or abolish the €14k cap (5)</td>
</tr>
<tr>
<td></td>
<td>(4) Rent-a-Room relief should be proportionate to the number of tenants (4)</td>
</tr>
<tr>
<td></td>
<td>(5) No more than 2 rooms in any property should be able to avail of the scheme (2)</td>
</tr>
<tr>
<td></td>
<td>(6) The RTB requirements should apply to lettings availing of the scheme (2)</td>
</tr>
<tr>
<td></td>
<td>(7) Tax relief for Rent-a-Room should include a requirement for the occupation license for tenants to have certain minimum rights (notices etc.) and should come under remit of the RTB for dispute resolution (1)</td>
</tr>
<tr>
<td></td>
<td>(8) Improve data collection for this scheme (4)</td>
</tr>
<tr>
<td>Scheme</td>
<td>Details</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>EII (Employment and Investment Incentive) Scheme</strong></td>
<td>(1) The EII scheme could be extended to allow investment in rental property.</td>
</tr>
<tr>
<td><strong>Home Renovation Incentive Scheme</strong></td>
<td>1) Scheme should be available to Owners Management Companies.</td>
</tr>
<tr>
<td><strong>DIRT Refund Scheme</strong></td>
<td>(1) Extend to investors, and extend to other forms of tax at source (DWT, exit tax, etc.).</td>
</tr>
<tr>
<td><strong>REITs</strong></td>
<td>(1) To encourage Irish investment in REITs, dividends should be subject to tax at the standard rate of income tax only – 20%. This would encourage and facilitate small investors to invest in the Irish residential property market. (2) Lack of viable exit routes could be changed by allowing UK and other EU REITs to access the Irish REIT regime. (3) Relax holding period for CGT exemption on property sales to encourage joint venture property development to increase stock.</td>
</tr>
<tr>
<td><strong>Northern Irish Home in Multiple Occupations</strong></td>
<td>(1) Explore feasibility of introducing similar structure to Northern Irish HMOs/short-term leases should be eligible for tax relief when rented to students.</td>
</tr>
<tr>
<td><strong>Owner Management Companies</strong></td>
<td>(1) Exempt owners management companies from CT on incidental income (e.g. deposit interest on sinking fund). (2) Allow tax-free directors fees up to €5,000 to be paid to OMC directors. (3) Allow OMCs to reclaim VAT on capital expenditure on common areas.</td>
</tr>
</tbody>
</table>
A number of other issues were raised which do not fall into the above four categories. They are set out in the table below:

<table>
<thead>
<tr>
<th>Other issues</th>
<th>Suggestion (no. of submissions raising the issue)</th>
</tr>
</thead>
</table>
| Rogue tenants              | (1) One of the biggest problems is rogue tenants (4)  
(2) Rent allowance should be paid directly to landlords – often not passed on when received from the Department of Social Protection (1)  
(3) Introduce a tenants’ Code of Conduct enforceable by the RTB to improve the rental experience for landlords. (1) |
| RTB                        | (1) RTB is more favourable to tenants than landlords (6)                                                                                                                                                                                          |
| Non-compliant landlords    | (1) Policing of non-compliant tax avoiding landlords and imposition of meaningful penalties on those caught offending (1)                                                                                                                             |
| Rent restrictions          | (1) Rent restrictions are the main reason landlords are leaving the rental market as they can only increase 4% from what may be a low base rent (6)  
(2) Legislation should be amended to allow for market rent to be reset once a new tenancy begins (4)  
(3) RPZ legislation has forced some landlords to increase rent to market value in case their property area is designated (1)  
(4) If I sell my property an investor won’t buy due to RPZ / new owner should be able to charge market rent (2)  
(5) Rent restrictions seen as market interference and making rental certainty for landlords impossible. (1)                                                                 |
| Long-term leases           | (1) Long term leases should be the norm for those tenants who want a long term arrangement and the rent should be fixed for 4 years in line with RTB leasing terms – 4 years and an agreed % thereafter in line with market. (1)                                      |
| Owner Management Companies | (1) Increase Revenue powers to inspect OMC records (2)                                                                                                                                                                                             |
| Vacant Properties          | (1) Allow vacant property owners to borrow from Credit Unions for short periods or the government should provide them with funds ring-fenced for refurbishment at a low rate. (1)                                                                         |
Responses to Consultation Questions

Question 1: What is the single most significant issue which is causing existing landlords to consider exiting the rental market, or deterring potential investors from entering the residential property market? Is there any tax or fiscal measure that could address this issue, having regard to existing Budget constraints?

In response to the first half of the question, which was addressed by 14 submissions, the issue most commonly cited was the high marginal income tax rate affecting landlords (nine submissions). However, several submissions noted that it is a combination of reasons rather than any one issue on its own that is causing landlords to consider exiting the market and deterring others from entering.

Other reasons cited included rent restrictions, high CGT rates, indebtedness, the restriction in interest deductibility, RTB compliance requirements, introduction of new taxes (e.g. USC), unfair tax treatment of residential landlords vis-a-vis commercial/farming landlords, subsidising buy-to-let properties with other income sources and rogue tenants.

In response to the second part of the question, the suggested tax and fiscal measures included:

- allowing REITs from the EU and UK to access the Irish REIT regime
- allowing deductibility of more expenses, e.g. LPT
- introducing lower rates of CGT and rollover relief from CGT
- giving the same tax free allowance that Rent-a-Room landlords have to all landlords
- giving the same tax treatment to landlords as ‘vulture funds’
- reducing income tax rate on rental income/removing USC liability from rental income
- introducing long-term fixed rate mortgages similar to Germany, etc.,
- allowing CAT business relief when transferring property to the next generation
- allowing rental losses to be offset against PAYE income
- giving an exemption from income tax for rental income from long-term lettings
- giving a double deduction for letting fees
- introducing section 23-type capital allowances in targeted locations
- a tax credit for stamp duty paid on second-hand property bought for investment purposes
- allowing cross-collateralisation amongst properties in pension funds
- introducing a seven year exemption from tax of rental income for all properties which are placed in the rental market for the first time between certain pre-defined dates
Question 2: Property is, in many cases, a highly leveraged investment involving significant mortgage borrowings in addition to the capital invested by the landlord. Mortgage interest paid is allowable as a deduction in calculating taxable income from rental property. Similar treatment is not afforded to interest on borrowings used for other forms of income-generating investment – for example interest on monies borrowed to invest in shares is not allowable as a deduction against dividend income. Is it appropriate for the State to incentivise concentrated investment risk through the granting of interest relief for rental property investment?

Of the 11 submissions which answered this question, the majority (eight) stated that it was appropriate for the State to incentivise concentrated investment risk through the granting of interest relief, one said that it was not appropriate and two said that the situations were not comparable, i.e. comparing ‘passive’ investments in shares to ‘active’ investments in property.

Some general points raised in response to Question 2 included:

- It was possible to construe historic State policies as encouraging such concentrated investment risk, e.g. specific capital allowance incentives and rental income incentives which favoured property ownership during the period 1990 – 2007. It is possible to argue that the legislature has, through initiatives such as REITs, taken steps to encourage investors seeking real estate investment exposure to use listed diverse portfolios of assets.

- Some questioned whether it is appropriate to incentivise landlords through interest deductibility, while owner occupiers have no ability to deduct the costs of their interest expense on mortgages. This distinction was cited as a reason why owner occupiers are out-priced on acquiring residential property.

- The savings discipline imposed by virtue of having to repay a mortgage is unmatched with any other type of investment. It is accepted in all tax jurisdictions that interest is an allowable expense against rental income. Submissions referred to full interest deductibility in the UK, however the UK have now begun to phase in a limitation on interest relief such that it is limited to the standard rate of tax only.

- While it is true that property is typically a highly leveraged investment, current Central Bank rules impose a loan-to-income and loan-to-value ratios on residential borrowings and domestic banks are still lending much less than 2008 and before. Therefore there are already strong regulatory controls and credit constraints in place which prevent the over-concentration of investment risk.
Question 3: It has been noted that landlords may have a taxable rental profit in instances where their net rental income after making mortgage repayments and meeting other outgoings associated with the property is negative. Amortisation mortgage repayments are comprised of both an interest charge and a capital repayment element. Would it be appropriate for the State to subsidise the acquisition of a capital asset by a private individual by allowing relief in respect of the capital repayment element, and if so should some additional element of future income and/or gains from the property accrue to the State as a consequence?

The first part of the question ‘Would it be appropriate for the State to subsidise the acquisition of a capital asset by a private individual by allowing relief in respect of the capital repayment element’ was answered by six submissions and there was no clear consensus in the responses which included:

- Two submissions stated it would not be appropriate and one stated that it would be appropriate for the State to subsidise acquisition of a capital asset by allowing relief for the capital repayment element
- One stated that it would be appropriate if the capital asset is a pension
- One stated that the capital cost of the property asset should be deductible for Income Tax Purposes, with a proportionate reduction in the allowable cost for CGT purposes
- One stated that the State already provides relief on the acquisition of certain capital assets through capital allowances and industrial building allowances
- One stated that the disallowance of capital expenditure is a disincentive to investment leading to absence of activity unless rewarded by excessive returns (i.e. higher rents)

The second part of the question ‘If so, should some additional element of future income and/or gains from the property accrue to the State as a consequence?’ was answered by two submissions, both of which opposed the suggestion.

Some other general points raised in the responses to Question 3 were:

- Due to the financial crisis, there may be a class of investors who are renting out their property at a loss due to having to make principal repayments on their mortgage. However, there are additional factors compounding such individuals’ position, for example, mortgage interest restrictions, LPT, and increased charges and fees.
- Measures such as the guillotine of tax-based property reliefs and the introduction of extra taxes on property investors created high levels of distrust in the property market. Landlords are unlikely to trust that any general new allowance or relief introduced will be in existence for the life of the property.
Question 4: Some submissions to the D/Housing public consultation referred to investment in residential rental property as an alternative form of pension investment, and proposed that tax reliefs should be provided accordingly. However there are significant conditions attached to pension reliefs and pension funds cannot normally be accessed before the individual’s retirement date. Furthermore, pension income replaces an individual’s earned income in retirement. In contrast individuals with investment income, such as property rental income, do not lose that income source when they reach “retirement age”. The income will continue as before and they have the investment asset, in this case the rental property, which may be converted to a capital sum with which they can purchase an annuity if they so wish. Taking these factors into account, should a tax relief in any way comparable to tax reliefs for pension investments be considered for investments in, or income from, residential rental property?

The portion of the question ‘Should tax relief comparable to tax relief for pension investments be considered for investments or income from residential rental property?’ was answered by nine submissions; seven submissions answered yes, one submission stated the proposal would create a number of risks and one submission answered no.

Other points raised in response to this question included:

- The growth of REITs and diversified property funds would represent a more prudent way of investing in Irish property.
- Amendments to the Employment and Investment Incentive (EII) scheme to allow developers to access risk capital from investors.
- Relaxation of the Revenue rules as regards small self-administered pension (SSAP) funds borrowing to invest in property to make it easier to organise same by allowing cross collateralisation amongst properties in a SSAP.
- Individuals who invest in rental property with the purpose of providing a form of pension income in retirement may do so as an alternative to a pension scheme. Therefore the rental income is intended to replace their employment income in retirement and the capital repayment of a loan should qualify for relief as a pension deduction.
- Consideration should be given to the development of a special property investment pension vehicle that could exist alongside a person’s existing pension arrangements. The rental income would be generated tax free within the pension fund and the rental property and accumulated rental income may be converted to a capital sum which could be used to purchase an annuity.
Question 5: Other submissions to the D/Housing public consultation proposed that property rental should be regarded for tax purposes as being more in the nature of an active business activity, rather than as passive investment income, and that improved expense deductibility should be allowed on this basis.

a. Would improved deductibility for rental expenses make a material difference to landlords when deciding to enter or remain in the rental market, and if so what expenses? Note: In this context it should be noted that the proposals relate to the treatment of the provision of rental accommodation as an active business, and therefore responses should have regard to the tax treatment of an equivalent expense in a trading context if proposing a new deduction.

b. Would improved expense deductibility be passed on to tenants in the form of reduced rents, or are rental values driven by external market forces more so than by individual landlord profitability?

The first part of the question, ‘Would improved deductibility for rental expenses make a material difference to landlords when deciding to enter or remain in the rental market, and if so what expenses?’ was answered by 11 submissions and all stated ‘Yes’. The various expenses listed were:

- to increase the wear and tear rates for fixture and fittings for furnishing rental properties from 12.5% to 25%,
- LPT and NPPR,
- the cost of undertaking capital improvements to meet regulatory standards or to improve the quality of the rental stock available to tenants,
- notional deduction for landlord’s own labour (administration activities, cleaning of properties, repairs and maintenance),
- landlord’s travel expenses in connection with managing the property,
- pre-letting expenses on a property bought specifically for letting, and
- costs in between letting such as cleaning, additions, alterations or improvements (e.g. loft insulation).

The second part of the question ‘Would improved expense deductibility be passed on to tenants in the form of reduced rents, or are rental values driven by external market forces more so than by individual landlord profitability?’ was answered by seven submissions. Four answered no, one answered ‘don’t know’, one answered ‘market force is a very powerful phenomenon’ and one answered ‘it would help towards rent moderation’.
Question 6: Would a relief from capital gains tax on disposal of a long-term rental property in the future encourage landlords to remain in, or to enter, the residential letting market at present? Alternatively is it possible that it would lead to a greater exodus of landlords from the rental market?

The first half of the question was answered by 11 submissions: seven submissions answered Yes; one submission answered No. The other three responses were:

- such an exemption already exists in the form of the seven-year CGT holiday and any CGT exemption has the same possibility for distortive impacts
- CGT relief could be proportionate to particular number of years in residential use
- most landlords are in negative equity so will not be liable for capital gains tax but if the housing market continues to rise this may become more of an issue.

For the second half of the question which asked ‘if it is possible that it would lead to a greater exodus of landlords from the rental market’, three submissions answered Yes and one submission answered No.

Other points raised in response to this question included:

- A reduction in the rate of CGT might encourage landlords to enter the rental market if they don’t see the tax on exit as a deterrent. A reduced CGT rate would result in an increased number of transactions and ultimately improve the capital gains tax yield.
- The annual exemption of €1,250 is very low and should be increased to €5,000 per annum.
- Roll-over relief should be reintroduced to retain investment in the market.
- The current CGT exemption for property purchased between 2012 and 2014 may act as an incentive to leave the rental market.
- REITs are subject to a particular form of CGT exemption. If a REIT develops land, it is required to let that property for several years prior to sale in order to treat it as part of its property rental business and benefit from the REIT tax exemption. This exemption has restricted the ability of REITs to enter into joint ventures with developers who wish to sell property within shorter timeframes. This provision should be relaxed for the short term, to incentivise construction and sale by REITs.
Question 7: Would a relief from capital gains tax on disposal of a rental property, conditional on the property being sold with a tenant in situ and/or a requirement for the property to continue in use as a rental property, be operable in practice? What protections could be used to ensure the continued tenancy rights of the sitting tenant, and in what manner could a clawback of relief be achieved if the new owner ceases to let out the property?

The first half of the question, as to whether such a relief would be operable in practice, was answered by nine submissions. Four answered Yes and three answered No. The other two answers were:

- Most landlords are in negative equity so will not be liable for capital gains tax. If the housing market continues to rise this may become more of an issue
- May be operable in practice but would caution the interference with the market

With regard to the question of ‘What protections could be used to ensure the continued tenancy rights of the sitting tenant?’ which was answered by two submissions the suggestions were:

- Legal protection would be required for the parties to the tenancy agreement and the rental deposit would need to be transferred to the new owner as part of the sale
- At present it can be very difficult for a landlord to get a bad tenant to vacate a property and this is one of the primary reasons why people are afraid to become landlords. State protection for such tenants, who give all tenants a bad name, should be limited.

Four submissions made suggestions as to the manner in which a clawback of relief could be achieved if the new owner ceased to let out the property:

- A claw-back provision similar to that contained in CGT business asset relief whereby any CGT that would have been payable by the original seller becomes payable by the purchaser.
- There should be a minimum holding period with a tapered clawback of the relief for properties sold before the holding period elapses.
- Clawback conditions should be operable under the existing self-assessment regime, which is subject to Revenue Audit.
- The clawback should be linked to the sitting tenant, it should apply only if the property was taken out of the rental market.
**Question 8:** It is possible that ‘accidental’ landlords may choose to exit the rental market as property prices rise, reducing or eliminating negative equity on the rental property. Is there a specific tax measure or treatment which could incentivise such individuals to remain in the rental market as landlords?

This question was answered by 10 submissions. The responses were:

- Any form of tax reduction on rental income could incentivise such accidental landlords to remain in the market. However if an “accidental” landlord wishes to exit the market because of a long-awaited price adjustment, it was questioned whether they should be incentivised to retain ownership of the property. A subsidy for the "accidental" landlord may constrain supply to those wishing to acquire a property to live in or prevent a motivated landlord with intentions to improve the property, from acquiring it.
- Introduce relief for rental losses against other sources of income and remove liability to USC on rental profits.
- Allowing accidental landlords, who acquired homes at the peak of the property market, to offset the cost of renting their new property against rental income.
- It is unlikely that landlords will remain in the market in circumstances where the value of the property arises to a point where their negative equity is eliminated. However, reducing the administrative workload and reducing their tax exposure on any profit that arises would make it more attractive to remain.
- Introduce a reduced rate of income tax on rental properties and offer a double deduction on letting agent costs to enable the landlord to engage a letting agent at no cost to deal with any problems associated with the property.
- Incentives to remain in the market should be available to all landlords.
- Tax incentives to encourage long term tenancies and stability should be introduced. Specific tax incentives to encourage long term leases – e.g. limiting the rate of tax payable on longer leases to the standard rate of tax and allowing deductions for LPT and for substantial improvements or upgrades to the property.
- Accidental acquisitions of property by way of inheritance will have been subject to Capital Acquisitions Tax and without recognition of this capital commitment, there is a huge incentive to disinvest.
Question 9: With regard to owners of vacant residential property, what are the primary reasons why such individuals do not choose to rent out the property, and are there tax measures which would encourage vacant residential property owners to enter the rental market?

The first half of the question ‘what are the primary reasons why such individuals do not choose to rent out vacant property’ was answered by seven submissions and the responses were:

- Landlords are increasingly looking to purchase properties with sitting tenants (May 2015, Countrywide Residential Lettings Report).
- Unfavourable tax treatment of landlords - e.g. restriction on mortgage interest deductibility, not being able to deduct LPT and NPPR charges, RTB obligations. The cost of maintaining rental properties and other associated costs means that it is cheaper to leave properties empty.
- The risk of bad tenants, combined with the very poor tax treatment of residential owners versus commercial and land owners and those participating in the rent-a-room scheme.
- Not being able to obtain finance to bring vacant properties up to a letting standard, and lack of incentives to do so.
- The workload associated with managing a property investment is a deterrent that could be offset if a letting agent could be employed on a cost neutral basis.

For the second half of the question, ‘are there tax measures which would encourage vacant residential property owners to enter the rental market?’, which was answered by two submissions, the suggestions were:

- Would favour a ‘carrot’ over a ‘stick’ approach to landlords of vacant properties who do pay property taxes, such as 110% interest deductibility.
- Expand the Home Renovation Incentive Scheme – increasing expenditure from €30,000 to €100,000 per property or a maximum credit of €13,500.
- Introduce accelerated wear & tear allowances for fixtures and fittings for a five year period at 20% per annum, rather than the current 8 year period.
- Allow up front capital allowances for a portion of the capital cost incurred on the construction, conversion or refurbishment of a rental property.

Other comments included:

- A register of vacant properties is needed in order to find out where they are located.
- The number of vacant properties in Dublin/other urban locations is overstated due to Census enumerators being unable to access a portion of properties.
Question 10: Is the threshold for the Rent-a-Room scheme set at the right level? Do increases in the threshold lead to increases in rent charged by those using the scheme? In view of the scheme’s objective of increasing supply of rented residential accommodation, should the threshold vary depending on the number of individuals who are renting in the home or the number of rooms let? Should additional reporting requirements apply to those who use the scheme?

The first part of the question which asked if the threshold for the Rent-a-Room scheme is set at the right level, was answered by nine submissions. Seven answered Yes and two suggested increasing the threshold.

The second part of the question asked if increases in the threshold lead to increases in rent charged by those using the scheme. This was answered by four submissions - two answered No, one answered Yes and one noted that it is impossible to accurately assess the impact of an increase of the tax relief as there is a lack of historical data on the prices of ‘digs’.

The next part of the question asked if the threshold should vary depending on the number of individuals who are renting in home/number of rooms let’ and was answered by five submissions: four answered Yes and one answered No.

The final part of the question asked if additional reporting requirements should apply to users of the scheme and this was answered by five submissions. Three answered Yes and two answered No.

Other points raised in response to this question were:

- The scheme works well as it is for a particular market of students as only a minority of tenants would choose to live in someone else’s home.
- The scheme should be wholly or partially extended to landlords renting entire properties. This is needed to be provided to prevent a trend of renting property within owner occupied homes instead of standalone properties. Rent a room arguably penalizes owners of investment properties and increases the tax divide versus how landlords are treated.
- This measure may assist in some additional supply but other measures need to be prioritised as they could have a greater impact.