



Section 242 of the Finance Act, 1992 introduced a new requirement whereby holders of the licences hereafter specified must obtain a Tax Clearance Certificate before their licence will be renewed at the annual licensing.

1. A spirit retailers on-licence (which shall include publican ordinary licences, hotel licences, railway refreshment room licences, publican six day licences, publican early closing licences, publican six day and early licences, special restaurant licences and theatre licences).
2. Spirit retailers off-licence.
3. Wine retailers on-licence.

The position is that if any person wishing to renew any of the aforesaid licences at the annual licensing in September has not already obtained an application for Tax Clearance Certificate from the Revenue Commissioners, he/she should do so immediately.

There does not appear to be any provision in the Act determining what is to happen in the event that the Clearance Certificate, although applied for, has not been issued by the date of the annual renewal. However, in the event that the Certificate has been refused on the date of the renewal of licences and an appeal had been lodged then where a licence has been granted in respect of the previous licensing year such licence would continue in force beyond its latest expiry date pending the final determination of the appeal. In the event that the Certificate is refused the aggrieved party has 30 days within which to lodge an appeal against the notification of refusal.

In the case where a licence has not been granted in the previous licensing year, a temporary licence will be issued and will remain in force pending the final determination of the appeal provided that the licence could have been issued but for the provisions relating to the Tax Clearance Certificate and provided that in all cases that the amount of duty that would have been payable on the granting of the licence is duly deposited with the proper collector of Customs & Excise. On final determination of an appeal where an appeal has failed, the temporary or continued licence shall expire not later than seven days after the determination of any appeal and any excess duty paid shall be refunded in such circumstances.

It is important to note that there are certain circumstances involving the transfer of a licence where a Tax Clearance Certificate will not be issued unless the tax affairs of the applicant and the tax affairs of the previous holder of the licence, in so far as they relate to the activities conducted under the licence, are up to date. These circumstances are:

Where the transfer took place after 24 April, 1992 (but not if the transfer was contracted before 24 April) *and* the transfer was one of the following:

RENEWAL OF LIQUOR LICENCES 1992 - TAX CLEARANCE CERTIFICATE



**RENEWAL OF
LIQUOR LICENCES
1992 - TAX
CLEARANCE
CERTIFICATE**

(Contd.)

*Published in Law Society
Gazette, September 1992*

- a) a company to an individual;
 - b) a company to a company;
 - c) a company to a partnership;
 - or
 - d) a partnership to a company;
- and there is a connection between the parties.*

When applying for the Tax Clearance Certificates in these circumstances, details of the connection between the parties should be given to the Revenue Commissioners.

**LOCAL
AUTHORITY**

**SHARED
OWNERSHIP
SCHEME**

Some practitioners have expressed concern about the Local Authority Shared Ownership Scheme recently introduced under the provisions of the Housing (Miscellaneous Provisions) Act, 1992. The Scheme provides that in respect of a purchaser who has been approved for eligibility under the Scheme,

- (a) the Local Authority purchases the property,
- (b) the purchaser pays £1,000 to the Local Authority by way of deposit,
- (c) the Local Authority then grants a lease to the purchaser for 99 years with provision for payment of a rent calculated by reference to the Corporation's "equity" of the house (at present 5% of the value of the Corporation's share) which rent is index linked,
- (d) At the same time the purchaser borrows the remainder of the value of the house from the Local Authority and enters into a mortgage for that amount, charging his interest as lessee for 99 years.

Practitioners will be aware that the solicitors for the Local Authority act in the purchase of the property, and the lease and mortgage submitted to the Purchaser for execution cannot be altered, and accordingly the purchaser's solicitor is not aware of the title acquired, nor can they seek to amend the documentation.

In the circumstances practitioners are left with no alternative save to advise clients on the nature of the Scheme and leave it to the client to decide whether or not they will proceed with the purchase. It will be appreciated that a purchaser in this situation has virtually no choice in the matter. If they want the house then they must buy it on the Local Authority's terms. Furthermore, the Local Authority charges a fee for its own legal services. At the point of completion, however, if the Law Agent deems it necessary, the matter may be referred again for independent legal advice, for instance, to advise on the Family Home Protection Act.

*Published in Law Society
Gazette, November 1993*