

## Category of Instruments

Instruments are chargeable to stamp duty under or by reference to various Heads of Charge, as provided for in Schedule 1 of the Stamp Duties Consolidation Act 1999. In the e-Stamping system, an instrument is linked to the Head of Charge when the filer selects a category for the instrument being stamped. This selection is made at the beginning of the process of filing a return. It is essential that the correct category of instrument is selected so that the return is linked to the correct Head of Charge and the filer is presented with the correct on-line screens for completion.

Information on the Heads of Charge is available in the Notes for Guidance on the Stamp Duties Consolidation Act, 1999. In addition, information on the different categories of instrument can be found in the help text on the first e-Stamping on-line screen and the help text for the paper returns. This guidance note summarises information on the categories of instrument available for selection on the stamp duty return. ***It includes information on certain instruments that are exempt from stamp duty and, consequently, that do not require a return to be filed.***

### Conveyance / Transfer of Property

This category includes instruments that convey, transfer or assign (whether on sale or by way of gift) an interest in property. The category covers all residential, non-residential and mixed-use property. It includes also instruments or contracts which are **deemed** by specific legislation to be chargeable as conveyances/transfers on sale. Examples of such deemed charges are:

- Contracts chargeable under Section 31 of the Stamp Duties Consolidation Act 1999 (e.g. Business Asset Purchase Agreements, etc.)
- Partitions chargeable under Section 38 of the Stamp Duties Consolidation Act 1999 and
- Releases or Surrenders on Sale.

### Long Term Lease greater than 100 years

This category covers instruments that create leasehold interests with a term greater than 100 years. Typical instruments falling under this category would be leases of new apartments or commercial buildings/offices. Stamp Duty is chargeable both on the rent and on any premium (i.e. a sum of money other than rent paid for the granting of the lease). Any premium paid for the grant of a lease is chargeable at the relevant *ad valorem* Stamp Duty rate. The standard rate for leases with a term greater than 100 years is 12% of the rent reserved.

### Conveyance / Transfer of any Stocks or Marketable Securities

This category includes instruments that convey or transfer stocks / shares / marketable securities which are chargeable with Stamp Duty at 1%. This category includes both sales and gifts of stocks / shares / marketable securities.

Please note, for instruments executed on or after 24th December 2008, where

- the consideration or market value of the stock/shares does not exceed €1,000 and

- the instrument contains a certificate that the transaction does not form part of a larger transaction or of a series of transactions

the instrument is exempt from stamp duty and a return does **NOT** need to be filed (Section 87 Finance (No. 2) Act 2008).

### **Short Term Lease (less than or equal to 100 years)**

This category covers instruments which create leasehold interests with a term less than or equal to 100 years. Typical instruments falling under this category would be short-term residential leases, agricultural leases or standard commercial leases. Stamp duty is chargeable both on the rent and on any premium (i.e. a sum of money other than rent paid for the granting of the lease). Any premium paid for the grant of a lease is chargeable at the relevant ad valorem Stamp Duty rate.

The standard rate for leases with a term of less than or equal to 35 years is 1% of the rent reserved. Where the term exceeds 35 years and is less than or equal to 100 years the rate of duty is 6%. However, residential leases for less than 35 years, with an annual rent not exceeding €30,000 are currently exempt and a return **does NOT** need to be filed for such leases.

### **Exchanges**

This category refers to an instrument that gives effect to an exchange of properties where both properties in the exchange are conveyed in the same instrument. Stamp duty is chargeable on the market value of each of the properties exchanged and a single Stamp Certificate will issue in relation to the instrument.

If the exchange is given effect by two or more instruments, each of the instruments should have a return filed separately under the category "Conveyance/Transfer of Property". Each instrument is chargeable to stamp duty on the market value of the property transferred by the instrument and a separate Stamp Certificate will issue for each instrument.

Exchanges of property are chargeable with stamp duty under the provisions of Section 37 of the Stamp Duties Consolidation Act of 1999. The rates applicable are the same as those for a Conveyance/Transfer/Assignment of property.

### **Conveyance/Transfer/Lease of Multiple Properties on a single instrument**

This category refers to instruments that give effect to the transfer/conveyance of multiple properties, i.e., where more than one property is conveyed in a single instrument. It does **not** cater for transfers of mixed-use property which are catered for under the category "Conveyance/Transfer of Property". The filer will be prompted to enter details for each property that is conveyed.

It should be noted that stamp duty is still chargeable at the aggregate rate/s applicable to the larger transaction as a whole. This should be indicated later in the return by ticking the box on the 'Instrument & Party Details' screen (or section of the paper return) confirming that the instrument forms part (or the whole) of a larger transaction or series of transactions. If the filer is filing the return on-line, the e-Stamping system will then prompt the filer to indicate the aggregate consideration of the transaction for residential and/or non-residential property and will calculate the duty accordingly. The paper-filer must indicate this information and make the calculation manually on the paper return.

## Conveyance Not Liable

The “Conveyance Not Liable” category relates **only** to those instruments specifically excluded from a charge to Stamp Duty under Schedule 1 of the Stamp Duties Consolidation Act 1999. Instruments falling within this category **do not**, in the normal course, require to be stamped as they do not come within the scope of the Heads of Charge in Schedule 1 of the Stamp Duties Consolidation Act, 1999. Such instruments should be submitted for stamping, (i.e., a return should be filed) **only** where there is a doubt regarding the stamp duty treatment. The following are some examples of instruments that are included under this category and which do not currently attract a charge to either ad valorem stamp duty or fixed stamp duty. Therefore, these instruments do not require to be stamped and a stamp duty return is not required for them.

- Deed of Conveyance/Transfer where no beneficial interest passes (excluding Conveyance/Transfer on sale or by way of gift)
- Deed of Appointment of new trustees
- Declaration of Trust which declares a bare trust in favour of the existing beneficial owner
- Deed of Conveyance/Transfer by the beneficial owner to a trustee/nominee to hold on behalf of the beneficial owner
- Deed of Conveyance/Transfer by a trustee/nominee, holding on behalf of the beneficial owner, to the beneficial owner

**Please note** -This category does **not** apply to instruments that are stampable but are entitled to exemption or relief from duty. Returns for all such instruments should be submitted under the categories “Conveyance/Transfer of Property” or “Conveyance/Transfer of any Stocks or Marketable Securities” as normal in order to claim the relief and/or exemption applicable.

## Mortgage

Mortgages executed on or after 7th December 2006 are not liable to Stamp Duty and a return is not required. However, a return **is required** for the following

- Deeds of Mortgage executed before 7th December 2006, where the amount secured exceeds €254,000 - liable to Stamp Duty at a rate of 0.10% of the total amount secured, subject to a maximum charge, or cap, of €630.00.
- An Equitable Mortgage or a Transfer/Assignment of Mortgage executed before 7th December 2006 - liable to Stamp Duty at a rate of 0.05% of the total amount secured, subject to a maximum charge, or cap, of €630.00.

## Policy of Insurance

An assignment of a policy of insurance is liable to a Stamp Duty charge at 0.10% on the consideration paid (or on the surrender value of the policy in the case of a gift) as of the date of the assignment. Such instruments should be entered under the category “Policy of Insurance”.

Certain Policies of Insurance, other than life insurance policies, attract a fixed duty charge of €1.00 when the policy is issued. However, this duty is normally paid by the

issuing insurer under a composition agreement with the Revenue Commissioners. Where the duty has been paid in this manner, these instruments do not need to be stamped or presented to the Revenue Commissioners and a return is not required.

### **CRO Form B6 (Form 52)**

Section 58 of the Companies Act of 1963 requires that, where a contract relating to the issue of shares for a consideration other than cash has not been reduced to writing, a Form B6 (Form 52) must be completed and filed with the Companies Registration Office, setting out the details of the contract. Under Section 58(2) of the Companies Act 1963, a Form B6 (Form 52) is deemed to be an instrument for Stamp Duty purposes and may attract a charge to Stamp Duty under Section 31 of the Stamp Duties Consolidation Act 1999. A stamp duty return must be filed for this category of instrument.

### **Share Warrant**

An instrument which falls within this Head of Charge, as set out in Schedule 1 of the Stamp Duties Consolidation Act 1999, is liable to Stamp Duty at a rate of 3 times the amount of ad valorem Stamp Duty which would be chargeable on a deed transferring the share(s) or stock for the nominal value of such share(s) or stock. A stamp duty return must be filed for this category of instrument.

### **Fixed Duty**

This category provides for instruments which are currently liable or were previously liable to the €12.50 fixed duty charges in Schedule 1 of the Stamp Duties Consolidation Act 1999. Instruments falling within the category "Fixed Duty" **do NOT** require to be stamped unless they were executed before the date when the relevant fixed duty charge was abolished.

With the exception of (g) below, **all** of these fixed duty charges have been abolished over time. Also, certain instruments executed on or after 25 March 1999 and before the abolition of the relevant Head of Charge, were exempt from the fixed duty charge where the instruments were appropriately certified.

In summary, instruments categorized as 'Fixed Duty' **do NOT** require to be stamped and have a stamp duty return filed for them, where

- The instrument was executed **after** the date the fixed duty charge was abolished or
- The instrument was exempt **before** the fixed duty charge was abolished

### ***Examples of Fixed Duty Heads of Charge***

(a) Conveyance or Transfer of any kind not hereinbefore described in Schedule 1 of the Stamp Duties Consolidation Act 1999 (i.e. not on sale/mortgage). This Head of Charge was abolished for instruments executed on or after **2 April 2007** and prior to abolition there was an exemption from the fixed duty charge where the instrument was duly certified.

(b) Deed of any kind whatsoever not described in Schedule 1 of the Stamp Duties Consolidation Act 1999 (relating to immovable property situated in the State or stocks or

marketable securities of a company having a register in the State). This Head of Charge was abolished for instruments executed on or after **25 March 1999**.

(c) Exchange (other than an exchange chargeable under Section 37 of the Stamp Duties Consolidation Act, 1999). This Head of Charge was abolished for instruments executed on or after **2 April 2007** and prior to abolition there was an exemption from the fixed duty charge where the instrument was duly certified.

(d) Release or Renunciation (not on sale/mortgage). This Head of Charge was abolished for instruments executed on or after **2 April 2007** and prior to abolition there was an exemption from the fixed duty charge where the instrument was duly certified.

(e) Surrender (not on sale/mortgage). This Head of Charge was abolished for instruments executed on or after **2 April 2007** and prior to abolition there was an exemption from the fixed duty charge where the instrument was duly certified.

(f) Collateral Mortgage (where the principal instrument is stamped with the appropriate duty) - a collateral fixed duty charge of €12.50 arises. If there is no stamp duty charge on the principal instrument, a collateral fixed duty charge of €12.50 *does not* arise. Please note, there is no Stamp Duty charge on mortgages executed on or after 7th December 2006 and thus no fixed duty charge arises on collateral instruments relating to a principal mortgage executed on or after this date.

(g) Lease where the Agreement for Lease is stamped with ad valorem duty (See Section 50 & Schedule 1 of the Stamp Duties Consolidation Act 1999). This type of instrument **is** still liable to the €12.50 fixed duty charge and a stamp duty return should be filed.