

# STAMP DUTY

## Farm Consolidation Relief

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## **PURPOSE OF THE FARM CONSOLIDATION RELIEF**

Section 81C of the Stamp Duties Consolidation Act 1999 contains the provisions relating to Farm Consolidation Relief. The purpose of the relief is to encourage the consolidation of farm holdings in order to reduce fragmentation and improve the operation and viability of the farm(s) concerned.

## **WHAT INSTRUMENTS QUALIFY FOR THE RELIEF?**

The relief applies to instruments executed on or after 1 July 2007 and on or before 30 June 2011 (“the relevant period”).

## **WHAT IS FARM CONSOLIDATION RELIEF?**

Section 81C allows a farmer to claim relief from stamp duty where he or she sells lands and purchases lands, in order to consolidate his or her holding, where both the sale and purchase occur within 18 months of each other and within the relevant period. The relief also applies to gifts and exchanges where the conditions of section 81C are satisfied.

The relief provides that where there is a valid consolidation certificate issued by Teagasc in relation to the sale and purchase of lands, occurring within 18 months of each other and within the relevant period, stamp duty will only be paid on the purchase to the extent that the value of the lands purchased exceeds the value of the lands sold. If the sale takes place before the purchase, then relief will be given at the time of purchase. However, if the purchase takes place first, then stamp duty must be paid, and on the subsequent sale a claim for repayment of the duty paid can be made. Please see Appendix 1 for examples of the manner in which the relief operates.

## **WHAT IS A CONSOLIDATION CERTIFICATE?**

A consolidation certificate is a certificate issued by Teagasc to the farmer concerned in the sale and purchase of lands. This certificate identifies the lands involved, the owners of such lands, and certifies that Teagasc is satisfied, on the basis of the information available to Teagasc at the time of so certifying, that the sale and purchase of lands complies or will comply with the conditions of consolidation.

The conditions of consolidation together with instructions on how to apply for a consolidation certificate and the supporting documentation required to be submitted when an application is made to Teagasc are set down in guidelines made by the Minister for Agriculture, Fisheries and Food with the consent of the Minister for Finance. Please see the website of the Department of Agriculture, Fisheries and Food – [www.agriculture.ie](http://www.agriculture.ie). Further information may also be obtained from local Teagasc offices.

## **WHO IS ELIGIBLE FOR THE RELIEF?**

The farmer involved in the sale of his lands and purchase of other lands is eligible for the relief on the lands purchased. A farmer is a person who spends not less than 50% of his or her normal working time farming. The relief can also apply to a purchase of lands by joint owners where not all the joint owners are farmers. However, the relief does not apply where the purchaser, or any of the purchasers, is a company.

## **WHAT TYPE OF LANDS DOES THE RELIEF APPLY TO?**

The relief applies to agricultural lands, including lands suitable for occupation as woodlands on a commercial basis in the State, and farm buildings on the lands. The relief is **not** available where the lands sold or purchased contain residential buildings.

## **WHAT CONDITIONS MUST BE MET BEFORE RELIEF WILL BE GRANTED BY REVENUE?**

The following documentation/information must be submitted to Revenue with the deed of purchase when a claim for relief is being made and the deed of purchase is being presented for adjudication:

- a completed Warrant for Adjudication
- a certified copy of the deed of sale of the lands sold by the farmer,
- a valid consolidation certificate in relation to the sale and purchase in respect of which a claim for relief is being made,
- a completed application form (See Appendix 2) containing:
  - a declaration to the effect that each farmer who has purchased lands under the deed of purchase will, for a period of 5 years from the date on which the first claim for relief in respect of the purchase of the lands was made to Revenue, remain a farmer and will farm the lands purchased,
  - a declaration to the effect that each person who has purchased lands under the deed of purchase will, for a period of 5 years from the date on which the first claim for relief in

respect of the purchase of the lands was made to Revenue, retain ownership of his or her interest in the lands purchased and that the lands will be used for farming,

- the PPS number of each person who is a party to the deed of purchase.

### **CAN THE RELIEF BE CLAWED BACK?**

The amount of relief actually granted may be clawed back, by way of a penalty, if the lands or part of the lands are disposed of within 5 years from the date on which the first claim for relief was made to Revenue in respect of the purchase of the lands concerned.

The amount of the penalty is the difference between the duty that would have been charged on the value of all the lands transferred to the farmer had the relief not applied and the duty (if any) which was charged, under section 81C. Interest is also charged on the penalty at the appropriate rate\* from the date of the disposal to the date the penalty is paid.

### **ARE THERE ANY SITUATIONS WHERE THE RELIEF WILL NOT BE CLAWED BACK?**

A clawback of the relief will not occur where the lands purchased are subsequently compulsorily acquired.

In addition, a clawback of the relief will not occur where a farmer or other joint owner disposes of part of the lands acquired to a spouse for the purpose of creating a joint tenancy or where one joint owner disposes of part of the lands to another joint owner, who is a farmer.

### **WHAT OTHER PENALTIES CAN APPLY?**

Any person who furnishes a false declaration, in support of a claim for relief, will be liable to a penalty of an amount equal to the difference between 125% of the duty which would have been charged on the lands purchased by that person, had the relief not applied and the duty (if any) which was charged under section 81C together with interest on the penalty at the appropriate rate\* from the date the claim for relief is made to Revenue to the date the penalty is remitted.

A similar penalty, together with appropriate interest (as above), applies where an invalid consolidation certificate is used to obtain the relief.

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\* Interest rates may be found on the Revenue website

## Appendix 1

The manner in which the relief operates is set out in the examples below.

**Example 1.** Farmer A sells lands for €100,000 in September 2007. Six months later, in March 2008, he purchases lands for €120,000 and obtains a consolidation certificate from Teagasc in relation to the sale and purchase. The Deed of Transfer giving effect to the purchase of lands will be chargeable to stamp duty of €200 (€20,000 @ 1%) which is the amount by which the value of the lands purchased exceeds the value of the lands sold.

**Example 2.** Farmer B sells lands for €150,000 in October 2007 and purchases lands for €100,000 in April 2008. A consolidation certificate is issued by Teagasc in relation to the sale and purchase. The Deed of Transfer giving effect to the purchase of lands will be exempt from stamp duty as the value of the lands purchased is less than the value of the lands sold.

**Example 3.** Farmer C purchases lands for €90,000 in November 2007 and stamp duty of €5,400 (€90,000 @ 6%) is paid. In April 2008 he sells lands for €120,000 and obtains a consolidation certificate from Teagasc in relation to the sale and purchase. The stamp duty liability on the purchase is recomputed on the basis of the difference between the value of the lands purchased and the value of the lands sold. As the value of the lands purchased is less than the value of the lands sold the recalculation gives rise to a nil liability. Farmer C can apply to Revenue for a refund of the stamp duty of €5,400 already paid.

**Example 4.** Farmer D purchases lands for €200,000 in March 2008 and stamp duty of €18,000 (€200,000 @ 9%) is paid. In July 2008 he sells lands for €120,000 and obtains a consolidation certificate from Teagasc in relation to the sale and purchase. The stamp duty liability on the purchase is recomputed on the basis of the difference between the value of the lands purchased and the value of the lands sold. As the value of the lands purchased is greater than the value of the lands sold by €80,000, the revised liability on the purchase is €4,000 (€80,000 @ 5%). Farmer D can apply to Revenue for a refund of stamp duty of €14,000, being the difference between €18,000 already paid and the revised liability of €4,000.

**Example 5.** Farmer E sells lands for €170,000 in August 2007 and purchases lands for €160,000 in March 2009. Relief under section 81C is not applicable as the purchase occurred outside a period of 18 months from the date of the sale. Accordingly, stamp duty of €14,400 (€160,000 @ 9%) is chargeable on the purchase.

**Appendix 2**  
**Application for Farm Consolidation Relief under**  
**Section 81C of the Stamp Duties Consolidation Act 1999**

(Please complete Sections 1 - 5 in type or in BLOCK CAPITALS and sign and date the declarations at the bottom of the page)

1. Date of execution of Deed of Transfer:

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2. Persons claiming the relief

Name (s)

Address

PPS Number

1.	2.
PPS Number	PPS Number

3. Stamp Duty Calculation

A. Market value of lands purchased

B. Market value of lands sold

C. Difference between A and B (where A < B insert NIL)

D. Stamp duty payable on difference

E. Stamp duty already paid on lands purchased (if applicable)

F. Stamp duty refund claimed (E-D) (if applicable)

	€
	€
	€
	€
	€
	€

4. Is there a relationship between the parties to the transfer of the lands? (YES/NO)

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5. Were any of these lands (whether purchased or sold) the subject of a previous consolidation relief claim? (YES/NO)

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If YES please furnish copy of the previous consolidation certificate(s).

**DECLARATION**

I declare

- that it is my intention to spend not less than 50% of my normal working time farming and to farm the lands purchased, for a period of 5 years from the date of execution of the Deed of Transfer (see Section 1 above);
- that all the particulars given by me in relation to this claim are correct;
- that it is my intention to retain ownership of the lands and to use the lands for farming, for a period of 5 years from the date of execution of the Deed of Transfer (see Section 1 above).

Signature : \_\_\_\_\_

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

**Have you included the following items?**

- Completed Warrant for Adjudication
- Original Deed of Transfer
- Certified copy of Deed of Transfer of lands sold
- Original Farm Consolidation Certificate issued by Teagasc
- Copy of previous Farm Consolidation Certificate (if applicable)

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