

## Stamp duty on certain acquisitions of residential property (10% rate of duty)

### Part 5: section 31E

This document should be read in conjunction with sections 31E and 83E of the Stamp Duties Consolidation Act 1999

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## Table of Contents

1	Introduction .....	3
2	Relevant residential units.....	3
2.1	Connected persons.....	4
3	Exclusion from 10% rate of duty .....	4
3.1	Apartments.....	4
3.2	Certain social housing leases.....	5
3.3	Section 83E refund scheme .....	5
3.4	Acquisitions by local authorities and approved housing bodies .....	6
3.5	Transitional arrangements .....	6
4	Acquisition of residential units.....	6
4.1	Examples of acquisition and aggregation .....	7
4.1.1	Aggregation .....	7
4.1.2	Acquisitions by connected persons .....	8
5	Indirect acquisitions of residential units (shares etc.).....	9
5.1	Scope of charging provision in subsection (12) .....	9
5.2	Value derived from residential units .....	10
5.3	Transfer of control and acquisition of residential units .....	10
5.3.1	Meaning of control .....	11
5.3.2	Series of conveyances or transfers .....	12
5.4	Examples of indirect acquisitions of residential units .....	12
6	Commencement of application of 10% rate of charge .....	12
6.1	Transitional arrangements .....	13
6.2	Aggregation .....	13
6.3	Examples for commencement and transitional arrangements .....	13
7	Returns and payment.....	14
8	Interactions with other SDCA 1999 provisions.....	14
8.1	Interactions between sections 31C, 31D and 31E .....	14
8.2	Sections 79 and 80.....	15
8.3	Section 82 .....	15
8.4	Section 82C.....	15
8.5	Section 83E .....	16
8.6	Section 88 .....	16
8.7	Contracts and agreements not chargeable to stamp duty .....	16

## 1 Introduction

The standard rates of stamp duty for residential property are 1% on values up to €1m and 2% on values exceeding €1m. Section 31E of the Stamp Duties Consolidation Act (SDCA) 1999 charges a higher 10% rate of duty on the acquisition of certain residential property. This rate of duty applies to the acquisition of individual residential units such as houses and duplexes, but not to apartments, where a person acquires at least 10 such units during any 12-month period. The purpose of the 10% rate of duty is to discourage the purchase of multiple residential units by any one individual or entity in the context of the current housing crisis and the ongoing shortage of housing for owner-occupier purchasers. There are some limited exceptions to the 10% rate of duty for certain types of ‘social housing’.

Section 31E was introduced by the Finance (Covid-19 and Miscellaneous Provisions) Act 2021 that gave effect to a Financial Resolution (FR) passed on 19 May 2021. The provisions contained in the FR came into effect on 20 May 2021 while additional provisions contained in the subsequent Act (giving legal effect to the FR) generally came into effect on 19 July 2021.<sup>1</sup> Transitional arrangements that maintain the standard rates of stamp duty for residential property operate in relation to acquisitions that were at an advanced stage of completion on 20 May 2021.

Section 31E contains anti-avoidance provisions that apply the 10% rate of duty in certain circumstances to the indirect acquisition of residential units held by entities such as companies, displacing the usual rate of 1% that applies to the acquisition of shares in a property-holding company.

Queries regarding the interpretation of sections 31E (10% rate of duty) and 83E (refund scheme), which are not addressed by the contents of this Tax and Duty Manual, should be raised with Revenue via the [Revenue Technical Service \(RTS\)](#).

## 2 Relevant residential units

Section 31E charges the 10% rate of duty on the acquisition of a “relevant residential unit”. For the purposes of section 31E, a “residential unit” is defined as a residential property situated in the State comprising an individual dwelling. As defined in section 1 (interpretation), a “residential property” is essentially a building, or part of a building, that was in use as, or was suitable for use as, a dwelling, or was in the course of being constructed or adapted for use as a dwelling, when it was conveyed or leased. The 10% rate of duty can therefore apply to the acquisition of residential units that have not yet been completed.

A residential unit (or dwelling) also includes curtilage up to an acre in area. Curtilage typically includes adjoining land and buildings used for the amenity of the occupants of the dwelling such as yards, gardens, car parking spaces, sheds, and garages.

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<sup>1</sup> Subsection (8) – exclusion for social housing leases under ‘Mortgage to Rent’ scheme came into effect on 20 July 2021.

In accordance with section 31E(5), a residential unit is a “relevant residential unit” where:

- the residential unit was acquired on or after 20 May 2021, and
- at least 10 residential units have been acquired, either on the same day or by aggregating any units acquired during the 12-month period immediately preceding that day.

The 12-month ‘look-back’ period is a rolling period so that, as time passes, residential units, depending on their date of acquisition, gradually cease to be aggregated with subsequent acquisitions.

While residential units acquired in any 12-month period are aggregated with any units acquired in the same 12-month period to establish if the threshold of 9 units is reached, units that were acquired before 20 May 2021 (while aggregated) do not come within the meaning of relevant residential units and are therefore not chargeable to the 10% rate of duty.

## 2.1 Connected persons

For anti-avoidance purposes, acquisitions of residential units by a person are aggregated with acquisitions by persons connected with the person in establishing if the threshold of 9 residential units is exceeded. “Connected” takes its meaning from section 10 of the Taxes Consolidation Act 1997. Guidance on what persons are treated as connected can be found in the [Notes for Guidance to the TCA 1997](#).

In the case of individuals, acquisitions by connected persons are not aggregated unless the individual and the connected person are acting in concert with each other and not independently in relation to the acquisition of residential units or unless the acquisition is part of a tax avoidance arrangement.

## 3 Exclusion from 10% rate of duty

### 3.1 Apartments

There is a specific exclusion (in section 31E(7)) from the 10% rate of duty for apartments; i.e., for residential units in an apartment block. For the purposes of section 31E, an “apartment block” is defined as “a multi-storey residential property that comprises, or will comprise, not less than 3 apartments with grouped or common access”. A multi-storey property is a property that comprises a ground floor and at least one upper floor. The word “apartment” (which is not defined for the purposes of section 31E) takes its ordinary meaning, i.e. it refers to a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling.

Whether a property comes within the meaning of a residential unit in an apartment block should be apparent from the specific facts of each case.

The fact that an apartment may have its own door will not preclude it from coming within the meaning of an apartment for the purposes of section 31E, provided it comprises a room or a group of rooms that are designed for use as a dwelling, and the apartment is situated in a multi-story property which comprises (or will comprise) not less than 3 apartments with grouped or common access.

### 3.2 Certain social housing leases

In certain circumstances, the 10% rate of duty will not apply to relevant residential units that are leased to a local authority for onward leasing to a household that qualifies for social housing support. Under section 31E(8), the relevant residential unit must be acquired on or after 20 July 2021<sup>2</sup>, leased to a local authority **on the day of acquisition** and subsequently leased by the local authority for the provision of social housing.

Although not specifically referred to, this exclusion is intended to apply to residential units acquired under the 'Mortgage to Rent' scheme. Under this scheme, residential units that are surrendered to a mortgagee, by a mortgagor(s) who is unable to keep up the mortgage payments, are then sold to a company<sup>3</sup> in tandem with an agreement to then lease the residential unit to a local authority. The local authority then sub-leases the residential unit to the existing occupant(s) (i.e. former mortgagor(s)) so that they can continue to live in the residential unit while paying rent to the local authority as social housing tenants.

The 10% rate of duty will apply where a relevant residential unit is acquired with an existing local authority lease in place. In this situation the person acquiring the relevant residential unit is not regarded as entering into a lease with the local authority on the same day as the unit is acquired.

### 3.3 Section 83E refund scheme

Relevant residential units that are leased, following their acquisition, to a local authority or an approved housing body to be used as social housing are subject to stamp duty at the 10% rate on acquisition. However, if they are subsequently leased by a local authority or an approved housing body, they can then qualify for a refund of part of the stamp duty paid.

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<sup>2</sup> Commencement of section 31E(8) by the Finance (Covid-19 and Miscellaneous Provisions) Act 2021 (section 14) was on or after 20 July 2021 (day after enactment of Act).

<sup>3</sup> On the introduction of section 31E, the only company participating in the 'Mortgage to Rent' scheme was Home for Life.

Similar to the treatment set out in section 3.2 above, a person who acquires a relevant residential unit with an existing social housing lease in place is not regarded as entering into a qualifying lease for the purposes of section 83E. The amount to be refunded is the difference between the stamp duty that would have been paid at the standard rate of duty (1%/2%) and that paid at the 10% rate of duty. This refund scheme is provided for by section 83E, introduced in tandem with section 31E. Further information is available in Tax and Duty Manual [section 83E - Repayment of stamp duty where certain residential units leased \(social housing\)](#).

### 3.4 Acquisitions by local authorities and approved housing bodies

There is a general stamp duty exemption for a local authority under section 106B (“housing authority”) and, under section 93A, for certain approved housing bodies that provide social housing. In the case of direct acquisitions of residential units by such bodies, the application of the 10% rate of duty does not therefore arise.

### 3.5 Transitional arrangements

Residential units that come within the transitional arrangements set out in [section 6.1](#) below are not subject to the 10% rate of duty.

## 4 Acquisition of residential units

The usual way of acquiring a residential unit is by way of a conveyance or transfer on sale or a long lease (i.e. > 35 years). However, for the purposes of section 31E, the methods of acquisition are broader than the usual conveyance or transfer on sale or a long lease. They include a variety of methods of acquisition that effectively achieve the same end result.

The specified methods of acquisition, and related SDCA 1999 sections, are set out in section 31E(2). In addition to a conveyance or transfer on sale or a long lease, these include:

- section 29(2) – conveyance on sale combined with a building agreement;
- section 30(1) – gift or transfer at an undervalue (‘voluntary disposition inter vivos’);
- section 31(1) – contract or agreement for the sale of an equitable estate or interest;
- section 37 – exchanges.

In the context of the 12-month ‘look-back’ period, it is necessary to identify the date on which a residential unit is acquired. The date of execution of whatever instrument, conveyance, transfer, lease, contract, agreement that effects the acquisition is the date of acquisition.

Where more than one of the specified methods of acquisition effect an acquisition of a residential unit, section 31E(3) provides that the earliest of the dates on which a residential unit is acquired is the date of acquisition that applies. For example, a conveyance in contemplation of a sale could later become an actual sale or the contract for the transfer of the equitable interest could be followed by the transfer of the legal interest.

Inheritance is not a method of acquisition for the purposes of section 31E. Inherited residential units do not have to be aggregated with units acquired by other methods. See also [section 6](#) below in relation to indirect acquisitions of residential units.

## 4.1 Examples of acquisition and aggregation

### 4.1.1 Aggregation

#### **Houses acquired before and after 20 May 2021**

Maria acquired 3 houses for €750,000 on 20 January 2021 and paid stamp duty of €7,500 (€750,000 @ 1%). On 10 May 2021 she acquired a further 6 houses for €1,200,000 and paid stamp duty of €14,000 (€1,000,000 @ 1% and €200,000 @ 2%). On 10 July 2021 she acquired another 2 houses for €800,000 and 2 apartments for €600,000.

The latest acquisition brings the aggregate number of houses acquired by Maria in the 12-month period immediately preceding 10 July 2021 to 11, which is above the threshold of 9 residential units. The 2 apartments are disregarded. While the houses acquired before 20 May 2021 are counted for the purpose of aggregation, they are not subject to the 10% rate of duty.

Maria is chargeable to stamp duty at the 10% rate of duty on the acquisition of the final 2 houses. Her stamp duty liability for the properties acquired on 10 July 2021 is €86,000 (€800,000 @10% and €600,000 @1%). She is not chargeable to any additional stamp duty on her earlier acquisitions.

#### **Single acquisition of multiple houses**

Deirdre acquired 14 houses for €4.6 million on 25 August 2021 and therefore exceeded the threshold of 9 residential units on that date. She had not acquired any other residential units since 20 May 2021. She is chargeable to stamp duty at the rate of 10% on the consideration for all 14 houses; i.e. €460,000. As she has already exceeded the threshold of 9 residential units, if she acquires any further houses before 25 August 2022 (12-month period), they will also be chargeable at the 10% rate.

### Houses acquired in several tranches over 14-month period

Joe acquired 6 houses for €2.2 million on 23 May 2021 and paid stamp duty of €34,000 (€1m @ 1% and €1.2m @ 2%).

He acquired 3 houses for €600,000 on 6 September 2021 and paid stamp duty of €6,000 (€600,000 @ 1%).

He acquired 2 houses for €500,000 on 10 January 2022, resulting in an aggregate total of 11 houses over a 12-month period. He is chargeable to stamp duty of €50,000 (€500,000 @ 10%) on this acquisition. However, he is also required to pay additional stamp duty on his previous acquisition of 9 houses. A 10% rate of stamp duty would give rise to a gross liability of €280,000 (€2.8m @ 10%) but, with credit of €40,000 for stamp duty already paid, Joe has a net liability of €240,000. He must therefore pay total stamp duty of €290,000.

Joe acquired a house for €150,000 on 1 March 2022 and paid stamp duty of €15,000 (€150,000 @ 10%) as he had already exceeded the threshold of 9 residential units.

Joe acquired 3 houses for €650,000 on 25 July 2022 and paid stamp duty of €6,500 (€650,000 @ 1%). In the immediately preceding 12-month period, Joe is treated as acquiring only 6 houses as the houses acquired on 23 May 2021 do not have to be aggregated and, along with the other acquisitions in the 12-month period (3 acquired on 6 September 2021, 2 acquired on 10 January 2022 and 1 acquired on 1 March 2022) do not exceed the threshold of 9.

#### 4.1.2 Acquisitions by connected persons

##### Acquisition by connected individuals acting independently

In preparation for retirement, Jack makes a gift of his 16 rental houses to his two daughters, Nora and Emma. They each receive 8 houses. Although no consideration is given to Jack for the houses, the acquisition by the daughters is chargeable to stamp duty under section 30 as a 'voluntary disposition inter vivos'. However, as Nora and Emma, although "connected" persons, were acting independently of each other, the number of houses received by each of them are not aggregated. As each of them receives fewer than 10 houses, the 10% rate of duty does not apply.

##### Acquisition by connected individuals not acting independently of each other

Geraldine and her husband Barry decide to set up a property rental business together. They plan to avoid the 10% rate of stamp duty by splitting up their purchases of houses between them. Geraldine buys 6 houses and Barry buys 8 houses. As they are "connected" and not acting independently of each other, the houses that they acquire must be aggregated. This means that, with 14 houses, they exceed the threshold of 9 residential units and the 10% rate of duty applies to the entire consideration paid for the 14 houses.



### Acquisition by connected persons who are not individuals

Alison has a 70% controlling shareholding in two companies. Company A carries on a residential property rental business and company B carries on a manufacturing business. In September 2021, company A enters into a 40-year lease for 15 houses, the consideration for which is chargeable at the 10% rate of duty. In October 2021, company B enters into a 45-year lease for 3 houses which are to be used to provide accommodation for some of its employees. As the two companies are controlled by the same shareholder, they are “connected”. The 3 houses leased by company B must therefore be aggregated with the 15 houses leased by company A which results in them also being subject to the 10% rate of duty.

## 5 Indirect acquisitions of residential units (shares etc.)

Section 31E(9) to (15) contains several anti-avoidance provisions that ensure that the 10% rate applies in situations where a person indirectly acquires a relevant residential unit by acquiring control over such a relevant residential unit that is held by another person. This could occur, for example, where a person acquires sufficient shares in a company to give the person control over the company and any residential units held by the company and from which the company derives value.

Residential units that are indirectly acquired are subject to the same treatment as units that are directly acquired, such as aggregation of units, acquisitions by connected persons, exclusions from the 10% rate of duty and the transitional arrangements.

Companies are not the only type of entity that can hold residential units. Partnerships and certain investment undertakings are also in scope and certain existing stamp duty exemptions are disapplied by section 31E(19) (see sections 8.3 – 8.6 below). For ease of reference, other entities are encompassed by references to companies in this manual and references to shares include interests in partnerships and units in investment undertakings.

### 5.1 Scope of charging provision in subsection (12)

Subsection (12) charges the value of shares derived from a relevant residential unit at the 10% rate of stamp duty and the value of any other shares at the usual rate of 1%. This is appropriate in relation to those shares that, in the absence of section 31E, would be chargeable at the 1% rate. However, the scope of subparagraph (ii) of subsection (12) is inadvertently too broad in that it applies the 1% rate to certain shares that should continue to be exempt or outside the scope of this charge. The intention of section 31E is to charge relevant residential units at the 10% rate of stamp duty and to retain the status quo otherwise. This is relevant in relation to subsections (13) and (19). Revenue accepts that the value of shares that is derived from property that does not comprise a relevant residential unit does not come within subparagraph (ii) of subsection (12) if it would not be chargeable in the normal course of events.

## 5.2 Value derived from residential units

To be subject to the 10% rate of duty, the shares that are conveyed or transferred must derive value from residential units, which is measured by reference to the market value of a residential unit. It is not relevant that the **greater part** of a company's share value is **not** derived from residential units. The 10% rate of duty applies only to the part of the value that is derived from a residential unit. The rest of the value that is transferred is charged as usual at the 1% rate of stamp duty applicable to shares. This differs from the operation of section 31C, for example, where the **entire value** of the shares in a company can be subject to a higher rate of stamp duty where the greater part of their value is derived from property assets.

Although subsection (9) refers to value derived from a residential unit and there is no specific exclusion for apartments, Revenue accepts that subsection (9) does not refer to value derived from residential units that comprise apartments. This means that subsection (9) does not apply where the only residential units held by a company comprises apartments.

Value can be derived directly or indirectly from residential units. Indirectly refers to interests held in residential units such as shares held in a company that holds residential units (subsection 10).

Lower values arising from or following transactions intended primarily to artificially change the value attributable to residential units are disregarded, particularly where connected persons are involved. While subsection (11) specifically refers to arrangements (defined very broadly for the purposes of section 31E) involving transfers of money or assets not comprising a residential unit preceding the conveyance or transfer of shares, it also contains the standard broad anti-avoidance provision (paragraph (a)(iii)). This brings within the scope of section 31E any arrangements undertaken with a purpose of avoiding a liability to tax or duty.

References to value derived from a residential unit are to the unit's market value, which means that debts relating to the residential unit are not deductible in calculating such value (subsection (11)(b)).

## 5.3 Transfer of control and acquisition of residential units

The meaning of acquisition set out in [section 4](#) above in relation to the direct acquisition of residential units is intended to take account of the various methods and arrangements used to acquire immovable property. In practice, the meaning of acquisition in relation to the indirect acquisition of residential units by the acquisition of shares will be somewhat different. However, in accordance with section 31E(4), references to acquisitions include acquisitions by way of a conveyance, transfer, lease, instrument, contract, or agreement. Shares will typically be acquired by a conveyance or transfer and the date of acquisition will be the date of execution of the relevant instrument, whether that is a conveyance or transfer or a contract or agreement.

To be treated as acquiring a residential unit for the purposes of aggregation and the threshold of 9 residential units, there must be a change in the person who controls the residential units held by a company (see [section 6.2](#) below). This effectively means that a sufficient number of shares must be transferred to effect this change in control. Acquisition therefore occurs on the date of execution of the instrument that transfers these shares.

Once control over a company's assets is transferred, control over all the residential units held by the company is transferred. It will not happen that control will not be transferred over some of the residential units. While there will not be a need to apportion the residential units acquired, there will be a need to apportion the value of the shares transferred where this is derived from both residential units and other assets. It is only the value derived from relevant residential units that is subject to the 10% rate of duty.

### 5.3.1 Meaning of control

Control is determined by looking through the transfer or sale of shares to the underlying effect of the transfer or sale in terms of whether there is any change in the person(s) having control (direct or indirect) over a residential unit following the transfer or sale.

Control is not defined for the purpose of section 31E and so takes its normal meaning. The normal meaning of control over a residential unit held by a company would, for example, be the entitlement to sell the unit or the retain and develop the unit, whether such entitlement arises in the present or will arise under a future arrangement.

While the tests for control set out in section 432 TCA 1997 are used to determine the person(s) who control a close company, they may also be useful in determining if there has been a change in the person(s) who controls a residential unit. The general meaning in this section is very broad and refers to a person exercising, or having the ability to exercise, or being entitled to acquire control over a company's affairs whether done directly or indirectly. This is similar to the meaning of "control" in section 11 TCA 1997 which refers to the power of a person to secure that the affairs of a company are conducted in accordance with the person's wishes. Section 432 also contains more detailed tests for control in relation to the greater part (i.e. >50%) of share capital, voting power, entitlement to distributable income or entitlement to distributable assets on a winding-up. More than one person or one group of persons may control a company. For example, one person may have the greater part of the voting power, while another holds the greater part of the issued share capital and a third is entitled to the greater part of the assets in a winding-up.

The Companies Act 2014 (section 7) defines "subsidiary" company and may also be useful in determining the person(s) who control a company.

### 5.3.2 Series of conveyances or transfers

Control over a residential unit may be transferred by a single conveyance or transfer of shares or by a series of such conveyances or transfers (subsection (14)). The 10% rate of duty is triggered by the latest in a series of conveyances or transfers that transfers control over the residential unit concerned. Generally, this would be where the aggregate of the shares held in the company that are conveyed or transferred exceeds 50% of the total shares. Where this occurs, the series of conveyances or transfers is treated as a single conveyance or transfer and the 10% rate of duty is applied to the aggregated value attributable to residential units. The value of shares acquired by the purchaser or transferee and consideration paid should correspond to the market value of the residential unit(s). Any debts taken on by a purchaser or transferee do not reduce the chargeable consideration.

### 5.4 Examples of indirect acquisitions of residential units

The examples in [section 4](#) above in relation to the direct acquisition of residential units are also relevant in relation to the indirect acquisition of units.

#### **Value of shares sold attributable to houses and apartments**

60% of the issued share capital of a property rental company is sold for €9m to an investor with no previous interest in the company. The shares acquired also equate to voting rights and the ability to exercise control over the company's assets. These assets comprise 20 houses and 30 apartments valued at €15m, with the houses accounting for 60% of this overall value.

As the sale of the shares results in a change in the person entitled to exercise control over the company's houses, the investor is treated as acquiring 20 relevant residential units (the apartments are disregarded) and exceeding the threshold of 9 relevant residential units for the application of the 10% rate of duty. The value attributable to these houses is €5.4m (60% of €9m). The stamp duty charge on the acquisition of the shares is €576,000 (€5.4m @ 10% and €3.6m @ 1%).

## 6 Commencement of application of 10% rate of charge

The 10% rate of duty applies in relation to relevant residential units acquired on or after 20 May 2021. The charge is applied in Schedule 1 SDCA in the Heads of Charge:

- "CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance" (paragraph (1)(b)), and
- "LEASE" (clause (3)(a)(i)(II)).

The charge is applied to the consideration attributable to a relevant residential unit where subsection (17) of section 31E does **not** apply. Subsection (17)(a) applies where certain conditions are met (see [section 6.1](#) below). Subsection (17)(b) applies to acquisitions effected **before** 20 May 2021.

### 6.1 Transitional arrangements

Transitional arrangements (in subsection (17)(a)) maintain the standard 1%/2% rate of stamp duty for residential property where the process of acquiring a residential unit was at an advanced stage when section 31E came into effect. For the standard rate of duty to apply, a binding contract for the acquisition of the residential unit must have been entered into before 20 May 2021 **and** the acquisition must then be concluded (i.e. instrument executed) before 20 August 2021. Whether or not a contract is binding on the parties to the contract is a matter to be determined in light of the particular facts and circumstances of each case.

When the stamp duty return is being filed, the instrument must be accompanied by a statement certifying that it was executed solely in pursuance of a binding contract entered into before 20 May 2021.

### 6.2 Aggregation

A residential unit in respect of which an instrument is executed before 20 May 2021, or which meets the conditions set out in [section 6.1 above](#) (transitional arrangements), is counted for the purposes of aggregation ([see section 2.1 above](#)).

### 6.3 Examples for commencement and transitional arrangements

#### **Residential units acquired before 20 May 2021**

Sarah acquired 2 houses for €600,000 in January 2021 and paid stamp duty of €6,000 (€600,000 @ 1%). She then acquired 9 houses for €2.2m in June 2021, which, when aggregated with the 2 previous houses, exceeded the threshold of 9 residential units. She therefore paid stamp duty of €220,000 (€2.2m @ 10%). No additional stamp duty was due in relation to the previous 2 houses as these were acquired before 20 May 2021.

#### **Binding contract not executed before 20 August 2021**

Company A entered into a binding contract for the purchase of 11 houses on 10 May 2021. It expected that it would be in a position to finalise the purchase before 20 August 2021 (the deadline for executing instruments of conveyance or transfer). However, there were delays in completing the due diligence and the deed of sale was not executed until 28 August 2021. As company A did not meet the conditions to continue to be charged at the standard rate(s) of stamp duty, the consideration paid for the 11 houses was chargeable at the 10% rate of duty.

## 7 Returns and payment

Where a relevant residential unit is acquired, this should be indicated by ticking the appropriate 'section 31E' check boxes on the return filed through the eStamping system. Where there are multiple residential units on a single instrument, apartments can be excluded by ticking the relevant check box.

Where a residential unit was not a relevant residential unit when it was acquired, the return would have been filed and stamp duty paid as normal. However, the acquisition of subsequent residential units (by the same person or by a connected person) may result in the previous residential units coming within the meaning of relevant residential units as a result of aggregation during a 12-month rolling period. Where this happens, additional stamp duty is payable at the rate of 10%, with a credit allowed for the stamp duty previously paid at the rate of 1%/2%. This additional duty is declared on the return on which the most recent duty is declared.

Interest and penalties will not apply to the additional stamp duty payable where the latest return is filed on time and the additional stamp duty is paid by the due date for the stamp duty that is chargeable in respect of the later acquisition of residential units.

The stamp duty certificate will issue only when the full liability has been paid.

More detailed information is available at this [link](#)

## 8 Interactions with other SDCA 1999 provisions

### 8.1 Interactions between sections 31C, 31D and 31E

Both sections 31C and 31E can apply to a single transaction; for example, both sections would apply if a person acquired all the shares in a company which had mainly held land for development but also owned more than 10 houses. The person would be liable to stamp duty at the rate of 10% in relation to the value of the houses acquired and would also be liable to stamp duty at the rate of 7.5% in relation to the value of the non-residential land.

Both sections 31D and 31E can apply to a single transaction; for example, both sections would apply if a person acquired control of a trading company by way of a cancellation scheme of arrangement and that company also owned more than 10 houses that were incidental to its trading activity. The person acquiring the company would be liable to stamp duty at the rate of 10% in relation to the value of the houses acquired and would be liable to stamp duty at the rate of 1% in relation to the value of the remainder of the company's assets.

Sections 31C, 31D and 31E can apply to a single transaction, but where sections 31C and 31D both apply, section 31C takes priority; for example, where a person acquired control of a company by way of a cancellation scheme of arrangement and the company, as its main activity, held land for development but also owned more than 10 houses. In such a situation, the person would be liable to stamp duty at the rate of 10% in relation to the value of the houses acquired. Sections 31C and 31D would both apply in relation to the value of the development land, but, as section 31C takes priority in this situation, the purchaser would be liable to stamp duty at the rate of 7.5% in relation to the development land.

## 8.2 Sections 79 and 80

Although section 31E does not specifically disapply section 79 or 80, it is Revenue's view that the anti-avoidance provisions within section 31E take precedence over these sections. However, Revenue is prepared to administratively allow the section 79 exemption in relation to conveyances and transfers of shares deriving value from a residential unit between group companies that are very closely associated.

As it is possible that conveyances and transfers of a residential unit might be structured as a reconstruction or amalgamation under section 80 purely to avoid the application of section 31E, Revenue is not prepared to commit to administratively allowing the section 80 exemption in all cases. Cases where both section 31E and section 80 might apply will therefore be decided by Revenue on the particular facts and circumstances, on a case by case basis.

## 8.3 Section 82

Section 82 provides for an exemption for conveyances, transfers or leases of land made for charitable purposes to a charitable body. Section 31E(19) disapplies this exemption in the case of acquisitions of relevant residential units. However, as set out in section 5.1 above, any value derived from property that does not comprise relevant residential units (if not already chargeable) does not come within the scope of subparagraph (ii) of subsection (12).

## 8.4 Section 82C

Section 82C provides for an exemption for transfers of property between certain pension schemes, charitable bodies, and certain funds. Section 31E(19) disapplies this exemption in the case of transfers of relevant residential units. However, as set out in section 5.1 above, any value derived from property that does not comprise relevant residential units (if not already chargeable) does not come within the scope of subparagraph (ii) of subsection (12).

## 8.5 Section 83E

Residential units that are leased, following their acquisition, to a local authority or an approved housing body to be used as social housing may be subject to stamp duty at the 10% rate on acquisition. However, if they are subsequently leased to a local authority or approved housing body, they can then qualify for a refund of part of the stamp duty paid. A person who acquires a residential unit with an existing social housing lease in place is not regarded as entering into a qualifying lease for the purposes of section 83E. The amount to be refunded is the difference between the stamp duty that would have been paid at the standard rate (1%/2%) and that paid at the 10% rate. The refund scheme is provided for by section 83E, introduced in tandem with section 31E.

## 8.6 Section 88

Section 88 provides for a stamp duty exemption for the conveyance or transfer of units in certain investment undertakings and shares in section 110 (securitisation) companies or foreign registered companies. While, section 31E(19) disapplies this exemption in the case of acquisitions of relevant residential units, the exemption is already disapplied by section 88(2) in the case of immovable property situated in the State or any right over or interest in such property. As set out in section 5.1 above, any value derived from property that does not comprise relevant residential units (if not already chargeable) does not come within the scope of subparagraph (ii) of subsection (12). However, in relation to section 88, this applies only to shares deriving value from any assets that do not comprise immovable property in the State or any right over or interest in such property.

## 8.7 Contracts and agreements not chargeable to stamp duty

Section 31E (13) applies the 10% rate in the case of a contract or agreement where it would not otherwise be chargeable to stamp duty. For example, section 31(1) applies a stamp duty charge on certain contracts and agreements but excludes those for the transfer of stocks or marketable securities. Such transfers may now be chargeable at the 10% rate under section 31E. However, as set out in section 5.1 above, any value derived from property that does not comprise relevant residential units does not come within the scope of subparagraph (ii) of subsection (12).

The contract or agreement for the change in ownership of the company is to be treated as an actual conveyance or transfer and stamp duty is chargeable on this document under paragraph 4 of the Head of Charge CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.