

## **Stamp Duties Consolidation Act 1999**

### **Part 7: Exemptions and Reliefs from Stamp duty**

This document should be read in conjunction with Part 7 of the Stamp Duties Consolidation Act (SDCA) 1999 – Exemptions and Reliefs from Stamp Duty

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## Chapter 1: Instruments in respect of which a self-assessed Stamp Duty Return must be filed under the eStamping system in order to obtain exemption or relief

### 1. Section 79 - Conveyances and transfers of property between certain bodies corporate

This section provides for a relief from stamp duty on certain transfers of property in a corporate group. The Tax and Duty Manual [Section 79: Associated Companies Relief](#) for this relief is available in the Stamp Duty (replacement) Manual.

### 2. Section 80 - Reconstructions or amalgamations of companies

This section provides for a relief from stamp duty on certain transfers of property that take place as a result of reconstructions or amalgamations of companies.

### 3. Section 80A - Demutualisation of assurance companies

Section 80A of the SDCA provides for an exemption from stamp duty on any instrument made for the purposes of or in connection with the demutualisation of an assurance company which carries on a mutual life business.

A demutualisation is an arrangement between an assurance company and its members whereby the business carried on by the assurance company is transferred to a limited company and shares or the right to shares in that company or its parent are issued or, as the case may be, granted to members of the assurance company.

Adjudication has been abolished for instruments executed on or after 7 July 2012 and a self-assessed Stamp Duty Return is required to be filed under the eStamping system to claim this relief.

### 4. Section 81AA - Young Trained Farmer

This section provides for a stamp duty exemption on the transfer of agricultural land to 'young trained farmers'. The manual [Part 7- Section 81AA](#) for this relief is available in the Stamp Duty (replacement) Manual.

## 5. Section 81C - Farm Consolidation

This section provides for a stamp duty relief (reduced rate of duty) on the sale and purchase of farmland for the purpose of consolidating farm holdings. The manual [Part 7 – section 81C](#) for this relief is available in the Stamp Duty (replacement) Manual.

## 6. Section 81D - Relief for Certain Leases of farmland

This section provides for a stamp duty exemption for certain leases of farmland. The manual [Part 7 – section 81D](#) for this relief is available in the Stamp Duty (replacement) Manual.

## 7. Section 82 - Charities

This section provides an exemption from stamp duty for conveyances, transfers and leases of land for charitable purposes in the State or Northern Ireland to a body of persons established for charitable purposes only or to the trustees of a trust so established.

Adjudication has been abolished for instruments executed on or after 7 July 2012 and a self-assessed Stamp Duty Return is required to be filed under the eStamping system to claim this relief.

## 8. Section 82A - Donations to approved bodies

Section 82A of the SDCA exempts from stamp duty donations of publicly quoted securities to approved bodies which come within the scheme of tax relief for donations to charities, schools and third level colleges as well as other approved bodies under section 848A of the Taxes Consolidation Act 1997.

This exemption applies to instruments transferring such securities executed on or after 31 March 2006.

Adjudication has been abolished for instruments executed on or after 7 July 2012 and a self-assessed Stamp Duty Return is required to be filed under the eStamping system to claim this relief.

## 9. Section 82B - Approved Sports Bodies

This section provides for an exemption from stamp duty for conveyances, transfers and leases of land to an approved sports body approved under section 235 of the Taxes Consolidation Act 1997, where that land will be used for the sole purpose of promoting athletic or amateur games or sports.

Adjudication has been abolished for instruments executed on or after 7 July 2012 and a self-assessed Stamp Duty Return is required to be filed under the eStamping system to claim this relief.

## 10. Section 82C - Pension schemes and Charities

Section 82C provides for an exemption from stamp duty in respect of certain transfers of property involving pension schemes and charities where, following the transfer, the property continues to be held for the benefit of the pension scheme or charity.

The section confirms the existing stamp duty treatment which applied in relation to in specie transfers of pension and charity scheme assets between certain investment vehicles (including unit trusts). The exemption also applies where the investment vehicle is a corporate entity.

The section contains definitions of “charity” and “pension scheme” and specifies the different types of investment vehicles which can avail of the exemption.

## 11. Section 83A - Transfer of site to child

This exemption has been abolished with effect from 8 December 2010.

## 12. Section 83B - Certain Family Farm Transfers

Section 83B provides for an exemption from stamp duty for transfers of farmland from a child to a parent in the context of certain family arrangements to which the provisions of section 599 of the Taxes Consolidation Act 1997 (as amended by section 52 of the Finance Act 2007) apply for capital gains tax purposes. A child for the purposes of section 599 includes a child of a deceased child, certain nephews and nieces and foster children.

Adjudication has been abolished for instruments executed on or after 7 July 2012 and a self-assessed Stamp Duty Return is required to be filed under the eStamping system to claim this relief.

## 13. Section 83C - Property “trade in” scheme

This relief, which applied to instruments executed on or after 7 May 2009 and on or before 31 December 2010, is no longer applicable.

## 14. Section 83D - Refund scheme where land used for residential development

Section 83D provides for a refund of the difference between the previous non-residential stamp duty rate of 2% and the current rate of 6% (i.e. maximum of two-thirds of the amount of duty paid at 6%) where non-residential land is subsequently developed for residential purposes. Tax and Duty Manual [Part 7 - Section 83D](#) for this relief is available in the Stamp Duty (replacement) Manual.

## Chapter 2: Other instruments

### 15. Section 85 - Certain Loan Capital and Securities

Section 85 provides for an exemption from stamp duty on:

- the issue of loan capital or any Government loan;
- the transfer of loan capital (where the conditions in subsection (2)(b) are satisfied);
- the issue or transfer of securities issued by a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997;
- the issue, transfer or redemption of an enhanced equipment trust certificate which is defined as “loan capital issued by a company to raise finance to acquire, develop or lease aircraft”.

### 16. Section 85A - Certain Investment Certificates

Section 85A of the SDCA was inserted into the SDCA by Finance Act 2010. The section provides that stamp duty shall not be chargeable on the issue, transfer or redemption of an investment certificate within the meaning of section 267N of the Taxes Consolidation Act 1997.

### 17. Section 86A - Enterprise Securities Market

Section 86A, which was inserted into the SDCA by section 70 of the Finance (No. 2) Act 2013, provides for an exemption from stamp duty on the transfer of stocks or marketable securities admitted to the Enterprise Securities Market operated by the Irish Stock Exchange Limited.

The exemption does not apply where the admission of the stocks or marketable securities to the Enterprise Securities Market has been cancelled by the Irish Stock Exchange Limited.

The exemption applies with effect from 5 June 2017.

### 18. Section 87B - Merger of companies

This section provides an exemption from stamp duty on the transfer of assets pursuant to three types of mergers:

- A “cross-border merger” as defined in Regulation 2(1) of the European Communities (Cross-Border Mergers) Regulations 2008 which give effect to Council Directive 2005/56/EC. While the above definition caters for a cross-border merger involving at least one Irish company and a least one EEA company, the exemption will also be extended to a cross-border merger, within the meaning of the 2005 Directive, which does not involve an Irish company provided at least two of the companies are governed by the laws of different Member States.

- A “merger”, involving two or more Irish public limited companies, as defined in Regulation 4 of the European Communities (Mergers and Divisions of Companies) Regulations 1987. It is accepted that the exemption also extends to a merger by absorption as provided for in Regulation 13(8) of the 1987 Regulations.
- An “SE merger” under which an SE is formed by the merger of two or more companies in accordance with Article 2(1) and subparagraph (a) or (b) of Article 17(2) of Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute for a European company (SE).

### 18.1 Mergers/dissolutions of foreign companies

The merger or dissolution of foreign companies can sometimes involve the transfer of Irish property, such as shares, buildings or land. Normally, the transfer of Irish property will attract a charge to stamp duty. However, in certain jurisdictions, a merger or dissolution can be effected by an act of law or an administrative act which will transfer the **beneficial** interest in the property held by one company to some other company. Transfer of the **legal** interest in the property will still require the execution of a formal instrument of transfer and the question arises as to the stamp duty treatment of the instrument. The point at issue is whether the instrument will attract a liability to ad valorem duty.

It is not possible to give a definitive answer because the mechanisms for dissolving or merging companies vary considerably from jurisdiction to jurisdiction. There can even be variations within a jurisdiction. The incidence of duty will depend on the nature and effect of the legal or administrative act and the documentation associated with it. This is particularly the case with mergers. Thus, it will be necessary to consider the precise form of the act, the circumstances in which it is carried out and the effect of the foreign law before the stamp duty liability can be determined. In short, each case must be considered on its merits.

Several jurisdictions have the necessary company law provisions to enable companies to merge or dissolve by legal or administrative act, including: France, Holland, Finland, Switzerland, Canada, Delaware and Ohio (this is not an exhaustive list). It must be emphasised that because a merger can be carried out by a legal or administrative act it does not necessarily follow that any instrument executed in connection with such an act will not attract a liability to ad valorem duty.

Where it can be shown to the satisfaction of the Revenue that, as a consequence of a legal or administrative act effecting a dissolution or merger, the beneficial interest in Irish property is transferred from one company to another, any instrument executed to transfer the legal interest in the property will not attract a liability to duty.



## 19. Section 88 - Certain stocks and marketable securities

Transfers of shares in companies or other bodies corporate registered outside the State are not chargeable to Irish stamp duty. For example, a transfer of shares in British Gas plc is not chargeable to Irish stamp duty - even if the stock transfer form is executed in Ireland. The exemption does not apply if the transfer of the foreign shares “relates” to Irish immovable property or to Irish stocks or marketable securities (other than shares in (i) an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997 or (ii) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997).

## 20. Section 90 - Certain financial services instruments

This section provides for an exemption from stamp duty for a wide range of instruments used primarily in the financial services industry. These exemptions do **not** apply if the instruments concerned relate to Irish immovable property or Irish stocks or marketable securities (other than shares in (i) an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997 or (ii) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997).

## 21. Section 90A - Greenhouse gas emissions

This section, introduced under Finance Act 2008, provides for an exemption from stamp duty on the sale, transfer or other disposition of a “greenhouse gas emissions allowance”. Any contract or agreement for the sale of a “greenhouse gas emissions allowance” is covered by the exemption.

A “greenhouse gas emissions allowance” has the meaning assigned to “carbon offsets” in section 110(1) of the Taxes Consolidation Act 1997.

The section applies to instruments executed on or after 5 December 2007.

## 22. Section 91A - New houses or apartments with a floor area compliance certificate

This exemption has been abolished with effect from 8 December 2010.

## 23. Section 92 - New dwelling houses and apartments with no floor area compliance certificate

This exemption has been abolished with effect from 8 December 2010.

## 24. Section 92B - First time buyer relief

This exemption has been abolished with effect from 8 December 2010.

## 25. Section 95 - Commercial Woodlands Relief

Section 95 provides partial relief from stamp duty in respect of an instrument “being” a conveyance or transfer on sale, or a lease of land, on which commercial woodlands are growing. It was Revenue’s view that the relief did not extend to a gift of land.

In a recent appeal before the Appeal Commissioners, they determined that the relief is also applicable to a conveyance or transfer operating as a voluntary disposition. Revenue have decided to accept the Appeal Commissioners’ determination. Accordingly, the relief will now apply where the conveyance or transfer is on sale or the conveyance or transfer operates as a voluntary disposition (gift).

The woodlands must be growing on a substantial part of the land (a substantial part is regarded as not less than 75% of the land) and the woodlands must be managed on a commercial basis and with a view to the realisation of profits.

The relief applies to the portion of the consideration, which represents the value of the trees growing on the land.

## 26. Section 96 - Transfers between spouses and civil partners

This section provides that all transfers/leases of property between spouses and civil partners (unless the transfer is a subsale) are exempt from stamp duty. If any other person is a party to the instrument the exemption does not apply.

## 27. Section 97 - Certain transfers following the dissolution of marriage or civil partnership

Following a divorce or dissolution of a civil partnership, property may be transferred between spouses/civil partners pursuant to a court order. These transfers are exempt from stamp duty. If any other person is a party to the instrument the exemption does not apply.

## 28. Section 97A - Certain transfers by cohabitants

This section provides for an exemption from stamp duty where a property is transferred pursuant to an order under section 174 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 by a cohabitant to his or her cohabitant.

If any other person is a party to the instrument the exemption does not apply.

This section applies to transfers made on or after 1 January 2011.

## 29. Section 101 - Intellectual Property

This section provides for an exemption on the sale, transfer or other disposition of intellectual property as defined in the section. The term “intellectual property” has the meaning assigned to “specified intangible asset” in section 291A(1) of the Taxes Consolidation Act 1997.

Contracts and agreements for sale of intellectual property are also covered by the exemption.

Goodwill may also be exempt, but only to the extent that it is **directly attributable** to the intellectual property. Where there is business goodwill and goodwill that is attributable to the intellectual property, the consideration must be apportioned between the two on a just and reasonable basis.

## 30. Section 101A - Single Farm Payment

Section 101A of the SDCA provides for an exemption from stamp duty on the sale, transfer or other disposition of an EU Single Farm Payment Entitlement [paid under Regulation (EU) No. 1037/2013 of the European Parliament and of the Council of 17 December 2013)].

Where the Single Farm Payment Entitlement forms part of a transaction consisting also of chargeable property, the consideration is to be apportioned on a just and reasonable basis as between the Single Farm Payment Entitlement and the other property and the part of the consideration attributable to the Single Farm Payment Entitlement should be disregarded when determining the liability to stamp duty on the chargeable property.

The apportionment provisions in Section 45 of the SDCA also apply where relevant.

This exemption applies to instruments executed on or after 1 January 2005.

### 30.1 Milk quotas

The transfer of a milk quota gives rise to a charge to stamp duty as the milk quota is intangible property for stamp duty purposes and a conveyance or transfer of a milk quota would fall into the “Conveyance or Transfer on sale of any property other than stocks or marketable securities or a policy of insurance of a policy of life insurance” head of charge and would be chargeable at the non-residential property rates. Stamp duty will arise on an instrument of transfer of a milk quota on the consideration payable for the transfer of the milk quota or the market value of the milk quota in the case of a gift. A liability to stamp duty may also arise, under section 31 of the Stamp Duties Consolidation Act 1999, on a contract for sale of a milk quota.

### 31. Section 106B - Housing Authorities/Affordable Homes Partnership

Section 106B was inserted into the SDCA under Finance Act 2008. Section 106B replaced the existing exemption relating to housing authorities in section 8 of the Housing (Miscellaneous Provisions) Act 1992 and also provided for a similar exemption for the Affordable Homes Partnership

Section 64 Finance Act 2011 substituted a new section 106B for the old section 106B.

The new section 106B retains the exemption from stamp duty in respect of a conveyance, transfer or lease of a house, building or land **to**

- a Housing Authority in connection with any of its functions under the Housing Acts 1966 to 2004, or
- the Affordable Homes Partnership in connection with the services specified in article 4(2) of the Affordable Homes Partnership (Establishment) Order 2005 as amended.

However, the new section also provides, with effect from 1 April 2011, for a maximum stamp duty charge of €100 in respect of a conveyance, transfer, or lease of a house, building or land **by**

- a Housing Authority in connection with any of its functions under the Housing Acts 1966 to 2004, or
- the Affordable Homes Partnership in connection with the services specified in article 4(2) of the Affordable Homes Partnership (Establishment) Order 2005 as amended.

### 32. Section 108 - National Treasury Management Agency

Section 108 of the SDCA was repealed by Section 73 Finance Act 2014.

However, Section 73 also specifically provides that neither:

- a) the National Treasury Management Agency, nor
- b) the Minister in relation to a function exercised by the Minister which is capable of being delegated to the National Treasury Management Agency under section 5 of the National Treasury Management Agency Act

are accountable persons for stamp duty purposes.

### 33. Section 111 - Oireachtas Funds

If the stamp duty payable on an instrument would be payable out of funds provided by the Oireachtas, then this section exempts the instrument from duty. To qualify the entirety of the stamp duty would have to be payable out of Oireachtas funds.

## 34. Section 113 - Miscellaneous Instruments

Section 113 contains a number of miscellaneous instruments that are exempt from duty. These are:

- instruments transferring shares or any other interest in:
  - stocks, funds or securities of the Government, the Oireachtas, the Minister for Finance or any other Minister of the Government
  - Stocks or funds of the Government or Parliament of the late United Kingdom of Great Britain and Ireland which are registered in the books for the Bank of Ireland in Dublin,
  - in the stock or other form of security to which section 39 or section 40 of the TCA 1997 applies.
- Instruments for the sale, transfer or other disposition (including a transfer by way or mortgage) of any ship, vessel or aircraft or any part, interest, share or property of or in any ship, vessel or aircraft,
  - Wills and codicils, and
  - Instruments made by, to, or with the Commissioners for Public Works.