

# Farm Consolidation Relief

## Part 7: section 81C

This document should be read in conjunction with section 81C SDCA 1999

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## 1 Introduction

The purpose of farm consolidation relief is to encourage the consolidation of farm holdings, to reduce fragmentation and to improve the operation and viability of farms. Teagasc, as the competent body, is required to certify that purchases, sales and transfers of land are being carried out for genuine consolidation purposes. The relief constitutes an EU State aid and must comply with State aid rules.<sup>1</sup>

The first farm consolidation relief (section 81B) applied to exchanges of farmland effected in the period 1 July 2005 to 30 June 2007. Full relief from stamp duty applied where the parcels of land being exchanged were equal in value. Otherwise, stamp duty at the usual rate applied to the excess of the value of the land that was acquired over the value of the land disposed of. A revised form of the relief (section 81C) applied to the purchase of farmland in the period 1 July 2007 to 30 June 2009 where the purchase and sale took place within an 18-month period of each other. Again, stamp duty at the usual rate applied to the excess of the value of the land purchased over the value of the land sold.

Section 81C was amended by Finance Act 2017 (section 67) to revive and revise the operation of the relief. Relief is now available where farm holdings are consolidated by way of linked sales and purchases of land and where land is transferred as a gift or by way of exchange. Stamp duty at a reduced rate of 1% (usual rate is 7.5%)<sup>2</sup> is applied to the excess of the value of the land acquired over the value of the land disposed of, where the acquisition and disposal take place within a 24-month period of each other.

The relief was commenced on 1 August 2018 by Ministerial Order (S.I. 238 of 2018). The relief originally applied to acquisitions and disposals of land where the instruments were executed (signed, sealed or both) in the period 1 January 2018 to 31 December 2020. Finance Act 2020 (section 49)<sup>3</sup> extended the relief for a further two years to 31 December 2022.

Consolidation relief (called restructuring relief) in respect of capital gains tax is also available under section 604B Taxes Consolidation Act 1997.<sup>4</sup>

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<sup>1</sup> Article 15 of *Commission Regulation (EU) No. 702/2014 (dated 25 June 2014) declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union*. Details available [here](#).

<sup>2</sup> Rate of 7.5% applies to transfers executed on or after 9 October 2019. Prior to that, the rate was 6% for transfers executed on or after 11 October 2017.

<sup>3</sup> Section 49 was commenced wef 27 March 2021 by Ministerial Order (S.I. 136/2021).

<sup>4</sup> Details available in Tax and Duty Manual [Part 19-07-03B](#).

## 2 Qualifying conditions and operation of the relief

A range of conditions relating to the land, the farmer, the deed<sup>5</sup> of transfer, Teagasc certification, the timing of purchases and sales and the retention of the land must be satisfied for the relief to apply.

### 2.1 Qualifying land

The types of property (which must be situated in the State) that can qualify for the relief are:

- agricultural land;
- land suitable for occupation as woodlands on a commercial basis; and
- such farm buildings as are of a character appropriate to the land on which they are situated.

Qualifying land does not include dwelling houses or the land occupied by such houses unless they are derelict and unfit for human habitation.

Where the land purchased or sold involves both qualifying and non-qualifying land, the accountable person must apportion the overall value between them. For example, an apportionment would be required where the property comprised farmland occupied by a dwelling house that was fit for human habitation or where some of the land was not certified by Teagasc.

### 2.2 Qualifying farmer

The relief is restricted to farmers who are individuals and is not available to companies. In the case of land purchases and sales by joint owners, only one of them need be a farmer.

For the purposes of this relief, a farmer is a person who spends not less than 50% of his or her normal working time farming. Farming includes the occupation of woodlands on a commercial basis.

Revenue accepts that normal working time (including on-farm and off-farm working time) approximates to 40 hours per week. This enables farmers with off-farm employment to qualify for the relief where they spend at least 20 hours per week, averaged over a year, farming. Where a farmer works more than 40 hours per week, the minimum requirement for 20 hours of farming still applies. Where a farmer's normal working time is somewhat less than 40 hours per week, then the 50% requirement can be applied to the actual hours worked.

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<sup>5</sup> For stamp duty purposes "deed" is the same as "instrument". Instrument is defined in section 1 SDCA 1999 as including every written document.

With a self-assessment basis of taxation, it is up to individual farmers to satisfy themselves when claiming the relief that they meet the conditions relating to the number of hours spent farming and the commercial basis for their farming. This will depend on the facts and circumstances of each individual case. Should Revenue decide to do a follow-up compliance check on a claim for relief, it will consider all relevant information (including farming records) when deciding on whether relief was correctly claimed or not. If, in exceptional situations, it can be shown that, on an ongoing basis, certain farming activities, such as the occupation of woodlands, are carried out on a commercial basis and with a view to making a profit but do not require 50% of a farmer's normal working time, Revenue will take this into account in deciding whether the relief was correctly claimed.

### 2.3 Teagasc certification

The Department of Agriculture, Food and the Marine (DAFM) has published guidelines on the conditions for farm consolidation (called "Farm Restructuring Guidelines"). A farmer who wants to claim this relief (and also capital gains tax relief<sup>6</sup>) must apply for and obtain a consolidation certificate from Teagasc certifying that the conditions for consolidation are satisfied. This certificate identifies the lands purchased and sold and certifies that Teagasc is satisfied, on the basis of information available at the time of certification, that the purchase and sale of land complies with the conditions of consolidation as set out in the published guidelines.

A certificate template is included in the Appendix to this manual. Information on how to obtain this certificate and an application form is available [on the DAFM website](#).

Teagasc may withdraw a certificate that it has previously issued. However, this does not affect the relief already claimed, provided that the certificate had not been withdrawn when the relief was claimed. A certificate that has been withdrawn at the time of the claim is invalid and claiming the relief in such circumstances makes a purchaser liable to a penalty (see [section 5.1](#) below).

For the purposes of the examples used in this manual, it is assumed that the required Teagasc certificate has been obtained by the farmer claiming the relief.

### 2.4 Deed of transfer

The deed of transfer of the land must be executed in the period starting on 1 January 2018 and ending on 31 December 2022, whether effecting a purchase or a sale of land.

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<sup>6</sup> Claimants should be aware that the guidelines contain some qualifying conditions that apply only to one or other of the capital gains tax and the stamp duty reliefs.

## 2.5 Sales and purchases of land and their timing

The farmer must sell land in the period starting on 1 January 2018 and ending on 31 December 2022 **and** buy other land in the same period. The date of sale or purchase is the date on which the deed of transfer is executed. A sale may take place either before or after a purchase, provided they both take place within a period of 24 months of each other. If the sale takes place before the purchase, the relief is given at the time of the purchase. However, if the purchase takes place first, stamp duty must be paid in full and, on a subsequent sale within the allowed period, a refund can then be claimed. For information on how to claim a refund see [section 4.2. below.](#)

Sales, purchases, gifts and exchanges of land must not be effected in a way that would allow the interest in the land to be subsequently revested in the person from whom it was acquired by the exercise of a power in this regard.

### **Example: farm consolidation relief not applicable**

A farmer sells land for €170,000 in January 2018 and purchases land for €160,000 on 24 March 2020. The purchase does not qualify for relief as it occurs outside of the allowable period of 24 months from the date of the sale. Stamp duty of €12,000 (€160,000 @ 7.5%) is chargeable on the purchase.

However, if the farmer sells additional land before 24 March 2022, he or she can qualify for relief as the second sale is within 24 months of the purchase. It is only the value of the second sale that is to be deducted from the purchase consideration.

## 2.6 Gifts and exchanges of land

In addition to a sale or purchase, land can also be transferred by way of a gift, with the land being treated as transferred at market value. A farmer may also exchange land instead of purchasing and selling land. Instruments, such as deeds of exchange, that convey immovable property such as land in exchange for any other property are chargeable as conveyances on sale under section 37 SDCA 1999. If both parcels of land are not of equal value, “equality money” may be paid to make up the difference in value. Where such money relates to the excess of the value of the land that is received over the land that is exchanged, stamp duty at the rate of 1% is charged on this excess value where all the other conditions are met. See example 3 in section 3 below.

## 2.7 Retention of land

A farmer must intend to retain ownership of the land purchased and must intend to use that land for farming for a period of at least 5 years from the date on which the relief is claimed, whether upfront or by way of a refund claim. There may be more than one claim in respect of the purchase of a particular parcel of land; for example, where there is more than a single sale in the 24-month period allowed, with each sale affecting the amount of stamp duty payable. Where this happens, the 5-year period starts on the date of the first claim.

### 3 Calculation of relief

Where the qualifying conditions for the relief are satisfied, stamp duty is chargeable at a reduced rate of 1% (usual rate is currently 7.5%) applied to a purchase consideration determined by the formula **P – S**; essentially, the purchase consideration less the sales consideration or the excess of the purchase consideration over the sales consideration.

The calculation is straightforward where there is a single purchase and sale in the period 1 January 2018 to 31 December 2022. However, the calculation is more complex in the case of multiple transactions where stamp duty was already relieved on a prior purchase and/or a prior sale gave rise to a refund. For information on how to claim a refund [see section 4.2 below](#).

**P** in the formula is the aggregate of —

- (a) the value of the current land purchase, and
- (b) the value of all other land purchased in the 24-month period preceding the current purchase. However, where that value was reduced to its excess over the value of land sold in the 24-month period immediately preceding another purchase, only the excess value amount is to be aggregated with the value at (a).

**S** in the formula is the aggregate of the value of all the land sold in the 24-month period immediately preceding the current purchase, but only to the extent that a sale has not already given rise to a refund in relation to a purchase made before this 24-month period.

Where stamp duty has been paid on a land purchase and there is a further purchase within 24 months of the first purchase, the stamp duty chargeable on the later purchase is reduced by the duty paid on the first purchase less any duty repayable on that first purchase.

#### **Example 1: value of land sold less than value of land subsequently purchased**

A farmer sells land for €100,000 in September 2018 and 6 months later in March 2019 purchases land for €120,000. The chargeable consideration is obtained using the formula **P – S**:

$$€120,000 - €100,000 = €20,000$$

The stamp duty chargeable is €200, i.e. 1% of €20,000 (the amount by which the value of the land purchased exceeds the value of the land sold). When completing the stamp duty return the sum of €20,000 should be entered as the chargeable consideration.

#### **Example 2: value of land sold exceeds value of land subsequently purchased**

A farmer sells land for €150,000 in October 2018 and 8 months later in June 2019 purchases land for €100,000. The chargeable consideration is obtained using the formula **P – S**:

$$€100,000 - €150,000 = €50,000$$

There is no stamp duty chargeable as the value of the land purchased is less than the value of the land sold. When completing the stamp duty return Zero (0) should be entered as the chargeable consideration.

**Example 3: exchange of land and payment of equality money**

A farmer transfers lands valued at €20,000 and pays a cash consideration of €15,000 in exchange for land valued at €35,000. The farmer is liable to stamp duty of €150 (15,000 X 1%), which represents stamp duty on the excess of the value of the land received over the value of the land exchanged.

**Example 4: purchase of land precedes sale of land – refund claim**

A farmer purchases land for €200,000 in August 2018 and 3 months later in November 2018 sells land for €150,000. He pays stamp duty of €12,000 (€200,000 @ 6%<sup>7</sup>). However, the farmer can apply for a refund in November 2018 when he sells land. The chargeable consideration is obtained using the formula P – S:

$$€200,000 - €150,000 = €50,000$$

The stamp duty chargeable is €500, i.e. 1% of €50,000 (the amount by which the value of the land purchased exceeds the value of the land sold). The refundable amount is €11,500 (€12,000 - €500). When amending the stamp duty return the amount entered for consideration should be amended to €50,000.

If the value of the land sold had equalled or exceeded the value of the land purchased, the €12,000 stamp duty paid on the purchase would be refundable in full.

**Example 5: further purchase of land**

A farmer purchases land for €200,000 in November 2019 and 3 months later in February 2020 sells land for €150,000. He pays stamp duty of €15,000 (€200,000 @ 7.5%) on the purchase. However, the farmer can apply for a refund in February 2020 when he sells land. The chargeable consideration is obtained using the formula P – S:

$$€200,000 - €150,000 = €50,000$$

The stamp duty chargeable is €500, i.e. 1% of €50,000 (the amount by which the value of the land purchased exceeds the value of the land sold). When amending the stamp duty return the amount entered for consideration should be amended to €50,000. The refundable amount is €14,500 (€15,000 - €500).

Following this, the farmer purchases additional land for €60,000 in August 2020 (i.e. 6 months later). The chargeable consideration is obtained using the formula P – S. P is the aggregate of €60,000 (current land purchase) and €50,000 (the lesser amount on which stamp duty was charged in the previous transaction). S is nil, i.e. the value of land sold in the 24-month period preceding the previous land purchase.

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<sup>7</sup> Rate currently 7.5% since 9 October 2019.



The stamp duty chargeable is €1,100, i.e. 1% of €110,000 (€60,000 + €50,000 – nil). As €500 has already been paid, an additional amount of €600 is payable. When completing the stamp duty return for the purchase of the additional land in August 2020, €60,000 should be entered as the chargeable consideration.

#### **Example 6: further sale of land**

A farmer purchases land for €250,000 in December 2019 and 3 months later in March 2020 sells land for €200,000. He pays stamp duty of €18,750 (€250,000 @ 7.5%<sup>8</sup>) on the purchase. However, the farmer can apply for a refund in March 2020 when he sells land. The chargeable consideration is obtained using the formula P – S:

$$€250,000 - €200,000 = €50,000$$

The stamp duty chargeable is €500, i.e. 1% of €50,000 (the amount by which the value of the land purchased exceeds the value of the land sold). The refundable amount is €18,250 (€18,750 - €500). When amending the stamp duty return the amount entered for consideration should be amended to €50,000.

Following this, the farmer sells additional land 6 months later in June 2020 for €60,000. As stamp duty was chargeable on the excess of the value of the land purchased over the value of the land already sold, the additional sale results in an additional refundable amount.

The chargeable consideration is obtained using the formula P – S. P is €50,000 (the lesser amount on which stamp duty was charged in the previous transaction). S is €60,000 (the value of the land sold not already used to claim a refund).

$$€50,000 - €60,000 = - €10,000$$

As there is no stamp duty chargeable, the €500 stamp duty chargeable on the previous purchase is refundable. When amending the stamp duty return the amount entered for consideration should be amended to Zero (0).

## **4 Claiming the relief**

### **4.1 Claiming the relief upfront**

The relief is claimed on a self-assessment basis where the qualifying conditions for the relief are satisfied. The claim is made on a stamp duty return that must be filed through Revenue's online system (ROS). While supporting documentation in relation to the claim is not required to be included with the return, such documentation should be retained for 6 years from the later of the date of the stamp duty return or the amended stamp duty return or the date the stamp duty was paid as it may be requested by Revenue in the event of a follow-up compliance check.

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<sup>8</sup> Stamp duty of 7.5% applies to transfers executed on or after 9 October 2019.

## 4.2 Claiming a refund

Where a land purchase precedes a sale, stamp duty would have been paid on the full purchase value at the rate of 7.5% applicable to non-residential property. To claim a refund of stamp duty already paid where land is sold after land is purchased, or where the original return was incorrect, an amended stamp duty return should be filed through Revenue's online system (ROS) and the relief claimed on the return. Information on how to amend a return is contained [on the Revenue website](#).

Following the filing of the amended return, a refund claim should be made in writing to Revenue. The claim should set out the basis for the refund and include:

- a certified copy of the deeds effecting the sale by the farmer and the purchase by the farmer;
- a valid Teagasc certificate; and
- a written declaration by the purchaser (or each purchaser where there is more than one) confirming that it is the intention of each person to retain ownership of his or her interest in the qualifying land and use the qualifying land for farming for a period of 5 years from the date on which the first claim for relief (including a refund claim) is made in respect of the qualifying land.

The claim should quote the Document ID that is on the return.

Where the value of the land purchased is less than the value of the land sold, the amount to be refunded is the full amount of the stamp duty paid on the value of the land purchased. Where the value of the land purchased exceeds the value of the land sold, the amount to be refunded is the aggregate of:

- the stamp duty paid on the part of the value of the land purchased that did not exceed the value of the land sold, and
- the difference between the 7.5% and 1% rates of duty charged on the amount by which the value of the land purchased exceeded the value of the land sold.

See examples in section 3 above.

Refund claims should be submitted electronically through [myAccount](#) or [ROS](#). Where the claim cannot be made electronically, written submissions together with all supporting documentation may be made to:

National Stamp Duty Office,  
Office of the Revenue Commissioners,  
Cross Blocks,  
Dublin Castle,  
Dublin 2.  
D02 F342

## 5 Clawback of relief and penalties

### 5.1 Clawback of relief

The relief is subject to clawback where the land purchased, or part of that land, is disposed of within five years of the date on which the claim for relief was made or, where there was more than one claim for relief, of the date on which the first claim for relief (including a refund claim) was made.

A part disposal by a farmer or other joint owner to a spouse for the purpose of creating a joint tenancy, or a full or part disposal by one joint owner to another joint owner who is a farmer, is not subject to a clawback of relief. However, such disposals are treated as having taken place under the purchase in respect of which the relief was allowed and not the actual date of disposal. This ensures that any further disposal by the new owner within the original 5-year period is subject to clawback.

#### **Example: disposal following creation of joint tenancy**

A farmer purchased land in February 2018 and qualified for and claimed consolidation relief on the purchase. He held the land as the sole owner. In March 2019 he transfers the land into a joint tenancy with his wife. This transfer is disregarded for the purposes of applying a clawback of relief. To avoid a clawback of relief, the farmer's wife must hold the land for five years from February 2018 and not March 2019.

A disposal by way of a compulsory acquisition is not subject to a clawback of relief. In such cases, no further relief is allowed in respect of stamp duty charged on the purchase of land before the date of the compulsory acquisition.

The amount of the clawback is the difference between the stamp duty that would have been payable if the relief did not apply and any duty actually paid that is not repayable. The clawback also includes the usual interest charged on the late or non-payment of tax, calculated from the date of the disposal to the date on which the clawback amount is paid to Revenue.

Information on how to notify a clawback to Revenue and how to pay the stamp duty and interest is available [on the Revenue website](#).

#### **Example: clawback on disposal within 5 years**

A farmer sells land for €150,000 in October 2018 and, 8 months later in June 2019, purchases land for €100,000. The chargeable consideration is obtained using the formula  $P - S$ :

$$€100,000 - €150,000 = - €50,000$$

There is no stamp duty chargeable as the value of the land purchased is less than the value of the land sold.

Following the sale and purchase above, the farmer files a return claiming the relief in July 2019. In October 2021, the farmer sells 10 acres of the 50 acres that had been

purchased in June 2019. As this sale occurs within 5 years of the claim for relief, a clawback of relief arises. Not all of the relief is subject to the clawback as not all of the land that was purchased was sold. The stamp duty that would have been payable is €1,200, i.e. 6%<sup>9</sup> of €20,000 (€100,000/5 representing purchase consideration for 10 acres out of 50 acres). As no stamp duty was paid, the clawback amount is €1,200. Information on how to notify Revenue of the clawback amount and to pay that amount including interest is available [on the Revenue website](#).

## 6 EU State aid rules and publication of claimant details

Farm consolidation relief constitutes an EU State aid and must comply with EU State aid rules; in this case, the provisions of Commission Regulation (EU) No 702/2014<sup>10</sup> and Chapter III, Section 1 (Article 15). The rules include the application of an upper threshold of €60,000 on the amount of farm consolidation relief that can be granted to an individual claimant. With effect from 1 July 2016, certain details about claimants and the relief granted must be published on the EU Commission website where an individual claimant receives in excess of €60,000 in relief. These details include the name of the beneficiary, the region in which the beneficiary is based and the amount of State aid granted. For this purpose, Revenue provides the relevant information to the Department of Agriculture, Food and the Marine who then liaise with the EU Commission.

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<sup>9</sup> Rate currently 7.5% since 9 October 2019.

<sup>10</sup> The full title of the Regulation is: *Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union*. The full text of the Regulation is available [here](#).

## 7 APPENDIX

Serial Number: 12345678

### Farm Restructuring Certificate

This certificate is to confirm that, based on the FR1.2 application form and the supporting documentation, the land transactions carried out by the below named applicant comply with the conditions of Farm Restructuring (Section 604B TCA 1997)/Farm Consolidation (Section 81C SDCA 2009) as set out in the Farm Restructuring Guideline Document issued by the Minister for Agriculture, Food and the Marine and the Minister for Finance.

#### Applicant's Details

Name:
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Phone No:
Mobile No:

#### 1. Details of land parcels sold, given by gift or exchange to:

Name:
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Date(s) of instrument:
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Land Parcel Detail:	Folio Number:	Hectares:	Date:
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#### 2. Details of land purchased, received by gift or by exchange from:

Name:
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Date(s) of instrument:
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Land Parcel Detail:	Folio Number:	Hectares:	Date:
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**3. No previous farm restructuring certificate has been issued in relation to lands in paragraph 1 and/or paragraph 2 above.**

It is hereby certified that Farmer Brown is/are entitled to claim farm consolidation relief in accordance with Section 81C of the Stamp Duties Consolidation Act 1999 as inserted by section 68 of the Finance Act 2017.



<b>Signed by Teagasc Adjudicator Advisor</b>
<b>Name:</b>
<b>Signature:</b>

<b>TEAGASC Logo</b>
<b>The Agriculture and Food Development Authority</b>
<b>Certified:</b>

A Farm Restructuring Certificate is a certificate issued by Teagasc to the farmer restructuring his/her holding. It identifies the lands sold and purchased and it certifies that Teagasc is satisfied, on the basis of information supplied by the applicant at the time of so certifying, that the sale and purchase of lands complies with the conditions of restructuring as set out in these Guideline documents.

This certificate does not carry the automatic right to the relief but merely certifies that the restructuring conditions have been met.