

## Repayment of stamp duty on cost rental dwellings

### Part 7: section 83F

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

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## 1 Introduction

The standard rates of stamp duty applying on the acquisition of residential property are 1% on values up to €1m and 2% on values exceeding €1m. In 2021, as part of the Government's response to the bulk-purchasing of residential properties by commercial institutional investors, a higher 10% rate of duty on multiple purchases of residential properties was introduced. The higher rate is provided for by **section 31E** of the Stamp Duties Consolidation Act (SDCA) 1999. It applies where a person acquires 10 or more residential properties (excluding apartments) in any 12-month period. For the purposes of the higher charge, such properties are referred to as "**relevant residential units**". Detailed guidance on the application of section 31E is contained in the Stamp Duty Manual [Part 5: section 31E: Stamp duty on certain acquisitions of residential property \(10% rate of duty\)](#).

**Section 83F** SDCA 1999 provides for a partial repayment of stamp duty paid at the higher 10% rate where, within 6 months of acquisition, a property is designated as a "**cost rental dwelling**". Section 83F was introduced by the Finance (Covid-19 and Miscellaneous Provisions) Act 2022 and came into effect on 3 June 2022. The amount to be repaid is the difference between the amount of stamp duty paid at the higher rate and the amount of duty that would have been payable had the standard rate applied.

Section 31E makes provision for stamp duty to be charged at the higher rate where residential property is acquired either **directly** (e.g. on a conveyance on sale of a residential property) or **indirectly** (e.g. on a sale of shares in company owning residential property). It is important to note that the section 83F repayment scheme applies only to residential property that is acquired *directly*. See section 4 of Stamp Duty Manual [Part 5: section 31E: Stamp duty on certain acquisitions of residential property \(10% rate of duty\)](#).

## 2 Cost rental dwellings

The Affordable Housing Act 2021 provides the statutory basis for the delivery of cost rental housing. Cost rental housing is a form of rental tenure where the rents charged only cover the cost of developing, financing, managing and maintaining the homes, calculated over a minimum period of 40 years.

It is anticipated that the Land Development Agency, Local Authorities and Approved Housing Bodies will be the main bodies utilising this provision in the initial stages of cost rental development. However, the repayment available under section 83F is designed to facilitate access for all commercial and private providers of cost rental to the sector.

Under the Affordable Housing Act 2021, a cost rental designation is registrable with the Registry of Deeds as an act of the owner affecting the dwelling and will be a burden on the folio. This registration will be for a minimum of 40 years. This burden can only be removed with the Minister for Housing, Local Government and Heritage's consent.

### 3 Qualifying conditions for a repayment

To qualify for a repayment under section 83F, the following conditions must be satisfied:

- an instrument effecting the acquisition of a relevant residential unit is executed on or after 20 May 2021; and
- within the 6-month period commencing on the day after the date on which the instrument is executed, the relevant residential unit is designated as a cost rental dwelling by the Minister for Housing, Local Government and Heritage under Part 3 of the Affordable Housing Act 2021.

### 4 Making a repayment claim

A repayment may be claimed once the qualifying conditions are satisfied. However, there is a time limit of 4 years on making a claim, starting on the date on which the relevant residential unit is designated as a cost rental dwelling.

Revenue is currently developing its stamp duty e-Repayment system to facilitate the repayment of stamp duty under section 83F. When the development is complete, this document will be updated with full instructions on how to submit a claim using the system. In the interim, instructions on how to submit a section 83F repayment claim may be obtained by contacting the National Stamp Duty Office (quoting the relevant DOC ID Number) via Revenue's online MyEnquiries facility, through ROS or myAccount.

Where a repayment claim is refused, Revenue will notify the claimant in writing, setting out the reasons for the refusal. An accountable person may appeal such a decision to the Appeal Commissioners within a period of 30 days after the date of the written notification.

### 5 Amount of repayment

The amount to be repaid is calculated using the formula **A – B** where –

- A:** is the stamp duty paid at the higher rate of 10% on the relevant instrument that was attributable to the qualifying relevant residential unit
- B:** is the stamp duty that would have been payable had the 10% rate of duty not applied. (The standard rates of stamp duty applying on the acquisition of residential property are 1% on values up to €1m and 2% on values exceeding €1m.)

An instrument may have been executed in respect of a number of relevant residential units, but not all of these may subsequently be designated as a cost rental dwelling and thereby become a "qualifying relevant residential unit". Where this occurs, the stamp duty to be repaid must be apportioned between the relevant residential units that are designated, and those that are not.

## 5.1 Examples of calculation of repayment

### 5.1.1 Where all relevant residential units are designated as cost rental dwellings

Company A purchases 15 houses in September 2022 for €5.25m and pays stamp duty of €525,000. In December 2022, it obtains a cost rental designation from the Minister for Housing, Local Government and Heritage in respect of all 15 houses. As all of the houses are “qualifying relevant residential units”, it can claim the maximum repayment of stamp duty possible.

If Company A had not been liable to the 10% rate of duty, it would have paid stamp duty of €95,000 (€1m @ 1% and €4.25m @ 2%). The amount to be refunded using the formula A - B is therefore: €430,000 (€525,000 - €95,000).

### 5.1.2 If not all relevant residential units are designated as cost rental dwellings

Company B purchases 12 houses in July 2022. The 12 houses cost €1.25 million in total and as more than 10 relevant residential units are purchased in a 12 month period, the 10% rate is applied: €1.25m X 10% = €125,000 Total Stamp Duty Paid.

In November 2022, 3 of the houses are designated as cost rental, so Company B is entitled to a partial repayment of stamp duty in respect of these 3 houses. The combined value of the 3 houses (when purchased in July) was €312,000.

#### Step 1 – calculate stamp duty @ 10% rate attributable to the cost rental units

The stamp duty paid that was attributable to 3 cost rental units is calculated as follows:

Stamp Duty paid x Value of cost rental units

Total Value of Units

€125,000 x €312,000

€1,250,000 = **€31,200**

#### Step 2 – calculate notional stamp duty @ standard rates attributable to the cost rental units

Had the 10% rate not applied to the acquisition of the 12 houses, the stamp duty that would have been payable on the transaction would have been:

((€1m X 1%) + (€250,000 x 2%)) = €15,000

Had the standard rates applied, the stamp duty that would have been attributable to the 3 cost rental units would have been:

Notional Stamp Duty Payable x Value of cost rental units

Total Value of Units

€15,000 x €312,000

€1,250,000 = **€3,744**

### Step 3 - calculate the refund

**A** (Stamp Duty Paid) – **B** (Notional Stamp Duty Payable)

A – B (€31,200 – €3,744) = **€27,456 Refund Due**

#### 5.1.3 Time limit for obtaining a cost rental designation

Sean purchases 20 houses in February 2022 and pays stamp duty at the rate of 10%.

In June 2022, he obtains a cost rental designation from the Minister for Housing, Local Government and Heritage in respect of 4 of the houses and receives a partial repayment of stamp duty in respect of those 4 houses.

In October 2022, Sean obtains another cost rental designation in respect of 5 of the houses he purchased in February. Since it is over 6 months since he acquired the properties, he will not be entitled to a repayment of the stamp duty he paid in respect of those houses.

## 6 Incorrect claims

Provision is made for a repayment to be repaid to Revenue where it is subsequently found that it was incorrectly claimed. Section 83F(11) provides for a penalty to be applied where a claimant knowingly makes a false declaration or displays a reckless disregard for the truth when claiming a repayment. The amount of the penalty payable by the claimant is 125% of the stamp duty that should not have been repaid together with interest on that amount charged at a daily rate of 0.0219% in accordance with **section 159D** SDCA 1999, from the date on which the repayment was made to the date on which the penalty is paid to Revenue.

## 7 Retention of records

**Section 128A** SDCA 1999 provides that an accountable person is obliged to retain records relating to a stamp duty liability, relief or exemption for a 6-year period. The 6-year period commences on the date a stamp duty return is filed or the date the duty is paid, whichever date is the later.

Where a person claims a repayment of stamp duty under section 83F, subsection (10) provides that the date on which the 6-year period referred to in section 128A commences in relation to the repayment claim is the date on which the residential unit is designated as a cost rental dwelling.

### 7.1 Example of obligation to retain records for 6 years

Linda acquires 12 houses on 1 January 2023 and, on the same day, files a stamp duty return and pays stamp duty at a rate of 10%. The 6-year records retention period in relation to the stamp duty liability commences on 1 January 2023, in accordance with section 128A. On 1 March 2023, 3 of the 12 houses are designated as cost rental dwellings and Linda claims a stamp duty repayment under section 83F. The commencement of the 6-year record-retention period in relation to the repayment claim is 1 March 2023 (instead of 1 January 2023), by virtue of subsection (10).