Schedule 1: Stamp Duties on Instruments – Consanguinity relief

This document should be read in conjunction with Schedule 1 to the Stamp Duties Consolidation Act (SDCA) 1999.

Document last updated October 2026

Note: This manual is currently subject to review and may not reflect up-to-date position. Most recent version.

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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Table of Contents

1 Introduction 3

2 Eligibility for relief 3

3 Withdrawal of relief 7

4 Interaction between consanguinity relief and young trained farmer relief 7

5 Sub-sales 9

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1 Introduction

Schedule 1 to the Stamp Duties Consolidation Act (SDCA) 1999 contains a list of instruments that are chargeable with Stamp Duty under section 2 SDCA 1999. The rate (or rates) of Stamp Duty that apply in relation to each of these instruments are specified in the list.

As specified in the list, the standard rate of Stamp Duty charged on the acquisition of non-residential property is **7.5%** of the consideration. This rate has been in place since 12 October 2017. Non-residential property for Stamp Duty purposes includes land (agricultural and non-agricultural), business premises and business assets such as goodwill, book debts or benefit of contracts. Schedule 1 makes provision for a **reduced rate of 1%** to apply on conveyances and transfers of land, whether on sale or by gift, between certain related persons. This is generally referred to as "consanguinity relief".

This document sets out guidance on the operation of consanguinity relief as it applies to instruments executed on or after 25 December 2017. For guidance on the operation of the relief as it applied to instruments executed before that date, please refer to older versions of Stamp Duty Manual Schedule 1 - Stamp Duties on Instruments.

2 Eligibility for relief

Paragraphs (5) and (5A) of the 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 head of charge in Schedule 1 provide the legislative basis for consanguinity relief.

Paragraph (5) specifies four conditions that must be satisfied for the relief to apply. These conditions are summarised below, as follows:

1. The instrument of conveyance or transfer must be executed on or before 31 December 2028.
2. From the date of conveyance or transfer, and for the duration of the 6-year period following that date, the individual to whom the land is conveyed or transferred must farm the land or must lease it to another individual who farms the land. The individual who farms the land for this 6-year period must:
   (a) be the holder of (or, within a period of 4 years from the date of the conveyance or transfer, become the holder of) an agricultural qualification (as specified in the legislation), or
   (b) spend not less than 50% of the individual's normal working time farming land (including the land conveyed or transferred).
3. The land must be farmed on a commercial basis and with a view to making a profit from that land.
4. The entire beneficial interest in the land must be transferred between related persons.

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More detailed guidance on the application of conditions (2), (3) and (4) is set out below.

2.1 Condition 2

From the date of conveyance or transfer and for the duration of the 6-year period following that date, the individual to whom the land is conveyed or transferred must farm the land or must lease it to another individual who farms the land. The individual who farms the land for this 6-year period must:

- be the holder of (or, within a period of 4 years from the date of the conveyance or transfer, become the holder of) an agricultural qualification (as specified in the legislation), or
- spend not less than 50% of the individual's normal working time farming land (including the land conveyed or transferred).

Revenue accepts that the relief is available where the land is leased:

- to a partnership or to a company whose main shareholder and working director farms the land on behalf of the company, or
- to a company that is owned equally by an individual and that individual's spouse or civil partner, and at least one of them and working director farms the land on behalf of the company.

For the purposes of this condition, a specified agricultural qualification is a **trained farmer qualification** (as defined in section 654A Taxes Consolidation Act (TCA) 1997), a qualification listed in **Schedule 2 SDCA 1999** or a qualification listed in **Schedule 2A SDCA 1999**.

A "trained farmer qualification" is:

- any qualification that is listed in the table to section 654A TCA 1997;
- any additional qualification which Teagasc certifies as being equivalent to a qualification that is listed in the table and as being deemed by the Qualifications and Quality Assurance Authority of Ireland to be at least at a level equivalent to that qualification.

Teagasc is responsible for publishing the list of all trained farmer qualifications on its website and for keeping it up to date. Further guidance on section 654A TCA 1997 is available in Part 23 TCA Notes for Guidance.

The qualifications listed in Schedule 2 and Schedule 2A SDCA are reproduced in Stamp Duty Manual Part 7 Section 81AA – Transfers of land to young trained farmers Tax and Duty Manual.

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Where:

- the person who farms the land (including the partners or working director in the case of a company), or
- the person to whom the land is leased,

is not the holder of a specified agricultural qualification at the date of the conveyance or transfer but will become the holder of such a qualification within a period of 4 years[1] from that date, the relief may be claimed when the Stamp Duty return is filed.

Alternatively, the accountable person may pay the Stamp Duty and, provided the person concerned becomes the holder of a specified qualification within a period of 4 years from the date of the conveyance or transfer, he or she may claim a repayment. Revenue will not make a repayment unless a valid claim is received within 4 years from the date on which the conveyance or transfer is stamped. For further information, see Stamp Duty Manual Part 11: Stamp Duty repayment provisions.

Example 2.1

Date of conveyance: 1 March 2021

Date the Deed was stamped: 2 March 2021

Date person concerned becomes the holder of the appropriate qualification: 28 February 2025

Date valid claim for a repayment must be with Revenue: 1 March 2025

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 provided they spend a minimum average of 20 hours per week working on the farm. Where the individual can show that his or her normal working time is somewhat less than 40 hours a week, then the 50% requirement will be applied to the actual hours worked, subject to the overriding requirement that the land is farmed on a commercial basis and with a view to making a profit.

2.2 Condition 3

The land must be farmed on a commercial basis and with a view to making a profit from that land.

Evidence of such commercial intent will include maintaining proper farm accounts, having a viable business plan and meeting other recognised farming activity standards.

[1] For these purposes, the date of the award of the qualification is considered to be the date the person became the holder of the qualification.

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2.3 Condition 4

The **entire beneficial interest** in the land must be transferred between **related persons**. This condition has two important implications:

1. If **all** of the parties to the conveyance or transfer are not related to each other, then the relief will not apply. For example, where the land is transferred to the transferor's daughter and son-in-law, the relief will not apply as the son-in-law is not considered "related" to the transferor for the purpose of the section.
2. If the entire beneficial interest in the land is not conveyed or transferred to the transferee(s), then the relief will not apply. For example, where the transferor retains a half share in the land after the transfer, the relief will not apply as the entire beneficial interest in the land is not transferred.

For the purposes of this condition, a related person is a person who is:

- lineal descendant (child (including an adopted child), grandchild, etc.),
- parent,
- grandparent,
- stepparent,
- husband or wife (see section 96 SDCA 1999),
- uncle,
- aunt,
- brother,
- sister,
- lineal descendent of a parent (half-brother or half-sister),
- lineal descendent of a husband (stepchild),
- lineal descendent of a wife (stepchild),
- lineal descendent of a brother (nephew or niece), and
- lineal descendent of a sister (nephew or niece).

Related persons also include, in respect of the person, or each of the persons, beneficially entitled to the land before it is transferred:

- his or her civil partner (see section 96 SDCA 1999),
- the civil partner of either of his or her parents, and
- a lineal descendent of his or her civil partner.

In accordance with the definition of "child" in section 1 SDCA 1999, a lineal descendant includes a child, being a transferee, who, prior to the date of execution of the instrument in respect of which relief from duty is claimed, has resided with, was under the care of, and was maintained at the expense of the transferor

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throughout a period of 5 years or periods which together comprised at least 5 years prior to that person reaching 18 years of age but only if the claim for relief is not based on the uncorroborated testimony of one witness.

Consanguinity relief may be claimed where property is being placed into a trust by parents for their child on the basis that the child becoming entitled to the entire beneficial interest in the property (or, where more than one person becomes entitled to the beneficial interest in the property, each of them) is related to the person or each of the persons immediately theretofore entitled to the entire beneficial interest in the property, (parents) to the required degree (lineal descendent).

Example 2.2

Ann executes a transfer to her son and her son's spouse as joint tenants.

Consanguinity relief is not available, even in respect of the half-interest passing to the son, because the daughter-in-law is not related to Ann (the transferor).

Example 2.3

Alex owns a parcel of farmland. She executes a deed transferring the entire parcel of land from herself to herself and her son Dani, as joint tenants.

Consanguinity relief is not available as entire beneficial interest in the land was not transferred to Dani.

Had Alex transferred a portion of the parcel of land to Dani as the only transferee, such that Dani had acquired the entire beneficial interest in the land, then the relief would have been available (subject to all other conditions being met).

3 Withdrawal of relief

Paragraph (5A) of the head of charge provides that where any of the above-mentioned conditions are not complied with at the time of, or subsequent to, the conveyance or transfer, the relief does not apply.

Where the relief does not apply, it is the responsibility of the accountable person to advise Revenue and pay the Stamp Duty that would have been payable had the relief not been granted in the first place, together with interest and, where appropriate, any penalties. Interest applies from the date on which compliance with any of the conditions ceased. The accountable person should amend the return already filed and pay the Stamp Duty, interest and/or penalties due.

Where a transferee, having intended to obtain a specified agricultural qualification within 4 years of the conveyance or transfer, fails to obtain such a qualification, the relief will be withdrawn as and from the date of the conveyance or transfer.

4 Interaction between consanguinity relief and young trained farmer relief

Section 81AA SDCA 1999 provides for relief from Stamp Duty on the transfer of an interest in agricultural land to certain farmers who are under 35 years of age and hold a specified agricultural qualification (known as "young trained farmers"). Young

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trained farmer relief and consanguinity relief may be claimed together where the conditions for both reliefs are met. Revenue has published detailed guidance on the operation of young trained farmer relief, which is available in Stamp Duty Manual Part 7 Section 81AA – Transfers of land to young trained farmers Tax and Duty Manual.[2]

An important difference between consanguinity relief and young trained farmer relief is that young trained farmer relief may apply to a farmhouse situated on the land being transferred. Consanguinity relief applies only to non-residential property that is suitable for farming and farm buildings of a character appropriate to the farmland. It does not apply to the farmhouse situated on the land.

Example 4.1

A young trained farmer receives a gift of farmland from his father in January 2024 which, for Stamp Duty purposes, is valued at €1m. There is no farmhouse on the land. Both consanguinity relief and young trained farmer relief apply. Applying consanguinity relief gives a Stamp Duty liability of €10,000 (€1m @ 1%). Young trained farmer relief then reduces the Stamp Duty liability from €10,000 to nil.

Example 4.2

A young trained farmer receives a gift of a farmhouse situated on the 2 hectares of farmland from his mother. The market value of the farmhouse is €1.2m and the market value of the farmland is €1m. The farmer meets the conditions required to claim consanguinity relief and young trained farmer relief. The deed of transfer is separately charged with Stamp Duty in respect of the farmland (non-residential rate) and the farmhouse (residential rate), as follows:

Non-residential rate

Consanguinity relief reduces the rate of Stamp Duty on the transfer of the farmland from 7.5% to 1%.

Farmland €1,000,000 @1%	= €10,000
Young trained farmer relief	(€10,000)
Stamp Duty payable	€0.00

Residential rate

Farmhouse €1,000,000 @ 1%	= €10,000
€200,000 @ 2%	= €4,000
	€14,000
Young trained farmer relief	(€14,000)
Stamp Duty payable	€0.00

[2] The total amount of tax relief granted to a person under section 81AA SDCA 1999, section 667B of the Taxes Consolidation Act (TCA) 1997 (stock relief) and section 667D TCA 1997 (relief for succession farm partnerships) is capped at €100,000.

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5 Sub-sales

Consanguinity relief does not apply to sub-sales. For further information, see Stamp Duty Manual Part 5: Provisions applicable to particular instruments (see guidance on section 46 SDCA 1999).

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