

NOTES FOR GUIDANCE

STAMP DUTIES CONSOLIDATION ACT 1999

**(as amended by subsequent Acts up to and including
the Finance Act 2022)**

Part 7: Exemptions and Reliefs from Stamp Duty

Revenue

Cáin agus Custaim na hÉireann
Irish Tax and Customs



These notes are for guidance only and do not purport to be a definitive legal interpretation of the provisions of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999) as amended by subsequent Acts up to and including the Finance Act 2022.

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PART 7 EXEMPTIONS AND RELIEFS FROM STAMP DUTY

Overview

Certain instruments are exempted from the charge to stamp duty or bear a reduced amount of duty. This Part contains details of those instruments.

Prior to the termination of the adjudication process for instruments executed on or after 7 July 2012, in order to benefit from an exemption or relief the instrument may or may not have had to be presented for adjudication to the Revenue Commissioners. For ease of reference this Part distinguished between those instruments where adjudication (see *section 20*) was compulsory in order to benefit from an exemption or relief - see *Chapter 1* - and other instruments - see *Chapter 2*.

For instruments executed on or after 7 July 2012, a self-assessed stamp duty return must be filed under the e-stamping system in order to benefit from an exemption or relief provided for in *Chapter 1*. In the case of an exemption or relief provided for in *Chapter 2* a self-assessed stamp duty return is required to be filed in respect of certain instruments which operate as a sale/voluntary disposition/lease of land. (see – *Regulation 4 and Schedule 1 of the STAMP DUTY (E-STAMPING OF INSTRUMENTS AND SELF-ASSESSMENT) REGULATIONS 2012 (S.I. No. 234 of 2012)*).

Exemptions and reliefs from stamp duty may be either general or specific. If the exemption or relief is general then the instrument is not liable to duty under any head of charge in *Schedule 1*. A specific relief or exemption, on the other hand, relates only to a particular head of charge in *Schedule 1*. This means that if the instrument is liable under another head of charge it will be chargeable under that other head.

In addition to the various exemptions and reliefs from stamp duty detailed in *Chapter 1*, paragraph (5) 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* contains a relief for transfers of non-residential property, executed prior to 1 January 2024, between certain blood relatives and civil partners (*i.e.* consanguinity relief).

In addition to the exemptions contained in *Chapter 2*, exemptions from stamp duty are also to be found in—

- *sections 31(3), 42(3), 43, 52(1), 73, 75, 75A, 78C and 146(3)*;
- the head of charge “CONVEYANCE or TRANSFER on sale of any stocks or marketable securities.
- miscellaneous Acts - see **Appendix 2**.

CHAPTER 1

Instruments in respect of which a self-assessed stamp duty return must be filed under the e-stamping system in order to obtain exemption or relief

Section 79 **Conveyances and transfers of property between certain bodies corporate**

Summary

This section grants a relief from stamp duty on certain transfers of property between Irish and/or non-Irish associated bodies corporate. While “body corporate” is not defined it would include limited and unlimited companies, foreign companies, industrial and provident societies, building societies and incorporated associations. The relief is confined to instruments chargeable as conveyances or transfers on sale or by way of gift *i.e.* it does not extend to leases. Where it is applicable no stamp duty is payable in respect of the particular transfer. A self-assessed stamp duty return must be filed under the e-stamping system in relation to instruments in respect of which relief is sought under this section.

Details

Instruments to which the section applies will not be liable to stamp duty under or by reference to the following heads of charge in *Schedule 1*: (1)

- “CONVEYANCE or TRANSFER on sale of any stocks or marketable securities”,
- “CONVEYANCE or TRANSFER on sale of a policy of insurance or a policy of life insurance where the risk to which the policy relates is located in the State”, or
- “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”.

Subsection deleted by Finance Act 2012. (2)

The following conditions must be satisfied before relief will be granted: (3)

- the instrument, in respect of which relief is sought, must convey or transfer a beneficial interest in property from one body corporate to another;
- at the time of (*i.e.* immediately before) execution of the instrument the transferor and transferee must be associated with each other to the extent that—
 - one body corporate was the beneficial owner of not less than 90% of the ordinary share capital (previously “issued share capital” for instruments executed before 6 February 2003) of the other body corporate, or a third body corporate was the beneficial owner of not less than 90% of the ordinary share capital (previously “issued share capital” for instruments executed before 6 February 2003) of both the transferor and the transferee, and
- in addition, valuable rights in relation to entitlement to dividends and entitlement to assets on a winding-up must have attached to the shares *i.e.* (4), (8)
 - one body corporate is beneficially entitled to not less than 90% of any profits available for distribution (being profits available for distribution as defined in section 414 of the Taxes Consolidation Act, 1997) to the shareholders of the other body corporate, or a third body corporate is beneficially entitled to not less than 90% of any profits available for distribution to the shareholders of the transferor and the transferee, and
 - one body corporate is beneficially entitled to not less than 90% of any assets of the other body corporate available for distribution (being assets available for distribution as defined in section 415 of the Taxes Consolidation Act, 1997) to its shareholders on a winding-up, or a third body corporate is

beneficially entitled to not less than 90% of any assets available for distribution to the shareholders of the transferor and the transferee on a winding-up.

“ordinary share capital” means all the issued share capital of a body corporate other than capital the holders of which have a right to a dividend at a fixed rate, but have no other right to share in the profits of the body corporate. (3A)

Beneficial ownership or entitlement may be— (3), (4)

- direct,
- through another body corporate or other bodies corporate, or
- partly directly and partly through another body corporate or other bodies corporate; (5)
- the instrument must *not* have been executed under an *arrangement* whereby—
 - the consideration (or any part of it) was to be provided or received directly or indirectly by an unassociated company, or
 - the beneficial interest in the property was previously conveyed or transferred by an unassociated company, or
 - the transferor or transferee were to cease to be associated.

The scope of the expression “arrangement” includes the involvement of a non-associated company in the transaction. However, in practice, the relief will not be denied where the consideration (or any part of it) is borrowed from a financial institution as part of an independent commercial transaction;

The relief will be clawed back in any case where— (7)

- it is subsequently found that the exemption was not properly due, or
- the transferor and transferee ceased, within 2 years of the date of the conveyance or transfer, to be associated.

Where the relief is clawed back because it was granted on the basis of false information interest at the rate of 0.0219 per cent per day (see *section 159D*) is chargeable from the date of the conveyance to the date the stamp duty is paid. Where the transferor and transferee cease to be associated interest is payable at the rate of 0.0219 per cent per day (see *section 159D*) from the date they ceased to be associated to the date the stamp duty is paid.

Where a transferor is: (7A)

- liquidated, or
- dissolved without going into liquidation and a conveyance or transfer has been effected as a result of a merger by absorption (within the meaning of section 463 or section 1129 of the Companies Act 2021),

the transferor and transferee will be still considered as associated companies for the purposes of the section on the condition that the property that was the subject of the exemption be retained by the transferee for two years and that the beneficial ownership of the transferee remains unchanged for the same period.

This subsection provides that subsection (7A) will not apply unless the conveyance or transfer is effected for *bona fide* commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is the avoidance of liability to any tax or duty (7B)

Relief will be granted to foreign bodies corporate which do not have a capital structure based on share capital provided that they have a capital structure which is equivalent to a share capital structure and also comply with all other conditions of the relief. (9)

Relief under this section is not allowed in respect of a conveyance or transfer of shares (executed on or after 31 January 2008), in a case where the preceding transfer of some or all of those shares had the benefit of an exemption from stamp duty under *section 75* (relief for intermediaries) and to the extent of the consideration paid for those shares under this section that is attributable to the shares that had the benefit of the exemption under *section 75*. (10)

This subsection addresses the issue of what document constitutes the conveyance on sale that must be stamped on foot of a merger. In the case of a merger effected under the summary approval procedure (section 202 Companies Act 2014), it is the resolution referred to in paragraph (a)(ii) of section 202(1) of Companies Act 2014. Therefore, the unanimous resolutions of all the merging companies constitute a conveyance on sale. (11)

Under section 480(2) Companies Act 2014, the High Court may make an order confirming the merger with effect from such date as the court appoints. The court order constitutes the conveyance on sale.

Section 80 Reconstructions or amalgamations of companies

Summary

This section grants a relief from stamp duty in the case of certain company reconstructions and amalgamations.

The relief applies where one company either—

- acquires the undertaking, or part of the undertaking, of another company, or
- acquires at least 90% of the issued share capital of another company,

in exchange for the issue of new shares in the acquiring company.

A self-assessed stamp duty return must be filed under the e-stamping system in relation to instruments in respect of which relief is sought under this section. For instruments executed on or after 1 June 2005, an “acquiring company” or a “target company” shall be construed as including a society registered under the Industrial and Provident Societies Act 1893.

Details

Definitions used in this section: (I)

- “acquiring company” means a company with limited liability and references to a company shall be construed as including a reference to a society registered under the Industrial and Provident Societies Act 1893;
- “merger” means a merger undertaken in accordance with Chapter 3 of Part 9 or Chapter 16 of Part 17 of the Companies Act 2014;

- “shares” includes stock (which includes preference shares);
- “successor company” and “transferor company” have the meanings given to them by section 461 of the Companies Act 2014;
- "undertaking" includes part of an undertaking.

Subsection (2) contains the conditions required to avail of the exemption in the case of reconstructions and amalgamations, these are: **(2)(a)**

- (i) a company with limited liability is to be registered, or a company has been established by Act of the Oireachtas, or the nominal share capital of a company has been increased. The reference to registered means registered with the Companies Office under the Companies Acts.
- (ii) the acquiring company is to be registered, established, or increased its capital with a view to the acquisition of either:
 - the undertaking of the target company, or
 - not less than 90% of the target company’s shares.
- (iii) in order to avail of the relief, at least 90% of the payment made for the acquisition for the target company (other than the transfer of liabilities or paying down debt) must be by way of issue of shares by the acquiring company and:
 - where an undertaking is being acquired, by issuing shares in the acquiring company to the target company or shareholders of the target company, or
 - where the shares of the target company are being acquired, the acquiring company should issue its shares to shareholders of the target company in exchange for their shares in the target company.

This paragraph specifically excludes limited companies formed under Part 2 of the Companies Act 2014 from following the option of being registered with the Companies Office with one of its objects being the acquisition of a target company. This is not possible for limited companies as such companies have written constitutions which do not contain an objects clause. **(2)(b)**

This paragraph addresses the issue of treasury shares. Where a company holds shares in itself (as a result of a share buyback) these shares can be taken into account as if it had increased its nominal share capital). **(2)(c)**

This subsection provides further clarifies the conditions set out in subsection (2). Subsection (2) does not apply if: **(3)**

- the memorandum of association in relation to a registered company (can only apply to a DAC) or the Act of the Oireachtas establishing the company states that one of the objects for which the company was the acquisition of the undertaking or shares in the target company, or
- it appears from the resolution passed by the company, (can relate to a DAC or Ltd company) an Act of the Oireachtas, or other authority that the increase is authorised for the purpose of acquiring the undertaking or shares in the target company.

This section sets out the conditions for availing of section 80 relief in relation to a merger. A merger (as defined in subsection (1)) is carried out in accordance with Chapter 3 of Part 9 or Chapter 16 of Part 17 of the Companies Act 2014. The successor company (acquiring company) must be a private limited company, a designated activity company (DAC), or a public limited company that is not an investment company within the meaning of sections 2, 963, or 1001 of the Companies Act 2014. (4)

This section contains a relieving provision in relation to the exemption. Where subsection (2) or (4) applies stamp duty shall not be chargeable under the following heads of charge: (5)

“CONVEYANCE or TRANSFER on sale of any stocks or marketable securities.” (relates to shares), (5)(a)

“CONVEYANCE or TRANSFER on sale of a policy of insurance or a policy of life insurance where the risk to which the policy relates is located in the State.” (relates to transfer of policies of insurance or life assurance, this generally does not arise in relation to the section 80 exemption), or (5)(b)

“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.” (relates to transfers of property such as land and buildings), (5)(c)

In relation to instruments made for the purpose of or in connection with:

- the transfer of the undertaking or shares or
- the assignment of any debts whether on foot of a reconstruction or amalgamation by a target company to an acquiring company or by way of a merger from a transferor company to a successor company.

This section imposes further conditions (in addition to those in subsections (2) and (3)) in relation to reconstructions or amalgamations. (6)

Subsection (5) (the relieving provision) will not apply in the case of reconstructions or amalgamations unless the instrument (conveyance) is executed within 12 months of the date of the registration of the acquiring company or the date of the resolution to increase the nominal share value of the acquiring company.

This section includes an anti-avoidance provision that was previously set out in subsection (2A). It has been expanded to include mergers under Companies Act 2014. The target company or transferor company must have obtained a conveyance of any property comprised in the undertaking, prior to the date of execution of the instrument in respect of which relief under this section is claimed. (7)

The relief will be clawed back if— (8)

• It is found that the relief was not properly due in relation to mergers, reconstructions or amalgamations, or that the specified conditions are not fulfilled in the case of a reconstruction or amalgamation as actually carried out. (8)(a)

• In the case of a share for undertaking exchange, the target company ceases to be the beneficial owner of the shares issued to it by the acquiring company within two years of the date of incorporation, or the date of the authority for the increase in the capital, of the acquiring company (as the case may be) otherwise than in consequence of a further reconstruction or amalgamation, liquidation or merger. (8)(b)

• In the case of a share for share exchange, the acquiring company ceases to be the beneficial owner of the shares acquired in the target company within two (8)(c)

years of the date of incorporation, or the date of the authority for the increase in the capital, of the acquiring company (as the case may be) otherwise than in consequence of a further reconstruction or amalgamation, liquidation or merger.

Where the relief is clawed back because it was granted on the basis of false information interest at the rate of 0.0219 per cent per day (see *section 159D*) is chargeable from the date of the relevant instruments until the stamp duty is paid. In all other circumstances interest is payable from the date of the event giving rise to the clawback to the date the stamp duty is paid.

The Revenue Commissioners may refund stamp duty already paid where the following conditions are satisfied: (9)

- all the conditions for granting the relief were satisfied other than the condition that not less than 90% of the issued share capital of the target company would be acquired by the acquiring company, and
- 90% was in fact acquired within 6 months from the earlier of—
 - the last day of the period of one month after the first allotment of shares made for the purposes of the acquisition, or
 - the date on which the invitation was issued to the shareholders of the target company to accept shares in the acquiring company.

The claim for a refund should be accompanied by the original stamped instruments (where stock transfer forms were used). While this section does not specify a time limit for submitting claims for refund, a 4 year time limit is provided for by *section 159A* from the date the instrument is stamped, in respect of a valid claim for refund other than a valid claim made on or before 31 December 2004 in respect of a refund claim arising on or before 25 March 2003 (i.e. the date of passing of the Finance Act 2003). Interest may arise on the refund – see *section 159B*.

The relief from stamp duty on the transfer of shares or an undertaking in connection with a scheme of reconstruction or amalgamation contained in *subsection (2)* is extended by enabling the acquiring company to acquire the shares or undertaking of a company incorporated outside the State without incurring a liability to stamp duty. To qualify for the relief, however, the acquiring company must be incorporated in another Member State of the European Union, in a European Economic Area State (as defined by *section 80A*), or in the United Kingdom. The Isle of Man, Channel Islands and Gibraltar do not come within the definition of Member State. (10)

This section addresses the issue of what document constitutes a conveyance on sale that must be stamped on foot of a merger: (11)

- In the case of a merger effected under the summary approval procedure (section 202 of the Companies Act 2014), it is the resolution referred to in paragraph (a)(ii) of section 202(1) of that Act. Therefore, the unanimous resolutions of all the merging companies constitute a conveyance on sale.
- Under section 480(2) Companies Act 2014 the High Court may make an order confirming the merger with effect from such date as the court appoints. The court order constitutes the conveyance on sale.
- In the case of a merger undertaken in accordance with Chapter 16 of Part 17 of the Companies Act 2014, it is the order made under section 1144 of that Act.

This anti-avoidance provision was previously contained in subsection(4) and has been amended to include mergers. The reconstruction or amalgamation or merger must be undertaken for genuine commercial reasons and not for tax avoidance purposes. (12)

Section 80A Demutualisation of assurance companies

Summary

This section 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. A self-assessed stamp duty return must be filed under the e-stamping system in relation to instruments in respect of which the exemption from stamp duty is sought. The exemption applies to instruments executed on or after 31 March 2006.

Details

“assurance business”, “assurance company”, “EEA agreement”, “EEA State”, “employee”, “member”, “pensioner” and “shares” are self-explanatory. (1)

“acquiring company” is a limited company which is incorporated in the State, in another Member State of the European Union, in an EEA State, or in the United Kingdom

“demutualisation” is an arrangement between an assurance company, which carries on a mutual life business, and its members under which—

- the assurance business or part of the business carried on by the assurance company is transferred to an acquiring company, and
- shares or the right to shares in the issuing company are issued, or as the case may be, granted to the members.

“issuing company” is an acquiring company or a parent company of an acquiring company and includes a company which becomes a parent company of an acquiring company as part of the demutualisation.

“parent company” is a limited company incorporated in the State, in another Member State of the European Union, in an EEA State, or in the United Kingdom which, directly or indirectly, owns 100% of the ordinary share capital of the acquiring company.

Stamp duty shall not be chargeable on any instrument made for the purpose of or in connection with a demutualisation where the following conditions are satisfied: (2)

- the shares in the issuing company must be offered to at least 90 per cent of the persons who immediately prior to the demutualisation are members of the assurance company, (3)(a)
- all the shares in the issuing company which will be in issue immediately after the demutualisation, other than shares which are to be or have been issued pursuant to an offer to the public, must be offered to persons, who at the time of the offer, are: (3)(b)

- members of the assurance company,
- persons who are entitled to become members of the assurance company, or
- employees, former employees or pensioners of the assurance company or of a company which is wholly-owned subsidiary of the assurance company.

A company is a wholly-owned subsidiary of another company if it has no members (4) other than the parent and the wholly-owned subsidiaries of the parent, or persons acting on behalf of the parent or its wholly-owned subsidiaries.

Subsection deleted by Finance Act 2012. (5)

The exemption will not apply unless the demutualisation is carried out for bona fide (6) commercial reasons and does not form part of a scheme or arrangement of which the main purpose is avoidance of liability to stamp duty, income tax, corporation tax, capital gains tax or capital acquisitions tax.

Where a claim for exemption has been granted on the basis of false information, or (8) the conditions set out above are not fulfilled in the demutualisation as actually carried out, a clawback of the stamp duty which would have been charged on the instrument, in the first instance, had the exemption not applied, together with interest on the duty calculated in accordance with *section 159D*, from the date of the instrument to the date on which the duty is paid, will apply.

Section 81 Young trained farmers

No longer effective – *Section 69 Finance Act 2004*.

Section 81A Further relief from stamp duty in respect of transfers to young trained farmers

No longer effective – *Section 102 Finance Act 2007*.

Section 81AA Transfers to young trained farmers

Summary

This section 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 relevant qualification in farming (known as young trained farmers). It applies to deeds transferring land executed on or after 2 April 2007 and on or before 30 June 2023. The relief applies to transfers by sale or by gift (it does not extend to leases). A power to revoke the transfer, whether it is contained in the instrument conveying or transferring the land itself or otherwise, will disqualify the young trained farmer from the relief.

Section 81AA also contains transitional arrangements (see *subsections (14)* and *(15)*) which enable the educational qualifications attained before 25 March 2004, for the purposes of *section 81*, and on or after 25 March 2004 and before 2 April 2007, for the purposes of *section 81A*, to be treated as educational qualifications for the purposes of *section 81AA*. A self-assessed stamp duty return must be filed under the e-stamping system in relation to instruments in respect of which relief is sought.

Details

“EU Regulation” means 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, as that Regulation may be revised from time to time. (1)

“interest in land”, “land”, “PPS Number”, “Schedule 2 qualification”, “Schedule 2A qualification” and “young trained farmer” are self-explanatory. The definition of an “interest in land” does not exclude the retention by the transferor of rights such as rights of residence, support and maintenance (see *section 18*).

“80 hours certificate” is a certificate awarded by FETAC for achieving the minimum stipulated standard in assessments completed for an 80 hours Teagasc approved training programme in farm management.

“180 hours certificate” is a certificate awarded by FETAC for achieving the minimum stipulated standard in assessments completed for a 180 hours Teagasc approved training programme which comprises 100 hours in either or both agriculture and horticulture and 80 hours in farm management.

To qualify for the relief the transferee must, on the date of execution of the instrument of transfer, be under 35 years of age and hold one of the qualifications which are set out in *subsections (2), (3), (4) and (5)* below. (1)

Subsection (2) requires that the transferee is the holder of a trained farmer qualification within the meaning of section 654A of the Taxes Consolidation Act 1997.¹ (2)

Subsection (3) requires that the transferee is the holder of a letter from Teagasc confirming satisfactory completion of a course of training approved by Teagasc for persons who, in the opinion of Teagasc, are restricted in their learning capacity due to physical, sensory, intellectual disability or to mental health. (3)

Subsection (4) requires that the transferee is the holder, before 31 March 2008, of (4)

- a qualification from paragraph 1(f) or paragraph 2(h) of *Schedule 2A* and also the holder of a 180 hours certificate, or
- a qualification from paragraph 3(b), (c), or (d) of *Schedule 2A* and also the holder of an 80 hours certificate. (4)(b)(i)

Subsection (5) requires that the transferee has, before 31 March 2008, achieved the required standard for entry into the third year of a full-time course, in any discipline of 3 or more years’ duration at a third-level institution, as confirmed by the institution, and also is the holder of a 180 hours certificate. (5)

Subsection deleted by the Finance Act 2022. (6)

In addition to the educational qualifications required the following conditions must also be satisfied:

This subsection provides that relief given under the section is full relief from the stamp duty that would otherwise be chargeable on the instrument of transfer. (7)

¹ Guidance on section 654A of the Taxes Consolidation Act 1997 is available at: <https://www.revenue.ie/en/tax-professionals/documents/notes-for-guidance/tca/part23.pdf>

However, the section must be read with subsection (7A), which restricts the amount of relief that may be granted under the section.

This section imposes an aggregate limit of €70,000 on the amount of relief that may be granted to a person under this section and under the following two provisions: (7A)

- section 667B of the Taxes Consolidation Act (TCA) 1997 which provides an income tax relief in respect of increases in the value of farm trading stock. The relief takes the form of a deduction allowed in computing trading profits of the full increase in stock values from one year to the next;
- section 667D TCA 1997 which provides an annual tax credit of up to €5,000 for succession farm partnerships (where an approved partnership culminates in the transfer of at least 80% of the farm assets from the original farmer to the successor).

The transfer must be by way of sale or gift and must be irrevocable and the young trained farmer (or each of them if there is more than one) must: (8)

- for a period of 5 years from the date of execution of the instrument spend not less than 50 per cent of his or her normal working time farming the land,
- for a period of 5 years from the date of execution of the instrument retain ownership of the land,
- submit a business plan to Teagasc before the execution of the instrument concerned, and
- come within the definition of micro or small enterprise as required by Article 18 of the Regulation.

The stamp duty relief may apply where the land is conveyed or transferred into joint ownership (e.g. as joint tenants or as tenants-in-common) where all the joint owners are young trained farmers and where all of them satisfy the conditions of the section. However, in cases where 2 of the joint owners are married or in a civil partnership, only one of them must be a young trained farmer. (9)

Example

A transfers land to his son and daughter-in-law as joint tenants. Although only the son qualifies as a young trained farmer, relief will be granted if the son meets all the conditions laid down in this section.

Where the land is held jointly (e.g. as joint tenants or tenants-in-common) and the interest held by one joint owner is transferred to a young trained farmer who satisfies the conditions, the relief will apply.

Subsection deleted by Finance Act 2012. (10)

Subsection (11) provides for the refund procedures. (11)

A transferee, who meets all the conditions for the granting of the relief, on the date the instrument is executed, **including the age requirement**, but is not the holder of one of the qualifications set out in **subsection (2), (3), (4) or (5)**, will have to pay the duty chargeable but may obtain a refund of the duty paid provided the conditions set out below are complied with. (11)(a) & (b)

The Revenue Commissioners will repay the duty paid by the transferee where the educational qualification is obtained within 4 years of the date of execution of the instrument of transfer. The claim for repayment must be made within the period of 4 years from the date the person obtains the educational qualification (**see section 159A(1)**) and the following condition must also be satisfied: (11)(c)

- the farmer, or each of them if there is more than one, must, for a period of 5 years from the date on which the claim for repayment is made to the Revenue Commissioners, spend not less than 50 per cent of his or her normal working time farming the land and retain ownership of the land, and
- a business plan must be submitted to Teagasc and the transferee must satisfy the definition of micro enterprise or small enterprise as set out in the Regulation before a refund claim is submitted. This is in order to comply with the state aid requirements set out in Article 18 of the EU Regulation.

The Revenue Commissioners will accept the date of the award of the qualification as the date the person became holder of that qualification.

This section provides that Revenue may refund the stamp duty paid on the original instrument(s) where the conditions in paragraph (c) are satisfied. (11)(d)

The relief may be clawed back where there is a disposal or part disposal of land, to which relief applied, within 5 years from the date of execution of the instrument or, as the case may be, from the date the claim for repayment is made to the Revenue Commissioners, and any proceeds from the disposal are not re-invested in other land within one year from the date of such disposal. The clawback is the amount determined by the following formula— (12)(a)

$$S \times \frac{N}{V}$$

where—

- S** is the amount of stamp duty which would have been charged on the instrument, in the first instance, had relief not applied to the instrument or, as the case may be, the amount of stamp duty that was charged on instrument and later repaid,
- V** is the market value of all the land, in respect of which relief applied immediately before the disposal or part disposal of the land, and
- N** is the amount of proceeds from the disposal, or part disposal, of the land that was not re-invested in acquiring other land.

Interest is payable on the clawback at the rate of 0.0219 per cent for each day (see *section 159D*) from the date of disposal, or part disposal, of the land to the date the penalty is paid. (12)(b)

Where a disposal of land is by way of gift, that the market value of the land disposed of, at the date of the disposal, is deemed to be the proceeds from the disposal. Where property is received in exchange for a disposal of land, the market value of such property, at the date of the disposal, is deemed to be proceeds from such disposal. In a case where that property is land or includes land, the market value of that land, at the date of the disposal, is deemed to have been invested in acquiring other land. (12)(c)

Where there are several part disposals of land, the aggregate of any clawbacks imposed cannot exceed the stamp duty that would have been charged, in the first instance, on the instrument, had the relief not applied or, as the case may be, that was charged on the instrument and later repaid where a claim for repayment was made to the Revenue Commissioners. (12)(d)

Example

100 acres of land worth €500,000 are transferred to A who is a young trained farmer in December 2019 and relief is granted on the instrument. In February 2021, A sells 50 acres of land to B for €310,000 when the 100 acres are valued at €610,000. In December 2021, A purchases 60 acres of land for €170,000 and does not re-invest the balance of €140,000. A will be liable to a clawback of €8607 calculated as follows:

$$S (\text{€}37,500^*) \times \frac{N (\text{€}140,000)}{V (\text{€}610,000)}$$

$$* S \text{ is } \text{€}500,000 \times 7.5\% = \text{€}37,500$$

In the event that one joint owner disposed to another joint owner or a young trained farmer creates a joint tenancy with his or her spouse or civil partner then the disposal will be deemed to have taken place under the deed of conveyance or transfer which first conveyed or transferred the lands into the names of the joint owners or the young trained farmer. This is an anti-avoidance measure to ensure that the clawback provisions will continue to apply in the event that further disposals take place. (13)

Because the relief is claimed back in the guise of a clawback, there is no need to return the instrument for re-stamping.

The **transitional arrangements** for qualifications attained under *section 81* before 25 March 2004 are the following: (14)

- where the qualification is one that requires satisfactory attendance at a course of training in farm management the aggregate duration of which exceeded 80 hours, that person will be deemed to be the holder, for the purposes of *section 81AA*, of a qualification corresponding to one set out in *subsection (4)(b)(i)*, (14)(a)
- where the qualification is one that does not require a course of training, approved by Teagasc, that person will be deemed to be the holder, for the purposes of *section 81AA*, of a qualification corresponding to a trained farmer qualification in accordance with section 654A TCA 1997. (14)(b)
- Where the person has satisfactorily attended full-time a course at a third-level institution in any discipline for a period of not less than 2 years' duration, as provided for in *section 81(1)(b)(ii)(I)*, that person will be deemed, for the purposes of *section 81AA*, to have achieved the required standard for entry into the third year of a full-time course of 3 or more years' duration at a third-level institution in any discipline, as confirmed by that institution – see *subsection (5)(a)*. (14)(c)
- Where the person is the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training in farm management, the aggregate duration of which exceeded 80 hours, that person will be deemed, for the purposes of *section 81AA*, to be the holder of a certificate awarded by FETAC for achieving a minimum stipulated standard in assessments completed, in a course of training approved by Teagasc in farm management, the aggregate duration of which exceeded 80 hours. (14)(d)
- Where the person is the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours, that person will be deemed, for the purposes of *section 81AA*, to be the holder of a certificate awarded by FETAC for achieving a minimum stipulated standard (14)(e)

in assessments completed in a course of training approved by Teagasc in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours.

The following **transitional arrangements** for qualifications obtained under *section 81A* on or after 25 March 2004 and before 2 April 2007 apply. Where a person holds a *Schedule 2A* qualification or a qualification certified by Teagasc as corresponding to a *Schedule 2A* qualification, and an 80 hours or, as the case may be, an 180 hours certificate is not required in respect of that qualification, that person will be deemed, for the purposes of *section 81AA*, to be the holder of a qualification corresponding to a trained farmer qualification within the meaning of section 654A of the Taxes Consolidation Act 1997. (15)

The relief applies to instruments executed on or after 2 April 2007 and on or before 30 June 2023. (16)

Section 81B Farm consolidation relief

No longer effective.

Section 81C Further farm consolidation relief

Summary

Section 81C makes provision for a farmer to claim relief from stamp duty where he or she sells land and purchases land, in order to consolidate his or her holding, where both the sale and purchase occur within 24 months of each other. The relief applies provided Teagasc has issued the farmer with a consolidation certificate in respect of the sale and purchase. The relief applies to instruments executed on or after 1 January 2018 and on or before 30 June 2023.

The way the relief operates is that where there is a sale and purchase of land within 24 months of each other that satisfy the conditions of consolidation, stamp duty will only be paid on the purchase to the extent that the value of the land that is purchased exceeds the value of the land that is sold. If the sale takes place before the purchase, relief will be given at the time of purchase. However, if the purchase takes place first, stamp duty will have to be paid but on the subsequent sale a claim for repayment can be made to the Revenue Commissioners.

To qualify for relief under this section, whether a claim for relief arises on a purchase of land where a sale of land has already taken place or where relief is claimed in relation to a purchase where the sale of land occurs after the purchase, the following main conditions must be satisfied:

The farmer, or each of them if there is more than one, involved in the purchase of the land must each sign a declaration, for submission to the Revenue Commissioners, to the effect that each of them will spend not less than 50% of his/her normal working time farming and will farm the land purchased for at least 5 years from the date on which the first claim for relief in respect of the purchase of land is made to the Revenue Commissioners.

All the joint owners of the land purchased, including the farmers, must make a declaration, for submission to the Revenue Commissioners, to the effect that it is the intention of each of them to retain ownership of the land and that the land will be used for farming, for at least 5 years from the date the first claim for relief in respect of the purchase of land is made to the Revenue Commissioners.

Details

“conditions of consolidation” means the conditions of consolidation as set out in guidelines. (1)(a)

“consolidation certificate” means a certificate, issued for the purposes of this section by Teagasc to a farmer in relation to a sale and purchase of qualifying land, both of which occur in the relevant period (*i.e.* 1 January 2018 to 30 June 2023) and within 24 months of each other, which identifies the lands concerned, the owners of such lands and certifies that Teagasc is satisfied, on the basis of information available to Teagasc at the time of so certifying, that the sale and purchase of qualifying land complies or will comply, with the conditions of consolidation set down in guidelines.

“farmer” means a person who spends not less than 50 per cent of that person’s normal working time farming.

“farming” includes the occupation of woodlands on a commercial basis.

“guidelines” means the guidelines published pursuant to paragraph (b)(i).

“interest in qualifying land” means an interest which is not subject to any power (whether or not contained in the instrument) on the exercise of which the qualifying land, or any part of or any interest in the qualifying land, may be revested in the person from whom it was purchased or in any person on behalf of such person.

“purchase of qualifying land” means a conveyance or transfer (whether on sale or by way of gift) of an interest in qualifying land to a farmer and includes a conveyance or transfer where the qualifying land is conveyed or transferred to joint owners where not all the joint owners are farmers; and the date of the purchase of qualifying land shall be the date on which the conveyance or transfer is executed.

“qualifying land” means relevant land in respect of which a consolidation certificate has been issued by Teagasc.

“relevant land” means agricultural land, including lands suitable for occupation as woodlands on a commercial basis, in the State and such farm buildings together with the lands occupied with such farm buildings as are of a character appropriate to the relevant land but not including farmhouses or mansion houses or the lands occupied with such farm houses and mansion houses unless such farm houses or mansion houses are derelict and unfit for human habitation.

“relevant period” means the period commencing on 1 January 2018 and ending on 30 June 2023.

“sale of qualifying land” means a conveyance or transfer (whether on sale or by way of gift) of an interest in qualifying land by a farmer and includes a conveyance or transfer where the qualifying land is conveyed or transferred by joint owners where not all the joint owners are farmers; and the date of the sale of qualifying land shall be the date on which the conveyance or transfer is executed.

“valid consolidation certificate” means a consolidation certificate which has not been withdrawn.

The Minister for Agriculture and Food with the consent of the Minister for Finance has published guidelines setting out— **(1)(b)(i)**

- how an application (to Teagasc) for a consolidation certificate is to be made,
- the documentation required to accompany the application,
- the conditions of consolidation, and
- any other information required to be submitted in relation to the application.

Where an application is made to Teagasc, it will issue a consolidation certificate in respect of the sale and purchase of qualifying land where Teagasc is satisfied that the sale and purchase of such lands complies or will comply with the conditions of consolidation. **(1)(b)(ii)**

Teagasc may, by notice in writing, withdraw any consolidation certificate already issued. **(1)(b)(iii)**

Relief under the section applies to a purchase of qualifying land by a farmer in the period commencing on 1 January 2018 and ending on 31 December 2022. The date of purchase of the qualifying land, in respect of which relief is claimed, is referred to as the “calculation day” for the purposes of the formula in subsection (3). **(2)**

The relief is calculated by reference to the formula below. Subject to the application of subsections (4) and (5), stamp duty will be chargeable on a purchase of qualifying land as if it were a purchase of qualifying land made in consideration of a sum determined by the formula— **(3)**

$(P - S)$

Where:

P is the aggregate of —

- (a) the value of the qualifying land being purchased, and
- (b) the value of all other qualifying land purchased by the farmer in the relevant period where the date of the purchase falls in the period of 24 months ending on the calculation day and where any such purchase was already treated (by subsection (3)) as having been made in consideration of a lesser amount as a result of a sale of qualifying land made before the commencement of that 24 month period, that lesser amount is to be treated as the value of that purchase,

and

S is the aggregate of the value of all the qualifying land sold by the farmer in the relevant period where the date of the sale falls in the period of 24 months ending on the calculation day, to the extent that it has not already given rise to a repayment of duty (under subsection (5)) in relation to a purchase of qualifying land made before the commencement of that 24-month period.

Where duty has been paid on a purchase of qualifying land, in accordance with subsection (3), and there is a further purchase of qualifying land within 24 months of the first purchase, the duty chargeable on the later purchase will be reduced by the duty paid on the first purchase less any duty repayable on that first purchase. **(4)**

Where a purchase of qualifying land takes place before the sale of qualifying land, the duty paid on the purchase of qualifying land will be recomputed in accordance **(5)**

with the formula in subsection (3) to take account of the value of the qualifying land sold and any excess duty paid on the purchase will be repaid by the Revenue Commissioners where a claim for repayment is made to them.

Examples

Example 1

Farmer A sells lands for €100,000 in September 2018. 6 months later, in March 2018, he purchases lands for €120,000 and obtains a consolidation certificate from Teagasc in relation to the sale and purchase. The Deed of Transfer giving effect to the purchase of lands will be chargeable to stamp duty on €20,000 ((€20,000 @ 1% = €200) which is the amount by which the value of the lands purchased exceeds the value of the lands sold.

Example 2

Farmer B sells lands for €150,000 in October 2018 and purchases lands for €100,000 in December 2018. A consolidation certificate is issued by Teagasc in relation to the sale and purchase. The Deed of Transfer giving effect to the purchase of lands will be exempt from stamp duty as the value of the lands purchased is less than the value of the lands sold.

Example 3

Farmer C purchases lands for €90,000 in November 2018 and stamp duty of €5,400 (€90,000 @ 7.5%) is paid. In April 2019 he sells lands for €120,000 and obtains a consolidation certificate from Teagasc in relation to the purchase and sale. The stamp duty liability on the purchase is recomputed on the basis of the difference between the value of the lands purchased and the value of the lands sold. As the value of the lands purchased is less than the value of the lands sold, the recalculation gives rise to a nil liability. Farmer C can apply to Revenue for a refund of the stamp duty of €6,750 already paid.

Example 4

Farmer D sells lands for €170,000 in August 2018 and purchases lands for €160,000 in December 2020. Relief under section 81C is not applicable as the purchase occurred outside a period of 24 months from the date of the sale. Accordingly, stamp duty of €12,000 (€160,000 @ 7.5%) is chargeable on the purchase.

A claim for relief under subsection (3) or a claim for relief by way of repayment under subsection (5) shall be allowed by Revenue where it is the intention of the person purchasing the land to: (6)

- retain ownership of his or her interest in the land, and
- use the land for farming.

- Where any person who purchased qualifying land in respect of which relief from duty was allowed, disposes of the land or part of the land within 5 years from the date on which the first claim for relief in respect of the purchase of qualifying land was allowed, that the relief allowed will be clawed back by way of a penalty. (9)(a)
The amount of the penalty is the difference between the duty that would have been charged had the section not applied and the duty, if any, which was paid and is not repayable on the purchase concerned, together with interest charged on that amount, calculated in accordance with section 159D from the date of disposal, or part disposal, of the qualifying land to the date the penalty is remitted
- The claw back provisions do not apply to a disposal of qualifying land which is being compulsorily acquired. In that instance, no further relief will be allowed on the purchase of qualifying land arising out of any sale occurring after such acquisition. (9)(b)
- Where a farmer or other joint owner disposes of part of the land purchased to a spouse or where one joint owner disposes of any part of the land purchased to another joint owner, who is a farmer, such disposal shall not be regarded as a disposal for the purposes of subsection (9), and such disposal will be treated as if the land had been purchased immediately by the spouse or other joint owner by the instrument in respect of which relief from duty was allowed. This is an anti-avoidance measure to ensure that the claw back provisions will continue to apply in the event that further disposals take place. (10)(a)
- A person shall not be liable, in respect of the same matter, to more than one clawback or penalty under subsection (9)(a). (10)(b)
- The section will not apply to a purchase of qualifying land where any of the purchasers is a company. (11)
- The section applies to instruments executed on or after 1 January 2018 and on or before 30 June 2023. (12)

Section 81D Relief for certain leases of farmland

Summary

This section exempts from stamp duty long-term leases of farmland where certain conditions are met. It came into force on 1 July 2018.

Details

- This subsection provides that in the section “farming” includes the occupation of woodlands on a commercial basis. (1)
- This subsection provides that no stamp duty will be chargeable under the ‘LEASE’ head of charge in Schedule 1 on any instrument to which this section applies. (2)
- This subsection provides that the section applies to a lease for a term of not less than six years and not greater than 35 years, where the lease is in respect of lands which are used exclusively for farming on a commercial basis and with a view to the realisation of profits. (3)
- This subsection provides that, for the purposes of the section, the lessee must be a farmer who: (4)
- has (or within a period of 4 years from the date of the lease will have) a qualification set out in Schedule 2, 2A to the Act, or a trained farmer qualification as defined in section 654A Taxes Consolidation Act 1997.

- spends not less than 50% of his or her normal working time farming land (including the leased land).

Revenue will accept for the purposes of this relief that normal working time approximates to 40 hours. This will enable farmers with off-farm employment to qualify for the relief provided they spend a minimum average of 20 hours working per week on the farm. Where anyone can show that their “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 farm is farmed on a commercial basis and with a view to the realization of profits.

The Revenue Commissioners also accept that the relief is available to a lessee who farms the land in partnership or through a company, where the partners/main shareholder who is working director (as appropriate) satisfy the above conditions.

If any of the conditions cease to be satisfied within the first six years of the lease, the lessee will become liable to the stamp duty together with interest calculated in accordance with section 159D of the Act from the date the condition(s) ceased to be fulfilled to the date the stamp duty is paid. (5)

In the event of the lessee dying or becoming incapacitated the clawback of stamp duty does not apply. (6)

Section 82 Charities

This section exempts certain charitable dispositions from the charge to stamp duty. (1)
The exemption is confined to conveyances or transfers (whether on sale or by way of gift) or leases—

- of land,
- to bodies of persons, or trustees of a trust, established solely for charitable purposes, and
- which will be used for charitable purposes in the State or Northern Ireland.

Subsection deleted by Finance Act 2012. (2)

This exemption does not apply to deeds of enlargement - see *section 35*.

Section 82A Approved bodies

This section exempts from stamp duty donations of publicly quoted securities to approved bodies who 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. The exemption applies to instruments, transferring such securities, executed on or after 31 March 2006.

Section 82B Approved sports bodies

Summary

This section provides for an exemption from stamp duty on the acquisition of land by a sporting body approved under section 235 of the Taxes Consolidation Act 1997 where the land acquired will be used for the sole purpose of promoting athletic or amateur games or sports. The exemption applies to instruments executed on or after 7 December 2006.

Details

The definition of “approved sports body” takes its meaning from “an approved body of persons” with the meaning of section 235(1) of the Taxes Consolidation Act 1997. Guidance on section 235 is available at <https://www.revenue.ie/en/tax-professionals/documents/notes-for-guidance/tca/part07.pdf>. (1)

The section provides for an exemption from stamp duty on a conveyance, transfer or lease of land to an approved sports body. (2)

The exemption only applies where the land conveyed, transferred or leased to the approved sports body will be used for the sole purpose of promoting athletic or amateur games or sports. (3)

A clawback of the relief or a proportionate amount of the relief granted to the approved sports body will arise, where the approved sports body disposes of the land or part of the land conveyed, transferred or leased to it by the exempt instrument and does not apply the proceeds from the disposal to the sole purpose of promoting athletic or amateur games or sports. (4)

A clawback of the relief granted will also arise where the approved sports body ceases to use the land it acquired for the sole purpose of promoting athletic or amateur games or sports. (5)

Interest will be payable on any clawback incurred, calculated in accordance with *section 159D*, from the date of any disposal or cessation, to the date the clawback is remitted. (6)

The maximum clawback payable on any instrument will not exceed the amount of duty that would have been payable on the instrument, in the first instance, had relief under the section not applied. (7)

Section 82C Pension schemes and charities

Summary

This section provides an exemption from stamp duty in respect of the transfers of property held by pension schemes and charities

Detail

Definitions for the purpose of this section are self-explanatory (1)

A liability to stamp duty will not apply to an “in specie” transfer of pension scheme or charity assets to and from investment vehicles and between investment vehicles where the assets (or replacement assets) remain held for the benefit of the pension scheme or charity concerned. (2)

Section 83 Instruments given by means of security to company by subsidiary

Section deleted in respect of instruments executed on or after 7 December 2006.

Section 83A Transfer of site to child

No longer effective – *Section 63(1)(b) Finance Act 2011*.

Section 83B Certain family farm transfers

This section provides for an exemption from stamp duty on certain 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 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. The exemption applies to instruments executed on or after 2 April 2007.

Section 83C Exchange of houses

No longer effective.

Section 83D Repayment of stamp duty where land used for residential development

Summary

This section was introduced in 2017 when the rate of stamp duty chargeable on non-residential land was increased from 2% to 6%. The current rate of 7.5% has applied to any transfers dated on or after 9 October 2019. The section provides for a refund of the difference between the old non-residential rate of 2% and current rate of 7.5% (or 6% for transfers prior to 9 October 2019).

The refund scheme applies to both single dwelling units (one-off houses) as well as to multi-unit developments. In the case of multi-unit developments, the terms of the scheme are designed to ensure that only developments that contain dwelling units completed within a reasonable period can qualify for a refund.

The scheme contains two types of conditions: those that must be satisfied before a claim for a refund can be made and those that must be satisfied to avoid a clawback of stamp duty already refunded. Although most of the same qualifying conditions apply to both single dwelling units and multi-unit developments, these different types of development are dealt with separately to avoid confusion. Construction operations must commence on or before 31 December 2025 and a 30-month time limit is allowed for completion.

Details

This section contains the following definitions and interpretations, several of these are based on planning and development law such as the Building Control Act 1990 and the Building Control Regulations 1997. *(1)(a)*

“appropriate part” can mean either the full site that is acquired or part of the site. It is defined for the purposes of enabling a full or a partial refund to be made in relation to the part of the stamp duty paid that is attributable to the part of the site being developed for residential purposes in a phased development or to the entire site in a single phase development or a one-off house.

“building control authority” is essentially a local authority responsible for administering the planning and development process.

“completion certificate” is the certificate of compliance required under planning and development law when a development is completed. This certificate is submitted to a building control authority which then checks that the way in which the development has been carried out complies with planning and development requirements before entering the certificate on its public register. For the purposes of the refund scheme, this certificate is used as a proxy to verify that a particular development, or a phase of a development, has been completed.

“commencement notice” is a notice that must be submitted to a building control authority under planning and development law shortly before development is due to

commence. It is illegal to commence development before a local authority has checked the notice and accompanying documentation and issued an acknowledgement. For the purposes of the stamp duty refund scheme, this acknowledgement of a commencement notice is used as a proxy for the commencement of a residential development in conjunction with the commencement of actual construction. It is also used to identify the development carried out in the various phases in a phased development.

“construction operations” is the construction of buildings and structures and is defined to include the type of operations that are preparatory to actual construction such as drainage, earth moving and laying foundations and access roads. For the purposes of the refund scheme, a refund can be claimed as soon as construction operations commence pursuant to a commencement notice.

“dwelling unit” is essentially a house or apartment and is based on the definition of “residential property” in section 1. In addition to the footprint of the building itself, it includes an allowance for curtilage such as yards and gardens of up to an acre or the hectare equivalent of 0.4047 hectares. For the purposes of the refund scheme, the refund is linked to residential development which is defined as the construction of dwelling units.

“gross floor space” is adapted from a definition used in planning and development law. It is the internal measurement of a dwelling unit excluding any internal walls or partitions and includes all of the floors in a building. For the purposes of refund scheme, the gross floor space measurement is relevant for the purposes of comparing the size of the dwelling units comprised in a residential development with the size of the overall site.

“land”, in addition to taking its normal meaning under the Interpretation Act 2005 as, among other things including any buildings on the land, means the land that has been conveyed or transferred by means of an instrument that has been charged to stamp duty at the rate of 7.5% (or 6% for transfers prior to 9 October 2019).

“planning permission” takes its meaning from planning and development law. The only reference to planning permission in the section relates to the type of documents and information that Revenue can seek when it carries out its compliance activities in relation to a person’s entitlement to a refund.

“Regulations of 1997” mean the Building Control Regulations 1997 on which, for example, the meanings given to “commencement notice” and “completion certificate” are based.

“Residential development” is the shorthand way of describing the construction of dwelling units. The phrase is also to be construed in accordance with paragraph (b) of this subsection.

This section further elaborates on the meaning of “residential development” as defined in paragraph (a) to mean the construction of dwelling units. It provides that the phrase “relevant residential development” can be used to refer to either the development of part of the site that was acquired or to the development of the entire site. This meaning is used for the purposes of being able to distinguish situations where a partial or a full refund can be claimed; for example, a partial refund in the case of the separate phases in a phased development or a full refund in the case of the single-phase development of the entire site or a one-off house or where an accountable person defers making any claims until the entire development is completed. (1)(b)

This subsection provides that a relevant residential unit will be regarded as completed for the purposes of the section if a completion certification has been issued in respect of the development. (1)(c)

This subsection specifies the relevant stamp duty document or instrument for the purposes of this section. This is the deed of conveyance or transfer of property that was stamped for stamp duty purposes on or after 11 October 2017 (Budget day) in relation to property that was not residential property. It specifies that the instrument must have been chargeable at the rate of 6% that came into effect on 11 October 2017 until 9 October 2019 or at the higher rate of 7.5% that came into effect on 9 October 2019 (Budget day) and that the type of property conveyed or transferred must have been land. (2)

This subsection specifies the conditions that must be satisfied for a refund to be claimed and, following the refund, for an accountable person to continue to be entitled to retain the refunded amount. (3)

This paragraph provides for a refund of stamp duty paid, subject to the requirements of this section, where a commencement notice has been acknowledged by a building control authority and construction of the housing covered by the particular commencement notice commences within the period of 30 months after the date on which the deed of conveyance or transfer of the land was executed. (3)(a)

This paragraph elaborates on the operation of paragraph (a). In the case of a phased development involving more than one commencement notice, it is necessary only that construction commences on the housing covered by the first commencement notice within the period of 30 months after the date on which the deed of conveyance or transfer of the land was executed. While other qualifying conditions relate to the part of the residential development covered by individual commencement notices, this commencement condition applies in relation to the full site to be developed, whether or not it is to be developed in phases. (3)(b)

This paragraph contains the conditions that must be satisfied following the commencement of construction operations and refers to these as the conditions for the avoidance of a clawback of the stamp duty that has been refunded: (3)(c)

- A period of 30 months is allowed to complete a residential development that was covered by a commencement notice acknowledged by a building control authority. This 30-month period commences on the date of this acknowledgement. (3)(c)(i)
- There is a certain amount of residential development that must have been carried out when development is completed. There are two alternative conditions to be satisfied. These conditions relate to an entire site or to a part of a site where development is being carried out in phases. Firstly, at least 75% of the surface area of a site must be occupied by housing. This condition is more relevant in the case of low-rise housing. An alternative condition is that the gross floor space of the housing that is constructed must account for at least 75% of the surface area of the site. This condition is more relevant in the case of multi-storey buildings such as apartment blocks. As long as one of these '75%' conditions are satisfied, it does not matter what the rest of the site is used for or whether it is developed or left undeveloped. (3)(c)(ii)

This subsection provides that where land is acquired for the purpose of building a single dwelling unit then: (4)

- Subsection (3)(c)(ii) which applies a 75% area test to multi-unit developments will not apply, and (4)(a)
- Where a person opts out of the standard building completion certificate procedure under article 5 of the Regulations of 1997 by submitting a declaration in accordance with article 9(5) of the Regulations of 1997 and the declaration is included on the public register in accordance with (4)(b)

paragraph (10) of article 20F of those Regulations, the dwelling unit specified in a commencement notice shall, for the purposes of this section, be treated as completed when an Electrical Completion Certificate is issued under subsection (13) or (14) of section 9D of the Electricity Regulation Act 1999. The certificate must issue within 30 months after the date of sending by a building control authority, of an acknowledgment in relation to that commencement notice.

This subsection provides for the circumstances in which it is permissible to postpone the commencement of construction and the completion of a development without losing entitlement to a refund. (5)

- It provides that, where certain events occur that prevent the carrying out of construction operations, the ‘clock stops’ in relation to the 30 months commencement condition and the 30-month completion condition from the start of the event to its completion. The specified events are the making of an appeal to An Bord Pleanála and the making of a Court order to cease construction operations. (5)(a)
- It further provides that the timeframe for the refund scheme specified in subsection (18) is to apply notwithstanding the delaying effect of an appeal to An Bord Pleanála and the making of a Court order to cease construction operations. (5)(b)

This subsection provides for the amount of stamp duty to be refunded. (6)

The formula to be used for calculating the amount of a refund is: (6)(a)

- $A \times B \times [11/15]$ if stamp duty was paid at the rate of 7.5%
- $A \times B \times [2/3]$ if stamp duty was paid at 6%.

Its components are:

- **A** represents the amount of stamp duty paid at the rate of 7.5% (previously 6%) when the land was acquired,
- **B** represents the proportion of the area of the land being developed on foot of a particular valid commencement notice or 7-day notice (whether this is the entire area of the land or a part of the land in a phase of a development), and
- **11/15** (previously $\frac{2}{3}$) is the fraction that expresses the difference between the 2% and 7.5% (previously 6%) rates of stamp duty on non-residential land.

In relation to the construction of a one-off house are, this paragraph provides that a refund can apply only to the part of a site occupied by a “dwelling unit” as defined which includes both the house and the amount of its curtilage that does not exceed one acre. This means that an apportionment of the stamp duty paid will be required where the curtilage of a house exceeds one acre. The formula in paragraph (a) is adapted accordingly. (6)(b)

This subsection provides some of the rules for claiming a refund. (7)(a)&(b)

- The subsection requires a claim for a refund to be made in accordance with subsection (8).
- A refund can be claimed only in respect of the residential development being carried out in a particular phase. An accountable person is not obliged to claim a refund at the first possible opportunity and may decide to defer a claim or claims.

This subsection provides the rules for claiming a refund. (8)

- a refund claim to be made by an accountable person in relation to the instrument on which the stamp duty was paid. (8)(a)
- a refund claim to be made in the form and manner that is specified by Revenue for this purpose. (8)(b)
- a refund claim includes a statutory declaration in a form to be specified by Revenue stating that the qualifying conditions for a refund have been complied with and stating the proportion of a site that has been developed. (8)(c)
- a refund claim to be made electronically and applies the general provisions governing electronic interactions with Revenue contained in Chapter 6 of Part 38 of the Taxes Consolidation Act 1997. (8)(d)
- a refund claim is precluded from being made before construction has commenced on the residential development included in a particular commencement notice acknowledged by a building control authority. (8)(e)

This subsection provides that certain documents and particulars are specified as being those that Revenue may require but this list is not exhaustive. These include: (9)

- a commencement notice and the acknowledgement of the commencement notice issued by a building control authority,
- planning permission, and
- information about the number of houses constructed, their size, and the size of the site that was acquired.

This subsection imposes a number of requirements in relation to the making of a refund. (10)

- it is required that a refund be made pursuant to a claim made in accordance with subsection (8), *i.e.* that the claim be made by an accountable person in the required form and manner, that it include the required declaration about the satisfaction of the qualifying conditions and that it not be made until the relevant construction has commenced. (10)(a)
- the stamp duty to be refunded is not to include any interest. (10)(b)
- this section imposes the standard 4-year time limit on the refund of tax and duty by Revenue. In this case, the 4-year period is specified to commence on the date on which a building control authority acknowledges the relevant commencement notice for a residential development. (10)(c)

This subsection requires that Revenue refuse a claim for a refund where it considers that the requirements for claiming the refund are not met; for example, if the qualifying conditions are not satisfied or if the claim is not made in the correct way. The claimant must be notified of a refusal in writing and be given reasons for the refusal. (11)(a)

An accountable person has a right of appeal to the Appeal Commissioners against the refusal of a claim for a refund. The standard 30-day time limit on the making of an appeal is applied. (11)(b)

This paragraph imposes a liability on an accountable person for the amount of the stamp duty that should not have been repaid where the conditions for claiming the refund were not satisfied or the subsequent conditions relating to the timeframe for completion of residential development or the amount of residential development to be carried out were not satisfied. The amount to be recovered is referred to as a 'clawback'. (12)(a)

This paragraph applies a charge of interest at a daily rate of 0.0219% on the clawback amount from the date of the refund to the date on which the clawback amount is paid to Revenue. (12)(b)

This subsection permits Revenue to make an assessment for the amount of the clawback where an accountable person fails to pay this amount. It also provides for joint and several liability where there is more than one accountable person in relation to the particular instrument underlying the clawback, whether or not an assessment is made. (11)

This subsection adapts section 128A, which relates to the 6-year period during which relevant records are required to be retained by an accountable person for the purposes of checking by Revenue. For the purposes of checking compliance with the conditions for a refund under this section, the 6-year retention period commences on the date on which a building control authority acknowledges a commencement notice submitted in relation to a residential development. (14)

This subsection applies the provisions of section 1078 of the Taxes Consolidation Act 1997 in relation to the matters that constitute offences and the sanctions that apply in relation to these offences. The submission to Revenue of an incorrect statement, document or particulars in relation to a claim for a refund under this section is deemed to be an offence under section 1078. (15)

This paragraph provides for a penalty where a claimant is found to have knowingly made an untrue declaration when claiming a refund. The amount of the penalty is 125% of the stamp duty that should not have been refunded together with interest on that amount charged at a daily rate of 0.0219% from the date on which the refund was made to the date on which the penalty is paid to Revenue. (16)(a)

This paragraph provides that a claimant is not liable for the payment of both a clawback of the stamp duty that should not have been refunded under subsection (12) and a penalty under paragraph (a) of this subsection. (16)(b)

This paragraph permits Revenue to request a building control authority to provide it with relevant information that will enable it to verify compliance with the various conditions governing the refund scheme. (17)(a)

This paragraph requires a building control authority to comply with a Revenue request for information within a period to be specified by Revenue, which period must be at least 30 days after the notice requesting the information. (17)(b)

This paragraph provides the necessary authority for a Revenue officer to give confidential taxpayer information to a building control authority where such information is necessary for it to comply with the Revenue officer's request for information. Section 851A of the Taxes Consolidation Act 1997 contains provisions relating to Revenue's treatment of confidential taxpayer information. The authority to disclose taxpayer information requires a specific statutory basis such as is provided by this paragraph. (17)(c)

The latest date by which construction must commence on a residential development, whether on the development of the entire site or on a phase of a multi-phase development is 31 December 2025. Development must then be completed as usual within 30 months of commencing construction. (18)

Section 83E Repayment of stamp duty where certain residential units leased

Summary

This section provides for a partial refund of stamp duty paid at a higher 10% rate in accordance with section 31E where multiple residential units are acquired by a person in a 12-month period. The refund scheme was proposed in the context of the Minister for Housing, Local Government and Heritage's strategy to increase the supply of social housing by means of the long-term leasing of residential units from private

sector owners. Leasing arrangements allow for a greater proportion of social housing need to be met in the short-term and within a tight budgetary environment.

It was considered that the charging of additional stamp duty on the acquisition of such residential units may act as a disincentive to persons who might have been planning to acquire multiple units for onward leasing to a local authority or an approved housing body and thereby reduce the supply of social housing.

The section provides that a person who has paid stamp duty at the 10% rate on the acquisition of a residential unit will be entitled to claim a refund of part of the stamp duty paid where, within 2 years of its acquisition, the residential unit is leased to a local authority or an approved housing body for social housing purposes. The amount to be refunded will be the difference between the stamp duty that would have been paid at the standard rate and the stamp duty paid at the 10% rate.

Detail

This section contains the following definitions and interpretations. (1)

“Act of 1992” is the Housing (Miscellaneous Provisions) Act 1992, referred to in the definitions of “approved housing body” and “housing authority”.

“approved housing body” means a body approved by the Minister of Housing, Local Government and Heritage under section (6) of the Housing (Miscellaneous Provisions) Act 1992 for the purpose of providing social housing.

“housing authority” has the same meaning as in the Housing (Miscellaneous Provisions) Act 1992 and refers to local authorities. In accordance with section 23 of the Housing (Miscellaneous Provisions) Act 1992, a “reference in the Housing Acts 1966 to 2014 to a housing authority is a reference to a local authority”.

“qualifying date” means the date on which a lease, in respect of a residential unit, is executed by the owner of the unit with a local authority or an approved housing body.

“qualifying lease” is a lease, for a period of at least 10 years of a relevant residential unit executed by the owner of the unit with a local authority or an approved housing body for the provision of social housing.

“qualifying relevant residential unit” has the meaning assigned to it by subsection (3) and is essentially a qualifying lease of a residential unit executed within the period of 24 months following the acquisition of the unit.

“relevant instrument” means an instrument that conveys, transfers or leases a relevant residential unit that was executed on or after 20 May 2021 and that was chargeable fully or partly at the rate of 10% under section 31E.

“relevant residential unit” has the same meaning as in section 31E; essentially a residential unit chargeable on its acquisition at the stamp duty rate of 10% under section 31E because an accountable person acquired at least 10 such units in aggregate in any 12-month period.

“social housing support” has the same meaning as in section 19 of the Housing (Miscellaneous Provisions) Act 2009 which provides for the ways in which social housing may be provided to households.

This subsection explains what is meant by a reference to “acquisition” in the context of section 83E. This relates to section 31E(2) in which the normal meaning of “acquisition” is expanded to include the various ways in which property can be conveyed or transferred for stamp duty purposes in addition to the usual direct conveyance or transfer on sale. These include acquisition by way of a conveyance, (2)

transfer, lease, gift, contract or agreement referred to in section 31E(2). Section 31E(2) also specifies the date on which a residential unit is treated as being acquired. This is the date on which the relevant instrument is executed.

This subsection sets out the conditions that must be satisfied for a refund to be claimed. Within a period of 24 months after acquiring a residential unit, a person must execute a lease, for a term of a least 10 years, with a local authority or an approved housing body which will then use the residential unit for social housing. (3)

This subsection provides for the refunding of stamp duty in accordance with the provisions of section 83E where subsection (3) applies, i.e. where the qualifying conditions for a refund are satisfied. (4)

This subsection provides for the amount of stamp duty to be refunded. It contains a formula (A - B) to be used to calculate the refundable amount. Its components are the amount of stamp duty paid at the 10% rate in respect of a relevant residential unit that is leased (A in the formula) and the amount of stamp duty that would have applied to the unit if the 10% rate did not apply under section 31E (B in the formula). The refundable amount is the difference in the stamp duty charged at the standard rate and the 10% rate. (5)

This subsection sets out the conditions and procedures that apply to the claiming of a refund. (6)

- a refund claim must be made by an accountable person in relation to the instrument on which the stamp duty was paid. (6)(a)
- a refund claim is to be made in whatever form and manner is specified by Revenue for this purpose. (6)(b)
- a refund claim must include a declaration in a form to be specified by Revenue stating that the qualifying conditions for a refund have been satisfied. (6)(c)
- a refund claim is to be made electronically and applies the general provisions governing electronic interactions with Revenue contained in Chapter 6 of Part 38 of the Taxes Consolidation Act 1997. (6)(d)
- This paragraph precludes a refund claim being made before a qualifying lease is entered into with a local authority or an approved housing body. (6)(e)

This subsection sets out the conditions and procedures that apply to the making of a refund. (7)

- This paragraph allows Revenue to make a refund only where the claim has been made in accordance with the required procedures set out in subsection (6). (7)(a)
- This paragraph precludes interest from being included in any refund of stamp duty. (7)(b)
- This paragraph applies the usual time limit imposed on Revenue's ability to make a refund of tax or duty. This applies where a claim for the refund is not made within 4 years of a specified date. In this case, the 4-year period is specified to commence on the date on which a qualifying lease is executed. (7)(c)

This subsection requires that Revenue refuse a claim for a refund where it considers that the qualifying conditions or required procedures have not been met or followed. The claimant must be given a written notification of the refusal and the reasons for it. (8)

This subsection gives an accountable person a right of appeal to the Appeal Commissioners against the refusal of a claim for a refund. The standard appeal procedures are applied, including the 30-day time limit for the making of an appeal. (9)

This subsection sets out the circumstance in which an accountable person who was given a refund must subsequently pay some or all of the refunded amount back to Revenue. This is known as a clawback. (10)

Paragraphs (a) and (b) describe the circumstances in which a refund was properly made; i.e. respectively, the satisfaction of the qualifying conditions in subsection (3) and a refund made in accordance with the procedures required under section 83E. Paragraph (c) then provides for a clawback where a qualifying lease is terminated within the period of 10 years after the date on which the lease is executed.

This subsection provides for the amount of stamp duty to be clawed back should a lease be terminated within the period of 10 years after the date on which it is executed. It contains a formula to be used to calculate this amount. The formula operates by time apportioning the stamp duty refunded over the 10-year period, with the amount of stamp duty to be clawed back being the amount that is attributable to the part of the 10-year period remaining after the date of termination. (11)

This subsection charges interest at a daily rate of 0.0219% on the clawback amount from the date of the refund to the date on which the clawback amount is paid to Revenue. (12)

This section allows Revenue to make an assessment for the amount of the clawback where an accountable person fails to pay this amount (13)

This section provides for joint and several liability where there is more than one accountable person in relation to the instrument on which stamp duty was paid when the residential unit was acquired. (14)

This subsection applies and adapts section 128A, which relates to the 6-year period during which relevant records are required to be retained by an accountable person in the event of a possible Revenue compliance check. The adaptation made for the purposes of section 83E is that the 6-year retention period is to commence on the date on which the qualifying lease was executed. (15)

This subsection provides for a penalty where a claimant is found to have knowingly made a false declaration when claiming a refund. The amount of the penalty is 125% of the stamp duty that should not have been refunded together with interest on that amount charged at a daily rate of 0.0219% from the date on which the refund was made to the date on which the penalty is paid to Revenue. (16)

This subsection ensures that a claimant is not liable for the payment of both a clawback of the stamp duty under subsection (10) arising from early termination of a lease and a penalty under subsection (16) arising from the making of a false declaration. In the event that both a clawback and a penalty apply, the greater of the two amounts is payable. (17)

This subsection allows Revenue to request the Minister for Housing, Local Government and Heritage to provide it with relevant information that will enable it to verify compliance with the qualifying conditions for a refund under section 83E. (18)

This subsection requires the Minister for Housing, Local Government and Heritage to comply with a Revenue request for information, made under subsection (18), within a period to be specified by Revenue, which period must be at least 30 days after the notice requesting the information. (19)

This subsection disapplies the statutory requirement for taxpayer confidentiality under section 851A of the Taxes Consolidation Act 1997 to allow a Revenue officer to provide the Minister for Housing, Local Government and Heritage with such information as may be required to enable the Minister to comply with the Revenue request for information under subsection (18). (20)

Section 83F Stamp duty repayment scheme for cost rental dwellings

Summary

This section provides for a partial refund of stamp duty charged at the higher rate of 10% in accordance with section 31E on properties that are designated as cost rental dwellings within 6 months of acquisition.

Cost rental schemes aim to provide secure and long-term rental options to those who do not qualify for social housing but cannot afford to rent or buy on the open market. Bodies such as the Land Development Agency are being provided with significant funding under the Housing for All plan to advance purchase residential properties that will subsequently be designated as cost rental dwellings.

Entitlement to a refund under this section will arise where a residential property 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, within 6 months of its acquisition. The amount to be refunded will be the difference between the stamp duty paid at the 10% rate and the stamp duty that would have been paid had the standard rate applied.

Details

This section contains the following definitions and interpretations: (1)

“**Act of 2021**” refers to the Affordable Housing Act 2021.

“**cost rental dwelling**” has the same meaning as it has in Part 3 of the Affordable Housing Act 2021, being a dwelling specified in a “cost rental designation”. Section 28 of the Affordable Housing Act 2021 defines “cost rental designation” as meaning a designation of a dwelling as a cost rental dwelling under the seal of the Minister for Housing, Local Government and Heritage in accordance with section 30 of the Act.

“**qualifying date**” means the date on which a relevant residential unit becomes a qualifying relevant residential unit.

“**qualifying relevant residential unit**” has the meaning assigned to it by subsection (3) and is essentially a relevant residential unit which, within 6 months of its acquisition, has been designated by the Minister for Housing, Local Government and Heritage as a cost rental dwelling under Part 3 of the Affordable Housing Act 2021.

“**relevant instrument**” means an instrument executed on or after 20 May 2021 which effected the conveyance, transfer or lease of a relevant residential unit and was chargeable fully (or partly) at the rate of 10% under section 31E.

“**relevant residential unit**” has the same meaning as in section 31E and is essentially a residential unit chargeable to stamp duty on its acquisition at the rate of 10% under section 31E because an accountable person acquired at least 10 such units in aggregate in any 12-month period. Section 31E defines a “residential unit” as a residential property situated in the State comprising an individual dwelling.

This subsection provides that a reference to “acquisition” in the context of section 83F includes a reference to acquisition by way of a conveyance, transfer, lease, instrument, contract or agreement referred to in section 31E(2). (2)

Subsection (3) applies where, within 6 months of its acquisition, a relevant residential unit is designated as a “cost rental dwelling” under Part 3 of the Affordable Housing Act. Where a relevant residential unit is designated as a cost rental dwelling it will be a “qualifying relevant residential unit” for the purposes of this section. An owner of a dwelling must apply to the Minister for Housing, Local Government and Heritage (3)

for such a designation, and a designation will be granted where the conditions of the scheme are satisfied.

Where subsection (3) applies, this subsection provides for the refunding of stamp duty in accordance with the provisions of the section. (4)

This subsection specifies how the amount of stamp duty to be refunded is calculated. It contains a formula to be used to calculate the refundable amount. (5)

The formula is $A - B$ where:

- A is the amount of stamp duty paid at the 10% rate in respect of a relevant residential unit that is designated as cost rental, and
- B is the amount of stamp duty that would have applied to the relevant residential unit if the 10% rate did not apply under section 31E.

The refundable amount is the difference between the stamp duty charged at the standard rate and the 10% rate.

The subsection sets out the conditions and procedures that apply to the claiming of a refund; (6)

- a refund claim must be made by an accountable person in relation to the instrument on which the stamp duty was paid.
- a refund claim must be made in whatever form and manner is specified by Revenue for this purpose.
- a refund claim must include a declaration in a form to be specified by Revenue stating that the qualifying conditions for a refund have been satisfied.
- a refund claim must be made electronically and applies the general provisions governing electronic interactions with Revenue contained in Chapter 6 of Part 38 of the Taxes Consolidation Act 1997.
- a refund claim must not be made before the qualifying date, which is the date a relevant residential unit becomes a qualifying residential unit.

The subsection sets out the conditions and procedures that apply to the making of a refund. (7)

Revenue are allowed to make a repayment only where the claim has been made in accordance with the required procedures set out in subsection (6).

Interest will not be included in any repayment of stamp duty.

A repayment will not be made in respect of a claim made more than 4 years after the qualifying date, which is the date a relevant residential unit becomes a qualifying residential unit.

Revenue can refuse a claim for a refund where it considers that the qualifying conditions or required procedures have not been met or followed. The claimant must be given a written notification of the refusal and the reasons for it. (8)

An accountable person has a right of appeal to the Appeal Commissioners against the refusal of a claim for a refund. The standard appeal procedures are applied, including the 30-day time limit for the making of an appeal. (9)

This paragraph applies and adapts section 128A, which relates to the 6-year period during which relevant records are required to be retained by an accountable person in the event of a possible Revenue compliance check. (10)(a)

The adaptation made for the purposes of section 83F is that the 6-year retention period is to commence on the date on which a relevant residential unit becomes a qualifying relevant residential unit. In the absence of this subsection, the 6-year period would commence on the original date on which the stamp duty return was filed or duty paid (which could be 6 months earlier).

The paragraph provides that the records to be retained must include a copy of the cost rental designation issued by the Minister for Housing, Local Government and Heritage under Part 3 of the Affordable Housing Act 2021. Part 3 provides that the designation will apply from the date on which it is sealed by the Minister, and a copy of this will be provided to the owner and to any person who gave consent to the application. The 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. (10)(b)

The subsection provides for a penalty to be applied where a claimant is subsequently found to have made a declaration that was untrue in any detail that would have resulted in a repayment or part of a repayment not being made, and knowingly made a false declaration or displayed a reckless disregard for the truth when claiming a refund. (11)

The amount of the penalty payable by the claimant is 125% of the stamp duty that should not have been refunded together with interest on that amount charged at a daily rate of 0.0219% in accordance with section 159D from the date on which the refund was made to the date on which the penalty is paid to Revenue.

CHAPTER 2

Other instruments

Section 84 Repayment of stamp duty on certain transfers of shares

Summary

The purpose of the section is to provide for the repayment of the stamp duty paid on a transfer on sale of shares which have been sold by a member (or technically “a participant”) of a profit sharing scheme who acquired the shares under the scheme and has held them for the requisite number of years.

Details

“approved scheme”, “participant”, “the release date” and “shares” are defined in [section 509](#) of the Taxes Consolidation Act 1997. (1)

The Revenue Commissioners will refund the stamp duty paid on a transfer on sale of shares where they are satisfied that the shares were sold, after the release date, by, or on behalf of, a person (*i.e.* a participant) who acquired them under an approved scheme. While this section does not specify a time limit for submitting claims for refund, a 4-year time limit is provided for by *section 159A* from the date the transfer is stamped, in respect of a valid claim for refund. Interest may arise on the refund – see *section 159B*. (2)

Section 85 Certain loan capital and securities

This section contains a number of exemptions from stamp duty on certain loan capital and securities.

Details

This subsection contains the following definitions (1)

“loan capital” means any debenture stock, bonds or funded debt, by whatever name known, or any capital raised which is borrowed or has the character of borrowed money, whether in the form of stock or in any other form.

“enhanced equipment trust certificate” which means loan capital issued by a company to raise finance to acquire, develop or lease aircraft. (1A)

Paragraph (i) of subsection (2)(a) grants an exemption from stamp duty on the *issue* of Government loans and *paragraph (ii) of subsection (2)(a)* grants an exemption from stamp duty on the *issue* of loan capital. Both exemptions apply regardless of the form - bearer and non-bearer - in which the loan capital or loans are issued. (2)(a)

The *transfer* of loan capital of a company or other body corporate which— (2)(b)

- is not convertible to Irish registered shares; (2)(b)(i)
- is not convertible to other loan capital having a right of conversion to Irish-registered shares; (2)(b)(ii)
- is issued for a price which is not less than 90% of its nominal value, and (2)(b)(iv)
- is not linked, wholly or partly, and directly or indirectly, to an equity index or equity indices. (2)(b)(v)

Where the loan capital comprises of securities issued by a qualifying company (as defined in section 110 of the Taxes Consolidation Act, 1997) as part of certain schemes of securitisation *subsection (2)(c)* provides that the *issue or transfer* of these securities is exempt from stamp duty and exemption is not subject to the conditions set out in *subsection (2)(b)*. Securitisation of mortgages operates typically by a bank or building society transferring its portfolio of mortgages to another company for cash. The transferee company raises this cash by issuing bonds to the public who receive a stream of interest payments over time and have a readily marketable security. The bank benefits by having more funds to lend for further mortgages. (2)(c)

The issue, transfer or redemption of an enhanced equipment trust certificate is not chargeable to stamp duty. (2)(d)

Section 85A Certain investment certificates

This 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.

Section 86 Certain loan stock

This section provides for an exemption from stamp duty on transfers of the loan stock of certain State bodies.

See also section 16 of the Housing Finance Agency Act, 1981, the text of which is set out in **Appendix 2**, which extends the benefit of this exemption to bonds, debentures or other securities issued by that Agency. This exemption is wider than that contained in *section 85(2)(b)*.

Section 86A Enterprise Securities Market

The Euronext Growth Market was previously known as the Enterprise Securities Market.

This section provides for an exemption from stamp duty of transfers of stocks or marketable securities admitted to the Euronext Growth Market operated by the Irish Stock Exchange plc trading as Euronext Dublin.

The exemption does not apply to transfers of stocks or marketable securities where the admission of the stocks or marketable securities to the Euronext Growth Market has been cancelled by the Irish Stock Exchange plc trading as Euronext Dublin.

Section 87 Stock borrowing

Summary

Trades involving the sale of stocks and shares sometimes settle late or are only partly settled or do not settle at all because, for example, the seller fails to deliver some or all of the share certificates to his or her broker in time for the broker to complete the trade.

One option to enable the sale to be completed would be for the broker or dealer (the “stock borrower”) to obtain the stock required from a third party (the “lender”): the lender would transfer the stock to the stock borrower and the stock borrower would then use it to complete the trade. As part of the stock borrower’s contract with the lender s/he would agree to return to the lender an equivalent amount of stock within the period agreed between the stock borrower and the lender. As further security for the lender the stock borrower would transfer other stock to the lender as collateral. A stock borrowing operation, therefore, typically involves 5 transfers *i.e.*

- (a) transfer of stock from the lender to stock borrower;
- (b) transfer on of that stock by the stock borrower to complete the sale;
- (c) transfer of collateral stock from the stock borrower to the lender;
- (d) return of equivalent stock to the lender; and
- (e) return of the collateral stock from the lender to the stock borrower.

The purpose of this section is to exempt transfers (a), (c) and (d) from stamp duty. (e) is not within the current charge to stamp duty.

Details

The definition of “stock borrower” and “lender” covers bodies/entities such as companies and other corporate bodies, building societies, pension funds, charities, unit trusts, investment limited partnerships, collective investment funds, member firms of any recognised stock exchange, market makers recognised as such by any recognised stock exchange, authorised investment business firms within the meaning of the Investment Intermediaries Act, 1995 and persons acting in a nominee or trustee capacity for any of the above bodies/entities. (1)

“collateral stock”, “equivalent stock”, and “stock return” are self-explanatory.

The following are exempt from stamp duty: (2)

- a stock borrowing,
- a stock return, or
- the transfer of collateral stock to the lender.

If equivalent stock is not returned to the lender within 12 months (applies to stock borrowing transactions entered into on or after 25 March 2005 – previously it was 6 months) from the date of the stock borrowing, then— (3)

- the stock borrower will become liable to pay full ad valorem stamp duty on the stock transferred to the stock borrower by the lender;
- the stock borrower will have to pay the duty within 14 days after the end of that 12-month period. If the duty is not paid within that time interest, at the rate of 0.0219 per cent per day (see *section 159D*) from the first day after the expiration of the 12-month period to the date the duty is paid, is payable. In addition, a penalty of 1% of the duty for each day the duty remains unpaid after the expiry of the 14-day period of grace is payable.

The stock borrower is regarded as having obtained the borrowed stock on the date the stock is transferred to the borrower on foot of the stock borrowing contract entered into with the lender of the stock. Where the transaction is effected in CREST or Euroclear Bank, the relevant date would be the settlement date. In the case of a non-CREST or non-Euroclear Bank transaction, the date would be the date of the execution of the Stock Transfer Form.

The stock borrower must maintain for a period of 3 years from the date of the stock borrowing, separate records of each stock borrowing and any stock return(s) made in respect of that stock borrowing. (4)

Section 87A Stock repo

Summary

Stock repo transactions are similar in nature to stock borrowing transactions referred to in *Section 87* above. A stock repo transaction is one in which a repo seller agrees to sell stock to a repo buyer for a cash price on the basis that at the end of the fixed financing period the repo seller will buy back equivalent stock at a price equal to the original price plus interest.

The purpose of this section is to exempt from stamp duty the stock transfer from the repo seller to the repo buyer in pursuance of a repurchase agreement and the stock return from the repo buyer to the repo seller.

Details

“repo seller” and “repo buyer” cover bodies/entities such as companies and other corporate bodies, building societies, pension funds, charities, unit trusts, investment limited partnerships, collective investment funds, member firms of any recognised stock exchange, market makers recognised as such by any recognised stock exchange, authorised investment business firms within the meaning of the Investment (1)

Intermediaries Act, 1995 and persons acting in a nominee or trustee capacity for any of the above bodies/entities.

“equivalent stock” and “stock return” are self-explanatory.

The following are exempt from stamp duty: (2)

- stock transfer to repo buyer from repo seller, and
- stock return to repo seller from repo buyer.

If equivalent stock is not repurchased by the repo seller within 12 months from the date of the stock transfer, then: (3), (4)

- the repo buyer will become liable to pay full ad valorem stamp duty on the stock transferred to the repo buyer by the repo seller;
- the repo buyer will have to pay the duty within 14 days after the end of that 12-month period. If the duty is not paid within that time interest, at the rate of 0.0219 per cent per day (see *section 159D*) from the first day after the expiration of the 12-month period to the date the duty is paid, is payable. In addition, a penalty of 1% of the duty for each day the duty remains unpaid after the 14-day period of grace is payable.

The repo buyer must maintain, for a period of 3 years from the date of the stock transfer, separate records of each stock transfer and any stock return(s) made in respect of that stock transfer. (5)

Section 87B Merger of companies

This section provides an exemption from stamp duty on an instrument made for the purposes of, or in connection with, a cross-border merger, a merger, or an SE formed by merger.

Section 88 Certain stocks and marketable securities

This section, subject to subsection (2) and *section 31C*, exempts transfers of the following from stamp duty:

- units in an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997, *i.e.*
- units in unit trust schemes which are authorised by the Central Bank of Ireland under the terms of the Unit Trust Act 1990, provided that that authorisation has not been revoked;
- units in authorised collective investment undertakings within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989, provided that that authorisation has not been revoked; and
- units in certain investment companies within the meaning of Part XIII of the Companies Act 1990, which are authorised by the Central Bank of Ireland provided that that authorisation has not been revoked;
- units in a common contractual fund within the meaning of section 739I of the Taxes Consolidation Act 1997;

- units in an investment limited partnership within the meaning of section 739J of the Taxes Consolidation Act 1997;
- units in certain foreign collective investment schemes. However, if the transfer relates to Irish immovable property, or to the stocks or marketable securities of an Irish-incorporated company (other than an investment undertaking as defined in section 739B of the Taxes Consolidation Act 1997 or a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997), the exemption does not apply;
- units of a unit trust to which section 731(5) or (6) of the Taxes Consolidation Act 1997, relates. Section 731(5) relates to a unit trust which is not an authorised unit trust scheme within the meaning of the Unit Trusts Act 1990, but the units are held by capital gains tax exempt persons. A unit trust which is covered by section 731(6) must be administered by a licensed life assurance company and must require a policy of life assurance to be effected for participation in the trust;
- stocks or marketable securities of companies or other bodies corporate which are not incorporated in the State. However, subsection (2) provides that if the transfer relates to Irish immovable property, or to the stocks or marketable securities of an Irish-incorporated company (other than an investment undertaking as defined in section 739B of the Taxes Consolidation Act 1997 or a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997), the exemption does not apply.

Section 88A Reorganisation - undertakings for collective investment

This section exempts from stamp duty transfers of assets by a domestic collective fund to another such fund in exchange for the issue of units by that other fund. The exemption applies where the transfer of assets effects a disposal not chargeable to capital gains tax under section 739A of the Taxes Consolidation Act, 1997.

Section 88B Funds: reorganisation

This section provides for an exemption from stamp duty on any instrument made for the purposes of a scheme of reconstruction or amalgamation under which:

- (a) a foreign fund transfers its assets to a domestic fund in return for the domestic fund issuing units in the domestic fund to the holders of units in the foreign fund or directly to the foreign fund, or
- (b) a domestic fund transfers its assets to a foreign fund in return for the foreign fund issuing units in the foreign fund to the holders of units in the domestic fund or directly to the domestic fund.

A domestic fund is an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997 other than a Common Contractual Fund referred to in section 739I(1)(a)(ii) of that Act. The exemption applies to instruments executed on or after 31 March 2006.

Section 88C Reconstructions or amalgamation of certain common contractual funds

This section provides for an exemption from stamp duty on any instrument made for the purposes of a scheme of reconstruction or amalgamation under which a Common Contractual Fund (CCF), set up pursuant to the Investment Funds, Companies and

Miscellaneous Provisions Act 2005 and to which section 739H(3) of the Taxes Consolidation Act 1997 applies, transfers its assets to another CCF of the same kind.

Section 88D Reconstructions or amalgamations of certain investment undertakings

This section extends a stamp duty exemption that already applies to certain schemes of reconstruction or amalgamation between an Irish and a non-Irish fund (see *section 88B*) to similar reconstructions or amalgamations between two Irish funds. The exemption also extends to similar schemes between sub-funds in different Irish funds.

Section 88E Transfer of assets within unit trusts

This section provides for an exemption from stamp duty on any instrument made for the purposes of the transfer of assets within an investment undertaking.

Section 88F Reconstruction or amalgamation of offshore funds

This section exempts schemes of reconstruction or amalgamation of offshore funds and exchanges in certain offshore funds from stamp duty.

Section 88G Amalgamation of unit trusts

This section exempts schemes of amalgamation from stamp duty.

Section 89 Foreign Government securities

This section exempts transfers of stocks or other securities of foreign national governments, foreign local governments, and foreign local authorities from stamp duty.

Section 90 Certain financial services instruments

This section exempts a range of instruments from stamp duty - the instruments concerned are used primarily in the financial services industry. The exemption will not apply if the instruments concerned (except in the case of American depositary receipts, as defined) relate to Irish immovable property or to the stocks or marketable securities of an Irish-incorporated company (other than an investment undertaking as defined in section 739B of the Taxes Consolidation Act 1997 or a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997).

Although an instrument may be exempt under this section in respect of a particular transaction carried out by it, it may still be liable if it also carries out another transaction. The charge in this case would apply only in respect of that other transaction under the head of charge appropriate to it.

Section 90A Greenhouse gas emissions allowance

Summary

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

Details

“greenhouse gas emissions allowance” means carbon offsets within the meaning of section 110(1) of the Taxes Consolidation Act 1997. (1)

Subject to *subsection (2)*, stamp duty is not chargeable on an instrument for the sale, transfer, or other disposition of a greenhouse gas emissions allowance. (2)

Where the property, the subject of the instrument, consists of both a greenhouse gas emissions allowance and other chargeable property, the consideration is to be apportioned on a just and reasonable basis as between the greenhouse gas emissions allowance and the other property contained in the instrument. In addition, only that part of the consideration which relates to property, which is not a greenhouse gas emissions allowance, will be chargeable to stamp duty. (3)

Where the property is contracted to be sold for one consideration and the property is conveyed to the purchaser in separate parts or parcels by different instruments, the apportionment of the consideration under *section 45(1)*, is to be on a just and reasonable basis where part of the property consists of a greenhouse gas emissions allowance. (5)

Where a greenhouse gas emissions allowance is included in property contracted to be purchased jointly by two or more persons, who are relevant persons connected with one another, for one consideration but conveyed in parts or parcels by separate instruments, a similar apportionment under *section 45(3)*, as that contained in *subsection (5)*, is provided for. (6)

A “relevant person” for the purposes of *subsection (6)* is defined as a person by or for whom the property is contracted to be purchased and the question of whether persons are connected with one another is to be construed in accordance with section 10 of the Taxes Consolidation Act 1997. (7)

Where *subsection (5)* or *subsection (6)* applies and the consideration is apportioned other than in a just and reasonable manner, stamp duty is to apply as if the value of the property transferred was substituted for the consideration set out in the relevant instrument. (8)

Section 91 New dwellinghouses and apartments with floor area certificate

No longer effective.

Section 91A New dwellinghouses and apartments with floor area compliance certificate

No longer effective – Section 61(1)(c) Finance Act 2011.

Section 92 New dwellinghouses and apartments with no floor area certificate

No longer effective – Section 61(1)(d) Finance Act 2011.

Section 92A Residential property owner occupier relief

No longer effective.

Section 92B Residential property first time purchaser relief

No longer effective – Section 61(1)(f) Finance Act 2011.

Section 92C Residential property investor relief

No longer effective.

Section 93 Houses acquired from industrial and provident societies

This section exempts from stamp duty conveyances, transfers or leases of a house by a registered industrial and provident society to a member of the society or to a member and his or her spouse or civil partner provided that the conveyance, transfer or lease is made in accordance with a scheme for the provision of houses for members of the society.

Section 93A Approved voluntary body

This section exempts from stamp duty conveyances, transfers or leases of land to a voluntary body (an Approved Housing Body (“AHB”) approved by the Minister for the Environment, Heritage and Local Government under section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the purpose of the Housing Acts 1966 to 1998.

Section 94 Purchase of land from Land Commission

This section provides that certain purchases of land from the Land Commission are exempt from stamp duty.

Section 95 Commercial woodlands

This section provides for partial relief from stamp duty in respect of certain instruments relating to the sale or lease of land on which “trees” are growing. The partial relief is given by providing that the value of any trees growing on the land at the time the land is sold or leased will not be taken into account if—

- the trees are being managed on a commercial basis with a view to making a profit,
- the trees are growing on a substantial part of the land.

This exemption does not apply to gifts. While “substantial” is not defined, the Revenue Commissioners will consider each case on its merits.

Section 96 Transfers between spouses

This section exempts from stamp duty all transfers/leases of property between spouses and civil partners unless the transfer is a transfer referred to in *section 46(1)* to *(4)* or *section 73(1)(b)*. If any other person is a party to the instrument the exemption does not apply. However, consanguinity relief may be available (see paragraph (5) 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*).

Section 97 Certain transfers following the dissolution of a marriage

Summary

This section exempts from stamp duty certain transfers of property between former spouses and civil partners.

Details

All transfers of property from (a) one spouse to the other where those spouses have divorced or (b) one civil partner to the other civil partner where the civil partnership has been dissolved or annulled, and the transfer is made pursuant to a court order referred to in *subsection (2)* are exempt from stamp duty. (1)

Transfers on foot of the following court orders are exempt: (2)(a)

- a relief order within the meaning of section 23 of the Family Law Act, 1995,
- an order under Part III of the Family Law (Divorce) Act, 1996 or Part 12 of the Civil Partnership and certain Rights and Obligations of Cohabitants Act 2010, or
- a foreign court order or other determination to like effect, made on or after 10 February 2000, under or in consequence of the dissolution of a marriage or civil partnership where the dissolution is entitled to be recognised as valid in the State.

The exemption only applies to transfers between spouses who have divorced each other or former civil partners. If any other person is a party to the instrument the exemption does not apply. (2)(b)

Section 97A Certain transfers by Cohabitants

Summary

This section exempts from stamp duty certain transfers of property between former cohabitants.

Detail

All transfers of property from one cohabitant to his or her cohabitant made pursuant to an order under section 174 of the Civil Partnership and Certain Rights of Cohabitants Act 2010 are exempt from stamp duty. (1)

The exemption only applies to transfers between the cohabitants. If any other person is a party to the instrument the exemption does not apply. (2)

Section 98 Foreign immovable property

This section exempts instruments relating to foreign immovable property from stamp duty. However, if the instrument relates to Irish immovable property or Irish stocks or marketable securities (other than units in an investment undertaking as defined in section 739B of the Taxes Consolidation Act 1997) the exemption will not apply.

Section 99 Dublin Docklands Development Authority

This section exempts from stamp duty acquisitions of any land, easement, way-leave, water right or any right over or in respect of the land or water by the Dublin Docklands Development Authority (DDDA) or any of its wholly-owned subsidiaries.

Section 7 of the Dublin Docklands Development Authority (Dissolution) Act 2015 transferred the functions of the DDDA to Dublin City Council. In accordance with that section, the exemption in section 99 applies to the acquisition of land, etc, by the

Council where the acquisition relates to a function that was transferred from the DDDA to the Council.

Section 99A Courts service

This section exempts from stamp duty any instrument under which any land, easement, way-leave, or certain other rights are acquired by the Courts Service.

Section 99B Sport Ireland

This section provides for a full relief of stamp duty on any instrument under which any land, easement, way-leave or any right over or in respect of the land or water where acquired by Sport Ireland

Section 99C Harbours Act 2015

This section provides for full relief from stamp duty on any instrument where ownership of any shares stand vested in a local authority with regard to section 8 of the Harbours Act 2015 or, any land, easement, way-leave, water right or, in respect of land or water is transferred under sections 28, 32, 34 and 35 of the Harbours Act 2015.

Section 100 Temple Bar Properties Limited

If Temple Bar Properties Limited or any of its subsidiaries acquires or leases property the transfer or lease is exempt from stamp duty provided the property in question is located within the Temple Bar area as defined in the Temple Bar Area Renewal and Development Act 1991.

Section 101 Intellectual property

Summary

This section provides for an exemption from stamp duty on the sale, transfer or other disposition of intellectual property as defined.

Subject to *subsection (3)*, stamp duty is not chargeable on an instrument for the sale, (2) transfer or other disposition of intellectual property as defined.

Where an instrument consists of both intellectual property and other chargeable (3) property, the consideration is to be apportioned on a just and reasonable basis between intellectual property and the other property contained in the instrument, and in addition, only that part of the consideration which relates to property, which is not intellectual property, will be chargeable to stamp duty.

Where property is conveyed in separate parts by different instruments, the (5) apportionment of consideration under *section 45(1)*, is to be on a just and reasonable basis where part of the property consists of intellectual property.

Where intellectual property is included in property contracted to be purchased by two (6) or more persons who are relevant persons connected with one another, a similar apportionment under *section 45(3)*, as that contained in *subsection (5)* is provided for.

A “relevant person”, for the purposes of *subsection (6)*, is defined as a person by or (7) for whom the property is contracted to be purchased and the question of whether persons are connected with one another is to be construed in accordance with section 10 of the Taxes Consolidation Act 1997 and as if the reference to the Capital Gains

Tax Acts in the definition of “relative” in that section was replaced by a reference to the Stamp Duties Consolidation Act 1999.

Where *subsection (5)* or *subsection (6)* apply and the consideration is apportioned other than on a just and reasonable basis, stamp duty is to apply as if the value of the property transferred was substituted for the consideration set out in the relevant instrument. (8)

Section 101A Single farm payment entitlement

Summary

“**payment entitlement**” has the same meaning as it has for the purposes of Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013². (1)

Subject to *subsection (3)*, stamp duty is not chargeable on an instrument for the sale, transfer or other disposition of a payment entitlement. (2)

Where an instrument consists of both a payment entitlement and other chargeable property, the consideration is to be apportioned on a just and reasonable basis as between the payment entitlement and the other property contained in the instrument, and in addition, only that part of the consideration which relates to property, which is not a payment entitlement, will be chargeable to stamp duty. (3)(a),(b)

Where property is conveyed in separate parts by different instruments, the apportionment of consideration under *section 45(1)*, is to be on a just and reasonable basis where part of the property consists of a payment entitlement. (5)

Where a payment entitlement is included in property contracted to be purchased by two or more persons who are relevant persons connected with one another, a similar apportionment under *section 45(3)*, as that contained in *subsection (5)*, is provided for. (6)

A “relevant person”, for the purposes of *subsection (6)*, is defined as a person by or for whom the property is contracted to be purchased and the question of whether persons are connected with one another is to be construed in accordance with section 10 of the Taxes Consolidation Act 1997 and as if the reference to the Capital Gains Tax Acts in the definition of “relative” in that section was replaced by a reference to the Stamp Duties Consolidation Act 1999. (7)

Where *subsection (5)* or *subsection (6)* applies and the consideration is apportioned other than in a just and reasonable manner, stamp duty is to apply as if the value of the property transferred was substituted for the consideration set out in the relevant instrument. (8)

Section 102 The Alfred Beit Foundation

This section exempts from stamp duty any conveyances, transfers or lettings made by Alfred Lane Beit and Clementine Mabel Beit to The Alfred Beit Foundation.

Section 103 Shared ownership leases

Summary

² OJ No. L347, 20.12.2013, p.608

This section exempts from stamp duty certain documents executed in the context of a shared ownership lease.

A shared ownership lease is a concept in property tenure introduced by the Housing (Miscellaneous Provisions) Act, 1992. It applies to residential property only and is intended to assist those on low incomes to purchase their own homes. The lease must be granted by an appropriate person e.g. financial institutions, insurance companies, the National Building Agency, housing co-operatives.

A shared ownership lease operates on the basis that the lessor buys the property. The lessee then buys a part share in the property from the lessor and enters into a lease arrangement with respect to the remainder. The lease will contain a provision enabling the lessee to acquire the remaining equity in the property over time as his or her financial circumstances permit.

Details

“appropriate person” and “shared ownership lease” are self-explanatory. Only an appropriate person may grant a shared ownership lease. An appropriate person is— (1)

- a licensed bank,
- a building society,
- a body approved by the Minister for the Environment and Local Government under section 6 of the Housing (Miscellaneous Provisions) Act 1992 (Approved Housing Bodies),
- the National Building Agency Ltd,
- a housing co-operative,
- other self-help housing groups certified by the Minister for the Environment and Local Government, or
- an insurance undertaking (within the meaning of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015).

A shared ownership lease is one which is granted for a term of between 20 and 100 years on payment to the lessor of between 25% and 75% of the market value of the house and which gives to the lessee the right to buy out, in one or more transactions and on the terms specified in the lease, all the interest of the lessor in the house. The Minister for the Environment and Local Government controls by regulations the class of persons to whom property may be leased in this way.

A shared ownership lease or any instrument whereby the lessee acquires the remaining equity in a property subject to the lease is exempt from stamp duty. (2)

Relief will be granted where the Revenue Commissioners are satisfied that the lessor is an appropriate person. To enable the Revenue Commissioners to decide whether relief should be granted in any particular case a completed adjudication warrant should be submitted to them together with the original and a copy of the executed instrument and evidence of the status of the lessor. (3)

Section 104 Licences and leases granted under Petroleum and Other Minerals Development Act, 1960, etc.

This section exempts from stamp duty leases and licences entered into for the purposes of oil exploration. It also exempts the assignment of any such leases and licences from stamp duty.

The leases and licences which are exempted are:

- exploration licences. These give exclusive rights to the licensee to search for petroleum in the area to which the licence extends;
- prospecting licences. These allow the licensee to carry out testing and experiments on the land in the area to which the licence extends;
- petroleum leases. These allow for the exploitation of petroleum deposits which have been discovered;
- reserved area licences. These licences are granted to persons who hold petroleum leases in respect of the area surrounding the land to which the lease refers.

Section 105 Securitisation agreements

The Securitisation (Proceeds of Certain Mortgages) Act, 1995, was enacted in order to raise the moneys needed to pay to women the arrears owed to them arising from a High Court ruling in relation to the EU Directive dealing with equality of treatment in social security payments. The moneys were raised by securitising a portfolio of mortgages held by local authorities.

This section exempts the transfer of securities issued by the special purpose vehicle established under the Securitisation (Proceeds of Certain Mortgages) Act, 1995, from stamp duty.

Section 106 Housing Finance Agency

This section exempts from stamp duty instruments which secure moneys advanced by the Housing Finance Agency to housing authorities.

Section 106A National Building Agency Limited

This section exempts from stamp duty conveyances, transfers or leases of land to the National Building Agency Limited, for the purposes of the Housing Acts, 1966 to 1998. The exemption applies to instruments executed on or after 26 January 2001.

Section 106B Housing authorities and Affordable Homes Partnership

This section provides for an exemption from stamp duty in relation to purchases or leases of land or buildings by the Housing and Sustainable Communities Agency (Housing Agency). This exemption previously applied to the Affordable Homes Partnership whose functions have been assumed by the Housing Agency. In addition stamp duty on sales or leases of houses, buildings or land by the Agency will be capped at €100 as was the case with the Affordable Homes Partnership

This subsection provides that in this section “housing authority” refers to: *(1)*

A “housing authority” within the meaning of the Housing Act 1966 to 2009. *(1)(a)*

In accordance with section 23 of the Housing (Miscellaneous Provisions) Act 1992, a “reference in the Housing Acts 1966 to 2014 to a housing authority is a reference to a local authority”. The 1992 Act defines “local authority” as “a local authority for

the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014)”.

The Housing and Sustainable Communities Agency (Housing Agency), which is a non-commercial State body, set up under the Housing and Sustainable Communities Agency (Establishment) Order 2012. (1)(b)

An instrument giving effect to a conveyance, transfer or lease of a house, building or land to a housing authority is not chargeable to stamp duty. (2)

Stamp duty payable on a conveyance, transfer or lease of a house, building or land by a housing authority is not to exceed €100. (3)

Section 106C Grangegorman Development Agency

This section exempts from stamp duty instruments which transfer property to the Agency in connection with its function.

Section 106D National Concert Hall

This section exempts from stamp duty instruments which transfer property to the National concert Hall in connection with its functions under the National Cultural Institutions (National Concert Hall) Act 2015.

Section 107 Certain mortgages of stock

Section deleted in respect of instruments executed on or after 7 December 2006.

Section 108 National Treasury Management Agency, etc.

This section exempts from stamp duty a range of documents which are executed in the course of the management of the national debt.

Section deleted by Finance Act 2014 – but see Section 1 of Stamp Duties Consolidation Act 1999 (as amended by Section 73 Finance Act 2014).

Section 108A National Development Finance Agency, etc.

No longer effective – Section 5 of the National Treasury Management Agency (Amendment) Act 2014 with effect from 27 January 2015.

Section 108AA Strategic Banking Corporation

This section provides that stamp duty shall not be chargeable on any instrument for the sale, transfer, lease or other disposition of any property, asset or documentation to the Strategic Banking Corporation of Ireland or to a subsidiary wholly owned by it or a subsidiary wholly owned by any such subsidiary. (1)

Whether a subsidiary is wholly owned shall be considered in accordance with section 9(1)(d) of the Taxes Consolidation Act 1997. Guidance on section 9 is available at <https://www.revenue.ie/en/tax-professionals/documents/notes-for-guidance/tca/part01.pdf>. (2)

Section 108B National Asset Management Agency

This section provides for an exemption from stamp duty on transfers of property and securities made in relation to transactions involving NAMA and its subsidiaries.

The definitions are self-explanatory. (1)

A body corporate is associated with NAMA in accordance with the provisions of *section 79* where shares in the body corporate are held by NAMA, and where that body corporate is associated, directly or indirectly, with another body corporate in accordance with the provisions of *section 79*, NAMA will be associated with that other body corporate in accordance with the provisions of *section 79*. (2)

An exemption from stamp duty arises: (3)

- (a) on the sale, transfer, lease or other disposition (e.g. contract) of any property, asset or documentation to NAMA or a NAMA-subsiary by NAMA, a NAMA-subsiary or a participating institution,
- (b) on the transfer to a NAMA-subsiary or a participating institution of securities issued in order to provide consideration for the acquisition of bank assets from a participating institution,
- (c) on the transfer to a NAMA-subsiary by NAMA or a NAMA-subsiary of securities issued for the purpose of financing the general operations of NAMA and its subsidiaries,
- (d) on the transfer to a participating institution of a bank asset, security or other property by NAMA or a NAMA-subsiary following a review of valuations by reference to section 122 of the Bill,
- (e) on the transfer or other disposition to NAMA or a NAMA-subsiary of any property in settlement or part settlement of an acquired bank asset,
- (f) on the sale, transfer, lease or other disposition of any property, asset or documentation to NAMA or a NAMA group entity by —
 - (i) the Central Bank of Ireland,
 - (ii) the Irish Bank Resolution Corporation,
 - (iii) a subsidiary or subsidiary undertaking of the Irish Bank Resolution Corporation or
 - (iv) a special liquidator appointed under section 7 of the Irish Bank Resolution Corporation Act 2013, or
- (g) on the transfer to the Central Bank of Ireland of securities issued under section 48 of the National Asset Management Agency Act 2009 for the purpose specified in subsection (2)(b) of that section.³

A transfer or lease exempted from stamp duty under this section will not be required to be presented to the Revenue Commissioners to be stamped with a Particulars Delivered Stamp (PD) in accordance with section 12. (4)

This section applies to instruments executed on or after Establishment Day within the meaning of section 4 of the NAMA Bill (21 December 2009). (5)

Section 108C Ireland Strategic Investment Fund

This section provides for a full exemption from stamp duty on any instrument for the sale, transfer, lease or other disposition of any property, asset or documentation to a Fund investment vehicle (within the meaning of section 37 of the National Treasury Management Agency (Amendment) Act 2014).

Section 109 Certain instruments made in anticipation of a formal insurance policy

This section exempts documents such as cover notes which are made in anticipation of the issue of a formal policy of non-life insurance, or instruments amending the terms of such policies, from stamp duties.

³ Paragraphs (f) and (g) were inserted into subsection (3) by section 22 of the the Irish Bank Resolution Corporation Act 2013.

Section 110 Certain health insurance contracts

This section exempts certain health insurance policies from the €1 stamp duty on non-life insurance policies.

Section 110A Certain policies of insurance

This section exempts Permanent Health Insurance policies and Critical Illness policies issued by the life assurance industry, from the €1 per policy stamp duty charge. The exemption applies to policies issued on or after 1 January 2001.

Section 111 Oireachtas funds

If the stamp duty chargeable on an instrument would be payable solely out of Oireachtas funds (i.e. voted moneys) then this section exempts that instrument from stamp duty. Where a body is funded partly from Oireachtas funds and partly from other funds the exemption applies provided the duty chargeable would but for this section be payable solely out of the moneys provided by the Oireachtas.

Section 112 Certificates of indebtedness, etc.

This section exempts certificates of indebtedness from stamp duty. A certificate of indebtedness is a document showing the amount due by the State to persons from whom the State has borrowed money or securities.

Section 113 Miscellaneous instruments

This section exempts the following instruments from duty:

- transfers of shares or any other interest in the stocks, funds or securities of the Government, Oireachtas, the Minister or other Minister of the Government,
- transfers of shares or any other interest in the stocks, funds or securities of the Government or Parliament of the late United Kingdom of Great Britain and Ireland which are registered in the books of the Bank of Ireland in Dublin,
- transfers of shares or any other interest in the stock or other form of security to which section 39 or section 40 of the Taxes Consolidation Act, 1997, applies,
- transfer of any ship, vessel or aircraft or any part, interest, share or property of or in any ship, vessel or aircraft,
- wills and codicils,
- instruments made by, to or with the Commissioners for Public Works.