Stamp Duties Consolidation Act 1999

Part 7: Exemptions and Reliefs from Stamp Duty

This document should be read in conjunction with Part 7 of the Stamp Duties Consolidation Act (SDCA) 1999

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Revenue
Cáin agus Custaim na hÉireann
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Introduction

Part 7 of the Stamp Duties Consolidation Act (SDCA) 1999 contains a number of reliefs and exemptions from stamp duty, details of which are set out in this Tax and Duty Manual (TDM).

The exemptions or reliefs provided for in **Chapter 1 (comprising sections 79-83DB)** require the filing of a self-assessed stamp duty return under the e-stamping system.

In the case of an exemption or relief provided for in **Chapter 2 (comprising sections 84-113)**, a self-assessed stamp duty return is required to be filed in respect of the following instruments:

- a conveyance or transfer on sale of the fee simple of land or an interest in land;
- a conveyance or transfer operating as a voluntary disposition inter vivos for the fee simple of land or an interest in land;
- a lease of land for a term exceeding 30 years; and
- an assignment of a lease of land where the unexpired term of the lease exceeds 30 years.

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

This section provides for a relief from stamp duty on certain transfers of property in a corporate group. Guidance on section 79 is available in the Section 79: Associated Companies Relief TDM.

2. Section 80 - Reconstructions or amalgamations of companies

This section provides for a relief from stamp duty on certain transfers of property that take place as a result of reconstructions or amalgamations of companies. Guidance on section 80 is available in the Section 80: Reconstructions or amalgamations of companies TDM.

3. Section 80A - Demutualisation of assurance companies

Section 80A 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.

4. Section 81AA - Young trained farmer

This section provides for a stamp duty exemption on the transfer of agricultural land to 'young trained farmers'. Guidance on section 81AA is available in the Section 81AA: Young Trained Farmer Relief TDM.

5. Section 81C - Farm consolidation

This section provides for a stamp duty relief (reduced rate of duty) on the sale and purchase of farmland for the purpose of consolidating farm holdings. Guidance on section 81C is available in the Section 81C: Farm Consolidation Relief TDM.

6. Section 81D - Relief for certain leases of farmland

This section provides for a stamp duty exemption for certain leases of farmland. Guidance on section 81D is available in the Section 81D: Relief for Certain Leases of Farmland TDM.

7. Section 82 - Charities

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

The term "charity" or phrase "body of persons established for charitable purposes only" is not defined in section 82 or in the SDCA generally.

The modern interpretation of the term "charitable purposes" stems from Lord Macnaghten's judgement in **Commissioners for the Special Purposes of the Income Tax v Pemsel** in 1891 (3 TC 53). The Charities Act 2009, introduced to make provisions for the registration, regulation and protection of charitable organisations and trusts, has broadly adopted the definition of charitable purposes outlined in the Pemsel case, namely:

1. the prevention or relief of poverty or economic hardship;
2. the advancement of education;
3. the advancement of religion; or
4. any other purpose that is of benefit to the community.

A body can apply for a charitable tax exemption by making an online application through ROS. Guidance on applying for a charitable tax exemption is available on the Revenue website and in the Charitable Tax Exemption (Part 07-01-06) TDM.

8. Section 82A - Donations to approved bodies

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

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

9. Section 82B - Approved sports bodies

This section provides for an exemption from stamp duty for conveyances, transfers and leases of land to an approved sports body approved under section 235 of the TCA 1997, where that land will be used for the sole purpose of promoting athletic or amateur games or sports. Guidance on section 235 of the TCA 1997 is available in the Games and sports bodies exemptions (Part 07-03-08) TDM.

10. Section 82C - Pension schemes and charities

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

In order to claim an exemption under section 82C, the property being transferred must be held by a pension scheme, a charity or a specified fund, as defined in section 82C.

10.1 What types of entities can avail of the exemption in section 82C?

A "**charity**" for the purposes of section 82C means a body of persons, or a trust established for charitable purposes only.

A "**pension scheme**" for the purposes of section 82C is:

(a) a **retirement benefits scheme**, within the meaning of section 771 TCA 1997, approved by the Commissioners for the purposes of Chapter 1 of Part 30 of that Act,

(b) an **annuity contract** or a **trust scheme** or part of a trust scheme approved by the Commissioners under section 784 TCA 1997,

(c) a **Personal Retirement Savings Account (PRSA) contract**, within the meaning of section 787A TCA 1997, in respect of a PRSA product, within the meaning of that section;

(d) an **approved retirement fund** within the meaning of section 784A TCA 1997;

(e) an **approved minimum retirement** fund within the meaning of section 784C TCA 1997;

(f) a **scheme within the meaning of section 790B** TCA 1997; and

(g) a **Pan-European Pension Product (PEPP) contract**, within the meaning of Chapter 2D of Part 30 TCA 1997, in respect of a PEPP, within the meaning of that Chapter.

A "**specified fund**" for the purposes of section 82C means a **common contractual fund**, **investment undertaking**, **unit linked life fund**, or **unit trust**, all the issued units or shares of which are assets such that if those assets were disposed of by the unit holder or shareholder any gain accruing would be wholly exempt from capital gains tax (otherwise than by reason of residence). Information on common contractual funds, investment undertakings, unit linked life funds and unit trusts is available in the Part 26 and Part 27 TCA Notes for Guidance.

11. Section 83B - Certain family farm transfers

Section 83B provides for an exemption from stamp duty for transfers of farmland from a child to a parent in the context of certain family arrangements to which the provisions of section 599 TCA 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.

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

Section 83D provides for a refund of the difference between the previous non-residential stamp duty rate of 2% and the current rate of 7.5% (i.e. maximum of two-thirds of the amount of duty paid at 7.5%) where non-residential land is subsequently developed for residential purposes. Guidance on section 83D is available in the Section 83D: Residential Development Refund Scheme TDM.

13. Section 83DA - Repayment of stamp duty under Affordable Dwelling Purchase Arrangement

Section 83DA provides for a full repayment of stamp duty where a residential property is acquired and then sold, within 12 months of acquisition, to an affordable home purchaser under the Affordable Housing Act 2021. A repayment under section 83DA will apply irrespective of the rate of stamp duty paid on the residential property, which is currently 1% or 2% on individual purchases or 10% on multiple purchases under section 31E of the SDCA. Guidance on section 83DA is available in the Section 83DA: Repayment of stamp duty under affordable dwelling purchase arrangements TDM.

14. Section 83DB - Repayment of stamp duty in respect of certain residential units

Section 83DB provides for a partial repayment of stamp duty paid at the higher rate of 10% under section 31E in respect of properties that are subsequently:

- let to a housing authority or an approved housing body for social housing purposes;
- designated as a cost rental dwelling under the Affordable Housing Act 2021;
- registered as a designated centre under the Health Act 2007, which provide care in the community for those with disabilities; or
- registered as a children’s residential centre under the Child Care Act 1991, which provide homes for children in care.

Guidance on section 83DA is available in the Section 83DB: Repayment of stamp duty in respect of certain residential units TDM.

15. Section 84 - Repayment of stamp duty on certain transfers of shares

Section 84 provides for a repayment of stamp duty on a transfer on sale of shares where Revenue is 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, as defined by section 509 TCA 1997. Guidance on section 509 of the TCA 1997 is available in the Chapter 10 – Approved Profit Sharing Schemes (APSS) TDM.

16. Section 85 - Certain loan capital and securities

Section 85 provides for an exemption from stamp duty on:

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

17. Section 85A - Certain investment certificates

Section 85A of the SDCA 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 TCA 1997.

18. Section 86A - Euronext Growth Market

Section 86A of the SDCA was introduced by Finance (No. 2) Act 2013 and came into effect on 5 June 2017. It provides for an exemption from stamp duty on the transfer of stocks or marketable securities admitted to the Euronext Growth Market (previously the Enterprise Securities Market) operated by Euronext Dublin.

The exemption does not apply where the admission of the stocks or marketable securities to the Euronext Growth Market has been cancelled by Euronext Dublin.

This relief constitutes an EU State aid and therefore must comply with EU State aid rules. It is granted in accordance with Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (as subsequently amended by Commission Regulation (EU) 2020/972 of 2 July 2020).

In accordance with the Regulation, a ceiling is imposed on the amount of *de minimis* aid that any one undertaking can receive over a 3-year period. The ceiling is currently set at €200,000. The 3-year period operates on a rolling basis so that, for each new grant of aid, the total amount of aid granted in the particular year and in the preceding two years is to be taken into account.

19. Section 87B - Merger of companies

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

- A "cross-border merger" as defined in Regulation 25 of the European Union (Cross-Border Conversions, Mergers and Divisions) Regulations 2023 (S.I. No. 233 of 2023) which give effect to Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017. While the above definition caters for a cross-border merger involving at least one Irish company and a least one EEA company, the exemption will also be extended to a cross-border merger, within the meaning of Article 118 of the 2017 Directive, which does not involve an Irish company provided at least two of the companies are governed by the laws of different Member States.
- A "merger", involving two or more Irish public limited companies, as defined in Regulation 4 of the European Communities (Mergers and Divisions of Companies) Regulations 1987. It is accepted that the exemption also extends

to a merger by absorption as provided for in Regulation 13(8) of the 1987 Regulations.

- An “SE merger” under which a Societas Europaea (SE) is formed by the merger of two or more companies in accordance with Article 2(1) and subparagraph (a) or (b) of Article 17(2) of Council Regulation (EC) No. 2157/2011 of 8 October 2001 on the Statute for a European Company (SE).

19.1 Mergers/dissolutions of foreign companies

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

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

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

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

20. Section 88 - Certain stocks and marketable securities

Section 88 provides an exemption from stamp duty on the conveyance or transfer of certain units, stocks and marketable securities, specifically:

- stocks or marketable securities of a company or other body corporate which is not registered (i.e. incorporated) in the State;

- units in an investment undertaking within the meaning of section 739B TCA 1997;
- units in a common contractual fund within the meaning of section 739I TCA 1997;
- units in an investment limited partnership within the meaning of section 739J TCA 1997;
- units in a collective investment scheme which is incorporated or otherwise formed under the law of a territory outside the State, where "collective investment scheme" refers to a scheme which is an arrangement made for the purpose, or having the effect, solely or mainly, of providing facilities for the participation by the public or other investors, as beneficiaries, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property and "units" includes shares and any other instruments granting an entitlement to shares in the investments or income of, or receive a distribution from, a collective investment scheme; and
- units of a unit trust to which subsection (5) or (6) of section 731 TCA 1997, relates.

Information on the TCA provisions referred to above is available in Part 27 TCA Notes for Guidance.

Section 88(2) disapplies the exemption in subsection (1) where the transfer relates to Irish immovable property, or any stocks or marketable securities registered in the State. However, the exemption is preserved in relation to a company which is an investment undertaking within the meaning of section 739B TCA 1997 or a or a qualifying company within the meaning of section 110 TCA 1997.

The provision is also subject to the application of section 31C, guidance on which is available in the Part 5: Section 31C - Shares deriving value from immovable property situated in the State TDM.

21. Section 88F – Reconstruction or amalgamation of offshore funds

Section 88F provides for an exemption from stamp duty in respect of:

- a scheme of reconstruction or amalgamation of an offshore fund to which section 747F TCA 1997 refers; and
- an exchange referred to in section 747E(1A)(b) TCA 1997.

In order to benefit from the exemption contained in section 88F, claimants must be satisfied that the transaction satisfies the conditions of either section 747F TCA or section 747E(1A) TCA.

Further guidance on both of these sections is available in TCA Notes for Guidance: Part 27 - Unit Trusts and Offshore Funds and in the Part 27-02-01 Offshore Funds: Taxation of Income and Gains from certain offshore states TDM.

22. Section 90 - Certain financial services instruments

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

23. Section 90A - Greenhouse gas emissions

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

A "greenhouse gas emissions allowance" has the meaning assigned to "carbon offsets" in section 110(1) TCA 1997.

24. Section 92B - First time buyer relief

This exemption was abolished with effect from 8 December 2010.

25. Section 93A – Approved housing bodies

This section exempts from stamp duty conveyances, transfers or leases of land to an Approved Housing Body approved by Approved Housing Bodies Regulatory Authority under the Housing (Regulation of Approved Housing Bodies) Act 2019. Approved Housing Bodies were previously known as Approved Voluntary Bodies and were approved by the Minister for Housing.

26. Section 95 - Commercial woodlands relief

Section 95 provides partial relief from stamp duty in respect of an instrument being a conveyance or transfer on sale, or a lease of land, on which commercial woodlands are growing.

Following an Appeal Commissioners' determination in 2012, Revenue accepts that the relief may apply where the conveyance or transfer operates as a voluntary disposition (i.e. a gift).

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

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

27. Section 96 - Transfers between spouses and civil partners

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

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

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

29. Section 97A - Certain transfers by cohabitants

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

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

30. Section 101 - Intellectual Property

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

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

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

31. Section 101A - Single Farm Payment

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

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

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

32. Section 106B - Housing Authorities and the Housing Agency

Section 106B provides for an exemption from stamp duty in respect of a conveyance, transfer or lease of a house, building or land **to:**

- a Housing Authority in connection with any of its functions under the Housing Acts 1966 to 2009; or
- the Housing and Sustainable Communities Agency.

Section 106B also provides for a maximum stamp duty charge of €100 in respect of a conveyance, transfer, or lease of a house, building or land **by:**

- a Housing Authority in connection with any of its functions under the Housing Acts 1966 to 2009; or
- the Housing and Sustainable Communities Agency.

33. Section 111 - Oireachtas Funds

If the stamp duty payable on an instrument were payable solely out of funds provided by the Oireachtas, then this section exempts the instrument from duty. When claiming this exemption, the onus is on the taxpayer concerned to demonstrate that the entirety of the stamp duty would be payable out of Oireachtas funds.

Example

The Department of Housing, Local Government and Heritage receives €5 billion in Exchequer funding from the Oireachtas (voted expenditure) in a given year and €1.5 million of this funding is assigned to Limerick County Council (the Council). The Council purchases land with a view to developing it as a public park. If the Council pays for this land solely out of the funding it has received from the Oireachtas, then the instrument transferring the land will be exempt from stamp duty under section 111. Alternatively, if the Council pays for the land using monies it has collected through parking fees, the instrument will not be exempt from stamp duty under section 111.

34. Section 113 - Miscellaneous Instruments

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

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