

# Tax and Duty Types

## Stamp Duty

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### When does a charge to Stamp Duty arise?

The stamp duties chargeable in Ireland fall into **two** main categories

1. The first comprises the duties payable on a wide range of legal and commercial documents, including (but not limited to) conveyances of property, leases of property, share transfer forms and certain agreements. The duties in this category are denoted by means of stamps affixed to or impressed on the document affected and, depending on the nature of the document, may be either ad valorem or of fixed amount.
2. The second category comprises duties and levies payable by reference to statements. These duties and levies mainly affect banks and insurance companies and include a duty in respect of financial cards (e.g. Credit, ATM, Laser and Charge cards) and levies on certain insurance premiums and certain statements of interest. [Guidance Notes on this category are available from www.revenue.ie](http://www.revenue.ie)

## **Residential Property**

The most common charge to stamp duty which affects individuals is the stamp duty on the purchase of residential property; i.e. houses and apartments. The amount of stamp duty payable depends on:

1. The price paid (or the market value where the price paid is less than market value) for the property
2. Whether the property is new or second-hand and
3. Whether you are a first time buyer, owner-occupier or investor

### [Budget 2008 Changes to stamp duty on residential property](#)

#### **First Time Buyer**

A first time buyer is a person who has not previously purchased or built a house or apartment anywhere in the world and who is purchasing a house or apartment for use as their principal place of residence. Where there is more than one buyer, each of the buyers must be a first time buyer to qualify for the relief. The benefit obtained where the first time buyer exemption applies is subject to [clawback](#) provisions.

For deeds executed on or after 31 March 2007, an exemption from stamp duty is available for First Time Buyers.

#### **Owner Occupier**

An owner-occupier is a person who purchases a new apartment or house for use as their principal place of residence (PPR) and no rent, other than rent obtained under rent a room arrangements, is derived from the property for a period of two years from the date of the purchase. This relief is subject to clawback provisions.

Prior to Budget 2008, the period where no rent could be obtained was five years. Arising from Budget 2008 this period has been reduced from 5 years to 2 years for deeds executed on or after the 5 December 2007.

For instruments executed **before** 5 December 2007, to the extent that a dwelling house or apartment is rented out on or after 5 December 2007, it will not involve a clawback of the relief where this occurs in the third, fourth or fifth year of ownership.

## Rates of Duty for Residential Property

The rates of duty applicable for residential property (whether new or second-hand) are as follows:

**Table 1:** Rates of duty for deeds executed **on or after 5 November 2007**

<b>Aggregate Consideration exceeds €127,000*</b>	<b>Rate for instruments executed on or after 5 November 2007</b>
First €125,000	Nil
Next €75,000	7%
Excess over €1,000,000	9%

\* Transactions, where the consideration (or the aggregate consideration) does not exceed €127,000, are exempt from stamp duty.

### Former Rates of Stamp Duty

#### **Example 1: Not First Time Buyer**

Consideration = €350,000

Rate Breakdown - €125,000 @ 0% = 0, €225,000 @ 7% = €15,750

Total Duty Payable = €15,750

#### **Example 2: Not First Time Buyer**

Consideration = €1,850,000

Rate Breakdown - €125,000 @ 0% = 0, €75,000 @ 7% = €5,250, €50,000 @ 9% = €4,500

Total Duty Payable = €9,750

#### **Example 3: Is a First Time Buyer**

Consideration = €50,000

Rate Breakdown - none

Total Duty Payable = Exempt

## Aggregation

Aggregation applies in determining the stamp duty liability where a transaction forms part of a larger transaction or of a series of transactions involving residential property. The stamp duty liability is calculated on the basis of the aggregate consideration. The duty is then apportioned between the separate properties which are transferred by separate instruments and the apportionment is pro rata to the consideration for each property.

**Example** Two houses are purchased for a total of €1,200,000 - being the sum of €800,000 for House A and €400,000 for House B. Stamp duty is calculated on the aggregate consideration of €1,200,000.

**Aggregate Consideration** = €1,200,000

**Stamp Duty Calculation** - €125,000 @ 0% = 0, €875,000 @ 7% = €61,250, €200,000 @ 9% = €18,000

**Stamp Duty Due** = €79,250

Apportionment of duty between House A and House B is as follows:

**House A** ( $€79,250 \times €800,000$ ) / €1,200,000 = €52,833

**House B** ( $€79,250 \times €400,000$ ) / €1,200,000 = €26,416

## Contents

In relation to instruments executed on or after 5 November 2007, the contents of residential property are no longer to be taken into account in determining the stamp duty liability on the consideration attributed to that residential property. However, the total consideration must be apportioned on a bona fide basis between the property and the contents, and surcharges may apply in the event of undervaluation. It should be noted that stamp duty transactions are subject to audit by Revenue.

House and contents purchased for a sum of €400,000, apportioned as to €370,000 to the house and €30,000 to the contents. Stamp duty is calculated on the amount of €370,000 **without regard** to the sum of €30,000 for the contents.

**Purchase Price of House** = €370,000

**Stamp Duty Calculation** - €125,000 @ 0% = 0, €245,000 @ 7% = €17,150

**Stamp Duty Due** = €17,150

## **New Houses and Apartments**

### **Under Floor Area of 125 sq. m**

New houses or apartments which are purchased by an owner occupier (including a first-time buyer) are exempt from stamp duty. In order to get the exemption there must be a valid floor area compliance certificate issued by the [Department of Environment and](#)

[Local Government](#) stating that the total floor area of the house/apartment does not exceed 125 square metres. This exemption is subject to clawback provisions.

Purchasers of houses/apartments under 125 sq. m which do not have a valid Floor Area Compliance Certificate will not be eligible for relief from stamp duty.

### **Over Floor Area of 125 sq. m**

New houses or apartments with a floor area greater than 125 square metres, which are purchased by an owner occupier are charged with duty on **either** the site value (excluding VAT) **or** one quarter of the total cost of the house and site (excluding VAT), whichever is the **greater figure**.

A qualified architect, engineer or surveyor must certify the size of the floor area.

A charge to stamp duty will not arise for first time buyers who are owner-occupiers of such houses.

### **Clawback**

A clawback arises if rent is obtained from the letting of the house or apartment within a period of 2 years from the date of the conveyance or transfer, other than under rent a room arrangements. The clawback amounts to the difference between the higher stamp duty rates and the duty paid and it becomes payable on the date that rent is first received from the property. A clawback will not arise where the property is sold to an unrelated third party during the 2-year period.

**Important Note:** For instruments executed **before** 5 December 2007, to the extent that a dwelling house or apartment is rented out on or after 5 December 2007, it will not involve a clawback of the relief where this occurs in the third, fourth or fifth year of ownership.

The following form should be completed to notify the Revenue Commissioners of the receipt of rent.

## **Rent a room arrangements**

There is no clawback of the first time buyer or owner occupier reliefs where rent is received by the person in occupation of the house or apartment for the letting of furnished accommodation in part of the house or apartment.

Provided that the purchaser continues to occupy the house as his or her PPR for the relevant period, a clawback of stamp duty will not arise even where the rent received is in excess of the annual threshold which applies for income tax purposes. This threshold has been increased from €7,620 to €10,000 for the tax year 2008.

## **Investors**

New houses or apartments (whether under or over a floor area of 125 sq. m) which are purchased by investors are charged to duty as per Table 1 or 2 above on the entire price paid (exclusive of VAT) for the house or apartment.

## **VAT & Stamp Duty**

Stamp duty is assessed on the VAT exclusive consideration, Sections 48 and 56 of the Stamp Duties Consolidation Act 1999 provide that the chargeable consideration for stamp duty purposes is to exclude any VAT chargeable under Section 2 of the VAT Act 1972 on the sale or lease.

Where VAT is included in the consideration, it should be deducted before calculating the charge or rate of stamp duty.

## **Sites**

1. Where an individual purchases a site in connection with, or as part of, an arrangement to build a house or apartment on that site then stamp duty will be charged, subject to the reliefs referred to above, based on the aggregate amount of the site cost and the building cost at the appropriate residential property rate.
2. Where an individual purchases a site with no connected agreement to build a house or apartment, the transfer of the site is chargeable at the non-residential rates in the table below.
3. The transfer of a site from a parent to child is exempt from stamp duty where the site transfer is for the purpose of constructing a house which will be the child's main residence. Budget 2008 provided for an increase in the threshold for the value of the site transferring from €254,000 to €500,000 for deeds executed on or after 5 December 2007. The area of the site must be less than .4047 hectare (1 acre) exclusive of the area occupied by the house itself.

## Stamp Duty on Non-Residential Property

Non-Residential Property is any property other than residential property, stocks or marketable securities or policies of insurance. It includes (but is not limited to) sites, offices, factories, other business premises, shops, public houses, land and goodwill attaching to a business.

**Table 2:** Applicable rates on non-residential property

<b>Aggregate Consideration</b>	<b>Rate of Duty</b>
Up to €10,000	Exempt
€10,001 to €20,000	1%
€20,001 to €30,000	2%
€30,001 to €40,000	3%
€40,001 to €70,000	4%
€70,001 to €80,000	5%
€80,001 to €100,000	6%
€100,001 to €120,000	7%
€120,001 to €150,000	8%
Over €150,000	9%

## Leases

A lease is chargeable to stamp duty on both the premium (or fine) and the rent payable under the lease.

The duty chargeable on the premium is at the rate for residential or non-residential property as appropriate (as per tables above).

**Table 3:** Applicable rate on rent.

<b>Residential and Non-Residential Property</b>	<b>Rate</b>
Lease for a term not exceeding 35 years or for any indefinite term	1% of the average annual rent
Lease for a term exceeding 35 years but not exceeding 100 years	6% of the average annual rent
Lease for a term exceeding 100 years	12% of the average annual rent

A lease of a house or apartment for a term not exceeding 35 years or for any indefinite term and where the rent does not exceed €19,050 per annum is exempt from stamp duty.