CAPITAL TAXES - STAMP DUTY

Tax Strategy Group – TSG 17/12

25 July 2017

An Roinn Airgeadais
Department of Finance

STAMP DUTIES ISSUES

STAMP DUTY

Introduction

1. Total Stamp Duty collected in 2016 amounted to €1.196bn which accounted for approximately 2.5% of total tax receipts in that year. The total receipts for 2016 were €47.95 bn.

Description of tax

2. Stamp Duty is generally a tax on documents or instruments. To be liable an instrument must be listed in Schedule 1 to the Stamp Duties Consolidation Act 1999. It must also be executed in Ireland or, if executed outside Ireland, it must relate to property situated within Ireland or something done or to be done in Ireland. Some instruments may benefit from an exemption or relief.

3. SD chargeable in Ireland falls into **two main categories**.
   - 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 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, and Charge cards, and levies on certain insurance premiums and pension schemes.

4. Some Stamp Duties are fixed e.g., Stamp Duty on credit cards, which is a set amount irrespective of how much the card is used, while others are levied on an *ad valorem* basis, i.e. according to value e.g., Stamp Duty at 1% on the value of shares transferred.

5. Stamp Duty is a self-assessment tax payable by the "accountable person" e.g. the purchaser or transferee in the case of a transfer of property.
6. The main Stamp Duties are on the following:
   - Residential property - 1% on values up to €1m and 2% on any balance over €1m
   - Non-residential property - 2%
   - Transfers of shares in Irish registered companies - 1%*
   - Financial cards:
     - Credit cards – flat rate of €30 per year
     - ATM only or debit only cards – 12c per ATM withdrawal, capped at €2.50 per year
     - Combined ATM/debit cards – 12c per ATM withdrawal, capped at €5 per year
   - Cheques or "Bills of Exchange" - 50c per cheque
   - Non-Life Insurance levy on premium income - 3%; there is also a non-tax "Insurance Compensation Levy" of 2%
   - Life Insurance levy - 1%
   - Health Insurance levy - charge is per person insured and varies according to age and the type of health insurance policy – this levy is transferred directly into the Risk Equalisation Fund, rather than into the Exchequer

*As of 5th June 2017 trading in shares of companies listed on the Enterprise Securities Market (ESM) of the Irish Stock Exchange is exempt from the 1% Stamp Duty charge.

Recent Developments

Stamp Duty on property transactions

Table 1 – Stamp Duty receipts from property transactions 2011 to 2016

Property:	2012	2013	2014	2015	2016
Residential	€56.9m	€65.51m	€101.77m	€123.45m	€131.84
Non-Residential	€48.51m	€86.85m	€173.28m	€177.64m	€255.92
Total	€105.41m	€152.36m	€275.05m	€301.09m	€387.76

7. The yield up to end May 2017 is €129.96 million of which €58.48 million relates to residential properties and €71.48 million relates to non-residential properties.

8. Budget 2012 reduced the rate of Stamp Duty on non-residential property from up to 6% to 2% with effect from 6 December 2011. This accounts for a large part of the fall in non-residential Stamp Duty receipts between 2011 and 2012.

Issues for consideration

9. In recent years, Stamp Duty on property has been reduced significantly, from rates of up to 9% to the current rates of 1% and 2% on residential property and 2% on non-residential property, while most exemptions and reliefs have been abolished.

10. These changes were introduced mainly as part of the preparation for the introduction of the Local Property Tax, i.e. a move away from the taxation of transactions, which can be volatile, to the taxation of stock, which provides a much more stable base. This means there is now less reliance on transactions based property taxes. The Local Property Tax, introduced in 2013, is an annual recurring tax based on market value and the yield will not be vulnerable to a fall in the volume of transactions.

Housing Market

11. Following a period of moderation in the rate of house price inflation, the pace of residential property price growth began to pick up significantly during the second half of 2016. In the 12 months to April 2017, residential property prices increased by 10.5%. In comparison the annual price growth at the same point in 2016 was 5.8%.

12. According to the RTB, Rents increased 7.4% on annual basis in Q1 2017. National rents are now just 0.1% below their previous peak in Q4 2007.

Supply

13. Since Q1 2015, as a proportion of total investment, building and construction has increased from 29 to 42%. There has also been an increase in the dwellings component, rising from approximately 10% Q1 2015 to 14% in Q3 2016. The other components of total investment have remained relatively flat but these trends are consistent with a strong recovery in both commercial and residential property markets observed over the last few years. The ESRI further believes that the pace of growth in housing completions will increase in 2017 and 2018.

14. Any consideration of upward movement in residential property related Stamp Duty rates would have to have regard to the policy shift in recent years away from transactional based taxes to a more stable annual recurring property tax, the fact that the supply of housing is still somewhat below estimated levels of demand in the economy and that prices have increased significantly, albeit unevenly across the country. On the other hand the scope for targeted reductions to impact on affordability may warrant consideration.

15. In relation to commercial property, the Staff Concluding Statement of the 2016 IMF Article IV Consultation and Post Programme Monitoring mission identified the mitigation of the scope for boom-bust cycles as integral to the policy challenges of completing the recovery and strengthening the resilience of the economy to shocks. Among the Statement's conclusions was the view that demand pressures in the commercial real estate market need to be closely monitored and policy tools activated if risks to financial stability emerge. One policy tool that could warrant consideration in this regard would be increases in rate of Stamp Duty on commercial property beyond the current rate of 2%. The yield from each 1% increase would be of the order of €100m.

Stamp Duty reliefs and Agriculture

Consanguinity relief

16. Under this relief conveyances and transfers of certain properties between close relatives were subject to Stamp Duty at one-half of the normal rate. This relief was due to expire at the end of 2014. However, arising from recommendations of the Agri-taxation Review Finance Act 2014 provides that this relief will continue to be available for another three years, i.e., in relation to the conveyance of land executed on or after 1 January 2015 and before 1 January 2018.

17. The relief is confined to the conveyance or transfer of land by an individual who is 65 years or under, where the person to whom the land is being conveyed or transferred is a farmer who, from the date the land is conveyed or transferred, spends more than 50% of his or her time farming the land – including the land conveyed or transferred – for a period of not less than 6 years. In addition the land must be farmed on a commercial basis and with a view to the realisation of profits.

18. This relief is designed to encourage farmers who are of retirement age to transfer their land to a son or daughter or other close relative who will be better able to farm the land productively.

19. The cost of this relief in **2016 was €2.1m.**

Long-term land leasing

20. Budget 2015 introduced Section 81D of the Stamp Duties Consolidation Act 1999. This section was introduced to encourage the long-term leasing of land to active farmers. The section provides for relief from Stamp Duty on long-term (6 to 35 years) leases of farm land. The relief is available where the land is used exclusively for farming on a commercial basis carried on by the lessee who must have an approved farming qualification. This measure is subject to a commencement order pending EU State Aid approval in line with *de minimus* State Aid rules. The Department of Agriculture,

Food and the Marine is currently in discussions with the EU Commission about this State Aid approval.

Recent Developments

21. In Finance Act 2015, Young Trained Farmers relief, which was due to expire on 31 December 2015, was extended for a further three years to 31 December 2018. Stamp Duty is not payable where land is conveyed or transferred to the holder of approved qualifications who is under 35 years and who farms the land, for not less than 50% of his or her normal working time, for a period of not less than 5 years from the time the land is conveyed or transferred.
22. The cost of extending this relief was estimated at €4m per annum.

Stamp Duty on share transfers

23. The Stamp Duty yields from share transactions in the years 2010 to 2016 are as follows:

Table 2 – Stamp Duty on share transfers receipts 2010 to 2016

Shares	2010	2011	2012	2013	2014	2015	2016
Total	€181.74m	€194.76m	€171.46m	€251.44m	€282.30m	€424.13m	€391.94

24. The yield to end May in 2017 is €158.14 m (provisional) which is ahead of receipts for the same period in 2016.

25. As there has been no change in the rate of this Stamp Duty, the growth in receipts over recent years would be indicative of increasing volumes of trade and or share values within a recovering economy.

26. The Irish Stock Exchange (ISE) has been lobbying for a number of years for the removal of the Stamp Duty on share transactions, or, at a minimum, that the rate should be in line with UK rates. In the document entitled "Getting Ireland BREXIT Ready" published in conjunction with Budget 2017, the Minister for Finance announced that a review would be undertaken during 2017 of the application of Stamp Duty to stocks or marketable securities of an Irish incorporated company in the context of the sustainability of the

yield and the future UK relationship with the EU. The review, which is expected to commence shortly, will also take account of competition issues.

Financial Transactions Tax (FTT)

27. In September 2011, the European Commission presented a proposal for a financial transaction tax (FTT) in the 27 Member States of the European Union to be levied on all financial instrument transactions between financial institutions where at least one of the transaction parties is located within the EU. The proposed rate on exchanges of shares was 0.1% and the proposed rate for derivative transactions was 0.01%. The tax would be levied on financial institutions – non-financial institutions would not be covered.

28. Ireland already has a tax on financial transactions, a Stamp Duty on transfers of shares in Irish incorporated companies (see above), which currently stands at 1%. The yield from this charge in 2016 was €391.94 million.

29. In relation to discussions at EU level, the Government's position is that a Financial Transactions Tax would be best applied on a wide international basis to include the major financial centres to prevent the danger of activities gravitating to jurisdictions where taxes are not levied on financial transactions. Notwithstanding this, the Government previously indicated that it did not wish to stand in the way of EU Member States that wish to work together to implement a Financial Transactions Tax, and in this regard adoption of a decision formally authorising enhanced cooperation took place during the Irish Presidency of the EU in January 2013.

30. The proposal for a Directive from the European Commission in the area of financial transaction tax was published in February 2013. Ireland had many concerns about the proposal as drafted, not least of which were the potential impacts on, and the trading of, Irish Sovereign debt in the secondary market and in total, the potential negative impact on the liquidity of the financial sector as a whole. Members of the EU Economic and Financial Sub-Committee on EU Sovereign Debt Markets have stated that the introduction of the FTT would have a significantly negative effect on Sovereign Debt

Markets and may impair the good-functioning of secondary markets for sovereign debt resulting in reduced liquidity, reduced investor demand and therefore higher financing costs for States.

31. Our concerns are widely shared amongst other Member States, including some of the participating countries. These concerns have led to the issuing of a communique by the participating Member States, announcing that they have agreed to implement a financial transaction tax in a progressive manner, with the first step being a charge on shares and some derivatives.

UK Position

32. The UK charges a Stamp Duty Reserve Tax at 0.5% of the value of shares transferred for purchases of more than £1,000. From 28 April 2014 the UK abolished Stamp Duty and Stamp Duty Reserve Tax on securities admitted to trading on recognised growth markets provided that they are also not ‘listed’ on a recognised stock exchange.

Recent Developments

33. The Minister for Finance has signed an Order to commence section 70 of the Finance (No. 2) Act 2013 which has the effect of removing the Stamp Duty on the transfer of shares admitted to the Enterprise Securities Market of the Irish Stock Exchange.

Issues for consideration

34. Depending on the findings of the 2017 review, consideration might be given to reducing/eliminating Stamp Duty on share sales. However, the cost of abolishing the duty would be considerable at over €390m, based on the 2016 yield.

Other categories of Stamp Duty

The yield from other categories of Stamp Duty in recent years was as set out below.

Table 3 – Other categories of Stamp Duty receipts 2011 to 2017*

Stamp Duty	2011	2012	2013	2014	2015	2016	Provisional Jan – May 2017
Credit Cards	€51.8	€51.6m	€49.62m	€45.85m	€46.68m	€46.60m	€0.94m
ATM only and debit only	€1.5m	€1m	€1m	€0.6m	€0.74m	€0.52m	€0.0m
Combined ATM/debit cards	€15.7m	€15.5m	€17.33m	€18.16m	€17.39m	€22.61m	€0.21m
Cheques	€33.2m	€30.9m	€25.32m	€27.42m	€14.31m	€20.59m	€7.11m
Non-life insurance	€106.4m	€104.1m	€98.73m	€103.35m	€107.95m	€148.04m	€89.71m
Life Assurance	€31.6m	€24.1m	€25.4m	€27.85m	€30.7m	€21.37m	€5.94m
Health insurance	€346.9m	€436.7m	€172.58m	€581.71	€641.53m	€641.63M	€278.80m
Pension Funds	€463.2m	€482.8m	€535.31m	€742.88	€169.31m	€0.43m	€0.04m

*Based on previous years, larger receipts for the individual Stamp Duty tax-heads are received from June/July to December.

The Health insurance levy

35. The Health insurance levy is paid into the Risk Equalisation Fund from 2013 onwards.

36. In autumn each year the Department of Health receive an annual analysis of the market from the Health Insurance Authority (HIA), outlining, among other items, the Stamp Duty levies required to fund the level of risk equalisation for the following year, taking into account the changing demographic profile of those insured and other market developments.

37. Following consultation with the Minister for Finance, the Minister for Health proposes revised credits and makes a recommendation for the corresponding Stamp Duty levies to the Minister for Finance. The revised risk equalisation credits and Stamp Duty levies are enacted under health insurance legislation.

38. The Health Insurance (Amendment) Act 2016 set out the risk equalisation credits and Stamp Duty levy applicable for 2017. The level of Stamp Duty for non-advanced products for adults and children was reduced while the Stamp Duty for advanced products remained unchanged.

39. For 2017, the Minister for Health accepted the Authority's recommendation of an increase of €41 in the Stamp Duty on advanced contracts for adults and an increase of €20 for non-advanced contracts. The revised rates apply to contracts that are renewed or entered into from 1 April 2017.

40. The Department of Health will receive the HIA's annual analysis of the market in autumn of this year, at which point they will seek the Minister's approval for 2018 Stamp Duty rates and to publish a new Health Insurance (Amendment) Bill.

Recent Developments

41. In Budget 2016 the Minister announced the abolition of the flat €2.50/€5 per annum charge on ATM cards and combined (ATM & debit) cards and the introduction of a new 12c per ATM withdrawal fee from 1st January 2016, which is capped at €2.50/€5 per annum per card.

42. This measure was introduced in conjunction with a range of other initiatives, some by the financial sector itself, with the objective of enhancing the efficiency and cost effectiveness of payment systems and reducing the usage of cash and cheques in Ireland. The impact of the various measures will be kept under review.

43. Stamp Duty on pension funds expired at the end of 2015. The levy was introduced as a means of funding the Jobs Initiative in May 2011. Since its introduction in the Finance (No. 2) Act 2011 it has **yielded €2,394m.**

Levies on insurance policies

44. The supplementary Budget in April 2009 introduced a new insurance levy at a rate of 1% on all life assurance premium income commencing with the quarter ending on 30 September 2009.

45. The levy was introduced as one element of the Government's concerted effort to raise revenue necessary to help address the serious decline in the public finances evident in 2009. It was understood that in common with other taxation measures, the operation of the levy would be kept under review.

46. A Stamp Duty of 3% applies on the gross amount received by an insurer in respect of certain non-life insurance premiums. The exceptions are reinsurance, voluntary health insurance, marine, aviation and transit insurance, export credit insurance and certain dental insurance contracts. The 3% rate of duty applies to premiums received on or after 1 June 2009 in respect of offers of insurance or notices of renewal of insurance issued by an insurer on or after 8 April 2009.

47. The yields from these levies in the period since 2009 are set out below.

TABLE 4 – YIELDS FROM LEVIES 2011 TO 2016

Receipts	2009	2010	2011	2012	2013	2014	2015	2016
NON-LIFE LEVY	€86.39M	€109.47M	€106.40M	€104.16M	€98.73M	€103.35M	€107.95M	€148.04
LIFE ASSURANCE LEVY	€8.70M	€45.03M	€31.60M	€24.12M	€25.40M	€27.85M	€30.7M	€21.37

Issues for consideration

48. The life insurance industry has been strongly opposed to the life assurance levy since its announcement in the Supplementary Budget of 2009. They raise the following arguments for its abolition:

- Other forms of investment do not attract the life assurance levy but come under CGT instead, which is charged at 33% as opposed to life assurance exit tax of 41%. In addition, investments subject to CGT attract an annual allowance, can offset their losses and don't face the 1% levy.
- By investing directly in non-insurance savings and investments, clients can avoid the levy.
- It is generally higher net worth individuals who can invest directly, obtain legal and tax advice and fully utilise CGT losses.
- Life assurance investments were traditionally an entry route for new or ordinary investors to access investments in asset classes and areas which may not otherwise be accessible to them. These categories and SMEs have been put off by the levy, the industry maintains, and are investing directly themselves.
- Life assurance investments are also subject to an exit tax of 41% and the industry argue that removing the 1% levy will lead to an increase in business and an increase in exit taxes paid.

Wealth taxation

49. While Ireland does not have a specific 'wealth tax', Ireland already taxes wealth in a variety of ways, such as:

- Capital Gains Tax (CGT) and Capital Acquisitions Tax (CAT) which are levied on an individual or company on the disposal of an asset in the case of CGT, or the acquisition of an asset through gift or inheritance, in the case of CAT.
- Deposit Interest Retention Tax (DIRT) is charged at 39%, with limited exemptions, on interest earned on deposit accounts.

- The Local Property Tax (LPT), which was introduced in 2013, is a tax based on the market value of residential properties.
- The Domicile Levy introduced in Budget 2010 also constitutes a form of wealth tax. It is aimed at high wealth individuals with a substantial connection to Ireland, whether they are tax resident or not, to ensure they make a tax contribution to this country in a year of at least €200,000.

50. During 2016, the Department of Finance, jointly with the Economic and Social Research Institute (ESRI), conducted a research project into the distribution of household wealth in Ireland and the potential implications of a wealth tax using the Household Finance and Consumption Survey (HFCS) collected by the Central Statistics Office. Conducted in 2013, this survey provides information on the ownership and values of different types of assets and liabilities along with more general information on income, employment and household composition. The research paper, available on the ESRI website titled 'Scenarios and Distributional Implications of a Household Wealth Tax in Ireland', presented results on the composition of household wealth across both the wealth and income distributions in Ireland. A number of wealth tax scenarios were then applied to the Irish data (wealth tax regimes from other jurisdictions and hypothetical scenarios). In each case, the associated tax bases and revenue yields, the number of liable households across the income distribution, and the characteristics of the households affected are outlined on a static basis.

51. The findings of the research paper can be summarised as follows:
    - Estimated wealth tax revenues range between €22 million (if the French system were applied in Ireland) and €1,286 million (system of the Swiss Canton of St. Gallen).
    - In the case of the former, an estimated 1,800 (0.1% of households with positive net assets) would be affected whereas 880,000 (52% of households with positive net assets) would be affected under the latter.

- Even in those scenarios with a narrow base (i.e. excluding the household main residence, farms and business assets) and a high threshold (i.e. the level of wealth required before wealth tax would be payable), some low income households would be affected.

52. Other points in the paper include that:
    - The average wealth tax payment for those households liable would be:
        - €12,500 when the French system is applied to Ireland
        - Between €800 and €1,500 in the examples of the systems of the three Swiss Cantons applied to Ireland.
    - In terms of the household types affected, a larger proportion of the wealth tax burden would fall on older households than their share of net wealth.
    - In all of the systems, there are trade-offs between the threshold, the assets included in the wealth tax, and the rate in terms of the implications for the wealth tax base, the number of households affected and the revenue raised.

53. The paper further details a variety of concerns which would have to be addressed regarding a wealth tax. In the first instance the revenue raised from a wealth tax may not be additional to the existing related forms of wealth taxation which are currently in place in Ireland. In other words, revenues from these taxes would possibly be affected by the introduction of a wealth tax.

54. If a wealth tax were to be applied in addition to the related forms of wealth taxation this could have the effect of causing large changes in the level and type of assets held by Irish households. Households could be expected to respond to high effective rates of tax on capital income by for example reducing their holding of assets in Ireland or reallocating their wealth holdings to asset types facing a lower wealth tax charge. These disincentive effects of a wealth tax would need to be taken into account in any deliberations.

55. The paper also explores the distributional implications of a wealth tax across different types of household (by income level and household composition) in terms of where the burden of a wealth tax would fall and its interaction with ability to pay concerns. There are particular challenges involved in a wealth tax given that a not insignificant proportion of the tax revenue would be raised from lower income households.

Gender and Equality Implications

56. There are no specific gender or equality implications with regard to the tax issues in this paper.