

**LEAFLET SD6****STAMP DUTY
CHANGES****FINANCE ACT,
1999****1. INTRODUCTION**

The Finance Act, 1999, which was enacted on 25 March contains a number of measures designed to tidy-up the stamp duty code in advance of the publication of a Stamp Duties Consolidation Bill later this year. The pre-consolidation measures, together with the other provisions of the Act, apply to instruments executed on or after 25 March, 1999. The most significant measure is the insertion of a new first Schedule in the Stamp Act, 1891.

This leaflet sets out the main changes to the First Schedule. In addition, the opportunity is also being taken to clarify the wording of certain of the certificates required by the Finance (No. 2) Act, 1998, which enable owner-occupiers to avail of the stamp duty reliefs contained in that Act.

The practical effect of the new first Schedule is to significantly reduce the number of instruments which are, in the main, chargeable to the fixed stamp duty of £10. This has been achieved firstly, by the omission of a number of heads of charge, secondly, by the provision of an exemption from other heads of charge where the instrument contains a prescribed certificate and finally by making certain partitions and divisions not liable to the fixed £10 charge.

It should be noted, however, that there is no change in the liability of instruments, effecting transfers of property by way of gift or sale, to the appropriate ad valorem rate of duty.

The Revenue Commissioners propose to publish an easy reference booklet reproducing the first Schedule to the Consolidated Stamp Act after it has been enacted later this year.



**2. NEW FIRST SCHEDULE TO THE STAMP ACT, 1891,
AS INSERTED BY THE FINANCE ACT, 1999**

2.1 Omissions

The new First Schedule omits the following heads of charge which were in the previous Schedule. Instruments referred to below do not need to be presented to Revenue for stamping.

APPOINTMENT of a new trustee, and APPOINTMENT in execution of a power of any property, or of any use, share, or interest in any property, by an instrument not being a will.....£10

COVENANT. Any separate deed of covenant (not being an instrument chargeable with ad valorem duty as a conveyance on sale or mortgage) etc..... £10

DECLARATION of any use or trust of or concerning any property by any writing, not being a will, or an instrument chargeable with ad valorem duty as a settlement £10

DEED of any kind whatsoever, not described in this Schedule.....£10

MARKETABLE SECURITY. In any other case than a sale or mortgage.....£10

Note – transfers of marketable securities will still be liable under the conveyance or transfer heads of charge

MARRIAGE SETTLEMENT. See SETTLEMENT.

POLICY OF LIFE INSURANCE made for a period not exceeding two years where the risk to which the policy relates is located in the State..... 10p

REVOCATION of any use or trust of any property by any writing, not being a will.....£10

SETTLEMENT. Any instrument, whether voluntary or upon any good or valuable consideration etc..... 25 p per £100 etc.

SHARE CERTIFICATE, FOREIGN. See MARKETABLE SECURITY



2.2 Exemptions

Certain heads of charge in the new First Schedule now provide for an exemption from the fixed stamp duty of £10 subject to the instrument containing the certificate specified in the Schedule. Such instruments, referred to below, do not need to be presented to Revenue for stamping.

The heads of charge concerned and the wording of the relevant certificates are as follows:-

CONVEYANCE or TRANSFER of any kind not already described in this Schedule.

Where such instrument relates to –

- (a) Immovable property situated in the State, or any right over or interest in such property, or
- (b) The stocks or marketable securities of a company having a register in the State.....£10

Certificate: *"It is hereby certified that the instrument is a conveyance or transfer on any occasion, not being a sale or mortgage."*

(Note: instruments conveying property by way of gift are not covered by this exemption but are chargeable under the "conveyance or transfer on sale" head of charge and stamp duty is charged on the value of the property conveyed).

EXCHANGE – instruments effecting.

In the case specified in section 104 of the Finance Act, 1993, see that section.

In any other case £10

Certificate: *"It is hereby certified that the instrument is an instrument effecting an exchange which is not an exchange which is specified in section 104 of the Finance Act, 1993."*

(Note: section 104 of the Finance Act, 1993 provides that, where an exchange of immovable property for any other property has been effected, duty is charged on the value of the immovable property under the "conveyance or transfer on sale" head of charge).

RELEASE or RENUNCIATION of any property, or of any right or interest in any property –

On a sale. See CONVEYANCE or TRANSFER on sale.

In any other case £10

Certificate: *It is hereby certified that the instrument is a release or renunciation of property, or of a right or interest in property, which is not a release or renunciation on a sale."*

(Note: an example of a release or renunciation of property etc not on a sale is a release of a right of way or a release of a covenant in a lease).

SURRENDER of any property, or of any right or interest in any property -

On a sale. See CONVEYANCE or TRANSFER.

In any other case £10

Certificate: *"It is hereby certified that the instrument is a surrender of property, or of a right or interest in property, not being a surrender on a sale."*

(Note: an example of a surrender of a surrender of property etc. not on a sale is the surrender of a lease with a reverse premium payable by the tenant to the landlord).



2.3 Not Liable

Instruments effecting Partitions or Divisions, other than in the case specified in section 73 of the Stamp Act, 1891, are no longer liable to the fixed stamp duty of £10.

(Note: section 73 of the Stamp Act, 1891 provides in relation to partitions and divisions that where equality money exceeding £100 is paid, the principal or only instrument effecting the partition or division is chargeable as a conveyance on sale: the amount of the consideration being the amount of the equality money).

2.4 Increase in rate of duty

The duty specified in paragraphs (4) and (5) of the "LEASE head of charge is increased from £1 to £10. This change affects a lease with a rent review clause which will now attract a fixed duty of £10 (previously £1) in addition to the ad valorem duty otherwise payable.

2.5 Percentage rates and rounding

The rate of duty in all the ad valorem heads of charge is now expressed as a percentage subject to rounding up to the nearest £. For example,

- Purchase of a house for £186,550 – stamp duty at 5% = £9,327.5 rounded to £9,328
- Mortgage, securing a sum of £326,555 – stamp duty at 0.1% = £326.55 rounded to £327
- Lease for 35 years with a premium of £127,755 and rent at £25,790 per annum – stamp duty on premium £127,755 at 4% = £5,110.2 rounded to £5,111; stamp duty on rent £26,790 at 1% = £267.9 rounded to £268; total stamp duty £5,379.

2.6 Effective date

The new First Schedule applies to instruments executed on or after 25 March, 1999.

3. FINANCE (NO. 2) ACT, 1998

Occupancy Certificates

Stamp duty leaflet SD 5 Table 4 sets out the wording of the various certificates which must be included in instruments of conveyance/lease in respect of new houses and apartments. It is important to note that in relation to certificates 5 (c) and 8 (the occupancy certificates) the prescribed wording includes the expression "... and that no person will derive any rent or payment...".

Instances have occurred where the expressions "... and that those persons will not derive any rent or payment..." and "... such persons will not derive any rent or payment..." have been inserted which is incorrect.

Failure to follow the exact wording of the certificate will lead to the instrument being rejected.

4. FURTHER INFORMATION

For further information please phone or fax –

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