An Roinn Airgeadais
Department of Finance

Capital Gains Tax, Capital Acquisitions Tax, Stamp Duty

Tax Strategy Group - 19/11
July 2019

Prepared by the Tax Division,
Department of Finance
www.gov.ie/finance

Contents

1. Introduction

This paper covers Capital Gains Tax (CGT), Capital Acquisitions Tax (CAT), Stamp Duty and Wealth Tax. The paper provides a brief overview of the current position on these taxes and considers potential options for changes in the context of Budget 2020.

2. Capital Gains Tax (CGT)

2.1 Overview

In general terms, Capital Gains Tax (CGT) is charged on the value of the capital gain made on the disposal of an asset. Disposals are not limited to sales of assets – a gift of an asset counts as a disposal and will be liable to CGT if a gain is made.

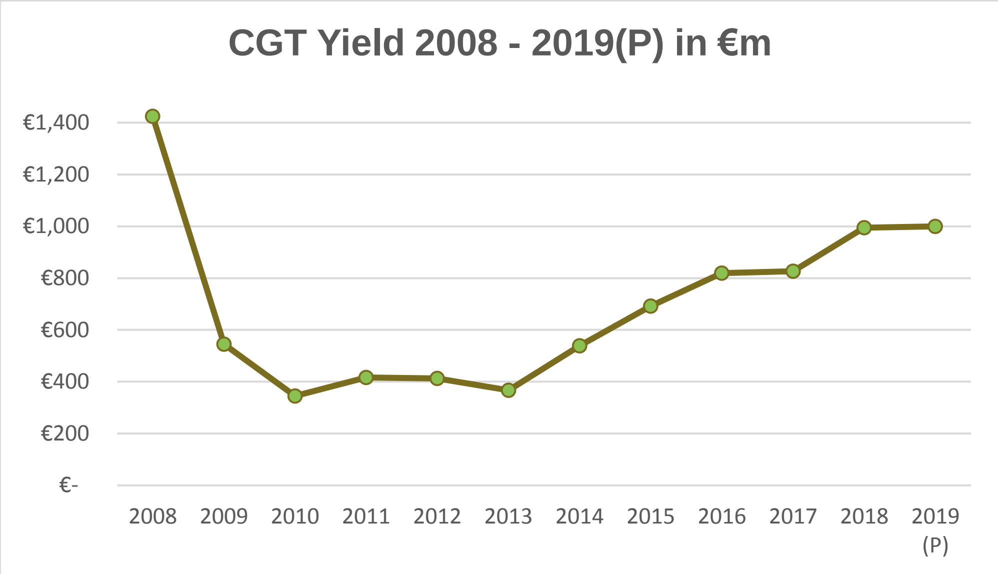
CGT was introduced in 1975, following the publication in 1974 of the White Paper on Capital Taxation. Prior to this the only tax on capital in Ireland was estate tax.

2.2 CGT Yield

The CGT yield to the Exchequer for each year of the last 10 years is shown in Table 1 together with the projected yield (P) for 2019. The CGT yield is taken from Revenue net receipts 2006-2018. The projected yield is taken from the Department of Finance's forecast in the Stability Programme Update of April 2019.

Table 1 – CGT Yield from 2008 to 2018 and Projected Yield for 2019

Year	**Yield**	**% Annual Change**
2008	€1,424m	-54.0%
2009	€545m	-61.7%
2010	€345m	-36.7%
2011	€416m	+20.6%
2012	€413m	-0.7%
2013	€367m	-11.1%
2014	€539m	+46.9%
2015	€692m	+28.4%
2016	€819m	+18.4%
2017	€826M	+0.9%
2018	€996M	+20.6%
2019 (P)	*€1,000m*	+0.4%



2.3 Rate of CGT

The current rate of CGT has stood at 33% for disposal made from 6 December 2012. The rate of CGT increased four times since 2008 when it stood at 20%. The following sets out the trajectory of the CGT rates since the tax was first introduced, on disposals made:

- On or before 14 October 2008 – 20%
- From 15 October 2008 to 7 April 2009 – 22%
- From 8 April 2009 to 6 December 2011 – 25%
- From 7 December 2011 to 5 December 2012 – 30%
- From 6 December 2012 to present – 33% (i.e. the current rate).

2.4 CGT Exemptions and Reliefs

Ireland's CGT regime includes a number of exemptions and reliefs. A brief overview of some of the main exemptions and reliefs is set out below.

2.4.1 ANNUAL EXEMPTION

The annual exemption provides an annual CGT exemption on the first €1,270 of any gains arising on the disposal of assets in a calendar year by an individual.

2.4.2 TRANSFERS UNDER COURT ORDER

Disposal to spouses, separated and divorcing spouses and to former co-habitants under a court order are treated as being at "no gain / no loss" and the recipient is treated as having acquired the asset at the same date and for the same value at which it was acquired by the disponer.

2.4.3 PRINCIPAL PRIVATE RESIDENCE RELIEF

The transfer or sale of an individual's main residence, including land of up to one acre around the house, is exempt from CGT. Where the individual resides in their home for only part rather than the whole duration of ownership, the relief is apportioned accordingly. In such cases, the final year of ownership is counted as a year of occupation.

2.4.4 TRANSFER OF A SITE FROM A PARENT TO A CHILD

An exemption from CGT is available on the transfer of a site by a parent (or both parents simultaneously) to their child to build a house which is the child's only or main residence. For the purposes of this exemption, a transfer includes a joint transfer by an individual, and their spouse or civil partner, to their child. The area of the site must not exceed 1 acre and the value of the site must not exceed €500,000. Finance Act 2019 extended this exemption to allow for transfers to both a child and his/her spouse/civil partner for disposals made on or after 1 January 2019.

2.4.5 RETIREMENT RELIEF

Business or farming assets are relieved from CGT where the person disposing of the assets is aged 55 or over and had both owned and used the asset(s) for the ten years prior to the disposal. While this relief is commonly referred to as Retirement Relief, it is not necessary to retire from the business or farm in order to qualify. The operation of the relief differs as between disposal of a business or farm to a child and disposals other than to a child. The operation of the relief also differs as between persons aged 55 to 65 and persons aged 66 and over.

A disposal of all or part of a business or farming assets to a child may avail of relief from CGT. For this purpose a child can include a child of a deceased child, a niece or nephew who has worked full time in the business or farm for at least five years, and a foster child for at least five years. The amount of relief available depends on the individual's age at the time of disposal. For disposals made up to 31 December 2013, full relief is available regardless of age at time of disposal. However, for disposals made from 1 January 2014, full relief is available for individuals aged between 55 and 65, whereas for individuals aged 66 or older, the relief is restricted to €3 million.

Relief from CGT is also available for disposals of a business or farm assets to an individual(s) other than a child. For disposals made up to and including 31 December 2013, full relief from CGT is available when the market value at the time of the disposal does not exceed €750,000. However, the threshold is reduced to €500,000 if both of the following apply: (i) the disposal takes place on or after 1 January 2014 and (ii) the individual is aged 66 or over.

2.4.6 ENTREPRENEUR RELIEF

Budget 2016 introduced a revised CGT Entrepreneur Relief. It provides that disposals of qualifying business assets (in most businesses but excluding those involving dealing in land or holding investments) by qualifying individuals are charged at 20% up to a lifetime limit of €1 million in chargeable gains. To qualify, among other conditions, an individual must own at least 5% of the business and have spent a certain proportion of their time working in the business as a director or employee for three out of the previous five years, prior to disposal. In Budget 2017 the applicable rate was reduced to 10%, but all other aspects of the relief remained unchanged.

The Department of Finance has recently procured an external review of the revised CGT Entrepreneur Relief. The purpose of this review is to obtain an evaluation of the relevance, cost, impact and efficiency of the relief while cognisant of the Department of Finance Guidelines for Tax Expenditure Evaluations. Additional information is set out below in section 2.5.2.

2.4.7 FARM RESTRUCTURING RELIEF

Relief from CGT is available where an individual disposes or exchanges farm land in order to consolidate an existing holding. To qualify for the relief, the first sale or purchase must occur between 1 January 2013 and 31 December 2019. The next sale or purchase must occur within 24 months of the first sale or purchase. Relief may also be available where land is exchanged with another person.

The Department of Finance is currently undertaking an ex post review of this relief, in accordance with the Department of Finance Guidelines for Tax Expenditure Evaluation 2014, to assess the relevance, cost, impact and efficiency of the relief. The outcome of this review will inform the policy approach in relation to this relief which is currently due to expire on 31 December 2019.

2.5 Options for Changing or Amending CGT Regime

In line with all taxes, CGT is subject to ongoing review which involves consideration and assessment of the rate of CGT and the reliefs and exemptions. Depending on the policy aims, objectives and resources available, this can involve amending the scope of the tax or the rate of the tax, amending existing reliefs and exemptions, or considering the introduction of new reliefs or exemptions.

2.5.1 CGT RATE

The question of amending the Capital Gains Tax rate has been the subject of regular requests to the Minister for Finance over recent years and is assessed below having regard to the following factors:

- Improved investment climate,
- Exchequer impact,
- International competitiveness issues.

Improved investment climate

The argument advanced is that reducing the rate of CGT encourages sales and purchases of assets the result of which drives investment, improves the returns for entrepreneurs, helps encourage serial entrepreneurship and encourages investment. This can lead to a better business environment, economic growth and increased and (possibly) higher skill or better remunerated employment and self-employment. Higher rates of CGT are considered to reduce innovation and risk taking; increase the cost for entrepreneurs and impact on investment and activity by venture capitalists. Thus higher rates of CGT can be seen to impact on the sale of successful businesses from which the State benefits in terms of increased revenue.

An additional argument is that that a higher rate of CGT impacts on investment activity as it can “lock-in” investors and create disincentives to selling assets. This is because capital gains are not taxed until an asset is sold and investors have a choice of when to pay the tax by deciding when to sell their assets. When this happens, the capital gain can become "locked in". This can also lead to potentially more profitable projects going underfunded as entrepreneurs "lock in" their capital to current projects. This is often considered to be a suboptimal outcome as there are fewer sales and no capital gains tax realised.

The focus on entrepreneurs and indeed the sale and re-establishment of new businesses, while valid, somewhat ignores the potential for deadweight in that a CGT rate reduction would apply to sales of all forms of assets.

The "lock-in" argument can be somewhat overstated. Holding onto assets does not avoid CGT, but only delays it. Thus for an investor the scale of the capital gain on the sale of the asset may be the most relevant consideration.

While there is some international studies that supports a more positive view of the impact on business generally of lower CGT rates it is difficult to find contemporary studies in Ireland that provides accurate and empirical evidence that a reduced rate of CGT would help achieve higher or improved levels of investment, improve entrepreneurship and ultimately economic growth.

Indeed, the CGT rate reductions in the UK and the changes to CGT entrepreneur relief have been promoted on the basis of their economic and business impacts but it is difficult to find published evidence to support this view.

Therefore given the increasing focus on the analysis of tax expenditures to justify changes in allowances or reliefs it is important that there is some empirical evidence as to the economic and wider entrepreneurial as well as the investment benefit of a reduction in the rate of CGT in Ireland.

Exchequer impact

One of the important debates is the extent to which reducing the rate of Capital Gains Tax impacts on the Exchequer yield from capital taxes and whether the immediate reduction in the yield can be offset by increases in the yield from higher sales of assets.

A reduction in the 33 per cent rate of capital gains tax means immediately reduced Exchequer revenue (at €37m per 1% point reduction in a full year).

Similar arguments as regards the revenue benefits of a reduction in capital gains taxes have been made in respect of the reduction of the rate of CGT for example in Ireland in the past and in Australia.

The increased Capital Gains Tax receipts in the early 2000s is often attributed to the reduction in the CGT rate from 40% to 20%. It has also been suggested that after Australian CGT rates for individuals were reduced by 50% in 1999 CGT revenue grew strongly and the CGT share of tax revenue nearly doubled over the subsequent nine years**.**

However, as regards Australia the reference period included the increase in asset prices from 2000 to 2007 and excluded the 2008 financial crisis, which caused a significant decline in CGT revenues. Likewise in Ireland, the period coincided with a growth in asset prices and the purchase and sale of assets which was a significant driving force in the increase in the CGT yield and the fall off in the yield subsequently also coincided with a fall in asset prices.

It is difficult to determine how responsive capital gains realisations are to changes in the capital gains tax rate. Lower rates of capital gains tax can increase the volume of sales of assets and potentially Exchequer revenue in the right economic environment. The initial response to a reduction in CGT is that there are likely to be more sales of assets than would normally be the case and this effect is likely to subside as investors take account of the rate cut and the rate reduction is normalised.

However it is difficult to determine whether a reduction in the rate of CGT could increase yield sufficiently to counter the effects of a lower tax rate certainly in the medium or long term. Ultimately this depends on the “elasticity” of capital gains sales or the percentage change in sales of assets that result from a change in the tax rate and how long that effect would last. There is no agreement on the extent to which there may be increased revenues or how long such revenues might be sustained from a CGT rate reduction. It may be difficult to determine the indirect effects of a CGT rate reduction with significant accuracy.

International competitiveness issues

An argument in favour of a CGT rate reduction centres on the maintenance by Ireland of EU and international tax competitiveness in respect of the capital gains taxes.

To the extent that business takes into account the rate of capital taxes in investment decisions and all other things being equal this could suggest that business may migrate to locations where there is better capital tax treatment or may establish and develop in that location to take advantage of more favourable tax rates. In that context attention is drawn to the 33% rate and the unfavourable comparison between it and others in the OECD.

In particular comparisons are drawn to the CGT rate available in the United Kingdom where the rate of capital taxes is lower and the equivalent of the Entrepreneur Relief offers more capital tax benefits to sales of business than is available in Ireland. The standard rates of CGT applicable in the UK along with the treatment of UK entrepreneur relief have become a benchmark against which the domestic CGT rate and Entrepreneur Relief is compared. Successive governments in the UK have adopted a policy approach of lower capital taxes and greater reliefs over the last decade. The UK comparison is relevant given its location, the size and scale of its market and the potential for investment opportunities but other issues also need to be considered.

In making comparisons with the UK it is difficult to argue against the attractiveness of the capital gains tax regime compared to Ireland. However, when this comparison is being made no account is taken of the trade-off between the possible economic and other benefits and of course Exchequer costs of a lower rate of CGT. As an indicator, the UK CGT Entrepreneur Relief is costed at £2.7 billion annually and is one of the more significant tax reliefs in the UK tax system. The Exchequer cost of CGT Entrepreneur Relief may not be immediately relevant to beneficiaries of the UK regime but needs to be taken into account when comparing Ireland and the UK's capital gains tax regime.

There are also other issues to consider when evaluating the competitiveness arguments. While it is possible that there may be some business mobility as a result of differential CGT rates no hard evidence has been provided to support this hypothesis. Some activities might find it difficult to move as they are servicing the domestic market directly and this might be problematic from outside the State. Businesses may also decide to locate in the UK in order to service that market directly. The impact of Brexit is also likely to be a significant issue on investment decisions in Ireland or the UK but given that the position is as yet unclear it may be premature to comment on it in any detail.

There are also considerations other than CGT in investing in the UK– for example a move to the UK would involve exchange risk and complicates the administrative, compliance and legal burden that the investor would have to manage in formally moving investment or a business to the UK.

There is also the issue of comparability between different countries CGT rates and structures. Thus there are resemblances between the treatment of capital gains taxes in countries such as Australia, Canada, Pakistan, India, the United Kingdom and Ireland. These systems traditionally differentiated between capital and income. These countries have the widest notion of capital gains tax and capital gains can include a wide array of receipts likely to be considered investment income or income from services in other jurisdictions.

Traditionally some European countries, such as France, Germany, the Netherlands, have aligned taxable income for companies with accounting profits, treated gains realised on disposals of business assets as normal business income. Most of these jurisdictions have scheduler tax bases for individuals. The continental concept tends to be narrower limited to gains on particular assets and the United States falls between the two.

The United States has an income concept which does not make a distinction between capital gains and ordinary income – all capital gains are ordinary income and the CGT regime is a statutory carve out from the basic income tax system.

There are also likely to be different reliefs between different jurisdictions depending on how the taxation of assets is carried out. There is therefore a need to understand the detail of CGT system in comparable states in order for a fair comparison to be carried out rather than point to the specific rate that applies and not only specific rates or more favourable schemes .

Arguments against changes to CGT rate

There are arguments against any change in the rate of CGT which also need to be considered. These are not arguments unique to Ireland and exist anywhere there is a difference between the taxation of income and capital. They have been a feature of debate in the UK when changes were introduced to CGT rates – in particular the different rates of income tax and CGT.

In particular there are always concerns about the ability to treat income as capital gains and thereby reduce a personal tax liability. While anti-avoidance rules may be part of the solution these may not always work effectively or always prevent avoidance opportunities. Ultimately the argument revolves around the fairness and equity of the taxation system and increasingly about income and wealth inequality. It is important that there is fairness in the taxation system and that there is seen to be fairness – thus the taxation of capital gains sustains the revenue and equity of income tax.

The existence of a 33 per cent rate of CGT can help maintain a balance between the rate of taxation of capital assets and the higher rate of income tax and prevent planning behaviour without the need for any additional anti-avoidance legislation.

The debate on whether to reduce the rate of CGT also often occurs in the context of those who "deserve" reduced rates – where they have developed and enhanced a business or the potentially "undeserving" where an asset has been inherited or where an investor has benefited as asset prices have increased without any specific engagement.

There has been recent calls for and some discussions around the introduction of wealth taxes and this issue is considered in more detail in section 5 of this paper. Capital gains and indeed capital acquisitions taxes while not "pure" wealth taxes can however be seen in that context as proxies for wealth taxes.

In addition where there is consideration of amending CGT the counter argument is often as to the potential alternative uses for such taxes. Indeed these arguments are often used to propose increases and not reductions in capital tax rates.

Conclusion

There is an ongoing debate around the possibility of a reduction in the rate of CGT. In the absence of more detailed economic and fiscal analysis it is difficult to determine the potential benefit and downsides of a change in the rate of CGT and if such a change was to occur what might be an appropriate CGT rate or indeed whether there should be more changes to the rate and rate structure.

2.5.2 REVISED ENTREPRENEUR RELIEF

There is also an on-going debate about amending the CGT Entrepreneur Relief scheme. In summary, the points raised include:

- Expanding the lifetime limit to €10 million or €15 million.
- Relief at 12.5% with no limit.
- Extend scheme to external/angel investors.
- Improvements between the Relief and Retirement relief e.g. standalone limits for both reliefs.
- Changes to the structure of the relief e.g. widen definition of holding company; amend 5 per cent share requirement; consider timing of payment of CGT.

Of concern is the increase in the cost of the current relief between 2016 and 2017. Thus in 2016 there were 412 claims at a cost of €20.4 million and in 2017 there were 866 claims at a cost of €81.2 million. It is difficult to provide accurate costs for this scheme and therefore any changes to the operation of the scheme need to be carefully considered taking into account potential costs compared to benefits.

The Revenue Commissioner's latest estimates suggest that the cost of increasing the lifetime limit, in the absence of any of any behavioural changes would be the following:

Lifetime Limit	€2.5m	€5m	€7.5m	€10m	€12.5m	€15m
Full Year Cost	€34m	€61m	€75m	€81m	€83m	€84m

The Relief is being subject to an external review and it is appropriate to await the outcome of that review before commenting in this paper.

It should also be noted that TSG paper taxation measures to support SMEs outlines the externally generated options for possible changes in the CGT Entrepreneur Relief Scheme as part of the consideration of wider SME taxation measures.

3. Capital Acquisitions Tax

3.1 Overview

The Capital Acquisitions Tax (CAT) code includes gift tax, inheritance tax and discretionary trust tax. It was first introduced in the Capital Acquisitions Tax Act 1976, replacing the system of death duties which had been in place for over a century. CAT is charged on the amount gifted to, or inherited by, the beneficiary over a particular threshold. Capital Acquisitions Tax applies to gifts taken on or after 28 February 1974 and to inheritances taken on or after 1 April 1975. The tax became a self-assessment tax in 1989.

The Capital Acquisitions Tax Consolidation Act 2003 (CATCA) was introduced into law to consolidate the various CAT related measures, and it has been amended by subsequent Finance Acts since then.

3.2 Rates of Tax and Thresholds applicable

The standard rate of CAT is 33% in respect of gifts and inheritances taken on or after 6th December 2012. There are three tax-free thresholds depending on the relationship between the disponer and the beneficiary with CAT applying on the amount over the thresholds.

Group A threshold (€320,000) - Applies where the beneficiary is a child (including certain foster children) or minor child of a deceased child of the disponer. Parents also fall within this threshold where they take an absolute inheritance from a child.

Group B threshold (€32,500) - Applies where the beneficiary is a brother, sister, niece, nephew, or lineal ancestor or lineal descendant of the disponer.

Group C threshold (€16,250) - Applies in all other cases.

All gifts/inheritances received since 1991 from all disponers in the relevant group must be aggregated together when calculating the taxable value. The balance of the gift/inheritance above the threshold is taxable. In Budgets 2017 and 2019 the thresholds were increased as follows:

Table 2 – Changes to CAT Group Thresholds in Budgets 2017 and 2019

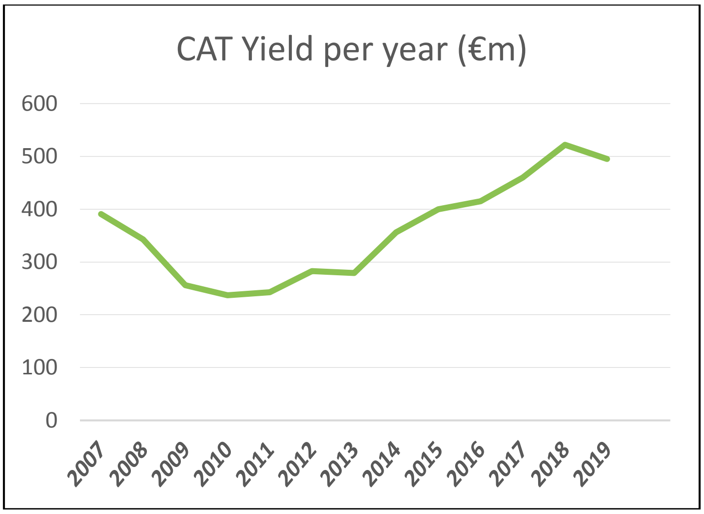
	Budget 2017	Budget 2019	Total € change	Total % change
Group A	+ €30,000	+€10,000	+ €40,000	+14%
Group B	+ €2,350		+ €2,350	+ 8%
Group C	+ €1,175		+ €1,175	+ 8%

3.3 Yield

The CAT yield to the Exchequer for each year from 2007 to 2018 is shown in the table below, together with the projected yield (P) for 2019. The CAT yield is taken from Revenue net receipts 2007-2018. The projected yield for 2019 is taken from the Department of Finance Spring Economic Statement, April 2019 update.

Table 3 – CAT Yield 2007-2018

Year	Yield	% change
2007	€391m	+11%
2008	€343m	-15%
2009	€256m	-23%
2010	€237m	-6%
2011	€243m	+3%
2012	€283m	+16%
2013	€279m	-1%
2014	€356m	+28%
2015	€400m	+12%
2016	€415m	+4%
2017	€460m	+11%
2018	*€522m*	+13%
2019 (P)	*€495m*	-5%



3.4 Main CAT Exemptions and Reliefs

3.4.1 AGRICULTURAL RELIEF:

Qualifying farmers can avail of CAT Agricultural Relief which reduces liability to CAT by 90%. The relief operates by reducing the market value of 'agricultural property' (including farmland, buildings, stock) by 90%, so that gift or inheritance tax is calculated on an amount - known as the 'agricultural value' - which is substantially less than the market value.

To qualify for agricultural relief, 80% of the beneficiary’s assets, after having received the gift/inheritance, must consist of qualifying agricultural assets. The beneficiary must also be an active farmer or lease the land to one. Agricultural Relief has been available for gift and inheritance tax since the introduction of Capital Acquisitions Tax in 1976.

3.4.2 BUSINESS RELIEF:

A relief from Capital Acquisitions Tax applies to gifts and inheritances of certain business property, subject to certain conditions. The relief amounts to a 90% reduction in respect of the taxable value of relevant business property. In order to qualify for this relief, the business concerned must not consist wholly or mainly of dealing in land, shares, securities, or currencies or making or holding investments.

3.4.3 CGT/CAT “SAME EVENT” RELIEF:

If CGT and CAT are payable on the same event (for example, a gift of land by a parent to a child) any CGT paid by the parent can be used by the child as a credit against her/his CAT liability to avoid double taxation.

3.4.4 DWELLING HOUSE EXEMPTION:

Section 86 of the Capital Acquisitions Tax Consolidation Act 2003 provides for an exemption from Capital Acquisitions Tax on the inheritance (and in certain cases the gift) of certain dwelling houses. Amendments made to the relief by Finance Act 2016 considerably narrowed its scope so that, with effect from 25 December 2016 the exemption no longer applies to gifts of dwelling houses unless the gift is made to a dependent relative of the donor. In addition, in the case of an inheritance, the exemption now applies only to the principal private residence of a disponer.

3.4.5 SMALL GIFTS EXEMPTION:

It is possible to receive gifts from the same person in any calendar year without having to pay CAT on these gifts. The gifts must have a combined total value of €3,000 or less in order to qualify for this exemption.

3.5 Recent Finance Bill Amendments to CATCA 2003

Finance Act 2018 introduced an anti-avoidance measure which amended the operation of the Dwelling House Exemption to prevent the use of discretionary trusts to avoid a CAT liability, thereby retaining the intended policy objective of the exemption.

A discretionary trust is a trust where property is held on trust for a class of beneficiaries, often family, who receive no immediate benefit. The trustees have absolute discretion as to when, how and to which of the beneficiaries of the trust they may appoint the capital or income of the trust property.

The Dwelling House Exemption allows an exemption from CAT when a property is inherited and certain conditions are met. One condition is that the individual must not have an interest in any other dwelling house at the date of inheritance. It had come to light that in order to circumvent this condition, an individual could temporarily transfer their interest in another property into a discretionary trust of which they were a beneficiary. This allowed them to inherit a property and avail of the Dwelling House Exemption on the basis that they didn't have an interest in the property held in trust.

In addition, Finance Act 2018 provided for a number of technical amendments to CATCA 2003. Included in these technical amendments were:

- An amendment to provide for a surcharge in the case of the late filing of a return for initial and annual discretionary trust tax returns in order to ensure consistent treatment with standard CAT returns.

- An amendment to address the mismatch between the time limit for Revenue to make enquiries and raise assessments (4 years) and the period during which conditions must be met in order to qualify for certain CAT reliefs (6 years).

- An amendment to correct an anomaly in the treatment of life assurance policies in relation to relief available for CGT paid where both CGT and CAT are payable on the same event.

The CAT group A threshold was also increased from €310,000 to €320,000 in Budget 2019.

3.6 Options for changing and amending CAT

3.6.1 REDUCE/INCREASE RATE

Revenue estimate that every 1% increase/decrease in the rate of CAT would yield/cost €15 million in a full year.

Table 4 – Estimated cost of 1% increase/decrease in CAT rate

		€ million/Full Year
Reduction in the CAT rate	From 33% to 32%	-15
	From 33% to 30%	-45
	From 33% to 28%	-75
	From 33% to 23%	-150
Increase in the CAT rate	From 33% to 34%	15
	From 33% to 36%	45
	From 33% to 38%	75
	From 33% to 43%	150

3.6.2 REDUCE/INCREASE THRESHOLDS

There are options around increasing or decreasing the thresholds or moving towards a single threshold for Groups A, B and C. However, policy over successive periods has been to maintain a larger Group A threshold than B or C. Increasing the Group B (currently €32,500) and C (currently €16,250) thresholds to bring them into line with the Group A threshold (currently €320,000) would be costly, estimated at approximately €250 million. This is because a significant portion of the yield from gifts and inheritances arises from the Group B threshold, as illustrated in the table below.

Analysis by Revenue indicates that the majority of CAT receipts, and the majority of the increase in receipts since 2010, are from inheritances. Receipts from inheritances were €466 million in 2018 from total CAT receipts of €522 million. Gifts at €53 million were the next largest, receipts from discretionary trusts were €3 million and receipts from probate tax (which was abolished in 2001) were less than €1 million in 2018.

In Budget 2019, the Group A threshold, which applies primarily to gifts and inheritances from parents to their children, was increased from €310,000 to €320,000. The full year cost of this was estimated by Revenue to be €8.1 million.

The Programme for Government states that the Government will work with the Oireachtas to raise the Group A CAT threshold to €500,000. The estimated cost of increasing CAT A threshold from its current €320,000 to €500,000 is approximately €79m.

Below is a table which illustrates the cost associated with increases in each of the thresholds.

3.6.3 COST OF INCREASING GROUP THRESHOLDS

Table 5 – Cost of increasing group thresholds

Group A:

Current Threshold	Proposed new threshold		
€320,000	€330,000	€340,000	€350,000
Estimated full year cost (€ million)	-7.7m	-14.5m	-20.7m

Group B:

Current Threshold	Proposed new threshold		
€32,500	€33,500	€35,000	€37,000
Estimated full year cost	-2.9m	-7.2m	-12.7m

Group C:

Current Threshold	Proposed new threshold		
€16,250	€17,000	€18,000	€20,000
Estimated full year cost	-0.9m	-2.0m	-4.1m

3.6.4 CAT CASES & REVENUE BY THRESHOLD

Table 6 – CAT cases and revenue by threshold 2014-2018

	2014	2015	2016	2017	2018
Group A Threshold	Cases:5,078 Revenue: €146.2m	Cases: 6,735 Revenue: €156m	Cases: 5,283 Revenue: €156.1m	Cases: 6,722 Revenue: €167.4m	Cases: 6,794 Revenue: €201.6
Group B Threshold	Cases:10,561 Revenue: €163.4m	Cases: 11,598 Revenue: €183.2m	Cases: 10,601 Revenue: €185m	Cases: 12,584 Revenue: €226.2m	Cases: 13,249 Revenue: €241.1m
Group C Threshold	Cases: 3,802 Revenue: €44.8m	Cases: 4,118 Revenue: €58.9m	Cases: 4,014 Revenue: €69.5m	Cases: 4,618 Revenue: €64.3m	Cases: 4,880 Revenue: €76.2m
Total	**Cases: 19,441 Revenue: €354.4m**	**Cases: 22,451 Revenue: €398.1m**	**Cases: 19,898 Revenue: €411.4m**	**Cases: 23,924 Revenue: €457.9m**	**Cases: 24,923 Revenue: €518.9**

Source: Revenue Commissioners **Note:** All revenue figures have been rounded to the nearest first decimal point and include combined inheritance and gift tax only.

3.6.5 REDUCE AGRICULTURAL AND BUSINESS PROPERTY RELIEF

Reducing the scale of the reliefs from 90% to 75% of the taxable value of the relevant assets and capping the relief at €3 million (originally suggested by the Commission on Taxation 2009) would increase the yield from CAT. Reducing agricultural relief from 90% to 80% for example would result in an estimated additional yield of €9 million for the full year. The estimated impact of reducing Business Relief from 90% to 80% is an additional yield of €17 million for the full year.

However, such changes could have a negative impact on the development and growth of family businesses. In relation to Agriculture Relief, the 2014 Agri-Taxation Review recommended retaining this relief as a vital measure to ensure the ongoing viability of farming businesses that pass from one generation to another. While Agricultural Relief has therefore been maintained in its current form, a further recommendation of the Review was to restrict the relief to apply only to active farmers or where the agricultural property is leased to an active farmer. This was implemented for any gifts and inheritances taken on or after 1 January 2015.

3.6.6 CHANGE THE SMALL GIFT EXEMPTION

Consideration could be given to increasing or reducing this exemption - for example to increase to €3,500 or €3,750 or to decrease to €2,750 or €2,500.

Table 7 – Costs of changes in small gift exemption

Proposed Exemption Amount	Effect of Change - Yield/Cost	Estimated €m
2,500	Yield	+ 0.3
2,750	Yield	+ 0.1
3,500	Cost	-0.3
3,750	Cost	-0.4

The Tax Strategy Group may wish to consider these issues.

4. Stamp Duty

4.1 Overview

4.1.1 Introduction

Total stamp duty collected in 2018 amounted to €1.46 billion which accounted for approximately 2.63% of total tax receipts in that year. The total tax receipts for 2018 were €55.5 billion (up almost €5 billion on 2017).

4.1.2 Description of tax

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* (No. 31 of 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 a full or partial exemption or relief.

Stamp duty 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.

Some stamp duties are fixed e.g., stamp duty on credit and charge 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.

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.

The main stamp duties are on the following:

- Residential property transactions - 1% on values up to €1m and 2% on any balance over €1m

- Non-residential property transactions - 6%[1]

- Transfers of shares in Irish registered companies - 1%[2]

- Financial cards: - Credit and Charge 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

- Bank Levy - the Financial Institutions ("Bank") Levy was introduced for the three-year period 2014 to 2016 in Finance (No.2) Act 2013 with the purpose of enabling the banking sector to contribute to economic recovery, and subsequently extended to 2021. The annual yield of this levy is approximately €150 million. (Section 126AA of the *Stamp Duties Consolidation Act 1999* refers).

This TSG paper considers the option of an increase in the rate of stamp duty applicable to the acquisition of non-residential property. The 2018 TSG paper gave a wider perspective on stamp duty and outlined recent developments particularly with respect to the property market. It also covered other aspects of stamp duty, including Consanguinity Relief and recent changes with regard to long-term land leasing. A number of issues were raised in the 2018 paper which remain under consideration by, the Department of Finance.

[1] For stamp duty purposes non-residential property includes: land (agricultural and non-agricultural); sites (other than sites purchased with a connected agreement to build a house or apartment); commercial or business premises, including offices, factories, shops and public houses; options over land.

[2] 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.

These include:

i. **Build-to-rent**: This type of private rental accommodation, where typically a whole block of apartments is built or bought by a single entity with the intention of each unit becoming subject to long-term rental.

   Having emerged as a growing form of property investment in the aftermath of the economic crisis, build-to-rent has continued to contribute significantly to the increased housing supply coming on stream in Dublin and elsewhere.

   CSO figures show that one-sixth of all residential property bought in Ireland in 2018 was purchased by non-households. These include not only private companies, but also charitable organisations and State institutions, including approved-housing bodies and local authorities.

   While there are no stamp duty issues currently connected with build-to-rent, the Department will continue to monitor developments in this area.

ii. **The stamp duty refund scheme**: This was introduced as part of Finance Bill 2017. It provides for a refund of a portion of the stamp duty paid on non-residential land, where that land is subsequently developed for housing. It is designed to incentivise residential development, and is subject to criteria which include a requirement for the efficient use of the land concerned in that a specified proportion of the site must be developed for housing, and that a commencement notice must be submitted by the developers to the local authority within 30 months of the acquisition of the land, and the housing so commenced must be completed within two years.

   Concerns have been expressed by some developers that the efficiency criteria in particular is onerous for them. The Department of Finance is aware of these concerns and will continue to monitor developments.

iii. **The collection of the stamp duty on the stocks and marketable securities of Irish incorporated companies post Brexit**: Currently a significant portion (e.g. 81% in 2017) of this stamp duty (currently set at 1%) is collected using a London based system called CREST. This system will no longer be accessible post-Brexit.

   As part of its Brexit contingency planning, the European Commission adopted a temporary and conditional equivalence decision in December 2018 for UK based Central Securities Depositories that will allow the Irish market to continue using the current settlement system based in London until March 2021 if the UK leaves the European Union without a withdrawal agreement, allowing time to develop an alternative system.

A resolution has been identified in terms of the ability to register/clear trades post-Brexit and is in the process of being developed by the Department of Finance in cooperation with Euroclear Bank who have been selected as the preferred long term settlement provider post-Brexit. This resolution will incorporate the necessary work involving Euroclear, the Department and Revenue to enable the stamp duty payable on such trades to be collected.

4.2 Residential and Non Residential Property

4.2.1 Residential

Residential transactions continued to grow in 2018 to 63,036, or €16.053 billion[3]. This activity generated approximately €172 million in stamp duty, largely unchanged since 2017.

The CSO has developed a metric with which they measure new home construction. This metric shows that completions increased by 45.6% in 2017 compared to 2016 and by 25% in 2018 compared to 2017, with an additional 18,000 properties completed in 2018.

Housing supply remains well below the levels needed to meet the demand from demographic factors, including a rising population of household formation age and an expected rise in headship[4] rates.

In the year to April, residential property prices at national level increased by 3.1%. This compares with an increase of 6.5% in the year to April 2018.[5]

The Residential Tenancy Board latest rent index published is for Q1 2019, shows the national standardised average rent at €1,169 per month. This is an 8.3% increase (€90) annually and 2.1% quarter-on-quarter. The year-on-year growth rate of the national standardised average rent rose to 8.3% in Q1 2019. On a quarter-on-quarter basis, rents grew by 2.1%. While growth remains high in Dublin with the standardised average rent of €1,662 per month, an increase of 8.5% (€70) on the previous year rental inflation has been highest in areas outside the Greater Dublin Area with an increase of 9.6% year on year.

The current stamp duty rates (applicable since December 2010) on residential land and buildings are 1% on the first €1 million and 2% on any excess over that €1 million.

4.2.2 Commercial

In terms of performance, 2018 proved to be another very strong year in the Irish commercial property market, both from an occupier and investment perspective. The market remained very attractive to long term investors and pension funds, keen to secure access to stable income streams.

[3] https://www.cso.ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=HPM02&PLanguage=0ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=HPM02&PLanguage=0

[4] A higher headship rate means fewer adults per household which is equivalent to a larger demand for houses for a given population. For example – if every household had two adults, the headship rate would be 50%.

[5] Both figures from CSO Residential Property Price Index April 2019 dated 13 June 2019

The most recent evidence of activity in the Irish commercial property market indicates that investment continues to expand in 2019. Looking at investment in transactions of over €1 million in value, market participants report transactions in the range of approximately €3.8 billion in 2018[6,] up from €2.2 billion in 2017.

CBRE's Outlook 2019 Report published in January 2019[7] while noting that the commercial property market remains stable, some further moderation can be expected, and that risks on the downside predominate, not least Brexit.

In 2016, the IMF suggested that pressures in the commercial market needed to be closely monitored and policy tools activated if risks to financial stability emerge, and to "futureproof" the economy against boom-bust dynamics. More recently, the OECD (OECD Economic Outlook 2018)[8] identified the main domestic risk to the economy as coming from the property sector. "Property prices may increase more strongly than projected, which would further boost construction activity in the near term but may lay the foundation for another boom-and-bust cycle if associated with another surge in credit growth".

It is considered important to ensure that the building and construction sector remains able to meet the demand for new housing while avoiding overheating in the sector as a whole. It is also essential to avoid a situation where the economy becomes overly dependent on the construction sector. In 2016 these considerations suggested the need for policy measures that would incentivise a re-balancing of activity away from non-residential, commercial construction activity in favour of residential activity.

The rate of stamp duty applying to non-residential property (for transactions exceeding an aggregate consideration of €80,000) was 6% between January 1997 and December 2011. In December 2011, this was reduced so that a flat rate of 2% applied on all transaction values.

This low, flat rate was introduced at a time when activity levels were very low and can be viewed as a departure from the much higher rates that applied over the preceding fourteen years and can be justified by the exceptionally difficult market situation and lack of commercial output that applied at the time of its introduction.

The commercial real estate market has been performing strongly in recent years. Therefore given the policy desirability of re-balancing construction activity towards residential investment and avoiding overheating in the construction sector, the Minister

---

6 This figure (approx. €3.8 billion in 2018) includes Built to Rent (BTR) type investment that is not subject to the higher commercial stamp duty rate. In 2018, the commercial rate was only applicable to the value of non-BTR commercial property i.e. €2.65 billion.

7 https://news.cbre.ie/irish-commercial-property-market-on-course-for-another-strong-year-in-2019-despite-clouds-on-the-horizon/

8 https://www.oecd.org/eco/outlook/economic-forecast-summary-ireland-oecd-economic-outlook.pdf considered it appropriate to increase the rate of stamp duty applying to non-residential property in Budget 2018.

4.2.3 Consideration of increasing the Commercial Stamp Duty Rate

The rate of stamp duty on non-residential property was increased to 6% in Budget 2018, having been 2% previously under the simplified system introduced in Budget 2012. Prior to that, it was 6% between October 2008 and December 2011 on properties bought for more than €80,000, and 9% between December 2002 and October 2008 on transactions above €150,000.

The principal aim of the stamp duty increase in Budget 2018 was to help address potential overheating in the commercial element of the construction sector and to encourage a greater focus on increased home building. The measure was therefore designed to contribute to the ongoing balancing and stabilisation of the Irish property market. In the 12 months to October 2018, 21,211 housing units were commenced (as opposed to completed) nationally, a 23.6% increase over 2017.

The increase in construction in the residential sector in 2018, particularly in Dublin, where the increase in prices is also moderating, is an indication that the measure has made a positive contribution.

The low stamp duty rate of 2% as previously noted, on non-residential property acquisitions that applied for some six years prior to October 2017 (when the Budget 2018 measures came into effect) had been introduced with the aim of helping to kick start the commercial property market here, which had stalled severely due to the banking crisis and the associated general economic downturn.

The option of increasing the then applicable 2% stamp duty rate on non-residential property was explored in the relevant 2017 TSG paper. When it was announced in the Budget 2018 speech, industry commentators expressed concern that it would dampen investment. However, the commercial property market in Ireland remains strong, and €661 million was collected by Revenue in property related stamp duty in the year to end-December 2018. Of this just over €489 million came from the non-residential side, (more than double the revenue received under this category in 2017 of just over €203 million, which included some receipts based on the 6% rate introduced in October that year).

Revenue's post-Budget 2019 Ready Reckoner indicated that an increase of 1 % in the current 6% rate is forecast to generate in the region of an additional €94 million in a full year (assuming no second round effects). Revenue more recently estimated the additional yield of a 3% increase in the non-residential rate at €275 million.

This more recent costing is based on levels of activity and mix of transaction types as seen in 2018, projected forward to estimated 2019 levels. The number of transactions can vary significantly from year to year but Revenue have eliminated anything they can identify as a significant outlier. These costings do not take into account behavioural change.

It is important to note however that the previous regimes which saw the top rate of stamp duty on the acquisition of non-residential property at 9% and then 6% were stepped ones with lower rates applying to lower acquisition values.

The simplification of property related stamp duty on both residential and non-residential property (both comprising flat rates, with only residential having a single step up in the applicable rate from 1% to 2% at the €1 million value point) introduced in Budgets 2011 and 2012 has proved beneficial for purchasers and also for sellers, in terms of transparency and predictability.

Any consideration in relation to amending the rate of stamp duty on non-residential transactions would have to be cognisant of the fact that these transactions would include both development land and agricultural land. The impact on the housing market would also be a relevant consideration.

Options for consideration could include tiered adjustments to the stamp duty rate although this would dilute the base.

5. Wealth Taxation

Although 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 35%, 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.

In 2013 the Central Statistics Office conducted the first comprehensive survey of household wealth in Ireland (the Household Finance and Consumption Survey (HFCS)). The 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.

During 2016, the Department, jointly with the Economic and Social Research Institute (ESRI), conducted a research project into the distribution of wealth in Ireland and the potential implications of a wealth tax using the HFCS. The research formed part of an on-going joint-research programme with the ESRI on the Macro-Economy and Taxation. The research paper, available on the ESRI website, presented results on the composition of 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.

The 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.

The average wealth tax payment for those households liable would be: €12,500, when the French system is applied, and between €800 and €1,500, under the Swiss Canton. In addition distributional implications of a wealth tax across different types of household: a larger proportion of the wealth tax burden would fall on older households than their share of net wealth. Even where there was a narrow base (i.e. excluding the household main residence, farms and business assets) and a high threshold some low income households would be affected.

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.

If a wealth tax were to be applied in addition to the related forms of wealth taxation, this could have the disincentive 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.

Tithe an Rialtas. Sráid Mhuirfean Uacht,
Baile Átha Cliath 2, D02 R583, Éire
Government Buildings, Upper Merrion Street,
Dublin 2, D02 R583, Ireland

T:+353 1 676 7571
@IRLDeptFinance
www.gov.ie/finance