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Department of Finance

Capital & Savings Taxes & Stamp Duty
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Introduction

This paper covers Capital Acquisitions Tax (CAT), Capital Gains Tax (CGT), Deposit Interest Retention Tax (DIRT)/ Life Assurance Exit Tax (LAET), Stamp Duty and the Tax Appeals Commission.

It briefly sets out the current position on each tax and examines potential options for change in the context of Budget 2023.

It also sets out recent developments in the Tax Appeals Commission.

1 Capital Acquisitions Tax

Capital Acquisitions Tax (CAT) was first introduced in 1976 and includes gift tax, inheritance tax and discretionary trust tax. When introduced, it presented a significant change from the previous system of 'death duties', which imposed a tax on the estate of the deceased. In contrast, CAT is charged to the beneficiary of the inheritance or gift, on an amount over a particular tax-free threshold The current approach is aligned with the majority of OECD countries whereby 21 of the 24 OECD countries with an inheritance tax, levy the tax on the beneficiary. The overarching rationale for applying the tax on the beneficiary is to support equality of opportunity, encouraging redistribution of wealth across a larger number of beneficiaries, and promoting horizontal and vertical equity.

The Capital Acquisitions Tax Consolidation Act 2003 (CATCA) was introduced into law to consolidate CAT legislation, and has since been amended by subsequent Finance Acts. Under the current provisions, CAT is payable on the total of all gifts and inheritances received since 5 December 1991.

There are many considerations in the design of an effective inheritance and gift tax regime. Wealth received through transfers from gifts or inheritances is notably different from income, as it is not earned or accumulated by the individual, but is received as a result of personal circumstances. In receiving unearned wealth in this way, inheritances and gifts can provide increased social mobility and opportunity for those who receive them. However, if concentrated amongst a few, they may perpetuate inequalities in these same areas. Research also indicates that the expectation of future inheritances can affect consumption and savings decisions of individuals, meaning that inheritances can have an impact across a lifecycle, and not just at the time the inheritance occurs[1].

The first section of this paper provides an overview of the CAT regime. It then provides a brief discussion on a number of policy options which the Tax Strategy Group may wish to consider.

1.1 Rates of Tax and Thresholds Available

The standard rate of CAT is 33% in respect of gifts and inheritances taken on or after 6 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 (€335,000) - 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. This threshold was last increased in 2019, from a previous value of €320,000.

[1] "Inheritances and inequality over the life cycle: what will they mean for younger generations?", Institute of Fiscal Studies, Bourquin, Joyce and Sturrock, April 2021.

Group B threshold (€32,500) - Applies where the beneficiary is a brother, sister, niece, nephew, or lineal ancestor or lineal descendant of the disponer. This threshold was last increased in 2016, from a previous value of €30,150.

Group C threshold (€16,250) - Applies in all other cases. This threshold was last increased in 2016, from a previous value of €15,075.

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. Table 1 below sets out recent changes to CAT thresholds.

1.2 Recent CAT Group Threshold increases

Table 1 Recent CAT Group Threshold Changes

	From 2012	Budget 2016	Budget 2017	Budget 2019	Budget 2020
Group A	€225,000	€280,000	€310,000	€320,000	€335,000
Group B	€30,150		€32,500		
Group C	€15,075		€16,250		

1.3 CAT Yield 2011-2021

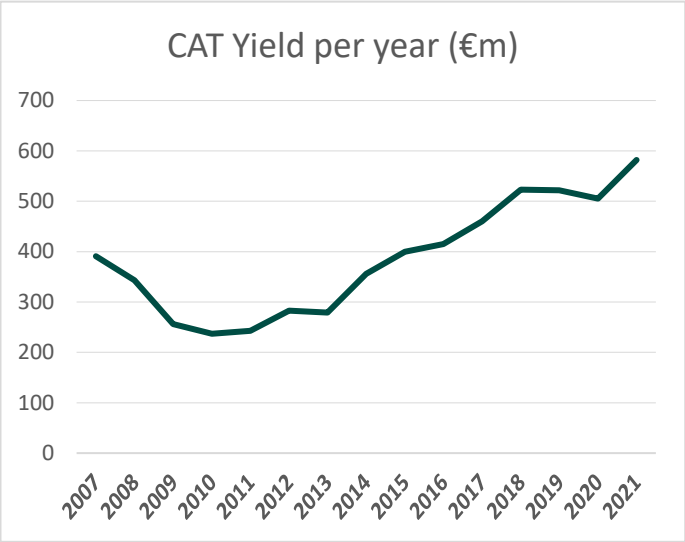
The CAT yield to the Exchequer for each year from 2011 to 2021 is shown in Table 2 below. The CAT yield is taken from Revenue net receipts 2011-2021.

Table 2 CAT Yield 2011-2020

Year	Yield	% change
2011	€243m	+3%
2012	€283m	+16%
2013	€279m	-1%
2014	€356m	+28%
2015	€400m	+12%
2016	€415m	+4%
2017	€460m	+11%
2018	€523m	+14%
2019	€522m	+0.2%
2020	€505m	-3%
2021	€582m	+15%

Source: Revenue Commissioner

Chart 1 *CAT Yield 2011-2021*



Source: Revenue Commissioners

1.3.1 CAT CASES & REVENUE BY THRESHOLD 2015-2021

Table 3 CAT cases and Revenue/Yield by Threshold 2015 – 2021

Year		2015	2016	2017	2018	2019	2020	2021
Group A Threshold	*Cases*	6,735	5,283	6,722	6,794	6,455	6,237	7,300
	Yield (€m)	156	156.1	167.4	201	199.9	198	248
Group B Threshold	*Cases*	11,598	10,601	12,584	13,249	13,019	11,372	13,346
	Yield (€m)	183.2	185	226.2	241.1	245.5	239	250
Group C Threshold	*Cases*	4,118	4,014	4,618	4,880	4,654	4,626	5,199
	Yield (€m)	58.9	69.5	64.3	76.2	69.1	65	84
Total	*Cases*	22,451	19,898	23,924	24,923	24,128	22,235	25,845
	Yield (€m)	€398.1	411.4	457.9	518.9	514.5	502	582

Source: Revenue Commissioners

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

1.4 Main CAT Reliefs and Exemptions

There are a number of valuable reliefs and exemptions available, including:

- **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. The 90% reduction applies for gifts and inheritances taken on or after 23 January 1997. 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.
- **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. The relief was first introduced in 1994. At that time, the relief provided for a 30% reduction of the first £250,000 of the taxable value of relevant business property and 25% of the balance. The current rate of 90% has been in place since 1997.
- **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 restricted cases the gift) of certain dwelling houses. Amendments were introduced in recent years with the aim of reinstating the original policy intention of the exemption. These included a change in Finance Act 2016 to considerably narrow its scope so that the exemption no longer applies to gifts of dwelling houses unless the gift is made to a dependent relative of the donor. In Finance Act 2019, the conditions of the relief were further amended to ensure that all properties inherited from the same disponer are considered when assessing eligibility for the dwelling house exemption.
- **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.

1.5 CAT Policy Options

1.5.1 REDUCE/INCREASE CAT RATE

The current rate of CAT is 33%, and this has been in place since 2012. Table 4 below provides details on the cost associated with a reduction in the CAT rate, as well as details on the corresponding yield from an increase in the CAT rate.

Table 4 *Cost of CAT Rate Changes*		
		€ million/Full Year
Reduction in the CAT rate	From 33% to 32%	-19
	From 33% to 30%	-56
	From 33% to 28%	-93
	From 33% to 23%	-186
Increase in the CAT rate	From 33% to 34%	19
	From 33% to 36%	56
	From 33% to 38%	93
	From 33% to 43%	186

Source: Revenue Commissioners

1.5.2 OPTIONS FOR REDUCING/ INCREASING GROUP THRESHOLDS

There are options to increase or decrease the CAT Group thresholds, or to move towards a single threshold for Groups A, B and C. However, policy over successive periods has been to maintain the Group A threshold higher than that of B or C in recognition of the importance of inheritance between parents and their children.

Increasing the Group B (currently €32,500) and C (currently €16,250) thresholds to bring them into line with the Group A threshold (currently €335,000) would be costly, estimated at approximately €291 million per annum. This is because a significant portion of the yield from gifts and inheritances arises from the Group B threshold, as illustrated in Table 3 above.

Analysis by Revenue indicates that the majority of CAT receipts are from inheritances. Receipts from inheritances were €481 million in 2021 from total CAT receipts of €582 million. Gifts at €95 million were the next largest, receipts from discretionary trusts were €5.8 million.

Estimated costs/yield from an increase/decrease to the CAT thresholds are provided below.

1.5.3 COST OF INCREASING THRESHOLDS

Table 5 *Group A Threshold*				
Current Threshold	**Proposed new threshold**			
€335,000	€340,000	€350,000	€360,000	€400,000
Estimated full year cost (€)	-5m	-13m	-21m	-47m

Source: Revenue Commissioners

Table 6 *Group B Threshold*				
Current Threshold	**Proposed new threshold**			
€32,500	€33,000	€34,000	€35,000	€335,000
Estimated full year cost (€)	-2m	-5m	-8m	-221m

Source: Revenue Commissioners

Table 7 *Group C Threshold*				
Current Threshold	**Proposed new threshold**			
€16,250	€17,000	€18,000	€19,000	€335,000
Estimated full year cost (€)	-1m	-2m	-3m	-70m

Source: Revenue Commissioners

1.5.4 YIELD FROM DECREASING THRESHOLDS

Table 8 *Group A Threshold*				
Current Threshold	**Proposed new threshold**			
€335,000	€250,000	€280,000	€310,000	€330,000
Estimated full year yield (€)	83m	54m	24m	5m

Source: Revenue Commissioner

Table 9 *Group B Threshold*			
Current Threshold	**Proposed new threshold**		
€32,500	€31,000	€30,000	€25,000
Estimated full year yield (€)	5m	9m	26m

Source: Revenue Commissioners

Table 10 *Group C Threshold*			
Current Threshold	**Proposed new threshold**		
€16,250	€15,000	€14,000	€13,000
Estimated full year yield (€)	2m	3m	4m

Source: Revenue Commissioners

1.5.5 REDUCE AGRICULTURAL AND BUSINESS PROPERTY RELIEF

Reducing the scale of Agricultural or Business relief 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 €11 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. Table 11 below provides further detail on the estimated yield which would result from reducing the scale of relief available.

Another perspective provided by the ESRI[2] suggests that the primary beneficiaries – of Business Relief in particular – are not those inheriting or being gifted small family farms or businesses, but far more substantial ones. They argue furthermore that given that there is strong evidence that inherited family-owned and family-run firms are, on average, very poorly managed (Bloom and van Reenan, 2010), the goal of supporting the growth of and succession within family businesses should be weighed against the wider economic costs of discouraging the disposal of business assets to third parties.

The Commission on Taxation (2009) concluded that there is a case on social grounds to support the transfer of smaller businesses and farms to a new generation. However, the same argument does not apply in the case of larger businesses and farms. To address this, the Commission recommended reducing the rate of both reliefs to no more than 75%, with the reduction being subject to an overall monetary limit of €3 million.

[2] https://www.esri.ie/system/files/publications/BP202201.pdf

Table 11 *Reduction to scale of Agricultural and Business relief*					
Relief	**Current Reduction %**	**Yield at 50% Reduction**	**Yield at 60% Reduction**	**Yield at 70% Reduction**	**Yield at 80% Reduction**
Agricultural	90	64m	42m	24m	9m
Business	90	58m	41m	25m	11m

Source: Revenue Commissioners

1.5.6 AMENDMENT OF CAT SMALL GIFT EXEMPTION

As set out above, it is possible to receive a gift up to the value of €3,000 from any person in a calendar year without having to pay CAT. It should be noted that there is no limit on the number of small gifts a person can take in a year from different donors.

Costs associated with a change in the threshold of the Small Gifts Exemption are set out below.

Table 12 *Cost of Amendments to Small Gift Exemption*		
Proposed Exemption Amount	**Effect of Change - Yield/Cost**	**Estimated €m**
€2,000	Yield	+0.7
€2,500	Yield	+0.3
€3,500	Cost	-0.3
€4,000	Cost	-0.7
€5,000	Cost	-1.4
€10,000	Cost	-4.7
€15,000	Cost	-8.1
€20,000	Cost	-11.5

Source: Revenue Commissioners

*Costing is based on number of gifts cases where CAT was payable i.e. where threshold and gift exemption amount was exceeded. It does not account for any behavioural changes, cases where threshold and gift exemption amount was not exceeded or cases where no return was required to be made.

1.5.7 TREATMENT OF SOCIAL CHILDREN AND FOSTER CHILDREN

Social Families

The Minister for Justice has brought forward amendments to the Succession Act 1965, through the Birth Information and Tracing Act 2022[3], in order to provide that a person affected by an incorrect birth registration (an "affected person") will, in addition to his or her existing right of succession in relation to his or her birth parents, have succession rights in relation to his or her "social" parents. The intent is that any existing right or obligation that applies in the Succession Act 1965 based on the relationship between a person and his or her birth parents, siblings and extended family will also apply based on the corresponding relationships between the affected person and his or her social parents, siblings and extended family. The effect of this is that affected persons will have the same rights of inheritance vis-à-vis their social family as they have vis-à-vis their birth family.

It is intended that the relationship between an affected person and his or her social family, as defined for the purposes of the Succession Act 1965, will be carried over to the Capital Acquisitions Tax Consolidation Act 2003 and will be applied for CAT purposes in the case of both gifts and inheritances. This may have an impact on the Group threshold applying to a gift or inheritance and on the availability of certain reliefs and exemptions. In this regard, the Department of Finance have been engaging with Revenue, the Department of Children, Equality, Diversity, Integration and Youth, and the Department of Justice to consider any related impacts on the Capital Acquisitions Tax Consolidation Act 2003.

1.6 CAT aggregation periods

Since 2001, Capital Acquisitions Tax has been payable on the total of all taxable gifts and inheritances received since 5 December 1991. One distinguishing feature of the Irish CAT regime is that each transfer is not treated as a standalone event. Instead, the accumulated value of gifts and inheritances over a specified period is considered in the assessment for tax. The rules for how these transfers are added together are the aggregation rules. The design of the Irish CAT regime, in this regard, differs from other OECD countries, as Ireland is the only OECD country to currently tax a 'lifetime' accumulation of wealth taken from gifts and inheritances. While this approach is attractive from an equity perspective, it must also be balanced against the administrative and compliance complexities which increase as a consequence.

[3] https://www.oireachtas.ie/en/bills/bill/2022/3/

Since the introduction of CAT in 1976, there have been periodic changes to the CAT aggregation rules, including changes to the duration of the lookback period within which the value of gifts and inheritances subject to CAT is accumulated. Table 13 below, shows the changes to aggregation periods since the introduction of Capital Acquisitions Tax in 1976.

Table 13 *Previous Aggregation Rules 1976-present*					
Aggregation period	**Applying to gifts/inheritances taken on or after**	**Legislation**	**Section**	**Inheritances from**	**Gifts from**
Gifts: 5–15 years Inheritances : 0-10 years	Gifts taken on or after 28 February 1969 (no aggregation of inheritances before 28 February 1974)	CAT Act 1976	Schedule 2	1 April 1974	28 February 1974
Gifts/Inheritances: 2-16 years	26 March 1984	Finance Act 1984	S111, amending Schedule 2 CAT Act 1976	2 June 1982	2 June 1982
Gifts/Inheritances: 10-13 years	2 December 1998	Finance Act 1999	S201, amending Schedule 2 CAT Act 1976	2 December 1988	2 December 1988
Gifts/Inheritances: 10 – 30 years (current provision)	5 December 2001	Finance Act 2002	S121, amending Schedule 2 CAT Act 1976	5 December 1991	5 December 1991

1.6.1 AMENDMENT OF CAT AGGREGATION RULES

There are advantages to retaining a regime of taxing lifetime accumulations of wealth from both inheritances and gifts. This approach supports horizontal equity as individuals who receive the same amount of wealth pay the same amount of tax, regardless of whether they receive it through one large transfer, or through several smaller transfers over time. Vertical equity is also improved by such an approach as those who receive more wealth over their

lifetime pay more tax than those who receive a smaller amount. By ensuring that all such transfers are included in the tax assessment, there are fewer opportunities for avoidance, and taxation is not influencing decisions on the timing of gifts.

However, the design of any tax regime frequently involves some tension between competing priorities of equity, efficiency and simplicity. Continuing to maintain a lifetime aggregation period presents some practical difficulties, which increase over time. The obligation to track accumulating wealth transfers over an extended period, and to meet reporting obligations, places increased compliance costs on beneficiaries. Alongside this, there are increased administration costs on Revenue. While self-assessment can minimise these costs, where audit or investigation is required, the administration costs are potentially high, as Revenue is required to investigate records over an extended period. It is possible that the current extended aggregation period places a disproportionate compliance burden on taxpayers to maintain records and report over a 31-year period, and similarly places additional administrative obligations on Revenue.

1.6.2 OPTIONS TO CHANGING THE AGGREGATION PERIODS

In considering any change to the aggregation periods, it is important that the impact on the progressivity and equity of the CAT regime is minimized and any unintended effects are avoided. Such impacts may include reducing the tax base, reducing CAT yield or introducing opportunities for avoidance.

The following sets out some key considerations which should form part of the assessment on an appropriate aggregation period.

Over the years, since the introduction of CAT, there have been periodic changes to the CAT aggregation rules. These changes have not followed a particular consistent pattern. An option is to, again, implement a once-off legislative change to the aggregation period, with the intention of updating this at regular intervals in the future, depending on the policy decision at that time.

Alternatively, it may be preferable to set a rolling lookback period. An advantage of this is that it provides certainty to taxpayers and removes the requirement for further legislative change. However, a significant disadvantage to this approach is that it may incentivise tax-planning behaviour, as the timing of *inter vivos* transfers (gifts) could be arranged to optimise the use of tax-free thresholds. Such tax-planning behaviour would disproportionately benefit the wealthier, who are in a position to transfer assets during their lifetime. Any change which may incentivise such tax planning behaviour, particularly where it limits the effectiveness of the distributive objective of CAT, should be pursued with caution and should be minimised as much as possible.

One means to minimise the effects of this change is to ensure that the aggregation period is not too short and approximates a reasonable lifetime exemption threshold, such as a 15-20 year period. This may help to minimise opportunities for tax planning.

1.6.3 OBLIGATION TO FILE RETURN WHERE 80% THRESHOLD EXCEEDED

The obligation to file a CAT return arises where the aggregation of the taxable values of all benefits taken by the beneficiary within the same Group threshold on or after 5 December 1991 exceeds 80% of that threshold. The exception to this is where the beneficiary is claiming agricultural relief or business relief, in which case a CAT return must be filed.

This means that a person can receive gifts and inheritances over the course of many years which substantially reduce the Group threshold amounts available to him or her (up to €268,000 in the case of the Group A threshold), but are not reflected on any Revenue records or on records maintained by, or on behalf of, the person concerned.

A consequence of this is that, where a gift or inheritance is received, the value of prior gifts and inheritances may not, in all cases, be taken into account when determining whether a particular Group threshold has been exceeded. This issue is exacerbated by the length of the current aggregation period, which has run since 1991.

To address the issue, consideration is being given to lowering or removing the percentage point of the Group threshold at which returns must be filed.

The views of the Tax Strategy Group are welcome in relation to these issues.

2 Capital Gains Tax

In general, 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 e.g. a gift of an asset counts as a disposal and may be liable to CGT if a gain is made, as may an exchange gain made on converting foreign currency. 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. The main consideration by Ireland in introducing CGT in 1975 was to strengthen tax equity between those earning primarily ordinary income and those making capital gains.

Capital taxes play an important role in ensuring that taxation is not focused solely on income and that those who benefit from gains in the value of their assets are included within the tax net on an equitable basis.

As outlined in an OECD[4] report on the taxation of capital gains of individuals, without a personal income tax system with a broad-based taxation of capital gains or a separate CGT, individuals could be expected to engage in tax arbitrage to convert taxable income into exempt capital gains. Imposing tax on capital gains acts as a disincentive to such arbitrage.

2.1 CGT Yield

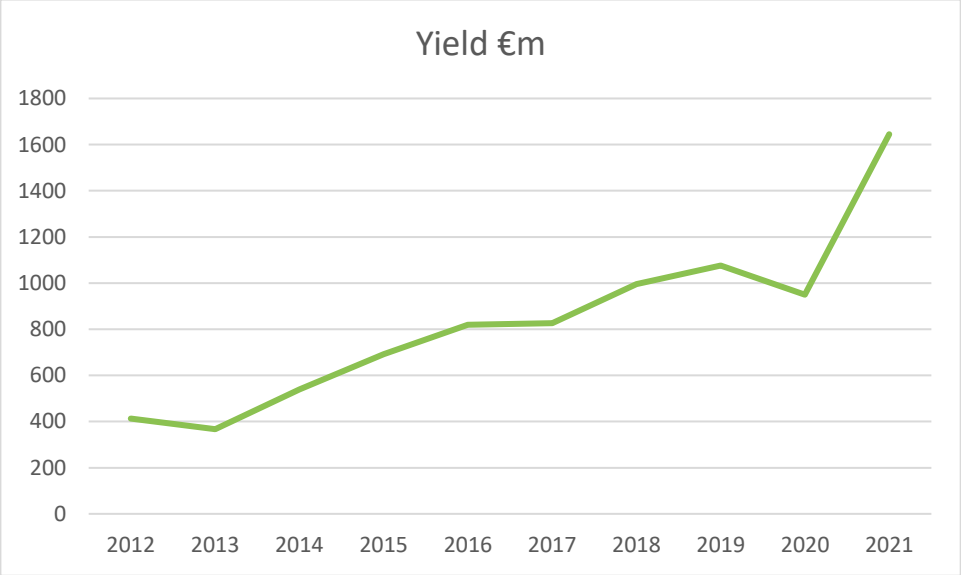
The CGT yield to the Exchequer for each year of the last 10 years is shown in Table 14 together with the provisional yield (p) for 2022. The projected yield for 2022 is taken from the Department of Finance's Stability Programme Update 2022. It is important to note however that these are receipts of CGT for individuals and some corporates in respect of gains on development land. Chargeable gains for corporates are included in the corporation tax receipts and cannot be presented separately.

[4] OECD (2006), *Taxation of Capital Gains of Individuals: Policy Considerations and Approaches*, OECD Tax Policy Studies, No. 14, OECD Publishing, Paris, https://doi.org/10.1787/9789264029507-en.

Table 14 *CGT Yield from 2012 to 2022**		
Year	**Yield €m**	**Percentage Annual Change**
2012	413	
2013	367	-11.1%
2014	539	+47.0%
2015	692	+28.3%
2016	819	+18.4%
2017	826	+0.9%
2018	996	+20.6%
2019	1,076	+8.0%
2020	950	-11.7%
2021	1,645	+73.2%
2022	1935*	

Source: Revenue Commissioners/Department of Finance *Provisional yield figure for 2022

Chart 2 *CGT Yield 2012 – 2022**



2.2 Rate of CGT

CGT was originally introduced at a rate of 26%, approximately one third of the highest marginal personal income tax rate at the time. A review in 1978 increased the base rate on capital gains to 30% and introduced reduced rates to reflect longer holding periods. Rates increased sharply in the early 1980s in response to the fiscal crisis before a single rate of CGT of 40% was introduced in 1994 and remained at that level until 2008. In 2008 the rate of CGT was reduced to 20%. Between 2009 and 2012 the rate increased four times to the current rate of 33%, which has been in place since 6 December 2012.

2.3 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. A more detailed overview of Farm restructuring relief and Revised Entrepreneur relief are set out at 2.4 and 2.5.

2.3.1 ANNUAL EXEMPTION

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

2.3.2 TRANSFERS BETWEEN SPOUSES AND CIVIL PARTNERS UNDER A COURT ORDER

Disposal to spouses and civil partners, separated and divorcing spouses and civil partners and to former co-habitants under a court order are treated as being at a "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 originally by the disponer.

2.3.3 PRINCIPAL PRIVATE RESIDENCE RELIEF

The transfer or sale of an individual's principal private residence (PPR), including land of up to one acre around the residence, is exempt from CGT. The extent to which the CGT PPR relief applies depends on the particular facts and circumstances of each individual case.

Where the individual resides in their home for only part rather than the whole duration of ownership, the relief is apportioned accordingly on a pro rata basis. In addition, the final year of ownership is counted as a year of occupation. A period of deemed occupation is also provided for in the situation where, due to the requirements of their employment, an owner is prevented from residing in the house for a period of up to four years provided certain conditions are met.

2.3.4 RELIEF FOR DISPOSAL OF CERTAIN BUILDINGS AND LAND

There is an exemption from CGT for land and buildings purchased between 7 December 2011 and 31 December 2014 where this property was subsequently disposed of after being held for between 4 and 7 years.

2.3.5 TRANSFER 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 and the spouse or civil partner of that 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.

2.3.6 RETIREMENT RELIEF

Business or farming assets are relieved from CGT where the person disposing of the asset(s) is aged 55 or over and 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 farming in order to qualify.

The operation of the relief differs between the disposal of a business or farm to a child and disposals to anyone other than to a child. The operation of the relief also differs between persons aged 55 to 65 years and persons aged 66 years and over.

For the purposes of the relief, child includes a stepchild or child of a civil partner, an adopted child, 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 up to the disposal, and a foster child of at least five years before the age of 18.

From 1 January 2014 if the person is between 55 and 65 years of age and the disposal is to a child, the full relief may be claimed. If the person is 66 years of age or older the relief is restricted to €3 million.

If the child disposes of the asset within 6 years, the relief will be withdrawn and they must pay the full amount of CGT on the original disposal and the subsequent disposal.

In the case of a disposal of a business or a farm to someone other than a child, the full relief may be claimed when the market value at the time of disposal does not exceed a threshold of €750,000 if the person is under 66 years of age. The threshold is €500,000 if the person is 66 years of age and older.

These thresholds are lifetime limits and if they are exceeded the relief is withdrawn and CGT is payable on the gains on all disposals. Marginal relief may apply to gains that exceed the thresholds limiting CGT to half of the difference between the sale price or market value and the threshold.

2.3.7 DISPOSAL OF BUSINESS TO A COMPANY

Where a non-corporate person (i.e., individual, trust, partnership) transfers a business (as a going concern) to a company, relief is given to the extent that the sale proceeds are taken by way of shares in the company. The relief provides a deferral of the tax payable on the amount of the consideration taken in the form of shares in the company, subject to a number of conditions being met. There is no requirement that the person making the transfer should have worked in the business.

2.3.8 CGT CARRIED INTEREST PROVISION

Section 541C Taxes Consolidation Act 1997 provides for the taxation of carried interest.

Carried interest excludes profits attributable to investors by reference to an initial rate of return and it cannot exceed 20% of the total profits of the relevant investment. For the purposes of CGT, carried interest is charged at 15% where received by an individual or partnership and 12.5% where received by a company.

2.4 Farm restructuring relief

Section 604B of the TCA provides that where an individual disposes of, or exchanges, farmland in order to consolidate an existing holding, the CGT due on the disposal or exchange is either fully or partially relieved, where Teagasc certifies that the transactions are made for farm restructuring purposes.

The most recent data on the uptake of this relief is set out in the Table 15 below.

Table 15 Revenue foregone and Uptake of Farm Restructuring (CGT) Relief 2018-2021

	2020	2019	2018
Revenue Foregone (€m.)	0.9 (prov)	0.8	0.6
Number of successful claims	13 (prov)	18	17

The Department undertook a comprehensive ex-post review of this relief in 2019 which was published as part of the Department's report on Tax Expenditures[5]. The review assessed the relevance, cost, impact and efficiency of the relief, and found that over all the relief is beneficial. While uptake of the relief is small in context of the overall agricultural sector it is seen to provide a benefit to those who availed of it. The relief remains relevant and contributes towards assisting farmers to achieve farm consolidation to make their landholding more efficient.

Farm restructuring relief is closely related to farm consolidation relief (discussed in more detail in section 4.6.4) which provides for a reduced rate of stamp duty for purchases and disposals of farmland to consolidate an existing holding. The expiry date of farm restructuring and farm consolidation relief were aligned in Finance Bill 2020 on 31 December 2022 to allow their consideration together.

This relief is classified as State Aid, and European Commission State Aid approval under the Agricultural Block Exemption Regulation is required for its extension. The current ABER is due to expire at end December 2022 and a new ABER is currently being negotiated. There is currently no indication from the Commission that this timeline will not be met or that there will be a further extension to the current ABER. Any extension to the relief would require approval within the appropriate State Aid framework available at the time.

With the current ABER due to expire at the end of 2022 it will not be possible to renew this relief, or any of the other reliefs that required approval under ABER referenced in this paper in the absence of either a revised ABER which the relief still qualifies under, or an extension to the existing ABER. In line with the Department's Tax Expenditure Guidelines, any proposed extension would be for a maximum of three years and it is considered appropriate to align the review dates to the Farm Consolidation stamp duty relief.

2.5 Revised Entrepreneur Relief

Following an Indecon review in 2019[6] considerations relating to this relief have been laid out by the Department in previous TSG papers. This future of this relief will be reviewed before end 2024 and consideration given to appropriate adjustments where necessary. Some high level points regarding the relief are set out below.

[5] I. Review of Section 604B - Capital Gains Tax Relief for Farm Restructuring (2019)
[6] https://assets.gov.ie/180888/2fb93079-7221-487b-be81-978f766fb9bf.pdf

The Department commissioned an external review by Indecon Consultants of the Revised CGT Entrepreneur Relief, and it was published as part of the Budget 2020 documentation. A number of possible modifications, amendments and potential improvements were suggested in respect of the relief, both through the public consultation exercise as well as the Indecon evaluation. These were as follows:

- Reduction in the headline rate of CGT of 33%
- Increase in the lifetime limit of €1 million (to €10 million - €15 million)
- Amendment or removal of the requirement for an individual to own at least 5 per cent of share capital in the company
- Amendment of the requirement for an individual to spend at least 50% of their working time in the company over three of the five years preceding the disposal
- Change to the definition of qualifying companies and corporate structure
- Inclusion of passive investors within the scope of CGT Entrepreneur Relief
- Consideration of the interaction between CGT Entrepreneur Relief and Retirement relief

The objective of the relief is to support and encourage entrepreneurial activity. However, it can be argued that the broad based approach of the relief means that it is not necessarily targeted at entrepreneurs. The relief benefitted businesses that were in operation before the relief was introduced and while reinvestment of the proceeds of a sale is not a requirement of the relief, it has been shown that individuals who benefit from the relief are, for the most part, not likely to reinvest the proceeds of a sale in a new business activity.

It is notable that in the UK the lifetime limit for the equivalent entrepreneur scheme has been reduced from £10 million to £1 million since 2020.

It should also be noted that the ESRI question the merits of the relief in its Budget Perspectives 2022 Paper 1 (May 2021).[7]

An amendment was made in Finance Bill 2020 to the shareholding aspect so that an individual who has owned at least five per cent f the shares in the company for a continuous period of any three years prior to disposal may qualify. Prior to this change it was necessary to hold the shares for three years in the five years immediately preceding the disposal.

[7] https://www.esri.ie/system/files/publications/BP202201.pdf

2.5.1 ENTREPRENEUR RELIEF OPTIONS

Reinvestment

The Department of Enterprise Trade and Employment (DETE) has sought changes to Entrepreneur Relief to encourage reinvestment, by amending the current lifetime threshold to a 'per venture' threshold. It is argued that this would ensure that the relief can be utilized by serial entrepreneurs and that utilization of the lifetime threshold in one venture will not prove to be a disincentive to locating a second venture in Ireland.

DETE argues that by allowing serial entrepreneurs to benefit from subsequent ventures, this could dramatically reduce deadweight and would retain the incentive for entrepreneurs to locate businesses in Ireland, and could improve competition in capital taxation and incentivizes those 'winners' to reinvest in Irish businesses rather than passive investments.

Angel Investors

Another option proposed by DETE is aimed at incentivising investment in businesses from external 'angel' investors by removing the current working time requirement – where an individual must spend at least 50 % of their working time in the company over three of the five years preceding the disposal. It has further sought an accompanying change to either the current lifetime threshold of €1 million or, preferably, through the change in the CGT rate applying for gains in excess of the lifetime threshold.

This is based on the argument that there should be tax incentives to promote investing in assets linked to job creation in Ireland (such as equity in Irish SMEs) over and above assets which are less linked to growing jobs in the community (such as real estate and international stock market portfolios). It is argued that this CGT outcome could motivate investors away from passive investment to active business investment.

2.5.2 COST

The latest published cost for CGT Entrepreneur Relief from the Revenue Commissioners is €93.9 million for 2019. There were 972 claims for this relief.

Revenue does not collate information on the €1 million threshold, only on the gains subject to the relief.

2.6 Context for Amending CGT Regime

As with all taxes, CGT is subject to ongoing review. Depending on the policy aims, objectives and resources available, there are always options for amending the scope of the tax, including changing the rate of the tax, amending or abolishing existing reliefs and exemptions, or considering the introduction of new reliefs or exemptions.

In general, a narrow base for a tax regime with significant exemptions often requires a higher rate in order to generate an appropriate yield. A wider base may facilitate a lower headline rate of tax as it applies to a wider set of economic and commercial activities reducing the reliance on any one activity potentially maintaining a more sustainable yield.

The existence of a 33% 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.

2.6.1 INTERNATIONAL COMPETITIVENESS

To the extent that businesses take into account the rate of capital taxes, there is a suggestion that businesses may move to, or establish and develop in, locations where there is a more favourable CGT treatment. Clearly, the rate of CGT is not the only reason that businesses factor into location decisions, but it should be considered.

In any comparison, there is a need to understand and take into account the specific details of various CGT systems in different jurisdictions in order to carry out a fair comparison. This includes examining special rates, and reliefs and exemptions, rather than focusing solely on the applicable headline CGT rate. Headline rates are not always directly comparable in making a decision on whether to amend rates. For example, some jurisdictions operate different CGT rates for individuals and businesses and often the latter is the same as the corporate tax rate. There is often a link between individual CGT rates and personal income tax rates and the rate can be higher depending on the rate of income tax applying in the particular country. As a result there is a diversity of such rates across a number of comparable countries.

Table 16 below therefore seeks to assess Ireland's individual rate of CGT against selected euro area countries plus the UK, Denmark and Norway.

Table 16 *Headline Rates of CGT for Individuals, Selected Euro area plus UK, Denmark and Norway*		
State	**Individual, CGT Rate**	**Corporate, CGT Rate**
Austria	27.5	Subject to normal CIT rate
Belgium	NA	Subject to the normal CIT rate (except capital gains on shares under certain conditions)
Denmark	Subject to normal PIT rate	Subject to the normal CIT rate
Finland	30 (34 on income exceeding €30,000 annually)	Subject to the normal CIT rate
France	30, plus exceptional income tax for high earners at 4%	Subject to normal CIT rate
Germany	25, plus solidarity surcharge	Subject to the normal CT rate
Ireland	33	33
Italy	Subject to the normal PIT rate	Subject to the normal CIT rate. For financial investments, the PEX regime at 95% exemption may be applied
Latvia	20	Subject to the normal CIT rate
Lithuania	20	Subject to the normal CIT rate
Luxembourg	Subject to the normal PIT rate	Subject to the normal CIT rate
Netherlands	NA	Subject to the normal CIT rate
Norway	Subject to the normal PIT rate	Subject to the normal CIT rate
Slovak Rep	Subject to the normal PIT	Subject to the normal CIT rate
Slovenia	27.5	Subject to the normal CIT rate
Spain	Residents subject to PIT between 10-26% Non-residents – 19	Subject to the normal CIT rate
Sweden	30	Non-tax-exempt capital gains taxed at the corporate tax rate of 21.4%
UK	< £12,300 – exempt; basic rate band up to £37,500 – 10; higher rate - 20. UK residential property and carried interest - 28 (higher rate) and 18 (basic rate).	Subject to the normal corporation tax rate

Source: PwC Worldwide Tax Summaries, April 2022

It is also important to highlight that any change to the rate of CGT in Ireland would not only affect CGT receipts but also corporate tax receipts from corporate gains (with the exception of development land) which are not possible to identify separately.

2.6.2 COSTINGS FOR POSSIBLE CHANGES TO THE CGT RATE

The estimated cost/gain from a change in the rate of CGT is set out below in Table 17.

Table 17 *Estimated cost/gain from change in the rate of CGT*		
		Full Year Exchequer (Cost)/Gain € million
Reduction in CGT rate	32%	-42
	31%	-84
	28%	-210
Increase in CGT rate	34%	42
	35%	84
	38%	210
	40%	294

Source: Revenue Commissioners

In terms of the cost of changing the headline rate of CGT, each 1% reduction/increase in the headline rate of CGT is estimated to be €42 million, assuming no behavioural change. A 5% reduction in the CGT rate in a single Budget would have an Exchequer impact of €210 million, assuming no behavioural change.

It is worth noting that any change in the headline CGT rate would also have an impact on overall corporation tax receipts from businesses paying tax on capital gains as part of their corporation tax. However, as previously indicated, it is not possible to present separate estimates for this.

The funding of any change is also a key consideration. There may be a need for trade-offs elsewhere in the tax system (or in budgetary arithmetic) in the event of any rate change.

The existence of a 33% 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 behavior.

2.6.3 HIGHER CGT RATE FOR HIGH INCOME INDIVIDUALS

During committee stage of the Finance Bill 2021, the Minister for Finance undertook to consider the concept of an increased rate of CGT applicable for high income individuals as part of this year's Tax Strategy Group proposal.

While there is no specific data available which breaks down current CGT receipts by income, Revenue were able to produce, on the basis of a matching exercise for the latest year available (2019), an estimated yield from increasing the rate of CGT to 40%, using their usual methodology where both the income and taxable gains exceeds the thresholds shown. The results of the exercise are set out in Table 18 below.

Table 18	
Income and Taxable Gains Threshold	**Yield €m**
Above €200,000	53
Above €300,000	36
Above €400,000	24
Above €500,000	19

Source: Revenue Commissioners

This is a tentative exercise based on matching two different systems (income tax and capital gains tax) and does not include any behavioural change. This is an important point as it is likely that an additional charge could influence behavior to try to minimise tax liabilities in terms of how and when gains are realized.

Increases in rates may have a significant behavioural impact. CGT is dependent on individual behaviour and a change in rate may not produce a corresponding increase or decrease in tax yield. In current economic conditions, any estimate of additional yield must be treated with caution. The realisation of any estimated yield from an increase in taxation on assets relating to property is subject to movements in the value of such assets, which are currently occurring in the economy. In addition, increasing the rate could, in theory, lead to a reduction in yield from the tax.

It is the case that some other jurisdictions do have additional higher rates of tax on capital gains. However, taking the example of the UK, the threshold for a higher rate of CGT is the size of the gain rather than the individual's income level. In France for certain transactions there is a 4% surcharge but this is levied on all income over €500,000, including gains. In neither case is the level of income a trigger for a higher rate of tax aimed specifically at capital gains.

A further point to consider is that such an additional rate could mean that individuals pay a higher rate of CGT when compared to the chargeable gains that would be taxable if the same gain was realised by a company. Currently individuals and companies pay the same rate of 33%, although the company's payment is part of its general corporate tax return.

2.7 Conclusion

CGT policy has changed significantly over the years, with fluctuating rates in response to the economic cycle and the introduction of reliefs to incentivise/deter certain behaviour. As with all taxes, a low rate can be funded through a wide base, similarly a narrower base designed to encourage/reward certain behaviour requires a higher rate. Currently the Irish system adopts the latter approach with significant reliefs in place. This approach allows targeted relief but there is a trade-off between narrowing basis and rates of taxation.

Whilst a reduced rate of CGT could possibly result in an immediate Exchequer impact, there are doubts as to the potential level of additional yield this could raise and its sustainability over time. Moreover, there is a significant risk of considerable deadweight arising from a reduction in the CGT rate, as many assets would be sold regardless of the rate at a particular time.

3 DIRT AND LAET

The issue of the taxation treatment of financial products subject to Deposit Interest Retention Tax (DIRT) and financial products subject to Life Assurance Exit Tax (LAET) has come to the fore since reductions in the rate of DIRT in 2017. Prior to this the rates of DIRT and LAET had moved in tandem. However, while DIRT rates were reduced over a 4 year basis, the level of LAET has remained at its 2017 rate.

The Department of Finance published a report[8] in 2018, which examined the tax treatment of financial products subject to DIRT and financial products subject to LAET. It concluded the products subject to DIRT and products subject to LAET are different in a number of respects, namely, the level and application of fees to clients, the level of risk and return and potential losses, and hence the way in which they are taxed.

Further work was conducted in 2020 through the TSG paper[9] following a commitment by the Minister to examine the issue in further detail in the context of a changing macroeconomic environment, specifically in relation to forecast interest rate changes. It did not find any basis for a change in the rate of LAET but did suggest the potential for rebalancing the DIRT rate as a potential stimulus measure in the context of the impact of COVID in the economy.

3.1 DIRT and LAET rates and structures

3.1.1 DIRT

DIRT is deducted by deposit takers such as banks and credit unions from the deposit interest paid on accounts of Irish residents. The DIRT rate as a percentage of total interest have changed over recent years and are set out in Table 19 below.

[8] The Taxation of DIRT and LAET https://assets.gov.ie/5082/201218111955-d71b3530135c4ed8b556f4dcba3f7e50.pdf
[9] https://assets.gov.ie/87003/0bd8793d-3466-4870-8b57-70155844307d.pdf

Table 19 DIRT Tax Rates 2002-2022	
Period Rate Applied	**Standard DIRT Rate**
01 Jan 2002- 31 Dec 2008	20%
01 Jan 2009 – 07 Apr 2009	23%
08 Apr 2009- 31 Dec 2010	25%
01 Jan 2011 – 31 Dec 2011	27%
01 Jan 2012 – 31 Dec 2012	30%
01 Jan 2013 – 31 Dec 2013	33%
01 Jan 2014 – 31 Dec 2016	41%
01 Jan 2017 – 31 Dec 2017	39%
01 Jan 2018 – 31 Dec 2018	37%
01 Jan 2019 – 31 Dec 2019	35%
01 Jan 2020 – Present	33%

3.1.2 LAET

LAET is payable on any gain arising from a life assurance policy. If a policy has a return that is greater than the amount invested, that difference is a gain and LAET is deducted on this amount. While no annual tax is due on gains arising within the investment, the owner of the policy is subject to income tax on their gains when a chargeable event occurs. Chargeable events include the maturity of a policy including payments which result in the termination of a policy, the surrender of a policy and the assignment of a policy. In addition, in order to prevent long term deferral of tax there is a deemed disposal chargeable event which requires an exit tax to be levied 8 years after the inception of the policy, and every subsequent 8 years. Any gain on the investment which arises from the date of acquisition to the date of the deemed disposal is subject to tax. The life assurance company is obliged to deduct any tax due directly from the gain and pay it to Revenue.

Products subject to LAET include all life plans issued on or after 1 January 2001:

- all life savings plans,
- all life investment bonds (capital protected, trackers),
- all life protection plans.

Table 20 LAET Rates 2001 – 2022	
Period Rate Applied	**LAET Rate**
Up to 31 Dec 2008	23%
1 Jan 2009 – 7 Apr 2009	26%
8 Apr 2009 – 31 Dec 2010	28%
1 Jan 2011 – 31 Dec 2011	30%
1 Jan 2012 – 31 Dec 2012	33%
1 Jan 2013 – 31 Dec 2013	36%
1 Jan 2014 - Present	41%

3.1.3 DIRT AND LAET YIELDS

Yields from both DIRT and LAET are shown in Table 21 below, with a clear collapse in DIRT receipts in recent years. The assumption is the deposits have increased but interest rates have decreased much more, leading to the collapse in receipts. In addition, it is worth noting the lagged impact of SSIA[10] schemes on LAET which would have been invested following maturity of the scheme in 2007/08 and appear in the yield figures around 2015/16.

Table 21 Annual Tax Yield from DIRT/LAET €m										
	2012	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
DIRT	581	499	435	300	170	118	96	64	37	20
LAET	43.4	58.7	130	247	228	184	165	128	124	129

Source: Revenue Commissioners

[10] SSIA – Special Savings Investment Account, which was a five-year savings scheme in which the Exchequer topped up by 25%, by way of a tax credit, subscriptions made by an individual to his or her SSIA, up to a maximum of €254 per month. SSIAs matured during the period 31 May 2006 to 30 April 2007.

Table 22 *Cost/Gain from a change in the rate of LAET*		
		Full Year (Cost)/Gain € million
Reduction in standard rate of LAET	From 41% to 40%	-3
	From 41% to 38%	-9
	From 41% to 35%	-18
	From 41% to 33%	-24
Increase in the Standard rate of LAET	From 41% to 42%	3
	From 41% to 44%	9
	From 41% to 47%	18
	From 41% to 49%	24

Source: Revenue Commissioners

3.2 Conclusion

It is the case that there is currently a difference in the tax treatment for different products. In the 2020 TSG paper on DIRT and LAET, the impact of this difference was modelled for DIRT and LAET, which indicated that despite the higher headline rate for LAET, with certain reasonable assumptions regarding different rates of return the result at the end of an 8 year period was a lower tax payment for the life assurance product, due to compounding interest over the 8 years before the tax was imposed. Difference in the tax treatment for products with different characteristics does not necessarily mean that a higher tax liability for the products with a higher headline rate.

Notwithstanding this point, an argument can be made for considering this issue, not just at an individual product level, but as a more fundamental review of the neutrality of the tax system for individual savings and investors. Consideration could be given as to whether the differential rates are having a distorting effect on behavior. However, this is clearly not a discussion that can happen in isolation and would need to be considered in the context of the wider tax system.

4 Stamp Duty

4.1 Introduction

Stamp duty is generally a tax on documents or instruments. To be liable an instrument must be listed in Schedule 1 of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999). It must also be executed in Ireland or, if executed outside Ireland, 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 life and non-life 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, for example stamp duty at 1% on the value of shares transferred (payable by the person acquiring the shares).

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 specific legislation regarding the application of stamp duty is contained in the Stamp Duties Consolidation Act 1999.

The main stamp duties are payable on the following:

- Residential property transactions - 1% on the transfer of ownership of property with a value of up to €1m and 2% on any balance over €1m.

  From May 2021, the bulk purchase of houses (not apartments) i.e. the acquisition of 10 or more in any 12 month period, triggers a 10% stamp duty rate that will be applied to the acquisition of a 10th or subsequent house. It will also be applied to all of the 10 or more houses purchased in the 12 month period. Certain conditions and a number of exemptions apply.

- Non-residential property transactions[11] - 7.5% on the transfer of non-residential property.

[11] 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.

- Transfers of shares in Irish registered companies - 1%[12].
- Financial cards
- 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% on the premium payable.
- 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 (Section 126AA of SDCA 1999) - target of €87 million revenue for 2022.

4.2 Stamp Duty Yield

According to Revenue’s Annual Report for 2021[13], the total stamp duty they collected in 2021 amounted to some €1.5 billion net. This accounted for approximately 2.2% of total tax receipts.

Table 23, below, lays out stamp duty yields from 2019 to 2022. It should be noted that there was exceptional yield changes in 2020 in both the stamp duty on stocks and marketable securities, and “Other Stamp Duty” but they both returned to more normalised levels in 2021.

[12] 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 (SDCA 1999 Section 86A).
[13] Annual Report 2021 (revenue.ie) – Table 2, Page 92

Table 23 *Stamp Duty Yield, €M.*							
Year	**2019 (Jan. to May)**	**2019 (12 months)**	**2020 (Jan. to May)**	**2020 (12 months)**	**2021 (Jan. to May)***	**2021 (12 Months)**	**2022 (Jan to end-May)***
Stamp Duty - Residential property*	**61.0**	**181.6**	**63.3**	**160.3**	**72.7**	**216.1**	**87.6**
Stamp Duty - Non-residential property*	**189.7**	**535.3**	**199.3**	**405.9**	**156.1**	**512.2**	**209.9**
Stamp Duty -Receipts on Stocks and Marketable Securities	**162.1**	**383.6**	**223.5**	**506.5**	**279.5**	**371.4**	**202.4**
Non-Life Levy/Life Assurance Levy	**78.9**	**186.1**	**87.4**	**170.7**	**89.4**	**180.9**	**87.5**
Combined Cards	**11.1**	**17.0**	**8.8**	**18.4**	**-1.1**	**5.2**	**1.7**
Other Stamp Duties (Cheques, Credit cards, ATM cards, deeds etc.)	**26.1**	**211.6**	**39.1**	**831.8**	**15.9**	**207.1**	**52.1**
Stamp duty (Total)	**528.9**	**1515.2**	**621.4**	**2093.7**	**611.9**	**1494.9**	**641.3**

* Provisional Source: Revenue

4.3 Issues for consideration

The focus of stamp duty material in this series covers residential property and stamp on non-residential property. This year these include the following:

- Stamp duty on residential property in general, including the 10% charge on the multiple purchase of houses.
- The residential development stamp duty refund scheme which is due to close to new applicants at the end of 2022.
- The introduction of a new levy/tax to help offset the cost of the Defective Concrete Blocks Grant Scheme (also known as the Mica Redress Scheme).
- Farm Consolidation relief which is due to expire at the end of 2022.
- The Young Trained Farmer stamp duty relief which is due to expire at the end of 2022.
- The listing of the educational qualifications required to avail of a number of agri-tax reliefs.

4.4 Non-residential property

Non-residential property for stamp duty accounted for 34.3% of overall stamp revenue in 2021, while stamp on the acquisition of residential property accounted for 14.5%.

Table 24 shows the yield from this category of stamp duty for the period 2014 to 2021 and for 2022 to end-May.

Table 24 *Non Residential Stamp Duty Yield 2014-2022*									
Year	2014	2015	2016	2017	2018	2019	2020	2021*	2022 to end-May*
Stamp Duty (Millions)	**€173**	**€178**	**€256**	**€203**	**€489**	**€538**	**€406**	**€512**	**€512**

* Provisional Source: Revenue

Raised from 2% to 6% in Budget 2018 in an effort to cool the non-residential construction sector and potentially encourage a shift of funds and resources into residential construction, the rate of stamp duty on non-residential property was further increased from 6% to 7.5% in Budget 2020.

As seen in Table 24, there was a 26% rebound in revenue under this heading in 2021 when compared to 2020, which had seen a 32% fall from 2019. The fall is 2020 can be largely attributed to lockdown measures taken to limit the spread of Covid-19, which saw significant limitations imposed on the property market for much of the final three quarters of 2020.

In the five months to end-May 2022 €210 million has been received under this stamp duty. This is 34.5% ahead of the figure of €156 million for the same period in 2021, and 9.7% ahead of the January-May receipts in 2020 (€199 million). The relatively low revenue received in the first five months of 2021 compared to the quite strong year-end figure, demonstrates the strength and speed of the rebound experienced in the sector as Covid restrictions were eased.

The continuation of that post-Covid rebound in the non-residential property sector into 2022 is demonstrated in the figures to end-May which show further growth in the stamp duty revenue received under this heading.

4.5 Residential Property

4.5.1 MARKET PERFORMANCE

Table 25 shows the level of yearly residential stamp duty yields from 2014 to 2022.

Table 25 *Residential Stamp Duty Yield 2014-2022*									
Year	2014	2015	2016	2017	2018	2019	2020	2021*	2022 (to end-May)*
Stamp Duty (Millions)	**€102**	**€123**	**€132**	**€175**	**€171**	**€179**	**€160**	**€216**	**€88**

* Provisional Source: Revenue Source: Revenue

Provisional revenue under this stamp duty in 2021 was 35% (€56 million), up on 2020's figure of €160 million. This evidences a rebound in the acquisition of residential property when compared to 2020, with revenue from the 10% stamp duty levied on the bulk acquisition of houses from May 2021 onwards accounting for €4.1 million of the 2021 figure[14]. The 2021 revenue figure also outperformed the last pre-Covid year, i.e. 2019.

According to latest available data, the number of stamp duty filings in April – notification of sales pending completion was 4,324, 9% lower than the 4,768 transactions recorded in March 2022[15]. Transactions for the year to April totaled 58,500, up 17% on the same period last year. First-time buyers accounted for 1,104 transactions in April while non-household buyers accounted for 20% of all purchases, or 878 units, in April.

4.5.2 THE RESIDENTIAL DEVELOPMENT STAMP DUTY REFUND SCHEME

Section 83D of the Stamp Duties Consolidation Act 1999 provides for the "residential development stamp duty refund scheme". It provides for a refund of a portion of the Stamp Duty paid on the acquisition of non-residential land where that land is subsequently developed for residential purposes. In the absence of this relief Stamp Duty would normally be 7.5% of the value or purchase price of the property, whichever is the higher. It is subject to a number of conditions, including in relation to the portion of the land given over to actual housing and the time taken to commence and then complete the construction of the residential unit or units

[14] A further €2.5 million in respect of 77 properties (47 returns) on which 10% stamp duty was payable was generated in Q1 2022.
[15] Note Stamp duty execution data are subject to large revisions. Data sourced from RPPI April 2022 released on June 15th.

involved. It applies to once-off housing, as well as to multi-unit developments, and can result in the net stamp duty rate paid on such land being reduced to as low as 2%.

This relief was introduced in Finance Act 2017 in the context of the Budget 2018 measure increasing the rate of stamp duty on non-residential land from 2% to 6% and to 7.5% in Budget 2020. Its purpose is to encourage the use of non-residential land for the construction of new housing. It is primarily designed to promote the construction of high-density housing in inner and outer urban settings where "brownfield" sites might otherwise be deemed uneconomical to develop owing to the 7.5% stamp duty rate that would normally apply on such property. It also applies to one off rural housing, but a refund cannot be claimed for curtilage which exceeds 0.4047 hectares (1 acre).

Its extension was announced in Budget 2021, due to the impact on the sector of COVID-19, and also to the need to amend certain issues that had been brought to the Minister's attention since its introduction in 2019. Section 50 of Finance Act 2020 provided for its extension to operations commenced by 31 December 2022, and for the time allowed between commencement and completion of a qualifying project to increase by 6 months to 2.5 years.

A report on the relief prepared by the Department of Finance (following consultation with the Department of Housing), which was published as part of the Report on Tax Expenditures 2020[16] advised that no changes be made to the time allowed between acquisition and commencement under the scheme. The report notes that there was no evidence at the time that meeting that 30 month deadline had become more challenging in light of the Covid-19 pandemic, nor had it been highlighted as an issue of particular concern by the construction industry. That limit was therefore retained at 30 months.

As the amended scheme is due to close for new applications on 31 December this year, the Department of Finance is examining it in advance of Budget 2023. The Department will make recommendations to the Minister for Finance as to its possible extension, or any appropriate amendments.

There have been some calls from the construction industry and their representative groups for an easing of the conditions pertaining to the amount of the property that must be comprised of residential space. They are of the view that the current conditions, combined with planning requirements in respect of the provision of shared public space, access roads, parking spaces and pathways make it difficult to meet the 75% threshold when building houses (but not apartments). However, it is the intention of this relief to encourage high-density housing in more centrally located areas.

[16] gov.ie - Budget 2021 (www.gov.ie) – Page 80

The Department has also been contacted about the condition which stipulates that there are 30 months allowed between acquisition of the property and commencing construction on it. It has been noted that planning and other delays, as well as those arising from the Covid-19 lockdown have rendered meeting this deadline very challenging for some.

Futhermore, delays in the planning process brought about by planning applications being subject to judicial review proceedings, making the 30 month deadline more challenging.

Take-up of the Residential Development Stamp Duty Refund Scheme:

Since its introduction in late 2017, and up until 31 December 2021, the total amount of stamp duty that has been refunded under the residential development stamp duty is €31 million, as can been seen from Table 26 below.

Table 26 *Annualised data to 31 Dec. 2021*

Year	Refund Amount	Number
2018	€1.2m	166
2019	€9.5m	956
2020	€13.2m	1,277
2021	€7.m	1,337
Total	**€31m**	**3,736**

Source: Revenue

The number of successful applications under the scheme is 3,736, though as only one application is required for a multi-unit development, this figure should not be understood as the total number of dwelling units involved.

As set out in Table 27, as at 31 December 2021 most applications, 3,474 [93%], were in relation to single dwelling units i.e. the construction of one-off dwelling houses. The remainder of the applications, 262 [7% of overall total], were in relation to multiple development units.

Table 27 *Application Type/Refund Value (Data to 31 December 2021)*				
Type of Application	**Count**	**Percentage of Total Applications**	**Refund Value €m**	**Percentage of Total Refunded**
Single Dwelling Unit	3,474	93%	€9	29%
Multiple Dwelling Unit	262	7%	€22	71%
Total	**3,736**	**100%**	**€31**	**100%**

Source: Revenue

In relation to applications relating to multiple development units, Revenue records confirm that a total of 11,882 units had been claimed for and refunded up to 31 December 2021. The scheme has contributed to the delivery of over 15,000 housing units in the first 4 years of its existence, and it can be expected that there are many more in the pipeline.

4.5.3 STAMP DUTY RATE OF 10% ON THE BULK ACQUISITION OF HOUSES

In May 2021 the Government took a number of actions in light of a growing awareness of the potentially harmful impact of the increasing incidence of investment funds buying up residential units, including whole housing estates, with the intent of putting them on the rental market.

The Minister for Finance brought forward a Financial Resolution on 19 May to introduce with immediate effect a new stamp duty rate of 10% that applies to any acquisition of ten or more residential units in a 12 month period. The Financial Resolution was put on a permanent statutory footing by the Finance (Covid-19 and Miscellaneous Provisions) Act 2021, and is provided for in section 31E of the Stamp Duty Consolidation Act 1999.

The new 10% rate applies not only to the unit, or units, which may have just been acquired, and which represent a tenth or subsequent property acquisition in the twelve month period just acquired, but also to the up to nine units acquired in the previous twelve month period to which it has not previously been applied.

A limited number of exemptions from the new 10% rate on bulk purchases of residential property were provided for in the legislation are outlined below:

- It does not apply to apartments (as defined).
- Multiple purchases of houses by Local Authorities, Approved Housing Bodies and the Housing Agency. This was seen as essential in order to ensure the implementation of the broader social and affordable housing agenda.

Two additional exemptions were provided for in the Finance (Covid-19 and Miscellaneous Provisions) Act 2021. These are:

- An exemption from the 10% stamp duty rate for private sector participants in the Mortgage to Rent Scheme. That scheme provides for an Approved Housing Body, or since 2018 a private company, to acquire ownership of a property with an unsustainable private mortgage from a lender, so enabling the household to remain in their home as a social housing tenant. While Approved Housing Bodies were exempt from the 10% rate under the terms of the Financial Resolution, the private company aspect was not, so an amendment was required.

- An exemption which provides that where a residential unit that is subject to the new rate of stamp duty is acquired, and then, within 24 months, leased to a local authority for social housing purposes, the stamp duty paid over and above the pre-existing rates that apply to acquisitions of residential property will be refunded.

A further exemption was added, again at the request of the Minister for Housing, Local Government and Heritage, in section 14 of the Finance (Covid-19 and Miscellaneous Provisions) Act 2022.

This provides for a partial repayment of stamp duty charged at the higher 10% rate under section 31E SDCA 1999 for residential properties that are designated as “cost rental dwellings” subsequent to being acquired. It is intended that this stamp duty measure will, along with other regulatory measures, have the desired impact of mitigating the negative effects of the bulk buying of houses by institutional investors, whilst not preventing the bulk acquisition of houses for socially beneficial purposes.

Provisional data from Revenue indicates that by the end of April 2022, the acquisition of 345 relevant residential units were covered by 243 returns which refer to section 31E (the 10% rate) and that approximately €9.1 million in stamp duty was paid.

It is also important to note that the 10% stamp duty rate forms just one of a number of measures that have been taken by Government to ensure the proper working of the housing market. Therefore its impact should not be judged or measured in isolation but together with others including regulatory measures introduced by the Minister for Housing, Local Government and Heritage in the planning area.

4.5.4 DEFECTIVE BLOCKS REDRESS SCHEME

While the Minister for Housing, Local Government and Heritage has primary responsibility for the measures designed to address the defective blocks issue, in November 2021 Government agreed that a levy on the construction sector be developed, with a view to introducing such a levy in Finance Bill 2022 and to apply from 2023.

Department of Finance officials, with the assistance of colleagues in other Departments and agencies, including Revenue, have been working on identifying and evaluating a range of options in regards to such a levy. Significant technical work is currently ongoing to design an appropriately targeted levy.

4.6 Farming Reliefs

4.6.1 AGRI-TAX AND AREAS UNDER REVIEW

The agri-food sector is our most important indigenous exporting industry, playing a vital role in the economy, with 135,000 farms producing over €9.5 billion in output annually. In 2021 agri-food exports accounted for 9.3% of total merchandising exports, with a value of €15.4 billion, marking growth of 50% since 2012.

The development of a new ten-year strategy for the agri-food sector is a key commitment of the Programme for Government, which called for an ambitious blueprint for the sector for the years ahead[17]. This includes supporting family farms and employment in rural Ireland and adding value sustainably into the future, with a strategic focus on environmental protection.

Given the importance of the agricultural sector to the Irish economy, and the goals outlined above, the sector enjoys a comprehensive range of sector specific tax reliefs, including a number linked to stamp duty. The Department of Finance is currently examining:

[17] To meet this commitment an Irish Government agri-food strategy titled 'Food Vision 2030 – A World Leader in Sustainable Food Systems' was published in 2021.

- Whether the young trained farmer stamp duty relief, having been extended for one year to end-2022 in Finance Act 2021 should be further extended, and if so for how long.
- How the means and process for listing the educational qualifications required to avail of a number of agri-tax reliefs might be streamlined and improved.
- If the farm consolidation stamp duty relief, which is due to expire at the end of 2022 should be again extended, and of so for how long.

4.6.2 YOUNG TRAINED FARMER STAMP DUTY RELIEF YOUNG TRAINED FARMER STAMP DUTY RELIEF

Description

A full relief from stamp duty on the conveyance of farm land is currently available under section 81AA of SDCA 1999. The main conditions for granting this relief are that on the date of execution of the deed of transfer the young trained farmer must be; (a) under 35 years of age, and (b) the holder of a specified educational and training qualifications (a refund of stamp duty paid can be sought if an appropriate qualification is received within 4 years of the date of execution, and other requirements are met). In addition, the young trained farmer must declare that he/she will retain and farm the land for a period of 5 years, and spend not less than 50% of his/her normal working time farming the land.

Purpose and benefits

The core purpose of the relief is to promote lifetime transfers of land and encourage more young people to pursue farming.

The Agri-taxation Review[18], published as part of Budget 2015, set out the main policy objectives for continuing support to the sector through agri-taxation measures including "Assisting succession and the transfer of farms".

The age profile of Irish farmers continues to be a cause for concern, with the CSO reporting that 55.3% of farms here were held by those aged 55 and over in 2016[19], and the more recent Teagasc National Farm Survey[20] reporting the average age of farmers in Ireland in 2020 as 59.2 years, up from 55.4 years in 2016. It is however recognised that there are many social

[18] https://igees.gov.ie/publications/economic-analysis/agriculture/agri-taxation-review/
[19] The most recent CSO data on the age of farm holders is from 2016 and is set out in the CSO Statistical Yearbook 2018 (https://www.cso.ie/en/releasesandpublications/ep/p-syi/psyi2018/agri/farmsandfarmers/). The preliminary publication of data from a CSO Sept. 2020 survey is expected Dec. 2021 with full results expected March 2022.
[20] Teagasc National Farm Survey 2020 – Preliminary Results – Table 08E

and economic reasons why succession management is a challenge for farmers, therefore assisting succession and the transfer of farms has been a central part of successive Governments' agri-taxation policy. To this end measures to maintain and strengthen that support, such as Agricultural Relief from CAT, Retirement Relief from CGT, the Succession Farm Partnership Scheme, various stock relief schemes and the stamp duty exemptions on transfers of land have been introduced and/or sustained to support that policy. In addition, there were a number of new measures introduced to make these reliefs more effective, including targeting Agriculture Relief at active and trained farmers.

Recommendation 14 of the Agri-taxation Review stated that the current stamp duty exemptions on transfers of land should be retained, including the Stamp Duty Exemption on Transfers of Land to Young Trained Farmers (YTF). Indecon's analysis, contained in that Review, suggested that where stamp duty relief encourages land mobility to younger active farmers it is likely to result in increased output levels in the sector.

The Department of Agriculture, Food and the Marine also continues to see the YTF relief as an integral part of the package of measures assisting succession and the transfer of farms.

Table 28 *Uptake & revenue foregone 2012-2021: Young Trained Farmer Stamp Duty Relief*

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Revenue Foregone (€ mil.)	7.9	3.7	4.7	5.2	4.6	7.8	16.8	14.6	11.9	15.01
Number of successful claims	1,157	714	722	989	731	845	1,056	1,128	1,152	1,278

Source: Revenue

The increase in the rate of stamp duty on the acquisition of non-residential property from 2% to 6% announced as part of Budget 2018 and the further increase from 6% to 7.5% announced in Budget 2020, have contributed to the increase in the amount of revenue foregone under this relief in recent years. The revenue forgone figure is also a function of the quantity and value of the farmland acquired by eligible farmers in any given year, and this can also give rise to variations in that figure, as factors affecting demand and supply for farmland (both its level and quality) come into play.

Review and Renewal

The relief was last extended (by three years to 31 December 2021) in Finance Act 2018. As it is due to expire at the end of this year it is currently under review. Officials will make a recommendation to the Minister for Finance in advance of Budget 2023.

As this relief is deemed a form of state aid permissible under the Agricultural Block Exemption Regulation (ABER), it can only be extended under the terms of an ABER. As has been outlined previously in this paper the duration of any further extension of the young trained farmers stamp duty relief is dependent on the introduction of a new ABER or the further extension of the existing one.

4.6.3 LISTING OF EDUCATIONAL QUALIFICATIONS

Section 5.3 of the 2021 TSG stamp duty paper set out the background to, and case for, updating the process for listing the educational qualifications required to avail of a number of agri-tax reliefs.

The reliefs involved, and the legislative provisions supporting them, are:

- Stock relief for young trained farmers (section 667B of the Taxes Consolidation Act 1997)
- Stock relief for registered farm partnerships (section 667C of the Taxes Consolidation Act 1997)
- Succession Tax Credit (section 667D of the Taxes Consolidation Act 1997)
- Agricultural (Capital Acquisitions Tax) Relief (Section 89 Capital Acquisition Taxes Act 2003)
- Young trained farmer (stamp duty) relief (Section 81AA SDCA 1999)

The lists of such qualifications are currently provided in Schedules 2, 2A and 2B of SDCA 1999, in the relevant sections of the other tax acts (Taxes Consolidation Act 1997 and the Capital Acquisitions Tax Consolidation Act 2003), or via cross-reference to other sections. However, they have not been updated in recent years.

Work on streamlining the approach to the listing of educational qualifications is underway.

4.6.4 FARM CONSOLIDATION STAMP DUTY RELIEF

Table 29 *Uptake & revenue foregone 2018-2021: Farm Consolidation Stamp Duty Relief*

Year	2018	2019	2020	2021
Revenue Foregone (€ mil.)	0.3	0.63	1.22	1.2
Number of successful claims	45	90	105	105

Farm consolidation stamp duty relief (as provided under section 81C of SDCA 1999) provides that a 1% rate of stamp duty (as opposed to the general rate on non-residential property of 7.5%) can apply to the instruments giving effect to acquisitions and disposals of agricultural land[21]. This relief is conditional on the instruments being executed (signed, sealed or both) in the period 1 January 2018 to 31 December 2020, and where the land transactions qualify for a 'Farm Restructuring Certificate' from Teagasc.

The relief, in its current form, was reintroduced in Finance Act 2017. A similar relief expired on 30 June 2009.

The relief was restored in order to mitigate the impact of the increase in the rate of non-residential stamp duty from 2% to 6%, which was introduced in Budget 2018 on the farming sector. The rate of stamp duty on the acquisition of non-residential property was increased further to 7.5% in Budget 2020, making the relief even more attractive to potential applicants.

Having last been extended for two years in Budget 2021, it is due to lapse at the end of 2022.

PURPOSE OF FARM CONSOLIDATION RELIEF

The purpose of farm consolidation relief is to encourage the consolidation of farm holdings, in order to reduce farm fragmentation and so improve the operation and viability of farms. As a condition of the relief, Teagasc, as the competent body, is required to certify that purchases, sales and transfers of land are being carried out for genuine consolidation purposes, by issuing a 'Farm Restructuring Certificate'. The relief also constitutes an EU State aid and must therefore comply with State aid rules.

The relief is available where farm holdings are consolidated by way of linked sales and purchases of land, and also where land is transferred as a gift or by way of exchange. Stamp

[21] As defined in Section 604B of the Taxes Consolidation Act 1997

duty at a reduced rate of 1% (usual rate is 7.5%) is applied to the excess of the value of the land acquired over the value of the land disposed of, where the acquisition and disposal take place within a 24-month period of each other. The Department is aware of suggestions from some interested parties that the amount of time allowed to expire between the "matching" sale and subsequent purchase of farmland which currently must take place within 24 months be extended to 36 months

A similar relief in respect of CGT is also available under section 604B of the Taxes Consolidation Act 1997 (Relief for farm restructuring). The CGT relief was extended to 31 December 2022 by section 35 of Finance Act 2019, so, in order to bring the end dates of these two complimentary reliefs into line, the stamp duty relief was extended by only two years, in section 49 of Finance Act 2020.

As both these reliefs are forms of state aid permitted under the current ABER the duration of any further extension is dependent on the introduction of a new ABER or the further extension of the existing one (as outlined above).

4.7 Selected Other Stamp Duties

4.7.1 STAMP DUTY TREATMENT OF EXTRA-TERRITORIAL TRANSFERS OF IRISH SHARES

A stamp duty of 1% is payable on the sale of the stocks and marketable securities of Irish incorporated firms. It yielded €371 million in 2021, €507 million in 2020, €384 million in 2019, €473 million in 2018 and €449 million in 2017.

Brexit impacted the process for the collection of a considerable portion of this stamp duty. This was covered in the TSG 2021 paper on Brexit Issues (Brexit Readiness - Taxation and Customs Issues)[22].

The new process for the collection of this stamp duty introduced in response to the Brexit related migration of Ireland's Central Securities Depository (CSD) service to Euroclear Belgium from the London based CREST system, has not given rise to any significant operational issues. There are however a number of matters currently being examined in terms of possible consequences arising from the impact of the new Chapter 2 of Part 6 of the Stamp Duties Consolidation Act 1999, which was inserted into that Act by Finance Act 2020 to provide a legislative basis for the new process.

[22] TSG 20-09 Brexit Readiness Taxation and Customs Issues

Prior to the introduction of Chapter 2 of Part 6, it was Revenue practice to confirm that securities which were transferred via electronic systems other than the CREST system were not liable for stamp duty, due to the practical difficulties associated with the collection and enforcement of such duties. Following the introduction of Chapter 2 of Part 6, this practice has continued for transfers effected outside of the Euroclear Bank and CREST systems. However, there is a mismatch between the legislation - which provides for stamp duty to be charged on such transactions - and the practice, under which such stamp duty is only collected for transfers effected within the Euroclear Bank and CREST systems.

4.7.2 STAMP ON CREDIT & ATM CARDS

Stamp Duty is levied on financial cards, charge cards and credit card accounts.

Table 30 The revenue generated 2016 - 2020 from the various types of cards - charge cards, ATM/Debit/Combined cards[23]

	ATM Only €m	Combined ATM/Debit €m	Credit/Charge €m	Debit Only €m	Total €m
2016	0.5	22.8	46.7	0.02	69.9
2017	0.3	9.7	29.8	0.00	39.7
2018	0.1	12	40.6	0.00	52.7
2019	0.5	17	37.2	0.00	54.7
2020	0.2	18.4	75.2	0.11	93.9
2021	0	5.2	47.0	0.15	52.3

Source: Revenue

Rates

The rate for ATM only cards (also known as cash cards) is €0.12 per ATM withdrawal to a maximum of €2.50 per card per year (where a year is 1st January to 31st December).

[23] There was a once-off timing issue that negatively impacted receipts in respect of one card category in 2019 but positively impacted it in 2020. This resulted in the high receipts figure in 2020.

The rate for combined cards (ATM & debit) is €0.12 per ATM withdrawal to a maximum of €2.50 per card where only the ATM function is used during the year.

The rate for both functions used in a year is €0.12 per ATM withdrawal to a maximum of €5.00 per card. There is no charge where only a card's debit function is used over the course of a year.

For credit cards, financial institutions are charged €30 stamp duty for each active card account on 1 April (except in 2020 – see below) each year under Part 9 of SDCA 1999, which they pass on to their customers, usually in their April bills. This stamp duty is per credit card account, not per credit card.

Future options

It can be argued that stamp duty on payment acts as a disincentive to individuals having multiple cards. However, as with any tax option, the impact on the individual and the Exchequer would need to be considered.

4.7.3 BANK LEVY

Since 2014, and up to 2021 (inclusive) Section 126AA[24] of SDCA 1999 imposed an annual levy totalling €150 million on certain financial institutions each year calculated on the basis of the amount of Deposit Interest Retention Tax (DIRT) paid by them in a defined base year.

The levy was originally intended to operate for only three years (2014, 2015 and 2016), however, in Budget 2016, the Minister for Finance announced that he intended to extend the levy for a further five years to 2021, so bringing in an additional €750M over this period.

The base year for 2021 was 2019, and Finance Act 2020 provided for the appropriate percentage-rate of the DIRT paid by the institutions in the base year in order to ensure that the targeted €150 million yield was maintained under the levy for 2021. That rate, as set out in section 52 of Finance Act 2020 is 308%, compared to a 35% rate in 2014.

Following further consideration in 2021 the Bank Levy was extended in Finance Act 2021 for one further year, and now expires at the end of 2022. It was amended, so that it no longer applies to the two banks exiting the Irish market (Ulster Bank and KBC), and instead only applies to the banks remaining as active participants. This means that of the main high-street banks in 2022 the levy currently only applies to BOI, AIB, and PTSB, who will pay the same

[24] Introduced in section 72 of the Finance (Number 2) Act 2013

amount of levy this year as they paid in 2021 (a total of €87 million was received through the levy in 2021 from the remaining liable institutions).

The future of the levy is currently being assessed by the Department. This work is ongoing and will take place within the broader context of the Retail Banking Review currently been undertaken by the Department.

4.7.4 STAMP DUTY ON THE PURCHASE OF SHARES

A stamp duty charge of 1% normally applies to the purchase of shares. However under certain circumstances, when a company buys its own shares (known as a share buy-back), this charge does not apply.

Companies engage in share-buy backs for a variety of reasons and they can be used as an alternative to dividends to return value to shareholders.

Companies can engage in share buy backs via three different methods:

- Companies can carry out the transaction via a stock transfer form. In which case the 1% stamp duty applies.
- Companies can also enter into a direct contract with a seller to buy back the shares. Stamp duty does not currently apply to this type of transaction.
- Companies can buy their own shares via securities settlement systems. It has been a long-standing Revenue practice to confirm that stamp duty does not apply to this type of transaction.

This means that stamp duty is only charged when share buy backs are affected by means of a stock transfer form and not in the other two circumstances outlined above.

The Department is currently examining issues around the discrepancy of the application of stamp duty to share buy backs and will make recommendations to the Minister in advance of Finance Bill 2022.

5 Tax Appeals Commission

5.1 Background to Tax Appeals Commission

An efficient and effective tax appeals process is an essential element to any functioning tax system. Efficient and fair administration of the tax system, both by Revenue authorities and by appeals bodies, are key factors in supporting tax payers and ensuring broad-based compliance with tax legislation.

The Tax Appeals Commission ('TAC') was established in March 2016 by the Finance (Tax Appeals) Act 2015 and it replaced the former Office of the Appeal Commissioners. The objectives for the establishment of the new structure included increased transparency and certainty for taxpayers and ensuring that the appeals system could be seen as fully independent from Revenue. The main function of the Appeal Commissioners is to make determinations on matters that are in dispute between taxpayers and Revenue.

The Finance (Tax Appeals and Prospectus Regulation) Act 2019, enacted in December 2019, provided for the establishment of the role of Chairperson of the TAC. Following the completion of a recruitment process by the Public Appointments Service, Ms. Marie-Claire Maney was appointed as the first Chairperson of the TAC on 1 July 2020.

5.2 Developments in 2022

The TAC has transitioned from an office of two Commissioners and four staff in 2016, to seven Commissioners (including one Chairperson, two permanent Commissioners and five temporary Commissioners) and 22 staff as at 15 June 2022. Substantial progress has been made on implementing the recommendations of the O'Donoghue report[25] on the workload and operations of the TAC, which has enabled the TAC to make significant progress in addressing the backlog of appeal cases and to provide an effective and efficient appeals process into the future.

[25] Review of the Workload and Operations of the Tax Appeals Commission: Report to the Minister for Finance August 2018 https://assets.gov.ie/180686/d5e6d3b0-ba19-4a82-ae9c-4d7293aaebf6.pdf

In 2021 the Ministers for Finance and Public Expenditure and Reform approved a new tiered structure of Appeal Commissioners, expanding on the existing system of Appeal Commissioners and Temporary Appeal Commissioners which has been in place to date. The responsibilities of the different tiers are set out below:

- Tier 1 Commissioners have full responsibilities for appeals and management
- Tier 2 Commissioners can determine appeals at all levels but have no management responsibility
- Tier 3 Commissioners can determine appeals up to a value of €10 million and have no management responsibility

It should be noted that the Chairperson has specific statutory responsibility to establish and maintain efficient and effective systems and procedures so as to secure the processing, adjudication and determination of appeals in a timely and effective manner.

Following a recruitment process in 2021, five temporary Tier 3 Commissioners have been appointed by the Minister for Finance in 2022.

In addition to implementing the recommendations of the O'Donoghue report, the Department also reviews tax appeals legislation on an ongoing basis to ensure that it is functioning as intended. The following issue has been identified for consideration in the context of Finance Bill 2022.

5.2.1 CHANGES TO THE CASE STATED PROCEDURE

Where a party to an appeal is dissatisfied with a determination made by the Appeal Commissioner they may appeal the determination to the High Court on a point of law. In order to do this, the party must make an application to the Appeal Commissioner to require them to state and sign a case (a "case stated") for the opinion of the High Court. The procedures governing this process are set out in sections 949AP-949AT of the TCA 1997.

In the Finance Bill 2021, the case stated process was amended to allow more time for the preparation of case stated by the TAC. Prior to these changes there was a 3 month period for an Appeal Commissioner to prepare and issue a signed case stated, which could be a challenging deadline, particularly in circumstances where there is disagreement between the parties in respect of the contents of the case stated. The Finance Bill 2021 provided that the Appeal Commissioner must issue a draft case stated within 3 month of the application, and then allowed 21 days for parties to respond and then a further 21 days for the TAC to issue the signed case stated.

The process can be outlined as follows:

1. Party dissatisfied on a point of law can request a case stated for the opinion of High Court – within 21 days of notification of determination
2. Appeal Commissioners prepare and share draft case stated no later than 3 months after receiving notice
3. Parties must respond to draft within 21 days
4. Appeal Commissioners complete and sign case stated within 21 days after the end of the period for responding to the draft
5. Party requesting case stated send it to High Court within 14 days of receiving it from Appeal Commissioners

Further changes have been proposed to the timelines for parties requesting a case stated. In particular it is proposed that the 21 day period for a party to request a Case Stated (point 1 above) be extended to 42 days, and the time to respond to a draft Case stated (point 3 above) be increased to 42 days. These extensions are considered necessary to allow parties sufficient time for appropriate engagement, particularly with complex cases.

The views of the TSG are invited on the above potential change to the case stated procedure.

6 Capital Taxes and Equality Issues

Taxation policy has an important role to play in reducing and rebalancing inequality. The paper sets out options for making changes to CGT, CAT and Stamp Duty but is not prescriptive as to the direction of those possible changes. Capital taxes can help raise revenue in order to finance public expenditure, which contributes to health, education and welfare expenditures, thus assisting lower income households, reduce inequality and contribute to a more equitable distribution of resources.

CAT is a tax levied on assets gifted or inherited and so, from the perspective of the beneficiary of the recipient of the inheritance or gift, is a tax on wealth, thus helping mitigate income and wealth inequality. The rules underpinning the operation of inheritance and gift tax allow for specific exemptions where no tax is applied and this allows for some distribution of assets tax-free before the 33% rate engages thus ensuring some benefit to beneficiaries.

Many of the stamp duties in effect, particularly those charged on the acquisition of residential and non-residential property, and the stocks and marketable securities of Irish incorporated companies are also taxes on wealth.

CGT is also a form of wealth tax, in that it extracts a portion of the gain derived from the disposal of an asset (in reality or notionally) for subsequent redistribution in the form of public expenditure.

Requirements that apply to some capital taxes reliefs or exemptions, such as those stipulating that one must fall within a certain age category or hold one of a list of educational qualifications are not unnecessarily exclusionary or inequitable. These requirements seek to ensure that reliefs are targeted in order to best achieve the underlying policy objective and that the foregoing of revenue through the provision of reliefs is accepted in order to bring about desirable outcomes.

The distributional impact of tax changes can be hard to quantify and may impact groups differently depending on their stage in the life cycle and therefore their interaction with the tax system.

The TSG is asked to consider the issues set out in this paper.

An Roinn Airgeadais
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