Budget 2011 – Stamp Duty

The Minister for Finance announced the following changes in relation to stamp duty in his Budget speech on 7 December 2010.

New Rates for Residential Property

A new lower rate of 1% will apply to instruments where the consideration attributable to residential property does not exceed €1,000,000. A higher rate of 2% will apply to the excess of the consideration over €1,000,000. In conjunction with the introduction of the lower rate of 1%, which will apply to the entire amount of the consideration up to €1,000,000, the current exempt threshold of €127,000 has also been abolished.

Aggregate Consideration	***Rate of Duty***
First €1,000,000	1%
Excess over €1,000,000	2%

Apportionment

In the case of a mixed property the consideration must be apportioned, as provided for in section 45(2) or section 52(5) of the Stamp Duties Consolidation Act 1999, on a just and reasonable basis between the residential and non-residential elements of the property.

A surcharge can arise under section 16 of the Stamp Duties Consolidation Act 1999 where the apportionment is not just or reasonable.

Aggregation

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

Relief and Exemptions abolished

The following reliefs and exemptions have been abolished.

- Section 83A of the Stamp Duties Consolidation Act 1999 – this exemption applied where a site was transferred by a parent to a child for the purpose of building a house for occupation by the child.
- Section 91A of the Stamp Duties Consolidation Act 1999 – this exemption applied to the purchase by an owner-occupier of a new house or apartment where the floor area did not exceed 125 square metres.

- Section 92 of the Stamp Duties Consolidation Act 1999 – this relief applied to the purchase by an owner-occupier of a new house or apartment where the floor area exceeded 125 square metres.
- Section 92B of the Stamp Duties Consolidation Act 1999 – this exemption applied to a first time purchaser who acquired a house or apartment for owner-occupancy.
- Consanguinity Relief provided for under Schedule 1 of the Stamp Duties Consolidation Act 1999 – this relief will no longer apply to residential property but will continue to apply to non-residential property.

Effective Date

The above changes will apply to instruments executed on or after 8 December 2010 subject to the transitional arrangements referred to below.

Transitional Arrangements

Transitional arrangements will apply where, as a result of the new rates or the termination of the reliefs or exemptions, a taxpayer is disadvantaged compared to the stamp duty treatment applicable prior to 8 December 2010. The transitional arrangements will apply where an instrument is executed on or after 8 December 2010 and before 1 July 2011 solely in pursuance of a binding contract which had been entered into prior to 8 December 2010.

To avail of the benefit of the transitional arrangements, the instrument should contain the following certificate:

“It is hereby certified that this instrument was executed solely in pursuance of a binding contract entered into prior to 8 December 2010”.

Contact Details

Enquires regarding the stamp duty Budget changes should be made to:

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