

Stamp Duty – Filing and Compliance Overview

Stamp Duty is a fully self-assessed tax, meaning the responsibility lies with the taxpayer to apply the rules correctly and pay the tax due. The key points on filing stamp duty returns are outlined below.

1. The Stamp Duty pay and file deadline is 30 days from the date of first execution. However, in practice, Revenue allows a 44-day grace period before applying a surcharge or interest.
2. Records must be retained for six years from the date the return is made or the date of payment. Technically a penalty of €3,000 applies for failure to retain records and a penalty of €3,000 applies for failure to make a return.
3. A surcharge of 5% or 10% of the tax applies for late filing. The 5 % surcharge applies where the return is no more than 3 months late (i.e. between 44 and 92 days after the execution of the document) and it is capped at €12,695. A 10% surcharge applies where the return more than 3 month's late (filed more than 92 days after execution) and this surcharge is capped at €63,485.
4. .Revenue have the power to enter a place of business to audit a stamp duty return. They may require the accountable person or an employee to produce records or documents. A penalty of €19,045 applies if this requirement is not met by the accountable person, and a penalty of €1,265 applies in relation to an employee.
5. The timeframe for claiming refunds of stamp duty is now 4 years (formerly 6 years) and this is in line with other taxes such as income tax and CGT.
6. There was a surcharge for undervaluation but this was abolished for instruments executed on or after 07 July 2012.
7. There was a requirement to include Finance Certificates in instruments executed up 07 July 2012, to back the stamp duty treatment. This was

abolished as the online stamp duty return has the details Revenue require to establish the stamp duty treatment.

8. Up to 07 July 2012 deeds could be presented for adjudication to Revenue, who would advise on the stamp duty due on the deed. Adjudication was required for certain deeds which were being presented for stamping on the basis that reliefs were being claimed. Revenue now provides guidance through the updated Stamp Duty Manual – Part 4: Adjudication and Appeals and does not offer an adjudication service.
9. An Expression of Doubt can be made where genuine uncertainty exists about the correct tax treatment. However, this option is not available if the return is filed late (more than 44 days after execution).

This self-assessed regime applies to instruments executed on or after 07 July 2012. The old regime continues to apply to instruments executed before that date.

Who Pays the Stamp Duty?

The accountable person is responsible for paying stamp duty. In most cases, this is the person receiving the property. However, there are cases in which other persons can be liable; for example if a gift is made all parties to the deed are accountable persons and liable for the stamp duty. Where there is more than one accountable person, they are jointly and severally liable.