

Property law update: increase in stamp duty

Insights - 17/01/2018

Ireland's Minister for Finance, Paschal Donohue and our President, Michael D Higgins, delivered what may have been considered an unwelcome Christmas present to the commercial real estate sector last month. The Finance Act 2017 was signed by the President on Christmas Day.

Stamp on property related shares

A late change to the Finance Bill introduced an increase in the stamp duty rate to 6% in certain circumstances in respect of transfers of shares in companies, Irish Real Estate Funds (REIF), certain other funds, and partnership interests that derive their value from Irish non-residential property. The circumstances where the 6% rate will apply are where:

- The transfer results in a change in the person or persons having direct or indirect control over the property; and

It would be reasonable to consider that the property concerned:

- was acquired by the company, IREF or partnership with the sole or main object of realising a gain from its disposal
- was or is being developed by the company, IREF or partnership with the sole or main object of realising a gain from its disposal when developed or
- was held as trading stock by the company, IREF or partnership

There are transitional measures, which will limit the stamp duty rate to the existing rate (1% or possibly exempt) where a binding contract was entered into before 6 December 2017 and completes before 1 March 2018. The new rate will apply to contracts for sale of such shares as well as actual transfers of shares. We'll need to explore the impact of this law change in more detail... Watch this space.

Residential development rebate

We knew this was coming. The Act provides that where stamp duty at the new higher rate of 6% is

paid on the acquisition of land which is subsequently used to develop residential property, the purchaser will be entitled to a rebate of 2/3 of the duty paid. The rebate is only applicable in respect of the proportion of the land used for residential development. The scheme only applies where construction begins before 1 January 2022 and the construction must commence within 30 months of the date the land was acquired. Other terms apply - plenty of detail on this one.

The CRE stamp duty regime change has been a bit of a mess over the last couple of months. Hopefully the Minister and his draftsmen will learn from it for Budget 2019. The market needs clear, sensible, well flagged legislation to enhance confidence. Let's see if the stamp duty returns in 2019 are anywhere near the Government predictions.

For advice on stamp duty and Irish property law, please contact John at john.hogan@ogier.com

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



John Hogan

Partner

Ireland

E: john.hogan@ogier.com

T: [+353 1 632 3111](tel:+35316323111)

Related Services

Property law