Capital Taxes Issues
Stamp Duty and DIRT

1 Introduction

1.1 This paper describes various Stamp Duties and DIRT. It sets out the current position in respect of each of the main areas and examines issues that have been raised or are likely to arise that the Tax Strategy Group may wish to discuss.

1.2 The areas addressed in this paper are (**3**) residential property (including second-hand houses, new houses, housing stock, the impact of stamp duty changes, trading down and incapacitated persons); (**4**) transfer of a site to a child relief; (**5**) non-residential property; (**6**) licensing; (**7**) financial cards (including credit, ATM & Debit cards, and cheques) (**8**) the insurance levy, (**9**) mortgages, (**10**) shares (including CFD), and (**11**) the DIRT refund scheme.

2 Yield

2.1 The yield from Stamp Duty for the last 5 years is:

Description	**Yield 2002 (€m)**	**Yield 2003 (€m)**	**Yield 2004 (€m)**	**Yield 2005 (€m)**
Property: Residential Non-Residential Total	349 317 666.0	528 547 1,075.0	752 709 1,461	945 1056 2,001
Shares	302.9	255.8	260.5	324
Companies Capital Duty	27.9	21.0	24.4	20.2
Cheques	10.6	15.3	17.8	16.5
Insurance Policies	1.6	1.5	1.6	1.8
General Deeds	0.3	0.5	0.6	4.0
Penalties	5.5	8.0	9.2	9.7
Credit Cards	22.9	51.7	59.0	63.8
Bank Levy	0	103.2	102.8	103
Non-Life Levy	87.2	99.7	97.7	90.8
Section 84	0.30	0.1	0.04	0.07
Cash Cards	14.1	32.6	35.3	37.8
Total	**1,139.0**	**1,664.4**	**2,070**	**2,673**

2.2 Excluding the Bank Levy, which ran for the 3 years 2003, 2004 and 2005, the increase in Stamp Duty yield comes principally from Property, which has increased by a factor of 3.

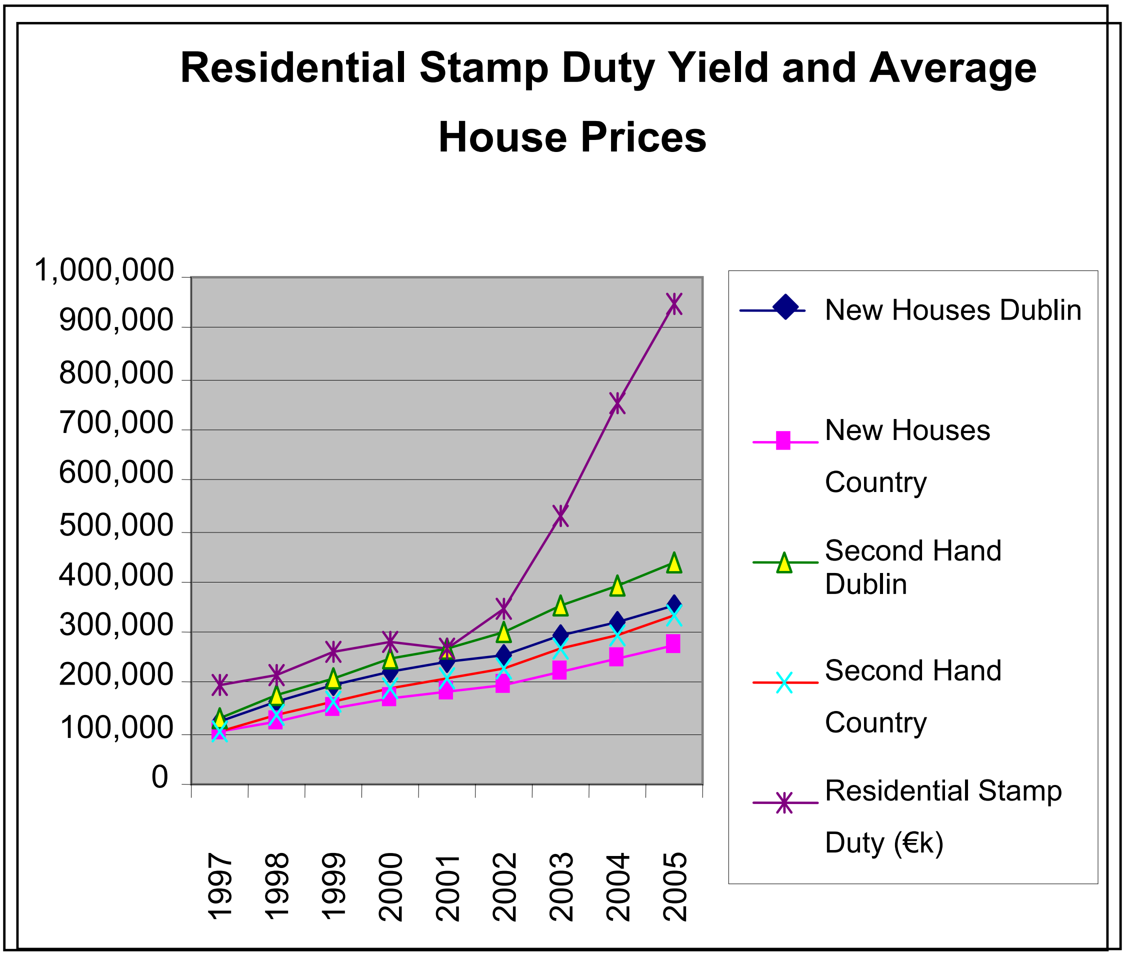
2.3 Stamp duty yield for the first 6 months of 2006 is running approximately 50% ahead of the yield for the first 6 months of 2005.

3 Residential Property

3.1 Second-Hand Houses

3.1.1 The graph below shows the increase in residential stamp duty yield and average house prices over the years 1997 to 2005. From 2003, the stamp duty yield trend has altered dynamically from the trend in average house prices[1].

3.1.2 The yield from residential stamp duty arises mainly from the sale of second-hand houses. New houses purchased by owner occupiers are exempt from stamp duty where the floor area is less than 125m². In the case of larger homes, the stamp duty is computed on the greater of the site value or ¼ of the property value. However, in the case of investors purchasing new houses, stamp duty is applied at the same rate as that charged on non first-time purchasers of second-hand houses.



[1] Department of the Environment, Heritage and Local Government Housing Statistics

3.1.3 The thresholds and rates of stamp duty paid by owner-occupiers of second-hand houses (who are not first-time buyers) has remained static since June 2000, as follows:

Up to €127,000	Nil
€127,001 – €190,500	3%
€190,501 - €254,000	4%
€154,001 – €317,500	5%
€317,501 – €381,000	6%
€381,001 – €635,000	7.5%
Over €635,000	9%

3.1.4 In the case of first-time owner-occupiers of second-hand houses, reduced stamp duty applied from June 2000. This was introduced to assist first-time owner-occupiers and recognised the increased cost of buying a house. The rates were:

Up to €190,500	Nil
€190,501 - €254,000	3%
€154,001 – €317,500	3.75%
€317,501 – €381,000	4.5%
€381,001 – €635,000	7.5%
Over €635,000	9%

3.1.5 From December 2004, these were further adjusted as a reflection of the increases in house prices that had arisen since 2000 and again with an objective of providing assistance to first-time owner-occupiers getting on the property ladder, as follows:

Up to €317,500	Nil
€317,501 – €381,000	3%
€381,001 – €635,000	6%
Over €635,000	9%

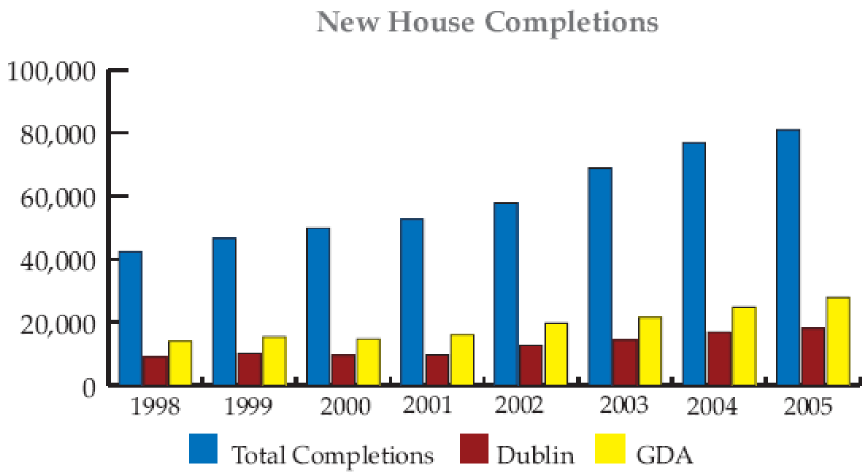
3.1.6 Investors purchasing second-hand houses between June 2000 and December 2001 were liable for stamp duty at 9% regardless of cost. This measure was initially seen as benefiting owner-occupiers, but was believed to be having a detrimental effect on the supply of housing, due to the move away from property by investors.

3.2 New Houses

Because there is no stamp duty chargeable on owner-occupiers of new houses with a floor area of less than 125m², stamp duty is not a factor when purchasing these properties. In the case of larger properties, it would not be expected that stamp duty would be a barrier given that many of these houses would probably be bought by owner-occupiers who are not first-time buyers.

3.3 Housing Stock

3.3.1 Ireland has seen a significant increase in the delivery of new houses over the last number of years. This need arises as a result of the demographic conditions as well as the major immigration over recent years. The chart[2] below shows the number of new house completions analysed by Total Completions, Dublin Completions and Greater Dublin Area Completions:



3.3.2 The Department of the Environment, Heritage and Local Government estimate that over 500,000 new houses have been built since 1997 and a significant number of these have been bought by first-time buyers.

3.4 Impact of Changes to Stamp Duty on House Prices

3.4.1 There have been a number of changes to the stamp duty code over the years to benefit first-time owner-occupiers of second-hand houses. In June 2000, changes were made to remove second-hand houses costing less than £150,000 (€190,500) from liability to stamp duty when they were purchased by first-time buyers. Based on the annual housing statistics[3], first-time buyers would have been in a position to buy around 43% of second-hand houses in the Dublin area and 65% of houses nationally without incurring stamp duty. This rate dropped as follows:

	Dublin	Nationally
2001	43%	65%
2002	29%	55%
2003	12%	41%
2004	7%	31%

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[2] Annual Housing Statistics Bulletin 2005, Dept of the Environment, Heritage and Local Government

[3] Annual Housing Statistics Bulletin 2005, Department of the Environment, Heritage and Local Government

3.4.2 In December 2004, the exemption was increased to €317,500 to reflect the change in house prices over the period and restored the number of houses in the Dublin area which would not attract a stamp duty liability for first-time buyers to around 50%.

3.4.3 The average price of a second-hand house in Dublin has increased from €389,791 in 2004 to €438,790 in 2005 (an annual increase of 12.6%)[4] and now stands at €472,996 at Quarter 1 2006. However, it is estimated that the majority of first-time buyers pay at least 13%[3] less than the average for a new home. This would mean that in Quarter 1 2006, first-time buyers will have paid €411,506 with the equivalent national figure at €303,279.

3.4.4 <u>While the intention of the changes is to assist first-time buyers who are competing with individuals trading up and investors, it is not clear that the stamp duty foregone by the Exchequer has materially improved the position for first-time buyers</u>. Because the housing market is a sellers market, it reacts dynamically to all factors. The primary factor is the level of finance available to purchasers.

3.4.5 The first-time buyer of a second-hand house, who can benefit from stamp duty exemption, is in an improved position relative to other buyers as one of the costs is removed thereby allowing a greater proportion of finance to be used for the actual purchase price of the property. However, this fact is not lost on sellers and it would be logical to assume that the sale price of second-hand houses increased as a reaction to the greater purchasing ability of this segment of the market. In effect, much of the benefit from the removal of stamp duty may have accrued to sellers rather than purchasers.

3.4.6 It is worth noting that, in addition to representations to reduce or remove stamp duty, a number of representations have been received which state that a reduction in stamp duty will have no impact for purchasers as the market will move to absorb any relief. To the extent that this is the case, the tax revenues foregone in granting preferential treatment to first-time buyers will benefit sellers rather than purchasers. Nonetheless, it would be wrong to assume that the purchaser gets no benefit, but there is no good data, as of now, on where the balance lies.

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[4] Quarterly Housing Statistics, Quarter 1 2006, DEHLG

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4 Exemption for Transfer of a Site to a Child to Build a House

4.1 This exemption was introduced in Finance Act 2001. The transfer of a site to a child by a parent for the purpose of building a dwelling house to be used as their principal private residence is exempt from stamp duty where the site value does not exceed €254,000. At the time of its introduction, the cost of the average house would have been in the order of €200,000.

4.2 Given the increase in site values since 2001, the question of increasing the exemption may be considered. (A similar exemption applies for capital gains tax and any change should apply to both).

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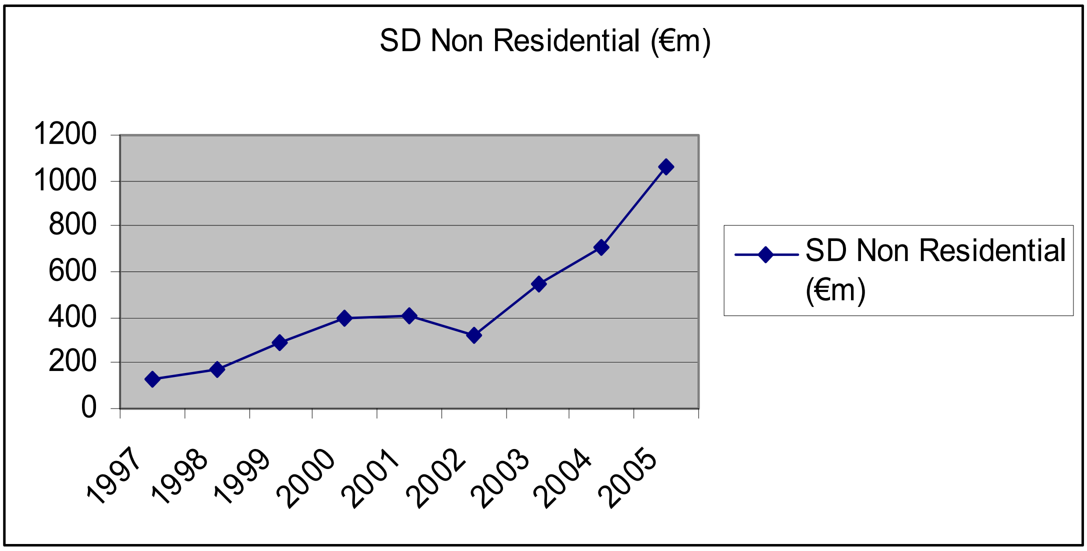
5 Non Residential Property

5.1 The rates of stamp duty on non-residential property were last changed in December 2002 and are:

Up to €10,000	0%
€10,001 - €20,000	1%
€20,001 - €30,000	2%
€30,001 - €40,000	3%
€40,001 - €70,000	4%
€70,001 - €80,000	5%
€80,001 - €100,000	6%
€100,001 - €120,000	7%
€120,001 - €150,000	8%
Over €150,000	9%

5.2 Given the low bands, it is expected that most property will now attract a stamp duty of 9% on its value.

5.3 Prior to the changes in 2002, the maximum rate of stamp duty on non-residential property was 6%. The increase in receipts over the last 9 years is set out on below:



5.4 The increase in stamp duty in recent years can be explained by the huge rise in property prices, coupled with the increased rates.

Costs

5.5 The cost of a reduction in the higher percentages is estimated as follows:

1% reduction : 2005 data €109m; 2006 based on first 6 months €149m
2% reduction : 2005 data €220m; 2006 based on first 6 months €302m
3% reduction : 2005 data €333m; 2006 based on first 6 months €453m

6 Licensing

6.1 Under the stamp duty code, a builder or developer can obtain a licence from a vendor to build on land owned by the vendor without incurring a stamp duty charge at that stage of the venture. Once the buildings, whether commercial or residential are completed, the conveyances or transfers of such properties to purchasers are chargeable to stamp duty in the normal manner unless specific exemptions are available to such purchasers. A similar stamp duty treatment would also arise in a situation where a builder or developer contracts to purchase land from a vendor without taking legal title to the land. The developer might complete the contract and not take a conveyance but rather, under a power of attorney given by the vendor, have the power to convey completed buildings to the ultimate purchasers. The normal stamp duty charge will arise on conveyances or transfers of the newly built properties to sub-purchasers subject to any exemptions applying. In such cases the stamp duty, if any, is paid but at a later stage.

6.2 Certain developments structured in the manner outlined above have come to the notice of the Revenue Commissioners and the situation is being kept under review.

7 Financial Cards (Credit, ATM & Debit cards) and Cheques

7.1 Background

7.1.1 The stamp duty on cheques, bills of exchange and promissory notes has existed for many years and when electronic means of money transfer, such as credit cards, ATM cards and debit cards were subsequently introduced, stamp duty was gradually extended to those products to ensure that the stamp duty receipts from cheques etc. were not eroded. The current stamp duty on cheques is 15c.

7.1.2 The stamp duty on credit cards is charged on accounts open at any stage during the year and is charged on 1 April in arrears (or the date the account is closed). The stamp duty on ATM & Debit cards is charged on relevant accounts at 31 December each year.

7.2 History of Charge

7.2.1 **Credit Card Accounts**

Introduced 1982	£5
Increased 1984	£10
Increased 1992	£15 (€19)
Increased 2003	€40

7.2.2 **ATM Cards**

Introduced 1992	£2
Increased 1996	£5 (€6.25)
Increased 2003	€10

7.2.3 **Debit Cards**

Introduced 2003	€10

7.2.4 **Combined ATM & Debit Cards**

Prior to 2003	ATM charge
2003	€20

7.3 Recent Changes

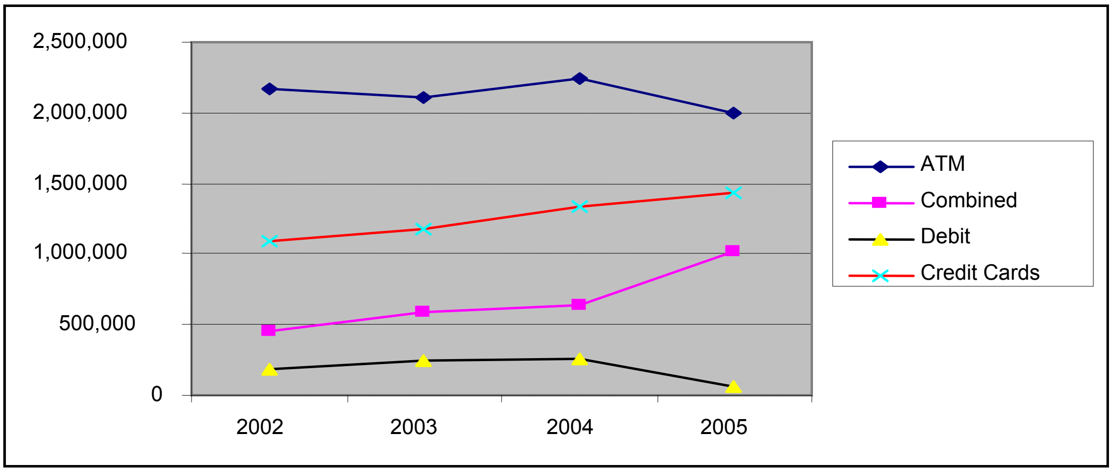
7.3.1 **Credit Cards**

In Finance Act 2005, a relieving provision was introduced to limit the duty to a single charge where an account holder moved account during a year.

7.3.2 **Debit & ATM Cards**

In Finance Act 2006, the charge was reduced to €10 where the card was only used for either ATM or Debit transactions during the year. Where the card was used for both ATM and Debit transactions, the charge remained at €20.

7.3.3 **Number of Cards liable to Stamp Duty 2002 – 2005**



7.3.4 The graph above shows the number of cards which were liable to stamp duty over the last few years. The reduction in the number of ATM cards and Debit cards is offset by the increase in Combined ATM & Debit cards.

7.3.5 The yield for the last few years is shown below. Note that the rate of duty in 2003 was, more or less, double that in 2002.

Card Type / Cheques	2002	2003	2004	2005
Credit Cards	€22.9	€51.7	€59.0	€63.8
ATM, Debit & Combined Cards	€14.1	€32.6	€35.3	€37.8
[Cheques	€10.6	€15.3	€17.8	€16.5]

7.3.6 Many representations are made to both the Department of Finance and the Revenue Commissioners about these stamp duties. They can only be described as unwelcome and generate much negative attention, especially due to the way the duty is applied to accounts in arrears.

7.3.7 Ireland is now probably unique in attaching a stamp duty to financial cards and cheques. There have been calls over the years for its abolition as it is seen as restricting an individual's ability to deal with different financial institutions without incurring multiple stamp duties. It may therefore, theoretically, result in a lack of true competitiveness in the banking sector. However, the duty is modest relative to the value of transactions on these cards, and the steady growth in cards in issue suggests that the duty is not damaging the market unduly.

7.4 Exemptions

There have been calls from many areas to introduce exemptions for certain category of individual, including the elderly, incapacitated, etc. This has been resisted on the basis that the stamp duty is simple to administer and collect, and introducing exemptions to particular groups would lead naturally to other groups seeking similar treatment. This would complicate what is an otherwise simple piece of legislation.

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7.6 **Impact of changes**
Stamp duty on financial cards is a significant contributor to the Exchequer and arises from what is a simple and easily administered system. Any reduction in yield will have to be replaced by increases in other taxes.

8 Insurance Levy

8.1 A 2% stamp duty is charged on most non-life insurance premiums. The exceptions are re-insurance, voluntary health insurance, marine, aviation and transit insurance and export credit insurance. It was introduced in 1982.

8.2 The yield over recent years is:

Year	Yield (€m)
2000	57.0
2001	69.1
2002	87.2
2003	99.7
2004	97.7
2005	90.8

Proposal

8.3 This stamp duty is easy to operate and administer. It is suggested that no changes are made to the existing scheme.

Mortgages

9.1 In 2001, the exemption threshold for primary mortgages was raised from £20,000 to £200,000 (now €254,000) to reduce the enormous increase in the volumes of mortgages which were causing major administrative difficulties for Revenue, at the time, as well as putting additional compliance burdens on solicitors. In support of the change, the figures, in late 2000, showed that mortgages were representing 48% of all stamped deeds whereas they were contributing only 2% of the yield from all stamped deeds. The 2001 change did reduce the burden, however, as a result of significant house price inflation in recent years, the number of mortgages requiring stamping has steadily risen again and in 2005 mortgage documents represented in excess of 28% of documents presented for stamping while contributing only 0.88% of the yield from all stamped documents (a lower proportion than in 2000). The following table illustrates the rise in the number of transactions in primary mortgages in recent years:

Year	Number	Duty Paid
2002	13,000	€4.6m
2003	18,000	€7.3m
2004	28,000	€11.3m
2005	43,582	€17.2m

Note: (1) Primary mortgages for more than €254,000 are subject to stamp duty of 0.1% subject to a maximum duty of €630 whether in respect of residential or non-residential property.
(2) The stamp duty rates in the case of collateral or additional mortgages is generally a €12.50 fixed duty and in the case of equitable mortgages and transfers of mortgages, generally 0.05%, subject to a maximum of €630.

9.2 Also, in 2005, under the collateral mortgage heading and under the counterpart /duplicate mortgage heading, the additional fixed duty of €12.50 per document yielded in the region of €0.6m for a little in excess of 48,600 of these ancillary mortgage documents.

9.3 As is clear, the position that pertained prior to the change in 2001, has returned in that there is again a lot of administrative costs incurred by Revenue and presumably (disproportionate) compliance costs incurred by mortgagors in having their solicitors having to deal with Revenue in respect of a relatively small amount of duty. In addition, Revenue are currently designing an "E-Stamping" system with a tentative launch date of Q4 2008. It is desirable that an E-Stamping system should be as uncomplicated as possible, with a limited number of heads of charge. For both these reasons, i.e. administrative costs and the imminence of E-Stamping, there is merit, from a policy perspective, in reviewing whether the mortgage head of charge should be retained.

Options

9.4 One option in this case would be to abolish the mortgage head of charge (at a cost of €17.8m based on figures for 2005). Between primary and ancillary mortgage documents, this would remove in the region of 92,200 documents from the system. For a cost of less than 1% of the yield from all stamped documents, Revenue would achieve a 28% reduction in stamping activity, which would enable staff to be re-assigned to more productive work. With the move towards E-Stamping, this is an opportune time to streamline the stamp duty system. The UK abolished their mortgage head of charge in 1971.

9.5 Another option would be to increase the exemption threshold from €254,000 to €550,000 (at a cost of €11.3m based on the figures for 2005). This option would remove in the region of 70,500 documents from the system; however, it still leaves an administrative burden for Revenue and solicitors.

9.6 Other options might involve increasing the exemption limit for mortgages to €550,000, while increasing the rate and/or increasing the maximum duty to a sufficient amount to be effective on the high worth mortgages. These options would impact less on the yield from mortgage duties, although the administrative impact would be the same as outlined in the previous option.

10 Shares

10.1 The conveyance or transfer on sale of any stocks or market securities attracts a stamp duty of 1%. There are exemptions in respect of market-maker, broker-dealers and stock-lending transactions (Companies Capital Duty was abolished in 2006, having been reduced by a half in 2005). The yield over the last number of years is:

Year	Yield (€m)
2000	231
2001	346
2002	303
2003	256
2004	261
2005	324

10.2 The issue is being looked at by Revenue at present and a paper will be brought to a later meeting.

Contracts for Differences

10.3 Following the announcement by Revenue clarifying the stamp duty treatment on purchases of shares underpinning the contracts for differences (CFD), the Department received strong representations that there would be severe consequences for the liquidity of the Irish Stock Market and, therefore, on the ability of Irish companies to raise capital here.

10.4 The representations were considered carefully as they seemed to have substance, taking account of the international nature of stock markets. In the circumstances, and having regard to the fact that the relevant stamp duty legislation predates the development of the CFD market, it was decided to have the matter reviewed in advance of the next Budget.

11 Deposit Interest Retention Tax

11.1 The amount of DIRT due to be paid each year is dependent on the amount of monies on deposit and the rates of interest applying to such deposits rather.

11.2 A refund of deposit interest retention tax is provided for where an individual is not liable or fully liable to income tax and is over 65 years of age at some time during the tax year or is permanently incapacitated by reason of mental /physical infirmity from maintaining himself or herself. The taxpayer must advise Revenue that he or she meets the legislative requirements and the amount of the retention tax suffered.

11.3 Where the taxpayer does not meet the above requirement, DIRT is not refundable, however, it continues to satisfy the final liability on the interest.

11.4 The total amount of DIRT repaid in 2005 was €2.3 million and the number of such repayments was 971. With deposit interest rates being very low in recent years, the quantum of the interest earned and tax retained would be very small in many cases and may be considered uneconomic to reclaim.

11.5 Calls have been made for an exemption from DIRT on all accounts held by the over 65s. However, this would require the institution of procedures to collect the tax due from those taxpayers who do not benefit from tax exemption. It would also lead to demands from others to have the interest paid gross and may lead to an undermining of the principal that DIRT is a final liability.

Proposal

11.6 Given the amount at issue and the number of taxpayers who are claiming repayment of DIRT on the basis of age and tax exemption, it is not proposed that any changes are made to the present system.