Capital Taxes
Stamp Duty

1 Introduction

1.1 This paper describes various Stamp Duties. 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 in the near future.

1.2 The areas addressed in this paper are (**3**) residential property; (**4**) non-residential property; (5) financial cards (including credit, ATM & Debit cards, and cheques) (6) the insurance levy; (**7**) shares; (8) Finance Act 2007; (9) Finance (No 2) Act 2007; Finance Bill 2008.

2 Yield

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

Description	**Yield**	**Yield**	**Yield**	**Yield**	**Yield**
	2002	**2003**	**2004**	**2005**	**2006**
	(€m)	**(€m)**	**(€m)**	**(€m)**	**(€m)**
Property: Residential	349	528	752	945	1311
Non-Residential	317	547	709	1056	1678
Total Property	666	1,075	1,461	2,001	2989
Shares	302.9	255.8	260.5	324	406
Companies Capital Duty	27.9	21	24.4	20.2	6
Cheques	10.6	15.3	17.8	16.5	17
Insurance Policies	1.6	1.5	1.6	1.8	3
General Deeds	0.3	0.5	0.6	4	7
Penalties	5.5	8	9.2	9.7	12
Credit Cards	22.9	51.7	59	63.8	67.8
Bank Levy	0	103.2	102.8	103	0
Non-Life Levy	87.2	99.7	97.7	90.8	88.3
Section 84	0.3	0.1	0.04	0.07	0
Cash Cards	14.1	32.6	35.3	37.8	36.3
Total	**1,139**	**1,664**	**2,070**	**2,673**	**3,632**

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 450%.

2.3 There is clear evidence that a slowdown in the property market is having an impact on expected yield. This trend accelerated in August with the total stamp duty Exchequer receipts now some €267m below target compared to just €173m in July. The stamp duty yield from property for August is not available, however, Revenue Net receipts show that the yield from property up to the end of July was running €205m below target

2.4 There are short and longer term risks to the prospective take from stamp duty. In the short term, a sustained reduction in property market activity and house prices will have a direct affect on future stamp duty. Similarly, the exemption of first-time buyers from stamp duty on residential property has also affected the yield. The cost of this exemption is estimated around €70 in a full year, i.e. 2008.

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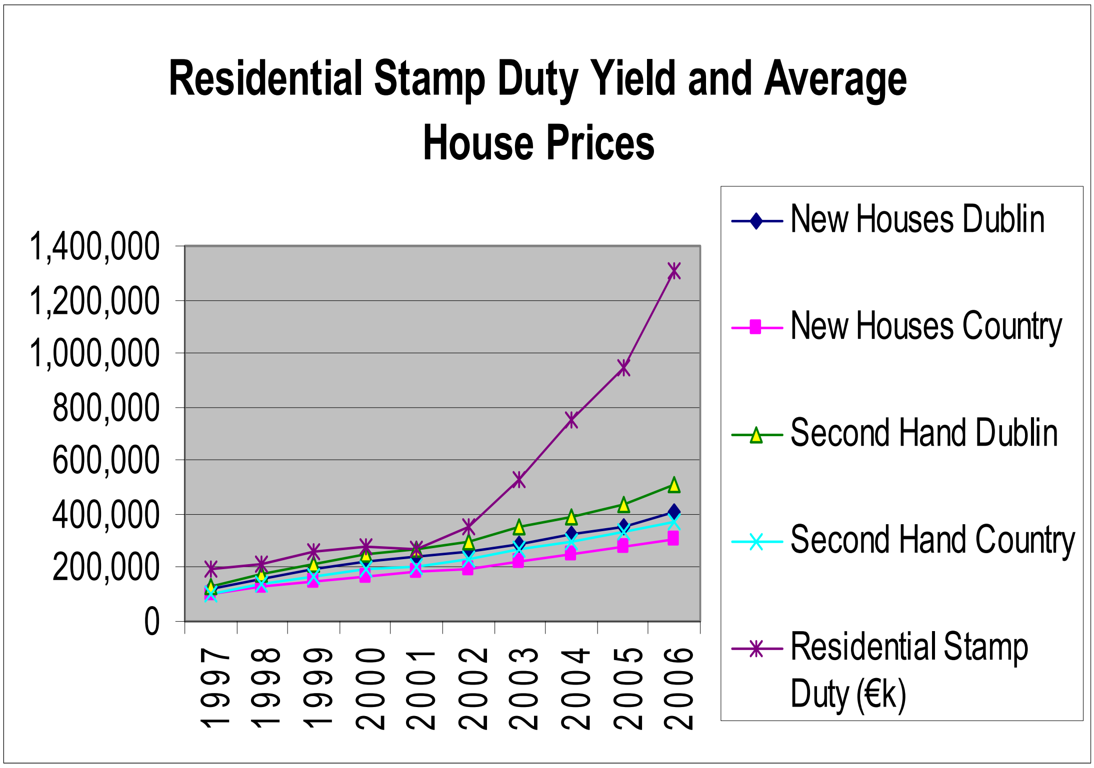
3 Residential Property

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 2006. From 2003, the stamp duty yield trend has altered dynamically from the trend in average house prices[1]. This mainly arose due to the fact that once the sale price moved into a higher threshold, all the consideration was charged at the new higher rate.

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 $125m^2$[2]. 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 second-hand houses.

[1] Department of the Environment, Heritage and Local Government Housing Statistics
[2] The Finance (No2) Act 2007 extended the exemption for first-time buyers to all residential property



3.1.3 The thresholds and rates of stamp duty paid by owner-occupiers of second-hand houses have remained unchanged 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 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 and was reversed to bring investors back into the market.

3.2 New Houses

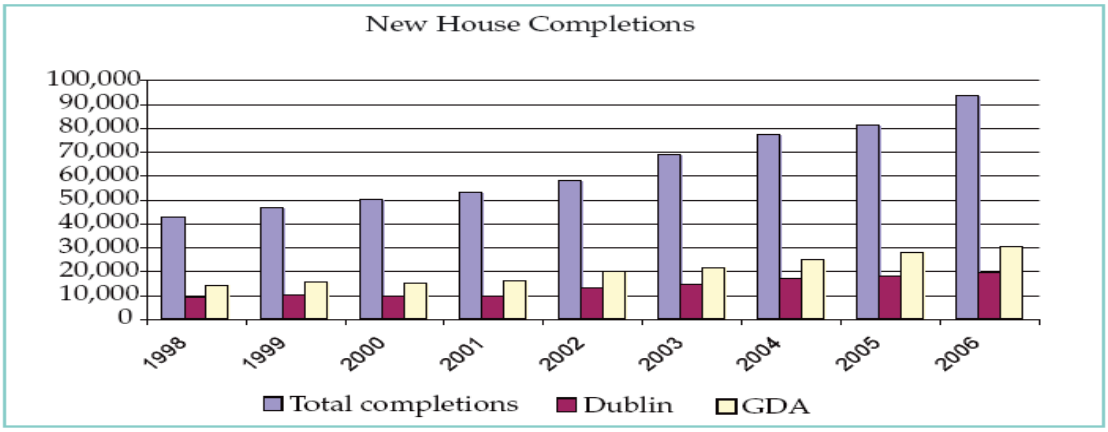
Because there is no stamp duty chargeable on owner-occupiers of new houses with a floor area of less than 125m², stamp duty is not a factor when purchasing these properties. In the case of larger properties, it would not be expected that stamp duty would be a barrier given that those purchasing such properties, who are liable to stamp duty at the preferential rate, will generally not be first-time buyers.

3.3 Finance (No 2) Act 2007

The Finance (No 2) Act 2007, which was recently enacted, introduced a complete stamp duty exemption for first-time owner-occupiers of residential property.

3.4 Housing Stock

3.4.1 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[3] below shows the number of new house completions analysed by Total Completions, Dublin Completions and Greater Dublin Area Completions:



3.4.2 There are estimated to be about 1.8 million units of housing stock in 2006. This estimate is based on the number of dwellings surveyed for the Census of Population 2006, including both vacant and occupied dwellings. This represents about 420 units for every 1,000 persons, which compares favourably with the EU norms where the average is approximately 450 per 1,000 persons[4].

4 Non Residential Property

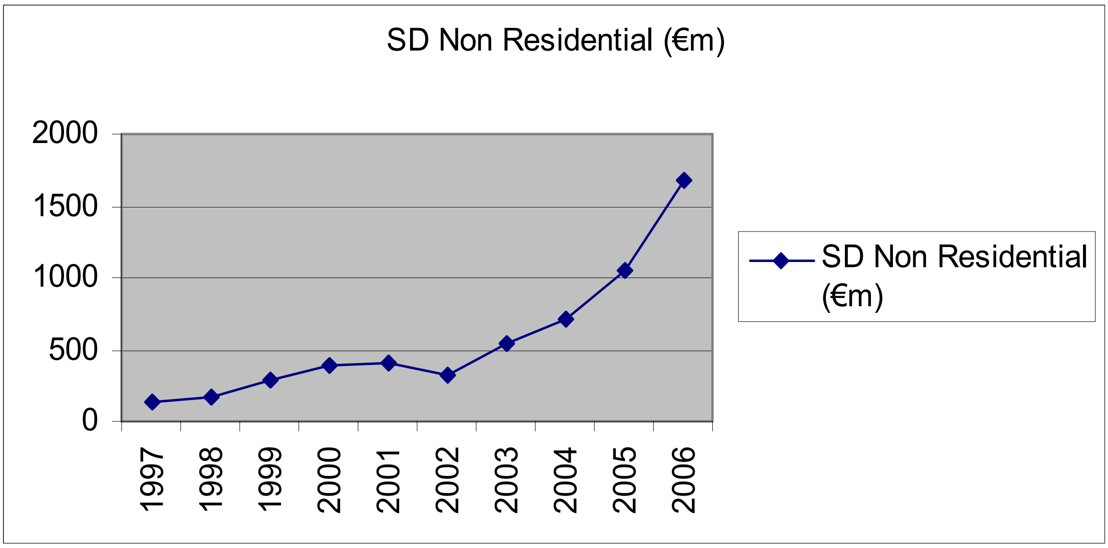
4.1 The rates of stamp duty on non-residential property were last changed in December 2002 and are:

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%

[3] Annual Housing Statistics Bulletin 2006, Dept of the Environment, Heritage and Local Government
[4] Annual Housing Statistics Bulletin 2006, Department of the Environment, Heritage and Local Government

4.2 Given the low bands, most property now attracts a stamp duty of 9% on its value.

4.3 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 10 years is set out on below:



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

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

5.1 Background

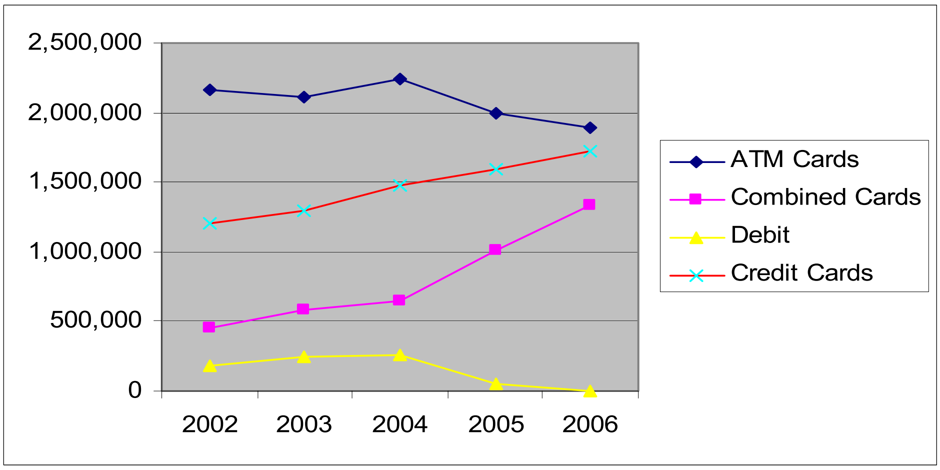
5.1.1 The stamp duty on cheques, bills of exchange and promissory notes has existed for many years and when electronic means of money transfer, such as credit cards, ATM cards and debit cards were subsequently introduced, stamp duty was gradually extended to those products to ensure that the stamp duty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

5.1.2 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 on the date the account is closed. The stamp duty on ATM & Debit cards is charged on relevant accounts at 31 December each year.

5.1.3 The current rates of stamp duty on cards are

Credit (& charge) cards	€40
ATM and Debit cards	€10
Combined ATM & Debit card	€20

5.2 **Number of Cards liable to Stamp Duty 2002 – 2006**



5.2.1 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.

5.2.2 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 m	2003 m	2004 m	2005 m	2006 m
Credit Cards	€22.90	€51.70	€59.00	€63.80	€67.80
ATM, Debit & Combined Cards	€14.10	€32.60	€35.30	€37.80	€36.20
Cheques	€10.60	€15.30	€17.80	€16.5	€16.7

5.3.1 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.

5.3.2 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.

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5.3.4 A group has been set up to look at e-payments and one of the issues to be looked at is the effect of these duties on usage, etc.

6 Insurance Levy

6.1 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.

6.2 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
2006	88.3

7 Shares

7.1 The conveyance or transfer on sale of any stocks or market securities attracts a stamp duty of 1%. There are exemptions for intermediaries. The yield over the last number of years is:

Year	Yield (€m)
2000	231
2001	346
2002	303
2003	256
2004	261
2005	324
2006	406

7.2 Under DETE rules, the only approved operator that can transfer legal title in Irish quoted companies is Crest and all dematerialised shares must be transferred in Crest. Share transfers outside of Crest require a share transfer certificate and this requires to be stamped by Revenue. Share transfers incur a 1% stamp duty charge.

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7.5 Interest in Irish shares may become an issue over the next period as Irish investors may choose to invest elsewhere as a result of the information and opportunities opened by MiFID. Separately, foreign investors may move away from Irish shares given that Ireland and the UK are the only EU States with a 'substantial' stamp duty charge. This could have an effect of the liquidity of Irish shares and further affect yield as well as affecting jobs.

8. Finance Act 2007

8.1 Minor Heads of Charge

8.1.1 As part of a simplification of the stamp duty code, a number of high volume, low value transactions were taken out of the charge to stamp duty.

8.2 Young Trained Farmers

8.2.1 The education criteria for relief was updated and the FETAC Level 6 Advanced Certificate in Agriculture is now the new minimum educational requirement. A simplified refunds procedure, where stamp duty was paid at the time the land was conveyed, was introduced.

8.3 Farm Consolidation Relief

8.3.1 A new consolidation relief was introduced which is expected to allow a greater number of farmers qualify for relief. The old relief required an exchange of land between 2 farmers, whereas the new relief allows a farmer to claim relief where he or she sells farm land and purchases farm land, in order to consolidate his or her holding, where both the sale and purchase of farm land occur within 18 months of each other.

8.3.2 The provision is, however, subject to a commencement order and is dependent on State Aid approval from the EC. There has been correspondence with the Commission, but approval has not yet been received.

8.4 Sporting Bodies

8.4.1 An exemption was introduced which gives an exemption to sporting bodies where the land is used for the sole purpose of promoting athletic or amateur games or sports.

8.5 Site to Child

8.5.1 The transfer of a site from a parent to a child is exempt from stamp duty if the purpose of the transfer is for the construction of the child's principal private residence and the market value of the site does not exceed €254,000. The size of the site qualifying for relief is now restricted to 1 acre.

8.6 Transfers of farmland – Family Arrangements

8.6.1 A new exemption was introduced on certain transfers of farmland from a child to a parent in the context of family arrangements.

8.7 Separated / Divorced Persons – First Time Buyer

8.7.1 A person whose marriage is subject to a decree of divorce, judicial separation, nullity or a deed of separation may be treated as first-time buyer in specified circumstances. One of the conditions for relief was that the other spouse continued to reside in the former marital home. This condition has now been relaxed to take account of the fact that the separation, etc. may have occurred some time ago and that the spouse who retained the former marital home may subsequently have sold it.

8.8 Intermediary Relief – Stock Exchange

8.8.1 A new relief is being introduced relating to transfer of uncertified securities through the Crest electronic transfer system. This relief replaces existing "market maker relief", "broker dealer relief" and "closings relief" with a new intermediary relief.

8.8.2 This relief is subject to a commencement order. This is to allow adequate time for discussion with the relevant stake holders to ensure that there was a smooth transition from the old to the new system. It is expected that a commencement order will be made soon.

8.9 Resting in Contract, Licensing and Agreement for Long Term Leases

8.9.1 Section 110 Finance Act 2007 introduced 3 new sections into the Stamp Duties Consolidation Act 1999. Commencement of these provisions is subject to the making of a Commencement Order.

8.9.2 The first provision (section 31A) provides that a charge to stamp duty will arise in respect of a contract or agreement for the sale where 25 per cent or more of the consideration has been paid under that contract or agreement. The charge will arise where a conveyance of the lands has not been presented for stamping within 30 days after the relevant amount of consideration has been paid.

8.9.3 The second provision (section 31B) provides that a charge to stamp duty will arise where the land owner enters into an agreement with another person under which that other person is allowed to carry out development on that land and 25 per cent or more of the market value of the land is paid to the landowner, other than as consideration for the sale of all or part of the land. The charge will arise within 30 days after the relevant amount of the consideration has been paid.

8.9.4 The third provision (Section 50A) provides that an agreement for a lease for more than 35 years will be liable to the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement where 25 per cent or more of that consideration has been paid. The duty will be payable by the person who has paid the consideration.

8.9.5 Arising from concerns about the potential impact of these measures on the market, a study has now been commissioned to identify and report on the potential effects of the making of a Commencement Order. It will evaluate the effects of a Commencement Order in broad economic and fiscal terms. To this end the terms of reference are:

8.9.5.1 Carry out a detailed examination of the economic costs and benefits arising from a commencement of Section 110 of the Finance Act 2007. This should include the additional costs involved and the likely effect on house prices and housing output, having regard to an analysis of the present state of the property market and the availability of sufficient and suitable land for housing, in the short and long term.

8.9.5.2 Identify other issues that may be affected from the commencement of this provision. The impact on Public Private Partnerships and similar type arrangements is also to be considered.

8.9.5.3 In addressing points 1 & 2, the report should set out the particular impacts of specific aspects of the provision where relevant, and where appropriate, how these impacts could be mitigated (if necessary and/or appropriate) before any commencement of the provision.

8.10 The timing of a "Commencement order" will have regard to the report.

9. Finance (No 2) Act 2007

9.1 The Programme for Government 2007-2012 provided that the Government would "*Legislate immediately to abolish stamp duty for all first-time buyers and make this change retrospective for all deeds presented for stamping to the Revenue Commissioners on or after 30th April 2007*".

9.2 The Finance (No 2) Act 2007, which was recently enacted dealt with this commitment.

10. Finance Bill 2008

10.1 The Programme for Government 2007 – 2012 does not contain any specific stamp duty provisions with the exception of an extension of first-time buyer relief, which has already been implemented – see paragraph 9 above. The Tánaiste's emphasis in this regard was to restore stability in the market and therefore, at this point, it is expected that changes to stamp duty in the context of the Budget 2008 and the Finance Bill 2008 will be primarily technical.

10.2 The position regarding the transfer of shares may need to be addressed to reflect changes in the market. At present, the only approved operator that can transfer legal title in Irish quoted companies is Crest and all dematerialised shares must be transferred in Crest. As part of the approval process, Crest has agreed to collect the stamp duty on share transfers. Share transfers outside of Crest require a share transfer certificate and this requires to be stamped by Revenue.

10.3 Any changes that are introduced in general law, relating to non-marital relationships, will have to be considered in the context of capital taxes.