

New System for Stamping Instruments and making Stamp Duty Payments

1. Introduction

From December 2009, the Revenue Commissioners will introduce a new system for stamping instruments and for paying stamp duty.

The new arrangements apply to every instrument that requires to be stamped. The main changes to be introduced are

- a mandatory return for stamp duty setting out all relevant particulars and information required to calculate duty and issue the stamp
- a new process for obtaining a stamp and
- a new format of stamp.

Other changes include

- Extension of the tax reference number requirement to apply to all instrument types
- More reliance by Revenue on post-stamping checks and audit.

2. Stamp Duty Return

Under the new arrangements, practitioners will be required to complete a statutory return and to submit it to Revenue, together with any duty payable, before an instrument can be stamped. The current ST21 form will no longer be required.

The new stamp duty return will require the same information to be provided as that required presently to calculate duty and have an instrument stamped. This information is presented currently to Revenue as part of the information contained in the instrument and any relevant supporting documentation. Under the new system, the instrument will be executed as heretofore, but it will not be presented to Revenue unless

- the instrument is being adjudicated upon
- additional information is required
- the case is subject to an expression of doubt
- mitigation of penalty is sought
- the case is selected by Revenue for assurance check or audit
- the instrument is the subject of a refund application.

Even in cases where the instrument is presented, Revenue will use the return to calculate the duty payable and to generate a stamp certificate. Therefore, the return must be correctly and fully completed in all cases. When the return is processed successfully, Revenue will issue practitioners with a stamp certificate for attachment to the instrument. The stamp certificate will be in paper form, (whether the return was submitted in electronic or paper format) and will be affixed to the instrument to denote it as being stamped. The new stamp certificate will replace the holographic stamp impressed currently on the instrument as evidence of stamping. Any

instrument or documentation presented to Revenue in support of the return will be sent back to the practitioner pending issue of the stamp certificate.

3. Filing the Statutory Return

A return is required in all cases, including those where an instrument or additional information is to be presented to Revenue. Under the new system, the return and duty can be submitted to Revenue in one of two ways:

- in electronic format through the Revenue Online System (ROS), or
- in paper format.

Once an Instrument is executed, the completed return, and payment in full, should be submitted to Revenue within the prescribed time limit¹. The return must be completed fully and correctly in every case, as the information provided in the return will be used to generate the stamp certificate.

A return submitted with incomplete or invalid information, whether the return is filed electronically or in paper format, will be rejected and returned to the practitioner for correction and re-submission to Revenue within the prescribed time limits.

Returns filed electronically, and completed correctly, will result in the immediate issue of a stamp certificate on line, to the practitioner, in cases not subject to adjudication. Returns filed in paper format will result in the issue of a stamp certificate by post some days later.

A facility to amend any detail on a submitted return will be provided for both electronic and paper returns. The amendment can be completed and submitted on line (for electronic returns) or by means of an amended paper return. Detailed guidance on completing the return (electronic and paper) will be provided by Revenue.

4. e-Stamping

The new system, called e-Stamping, will use Revenue's computer systems to accept stamp duty returns on-line (electronic return) or in paper format (the paper return). It will validate the stamp duty return, calculate the duty payable and process the payment of stamp duty.

e-Stamping allows the practitioner to submit electronic returns and make electronic payments on-line at any hour of the day or night from his/her own computer². It is completely secure and provides significant time and cost savings for the practitioner.

The practitioner will complete an electronic return through a series of computer screens. These e-Stamping screens will be easy to use, with data input simplified through selection from drop-down menus. The screens will provide automatic and intuitive navigation to the relevant sections of the on-line return, based on selections

¹ The current time limit of 44 days will continue to apply for non-adjudicated cases under the new system.

² Stamp certificates for returns submitted on line will be issued between 8am and 8pm Monday to Friday. Penalties for late payment of duty will depend on the date of submission of the return and duty payment, whether in electronic or paper format.

made from earlier drop-down menus. It will provide automatic calculation of stamp duty and penalties and interest (where applicable) and on-line validation of tax reference numbers.

The practitioner will transcribe particulars from the instrument and other relevant supporting documentation into the screens (by making selections from simple drop-down menus) to arrive at a correct calculation of stamp duty and interest and penalties (where applicable).

The practitioner can also avail of an off-line facility in e-Stamping. This allows the practitioner to complete a return and get a calculation of the duty before submitting it to Revenue. The off-line return can be stored locally pending later review by the practitioner, or by another reviewer. Once satisfied that the return reflects the correct particulars and payment, the practitioner can upload the return to submit it on-line to Revenue.

The e-Stamping system will validate the return and the stamp duty submitted immediately. In straight stamping cases, once the return is accepted by the e-Stamping system and on-line payment notification is received by Revenue, the stamp certificate will appear immediately³ in the practitioner's ROS email inbox, together with a receipt for the electronic payment. In adjudication cases, the stamp certificate and receipt will issue once Revenue has completed its examination and is satisfied with the results.

e-Stamping will cater to every stamp duty eventuality and will provide comprehensive on-line guidance notes and help menus to support the data input process. To use e-Stamping, the practitioner must first register for ROS (see below) and set up a Revenue Debit Instruction to authorise the on-line payment of stamp duty.

(NOTE: The following link provides information on how to register for ROS <http://www.ros.ie/PublisherServlet/info/setupnewcust>)

Returns submitted in paper format will be entered manually by Revenue staff onto the e-Stamping system and will be subject to the same validation process as the electronic returns. Therefore, in order to allow the system to generate a correct stamp, all relevant and correct particulars must be provided in the paper form, together with payment in full (including interest & penalties where applicable). Once the return is processed and the payment is confirmed, the stamp certificate will be printed off by Revenue and posted to the practitioner.

5. Paying Stamp Duty

On-line Payment:

Where a return is filed on-line, the related duty will be paid on-line also through ROS. Practitioners filing returns on-line through ROS will have a facility to review a summary of the data entered and details of the duty to be charged before final submission of the return to Revenue. Once the practitioner is satisfied that s/he has entered the correct particulars into the on-line return (allowing the system to calculate the duty correctly, including interest and penalties), s/he will 'sign and submit' the return by clicking a button on the ROS screen.

Once the return has been signed and submitted electronically through ROS, Revenue will process payment of the amount due (including any interest and

³ Between the hours of 8am and 8pm Monday to Friday.

penalties) from the bank account nominated by the practitioner by way of Revenue Debit Instruction (RDI). The bank account will be nominated and the RDI set up by the practitioner at the time s/he registers for ROS. The nominated account can be changed at a later date by arrangement with Revenue. In summary, on-line payment can be made only from the practitioner's nominated bank account and only after the practitioner has authorised payment by signing and submitting an electronic return through ROS.

Manual Payment

Manual payments (cheques, etc.) will accompany paper returns. Each paper return will contain stamp duty particulars relating to one original stampable document only and will be accompanied by a cheque in full settlement. Where counterparts are involved, the cheque should include the duty due for each counterpart. This method of payment is no different to the current method. A stamp certificate will issue only where payment, including interest and penalties where applicable, is received in full.

6. New Stamp Format

The stamp certificate is a new form of stamp that will replace the current foil/hologram stamp in every case after the introduction of e-Stamping in December 2009.

Unlike the current stamp, the stamp certificate will not be heat-sealed onto the instrument, but will be a separate document from the instrument itself. When the stamp certificate is received the practitioner must attach it to the instrument to denote that the instrument has been stamped.

The stamp certificate will contain the following information, as required.

- The stamp certificate ID number,
- the date of execution of instrument,
- Parties' names,
- Address & Folio numbers (where applicable) of the property being transferred (in the case of Stock Transfers, it will include the name of the company and the number and type of shares being transferred)
- The chargeable consideration
- The duty paid (including interest & penalties where applicable)
- List of relief/exemptions applied
- The DOC ID number,
- The date of issue of the stamp certificate
- Adjudication marker
- Counterpart marker
- Amended stamp certificate marker

Each stamp certificate will be identified by a unique security number and each certificate will relate solely to one particular instrument/instrument/counterpart. A separate stamp certificate will issue in respect of each counterpart.

Should a stamp certificate be lost or need to be verified, the e-Stamping system will allow Revenue, on behalf of practitioners, to issue duplicate stamp certificates and to verify the authenticity of a stamp certificate. Alternatively, practitioners who are registered for ROS will have the facility to replace lost stamp certificates themselves, provided the original certificates were issued to them via ROS.

7. Adjudication and Other Cases where Instruments are to be Presented

Adjudication

Cases subject to adjudication will continue to be examined in detail before stamping. Other than the submission of a return by the practitioner, the adjudication process will continue as before. Stamp duty returns for adjudication cases can be submitted electronically or in paper format but the stamp certificate will not issue until the adjudication process has been completed by Revenue. The instrument and other papers for examination will be delivered to Revenue by the practitioner, as heretofore. The legal provisions governing adjudication require opinion to be sought from Revenue within 30 days of the date of execution of the instrument. Once Revenue issues its notice of assessment, payment should be made within 14 days of the date of assessment.

Penalty Mitigation and Refunds of Duty

Application for penalty mitigation and/or refunds of duty must be submitted in writing to Revenue for consideration, whether the return is filed electronically or in paper format. When Revenue has determined the amount to be mitigated and the correct balance of payment has been received, the stamp certificate will issue. Where refund applications are approved, the amounts involved will be refunded and an amended stamp certificate will issue.

Expression of Doubt

Where a taxpayer / ?practitioner indicates on the return (electronic or paper) that s/he is submitting an expression of doubt, Revenue will suspend the processing of the case pending receipt of the expression of doubt. Where Revenue concurs with the taxpayer's/?practitioner's interpretation, as reflected in the return, Revenue will complete the processing of the return and payment and issue the stamp certificate. Otherwise, the return will be sent back to the practitioner for correction and re-submission. The current provisions on time limits for submitting an expression of doubt will continue to apply under the new system.

8. Post Stamping Checks

In common with all other taxes and duties, a taxpayer's stamp duty return will be subject to Revenue's programme of audit under the new system.

Under the new system, except in adjudicated cases, the focus of Revenue checks will move from pre-stamping examination to post-stamping assurance checks and audits,. Assurance checks will be carried out on stamped instruments and any supporting documents and will entail the practitioner forwarding the instrument and supporting documentation to Revenue, on request, and providing Revenue with additional information, if required.

Audits will be carried out under Revenue's Audit Code of Practice and the taxpayer and practitioner will be notified in advance of the audit schedule and of the records required for examination and will be provided with a copy of the Code of Practice.

The approach to audit, including method of conduct of the audit, information required, evidence to be kept by taxpayers / practitioners, etc. is being developed and will be discussed with practitioners.

9. Other Information

Late Payment - Penalties and Interest

Penalties and Interest will continue to apply to all unpaid duty and the current late penalty regulations will apply under the new system. For cases where opinion is sought under adjudication the instrument must be presented within 30 days of the date of first execution of the instrument. Payment of duty must be received within 14 days of the issuing of the notice of assessment. For all other types of cases, the duty on the instrument must be paid within 44 days of the date of first execution of the instrument.

Counterparts:

Where a counterpart is required to be stamped, practitioners will not need to complete a separate return. Instead the return for the original instrument need only indicate the number of counterparts pertaining to the original Instrument in order for a separate stamp certificate to issue in respect of each counterpart. Where a return is being completed in respect of a counterpart only, the DOC ID of the original instrument must be quoted before the counterpart stamp certificate issues.

Tax Reference numbers: Valid tax reference numbers must be quoted in respect of the purchaser/lessee/transferee and the vendor/lessor/transferor, whether the return is submitted on paper or electronically. Where a paper return is submitted, the practitioner must quote his/her tax reference number on the form. However, the practitioner's tax reference number will already be known (through their ROS registration information) where returns are submitted electronically.

Revenue will assist practitioners in registering previously unregistered persons/companies (both resident and non-resident) to allow these requirements to be followed.

Revenue e-Stamping Project Team
Dublin Stamping District
Dublin Castle

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