

New dwellinghouses and apartments with floor area certificate. FA 1969 s49(1) and (2B) 91.—(1) Subject to subsection (2), an instrument giving effect to the purchase of a dwellinghouse or apartment on the erection of that dwellinghouse or apartment shall be exempt from all stamp duties.

(2) (a) In this subsection, “floor area certificate” means a certificate issued by the Minister for the Environment and Local Government certifying that that Minister is satisfied, on the basis of the information available to that Minister at the time of so certifying, that the total floor area of that dwellinghouse or apartment measured in the manner referred to in section 4 (2)(b) of the Housing (Miscellaneous Provisions) Act, 1979 , does not or will not exceed the maximum total floor area standing specified in regulations under that section 4(2)(b) and is not or will not be less than the minimum total floor area standing so specified.

(b) Subsection (1) shall have effect in relation to an instrument only if the instrument contains a statement, in such form as the Commissioners may specify, certifying that—

(i) the instrument gives effect to the purchase of a dwellinghouse or apartment on the erection of that dwellinghouse or apartment,

(ii) until the expiration of the period of 5 years commencing on the date of the execution of the instrument or the subsequent sale , be charged with full ad valorem duty or a sale to a company under the control of the vendor or of any person entitled to a beneficial interest in the dwellinghouse or apartment immediately prior to the sale or to a company which would, in relation to a notional gift of shares in that company taken, immediately prior to the sale, by any person so entitled, be under the control of the donee or successor within the meaning of section 16 of the Capital Acquisitions Tax Act, 1976 , irrespective of the shares the subject matter of the notional gift) of the dwellinghouse or apartment concerned, whichever event first occurs, that dwellinghouse or apartment will be occupied as the only or principal place of residence of the purchaser, or if there be more than one purchaser, of any one or more of the purchasers or of some other person in right of the purchaser or, if there be more than one purchaser, of some other person in right of any one or more of the purchasers and that no person, other than by virtue of a title prior to that of the purchaser, will derive any rent or payment in the nature of rent for the use of that dwellinghouse or apartment, or of any part of it, during that period, and

(iii) on the date of execution of the instrument there exists a valid floor area certificate in respect of that dwellinghouse or apartment.

(c) Where, in relation to an instrument which is exempted from stamp duty by virtue of subsection (1) and at any time during the period referred to in paragraph (b)(ii), some person, other than by virtue of a title prior to that of the purchaser, derives any rent or payment in the nature of rent for the use of the dwellinghouse or apartment concerned, or of any part of it, the purchaser, or where there be more than one purchaser, each such purchaser, shall—

(i) jointly and severally become liable to pay to the Commissioners a penalty equal to the amount of the duty which would have been charged in the first instance if the dwellinghouse or apartment had been conveyed or transferred or leased by an instrument to which this section had not applied together with interest on

that amount charged at a rate of 1 per cent per month or part of a month from the date when the rent or payment is first received to the date the penalty is remitted, and

(ii) the person who receives the rent or payment shall, within 6 months after the date of the payment, notify the payment to the Commissioners on a form provided, or approved of, by them for the purposes of this section, unless that person is already aware that the Commissioners have already received such a notification from another source.

(d) The furnishing of an incorrect statement within the meaning of paragraph (b) shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 1078 of the Taxes Consolidation Act, 1997 .