



STATUTORY INSTRUMENTS.

S.I. No. 222 of 2011

STAMP DUTY (E-STAMPING OF INSTRUMENTS) (AMENDMENT)
(NO. 2) REGULATIONS 2011

(Prn. A11/0715)

S.I. No. 222 of 2011

STAMP DUTY (E-STAMPING OF INSTRUMENTS) (AMENDMENT)
(NO. 2) REGULATIONS 2011

The Revenue Commissioners, in exercise of the powers conferred on them by section 17A (inserted by section 111 of the Finance Act 2008 (No. 3 of 2008)) of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999) hereby make the following Regulations:

1. (1) These Regulations may be cited as the Stamp Duty (E-stamping of Instruments) (Amendment) (No. 2) Regulations 2011.

(2) These Regulations shall come into operation on 1 June 2011.

2. The Stamp Duty (E-stamping of Instruments) Regulations 2009 (S.I. No. 476 of 2009) are amended—

(a) in Regulation 2, by inserting, in the appropriate places, the following definitions:

“ ‘Appeal Commissioners’ has the meaning assigned to it by section 850 of the Taxes Consolidation Act 1997 (No. 39 of 1997);

‘exemption’ means an exemption under Regulation 8A or 8B;

‘requirements’ means the requirement to cause a return or clawback form (or both) to be delivered electronically;”,

(b) by inserting after Regulation 8 the following:

“Exemption from electronic filing

8A. (1) Where, in relation to an instrument, an accountable person or any person acting under the authority of an accountable person, is not an approved person or an authorised person, and

(a) does not have sufficient access to the internet to comply with the requirements, or

(b) in the case of an individual, is prevented by reason of age or mental or physical infirmity from being able to comply with the requirements,

the accountable person may, by application to the Commissioners in writing, request to be exempted from the requirements and such application shall include all information relevant to the consideration by the Commissioners of the application.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 17th May, 2011.*

(2) Where the Commissioners receive an application from an accountable person in accordance with paragraph (1) or otherwise consider it appropriate, they may, if they are satisfied that in all of the circumstances the accountable person could not reasonably be expected to meet the requirements, exempt the accountable person from the requirements.

(3) An exemption under paragraph (2) may be made at any time but where an application has been made under paragraph (1), a decision shall be made within 30 days of its receipt. The Commissioners shall, in all cases, notify the accountable person in writing of the decision.

Right of appeal to the Appeal Commissioners

8B. (1) Where an accountable person is refused an exemption under Regulation 8A, he or she may, by notice in writing to the Commissioners within 30 days of receipt of the refusal, appeal the refusal to the Appeal Commissioners, who shall hear the appeal.

(2) On the hearing of an appeal under this Regulation, the Appeal Commissioners shall have regard only to those matters to which the Commissioners may or are required to have regard under Regulation 8A.”,

(c) by substituting the following for Regulation 9—

“9. (1) The Commissioners shall, in respect of an instrument required to be stamped by means of the e-stamping system, require a paper return to be delivered to them in place of an electronic return in the following circumstances:

- (a) an instrument executed prior to 1 January 2002;
- (b) an instrument presented to the Commissioners prior to 30 December 2009;
- (c) an instrument required to be stamped where an exemption has been granted.

(2) Where paragraph (1) applies in respect of an instrument, the requirements of an accountable person shall be fulfilled by the delivery of a paper return approved by the Commissioners in respect of that instrument.

(3) Regulations 5 and 6 shall, with any necessary modifications, apply to a paper return delivered in accordance with these Regulations as if it were an electronic return.

(4) A paper return delivered to the Commissioners in accordance with these Regulations shall be signed by a filer in such manner as the Commissioners think fit.

(5) Where paragraph (1) applies, the requirements shall not apply.

(6) The stamp duty or interest or both and any penalty chargeable on an instrument in respect of which a paper return is delivered in accordance with these Regulations shall be paid by arrangement with the Commissioners.”, and

(d) in Regulation 13, by substituting for paragraph (2) the following:

“(2) Where paragraph (1) applies, notification of a clawback shall be made to the Commissioners—

(a) in the case of an instrument stamped by the Commissioners by means of the e-stamping system, by the delivery to them electronically of a clawback form through the e-stamping system by an approved person or an authorised person,

(b) in the case of an instrument stamped by the Commissioners on or after 30 December 2009 and in respect of which an exemption has been granted under these Regulations, by the delivery to them of a paper clawback form, or

(c) in the case of an instrument stamped by the Commissioners by means of an impressed stamp, by the delivery to them of a paper return and a paper clawback form.”.

GIVEN under my hand,
11 May 2011.

MICHAEL O’GRADY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

Stamp Duty (E-stamping of Instruments) (Amendment) (No. 2) Regulations 2011

These Regulations are made by the Revenue Commissioners under the provisions of section 17A of the Stamp Duties Consolidation Act 2011. This section was inserted by section 111 of the Finance Act 2008.

These Regulations amend the Stamp Duty (E-stamping of Instruments) Regulations 2009 (S. I. No. 476 of 2009) to remove the optional ability to file paper forms in place of electronic returns from 1 June 2011, except in the specific circumstances specified in the Regulations 9 and 13.

The Revenue Commissioners may, on application, exempt a person from the obligation to pay and file electronically if they are satisfied that the person does not have the capacity to do so and in this context “capacity” is taken to mean sufficient access to the Internet and in the case of an individual is not prevented by reason of age, physical or mental infirmity from filing and paying electronically.

A person aggrieved at a failure by the Revenue Commissioners to exempt them from the requirements may appeal that failure to the Appeal Commissioners.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€2.54



Wt. (B28441). 310. 5/11. Cahill. Gr. 30-15.