



COMMISSION ON TAXATION
AN COIMISIÚN UM CHÁNACHAS

PART 6

TAXATION OF PROPERTY



Part 6: Taxation of Property

Section 1 is an introduction.

Section 2 outlines how the taxation of property should be restructured.

Section 3 contains the elements of our proposals for a restructured system of property taxation.

Section 4 outlines the main design features of the proposed annual property tax on residential housing.

Section 5 outlines our consideration of stamp duty on commercial property.

Section 6 outlines our consideration of a land or site value tax.

Our recommendations in this Part are as follows:

6.1	The provision of an up-to-date valuation base for all property and land in Ireland should be addressed as a priority issue.
6.2	Provide for an annual property tax on all residential housing units with the broad exceptions of local authority and social housing units and some other limited exceptions set out in section 4.2 of Part 6.
6.3	Stamp duty for purchasers of principal private residences should be zero-rated.
6.4	Stamp duty should continue to apply to investor purchasers of residential housing units. The rate should be competitive having regard to the transaction tax rates and thresholds that apply across the EU.
6.5	The windfall gains from increases in land values due to rezoning decisions should be subject to an additional capital gains tax charge.
6.6	A recurrent property tax on land zoned for development should be introduced.

Section 1:

Introduction

1.1 Description of the tax system pertaining to property

This Section deals with the taxation of property in Ireland. It gives an overview of the existing tax treatment of property, and then sets out our assessment of how the system should be restructured. Tax expenditures relating to the ownership and use of property are dealt with in Part 8 of our Report. Some of these expenditures are referred to in the following overview.

1.2 The tax treatment of property

Capital gains tax (CGT) is payable on chargeable gains on the disposal of assets including property. The rate is 25%¹. A higher rate of CGT on gains arising from the sale of development land applied from 1982 to 1999. A significant exemption from capital gains tax is the gain accruing from the disposal of a principal private residence.

Capital acquisitions tax (CAT) applies to property received as a gift or inheritance. Gifts and inheritances of a value over a threshold, determined by reference to the relationship of the beneficiary to the donor or the deceased, are charged at a rate of 25%. The threshold for a son or daughter is currently €434,000 with lower thresholds for siblings, nephews and nieces, parents and grandchildren (€43,400) and others (€21,700). Significant reliefs apply where the donee or successor receives agricultural land and in such cases the market value of the property is reduced by 90%. A similar relief applies to business property acquired by gift or inheritance.

Stamp duty – This has been a primary source of Exchequer revenue from property in Ireland. It is an *ad valorem* duty where a property, or a lease on a property, is conveyed from one owner or leaseholder to another. It can be classified as a transaction tax and can be a buoyant, but volatile, source of revenue. Different rates of stamp duty apply to the residential and non-residential sectors. The duty is not applied uniformly to all residential housing. Firsttime buyers of new and second-hand houses for owner-occupation are exempt as are most buyers of new houses.

Income tax – Mortgage interest relief for principal private residences is provided at source for owner-occupiers subject to annual limits on the interest amounts – the rate is 15% for non-first time buyers, with firsttime buyers subject to a limit of 25% in years one and two, 22.5% in years three, four and five and 20% in years six and seven. The relief is available for the first seven tax years of a mortgage.

Profits or gains arising from rent received in respect of property located in Ireland are charged to income tax under Schedule D Case V². The interest deductible in calculating income from rented residential properties is, since 7 April 2009, restricted to 75% of the interest accrued. No restriction applies to interest on loans for commercial property.

VAT – VAT is chargeable at 13.5% on the sale of property in the course of business (for a maximum period of five years after completion of the building). Sales of properties are otherwise exempt unless the vendor chooses to make the sale subject to VAT. VAT is not chargeable by a private individual who sells a house in which he or she has lived. The letting of property is exempt

¹ Having been increased from 20% to 22% in Budget 2009 and to 25% in Supplementary Budget 2009.

² Rental income from property in overseas locations is taxed under Schedule D Case III.

from VAT. However, in most cases (excluding the rental of residential properties), the landlord can “opt to tax” the rent in which case VAT is chargeable at the 21.5% VAT rate.

Commercial rates – This is a local tax assessed on the net annual letting value of commercial and industrial properties and is used to fund local authorities. It is paid directly to local authorities. It is the only recurrent tax on property in Ireland and yielded €1.344 billion for local authorities in 2008. See Part 11 of our Report for a fuller discussion of commercial rates.

Development contribution schemes – These are another source of funding for local authorities. Contributions are struck at a rate or level which the local authority determines (and this is a reserved function of the elected representatives). These contributions are payable by persons carrying out development on foot of planning permissions and are intended to provide an appropriate contribution towards the capital cost of public infrastructure and facilities.

The charge on non-principal private residences – The Local Government (Charges) Act 2009 introduced an annual charge of €200 on non-principal private residences. Liability for the charge arises mainly in respect of rental, holiday and vacant properties with the revenue stream going to local authorities.

1.3 Previous residential property taxation systems

A number of forms of domestic property tax applied to residential housing in the past, notably imputed rental income tax, domestic rates, residential property tax and farm tax.

Imputed rental income tax

Prior to 1969/70, income from the ownership of buildings was charged to tax on a notional basis under Schedule A of the Income Tax Act. This tax was effectively an ‘imputed rental income tax’. Schedule A of the Income Tax Act 1967 provided that income from the ownership of buildings was calculated on a notional basis and charged to tax – either on five-fourths of the rateable valuation under the Valuation Acts or the valuation itself, less, in certain circumstances, a small fraction for repairs. This provision covered two types of income: income derived from the letting of property and income imputed to the owner-occupier of a property. This provision was abolished in 1969.

Domestic rates

The domestic rates system was a local property tax on residential housing and was used to fund local government. The tax was based on the valuation of the house. The valuation basis dated back to the mid-19th century and used the net annual valuation of the property. The amount of the tax was contingent on the ‘rate in the pound’ struck by the local authority which was in turn based on the amount of revenue required by the local authority for its annual budget. The system was much criticised for two reasons: firstly, it was based on an antiquated valuation system that was inequitable; secondly, the burden of taxation increased rapidly, with rates in most areas increasing more rapidly than incomes or inflation. The domestic rates system was abolished in 1978.

Residential property tax (RPT)

This was an annual tax introduced with effect from 5 April 1983³ and provided that all relevant residential property owned by an assessable person was charged to tax at a rate of 1.5% where the market value of the property exceeded a limit (which was increased annually in accordance with the

New House Price Index) and the income of the assessable person exceeded a limit. The tax was never a source of significant revenue for the Exchequer and generated only €17 million in revenues in 1996, the last year it operated. It was abolished with effect from 5 April 1997.

RPT was a national tax that applied to all residential properties. However, the number of assessments raised in any year was never more than just over 20,000 (except for 1994 when a flat rate was introduced) because of the income and house valuation threshold exemptions that applied. In 1996, the last year that the tax applied, the total number of households in the country was 1,123,200⁴. The total number of RPT assessments that year was 21,499, representing just less than 2% of all households.

Farm tax

A farm tax was introduced with effect from 1986 and was based on a concept of 'adjusted acreage'. It contained an amalgam of income tax and property tax elements. It was abolished the following year. The proceeds of the tax were intended to form part of the income of local authorities.

Section 2: How the taxation of property should be restructured

2.1 Overview of our proposals

An annual property tax

We recommend that there should be a new configuration of taxation of property in Ireland, including an annual property tax that provides recurrent and sustainable revenue for the Exchequer and, in due course, for local government financing.

Annual or recurrent taxes on immoveable property are a common feature of tax systems in most industrialised and developed countries.

We consider that as a matter of general principle all property should be subject to recurrent taxation – either through the local government commercial rates system or an annual tax on residential property, which we are proposing. Such an annual property tax should form a key part of broadening the overall tax base. We consider that an annual property tax (APT) should be implemented at the earliest possible date, taking account of the very significant administrative challenge for the Revenue Commissioners who will have to develop an assessment, collection and accounting system.

In this context it is appropriate to move away from an undue reliance on stamp duty – where the tax revenues are contingent on the level and value of property transactions. There are significant benefits to moving to a more stable tax base, which provides for a reliable revenue stream and a sustainable source of Exchequer funding.

In developing an annual property tax structure we consider that having a very wide tax base is vital. An important lesson to be learned from the residential property tax system that operated between 1983 and 1997 is that an overly narrow tax base led to an insignificant revenue flow for the Exchequer, high administrative costs and a perception of inequity.

Tax on windfall gains

We are recommending that the windfall gains that arise from increases in land values due to rezoning should be subject to an additional capital gains tax charge. We consider that the ‘betterment’ which arises to land-owners from decisions made for the common good, such as land rezoning or the provision of physical infrastructure, should be subject to an increased level of taxation.

Recurrent tax on zoned development land

We are proposing a recurrent tax on zoned development land where such land is not being developed. This will be a useful policy tool to address the hoarding of land-banks and help to ensure that land is utilised in accordance with its planning categorisation.

Land or site value tax

We are not recommending a land or site value tax at this time. A land or site value tax is a recurring tax on the land value of a property. No tax is levied on the buildings or improvements that are on the land. We consider that there is a strong economic rationale for land value taxation. However, we believe that it is not a pragmatic approach to the restructuring of our property taxation system right now. There are very difficult hurdles to be crossed in moving to the valuation system that would be required to implement a land or site value tax system. There would also be significant difficulties in communicating to home-owners and land-holders the nature of the taxation charge that is involved and the benefits that would accrue from that change. Our proposed recurrent tax on zoned development land is consistent with many of the principles of a land or site value tax.

2.2 Rationale for an annual property tax on residential property

The rate of economic growth – and associated tax revenue flows – over the next decade is expected to be lower than in the period to 2007. An over-reliance on expenditure and transaction taxes has resulted in tax revenue dropping more quickly than (nominal) GNP. As we outline in Part 4 of our Report we consider that a rebalancing of the existing tax system to provide for a more stable tax base is desirable. An annual property tax will help achieve this. Such a change is required to meet the challenges presented both by the current economic landscape and by the demographic pressures that will arise over the coming decades. In addition, the restructured property tax system that we propose will reduce economic distortion arising from the present emphasis on transaction-based property taxes.

Table 6.1 The yield from stamp duty from residential housing since 2000

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
€m	€m	€m	€m						
282	265	349	528	752	945	1,311	1,018	445	85*

**to end June*

We also consider that, in a small open economy such as Ireland, less mobile factors of production, such as property, are particularly appropriate to include in a tax base in the context of increasing globalisation.

The submission we received from the Department of Finance pointed out that:

“... rewarding of work and enterprise are proven elements in Ireland’s successful economic convergence. Taxes on property and capital are relatively low.... These treatments reflect a series of policy decisions taken in the past on foot of conclusions reached on the economic and social consequences of such treatment. A fresh look at these issues is appropriate”.

The National Economic and Social Council (NESC) in its June 2008 strategy report⁵, stated that:

“Current pressures on revenue, and several long-term economic and social considerations, suggest that thought be given to reforms of the tax system that would make it more supportive of Ireland’s goals. In particular, the Commission on Taxation should examine the possibility of replacing stamp duties with a more sustainable and equitable form of property tax. It may be possible to design a system of property tax which yields a less volatile revenue stream than stamp duties, which better supports an active housing market and high-quality physical planning and which is more consistent with Ireland’s goal of relying on creation of high-value goods and services in a high-participation society”.

2.3 Timing

The timing of any change in policy direction on the taxation of residential property is a very sensitive issue. However, it is arguable that such a change is less difficult at a time when the residential property market is at or near the end of a downturn in the economic cycle. Over the period 2003 to 2007 tax revenues from property-related transactions were buoyant due to price inflation and much increased activity in the commercial and residential property sectors.

The current tax base from residential property is now relatively limited because it depends on stamp duty revenues from investors and from the sales of second-hand houses to non-first time buyers. Developing an annual property tax that helps restructure property taxation would, in our view, create a sounder base from which the property market can develop, particularly when taken with other compensating measures such as the zero-rating of stamp duty on owner-occupied properties.

2.4 The rate of annual property tax

The rate of a property tax is a matter for Government. However, we consider that there are two factors that should be taken into account in setting a rate to replace, in a stable property-tax system, the volatile flows from stamp duty. These are:

- The tax revenue flow that should be replaced should not reflect the windfall receipts from stamp duty which arose from the rapidly growing property market during the period 2003 – 2007
- The need to finance waivers for those on low incomes

2.5 The impact of property tax proposals on economic activity

Our examination of property taxation measures had regard to the following:

- Annual taxes on land and buildings have a small adverse effect on economic performance:
 - The tax does not directly affect the decision to supply or demand labour
 - The tax base is stable and tax revenue from this source is predictable, and
 - The tax base is immobile, and is therefore less likely to distort economic behaviour

⁵ The Irish Economy in the Early 21st Century, NESC, No 117, June 2008.

than labour or capital taxes

- A transaction tax, such as stamp duty, discourages people from buying and selling houses and so may discourage them from moving to areas where labour is in greater demand. The tax works against the efficient use of the housing stock
- The behavioural effect of imposing an annual tax on property is difficult to assess. The property tax may encourage investors to acquire property abroad although we consider this unlikely given current economic conditions, the changing approach by lending institutions to lending for property investment and the fact that any property abroad is likely to be subject to a local property tax. Alternatively, an annual property tax may encourage investors to redirect their capital to more productive sectors of the economy – which would be a desirable consequence
- Taxes on property could contribute to the more efficient use of under-developed land through, for example, higher recurrent taxes on vacant property and on under-developed zoned land
- An annual property tax will help the State to share in the increased value of residential housing that arises from its provision of public infrastructure in some areas – for example, the increased house price values that arise from the provision of suburban rail facilities

2.6 The need for an up-to-date and consistent valuation database

Options for the future taxation of property in Ireland are constrained by the absence of an up-to-date valuation database on which an annual property tax (or indeed a land value tax) could be based. This is a policy failure that deserves early attention. We consider that the development of a valuation base for all residential, business, commercial and industrial property in Ireland is a matter which should be addressed in order to provide policy options to broaden and secure the tax base in Ireland for the future. An up-to-date valuation database will also provide a database against which self-assessed property tax returns can be checked as part of the monitoring of our proposed annual property tax by the Revenue Commissioners.

Recommendation 6.1

The provision of an up-to-date valuation base for all property and land in Ireland should be addressed as a priority issue.

Section 3: Proposals for a restructured system of property taxation

3.1 Overview

Our proposals for a restructured system of property taxation comprise four elements:

- An annual property tax on residential housing units
- Stamp duty for purchasers of principal private residences is zero-rated
- Stamp duty on residential housing units purchased for investment purposes is applied at a rate that takes account of the transaction tax rates and thresholds that apply across the EU
- The property tax base is widened through the provision of:
- An annual property tax on zoned development land, and

- A higher rate of CGT on profits or gains from the sale of development land

This approach is consistent with our approach to widening the commercial rates base (see Part 11 of our Report)

3.2 Elements of an annual property tax (APT) on residential housing units

In summary our proposals for an annual tax on residential properties are as follows:

- An annual property tax should be applied to each residential property in Ireland – with the broad exception of houses rented from local authorities and social housing providers and some other limited exceptions set out in section 4.2. As the tax will apply to rented properties, second homes and holiday homes, it should replace the €200 levy introduced in 2009 as a source of finance for local authorities
- The annual property tax should be calculated by reference to valuation bands within which a property owner would value his or her house. Our rationale is that there should be certainty about the tax base. Therefore, the classification of a property for the tax should be easily determined
- The tax should be paid by the owner
- Self-assessment is an appropriate method of assessment for the tax subject to appropriate monitoring and audit mechanisms
- The property tax should have as wide a range of payment options as is feasible
- The tax should be administered by the Revenue Commissioners

In making these proposals, we are aware of two issues which we consider are important aspects of an APT on residential property:

- Firstly, the necessity of developing a tax that could be introduced in the absence of an accurate and up-to-date valuation database, and
- Secondly, the provision of a scheme to mitigate the impact of the recurrent property tax on low-income house owners, including those with relatively low incomes and large, more valuable houses.

These issues underpin our approach to the development of an annual property tax.

Our detailed design proposals for the tax are set out at Section 4 below.

Recommendation 6.2

Provide for an annual property tax on all residential housing units with the broad exceptions of local authority and social housing units and some other limited exceptions set out in section 4.2 of Part 6.

3.3 Reform of stamp duty

Purchasers of principal private residences

The application of stamp duty on some residential housing transactions does not provide a stable revenue base for the Exchequer as the revenues are far too strongly influenced by the housing cycle. This can result in significant windfall receipts from stamp duty during a housing boom and far smaller revenues once the housing market contracts. As we point out in Part 4 of our Report, this

is a structural weakness in the capital tax base that needs to be addressed. In contrast, an annual property tax on residential housing units would provide for a far more stable revenue base.

Stamp duty reduces the efficiency of the property market as it is the most significant part of transaction costs that determine the difference between the price that a buyer pays for a property and the price that the seller receives. This inefficiency can be clearly seen from the perspective of a seller who wishes to 'trade-down'. It is likely that the high levels of stamp duty payable by the purchaser reduces the price received for the house by the vendor. The fact that an individual trading down will themselves most likely have to pay stamp duty on a further house creates an additional degree of 'lock-in'.

As indicated in section 2.5 above, stamp duty may also discourage people from moving to areas where labour is in greater demand.

Investor purchasers of residential housing

We also considered the question of stamp duty on housing units purchased for investment. We consider that the impact of zero-rating residential housing purchased for investment would shift the tax burden that currently falls on investors and some owner-occupiers (who now pay stamp duty on house purchases) to all investors and owner-occupiers including first-time buyers and purchasers of new houses who do not pay stamp duty at present. This would result in a gain (no stamp duty liability) for an investor whilst a first-time purchaser of a principal private residence would have no corresponding stamp duty saving but will have to pay annual property tax. The implication of such a shift is that the tax burden would in a relative sense fall less on investors. It would also mean that investors would be incentivised to focus on investment in residential property and move away from investment in commercial property.

This has the potential to create an undesirable distortion in the overall property market and to have an adverse impact on supporting economic activity if it moves investment away from more productive sectors of the economy.

To ensure that there is appropriate long-term investment in the rented residential housing sector, it is important that the stamp duty rates applicable to housing purchased for investment should not be a barrier to entry to that market. Applying the stamp duty regime applicable to commercial property would not be appropriate as it would result in an increased charge for most purchasers. A lower rate, which would not discourage investment, is appropriate.

Conclusion

Reducing the Exchequer reliance on stamp duty revenues and providing for a more stable revenue base through an annual property tax leads us to the conclusion that stamp duty on owner-occupied residential housing should be zero-rated. We consider, however, that stamp duty for purchasers of principal private residences should begin to be zero-rated only when the annual property tax becomes operational. We also conclude that stamp duty should remain applicable to investors purchasing residential properties. A comparison of stamp duty levels across the EU is difficult because of the interaction of thresholds and rates. However, our view is that the rate that should apply in Ireland should be competitive having regard to the rates of stamp duty and thresholds that apply across the EU so as not to discourage purchasers from purchasing residential housing in Ireland.

Recommendation 6.3

Stamp duty for purchasers of principal private residences should be zero-rated.

Recommendation 6.4

Stamp duty should continue to apply to investor purchasers of residential housing units. The rate should be competitive having regard to the transaction tax rates and thresholds that apply across the EU.

3.4 Broaden the property tax base

In Part 4 we outline our view that, in determining the balance of taxation which will deliver the strongest economic growth, any approach to revenue-raising should focus firstly on base broadening within each tax head. In Part 11 of our Report, we look at options for broadening the base for commercial rates.

However, there are two other specific areas where we propose changes to the taxation of property - windfall gains from 'betterment' of land arising from increased land values from rezoning decisions and a recurrent tax on zoned development land that is not developed.

Windfall gains from 'betterment'

The windfall gains arising from increases in land values due to rezoning decisions should be subject to an additional capital gains tax charge. This is often called 'betterment' or 'value capture' as the increase in property values as a consequence of: planning decisions made by local authorities, typically the rezoning of agricultural land for residential use; the provision of physical infrastructure by local authorities (and other agencies such as the Railway Procurement Agency and the National Roads Authority) and the provision of social infrastructure in an area.

In this respect we recommend that the CGT rate on such windfall gains arising from rezoning decisions, and where the proceeds of disposal reflects the 'hope' or expectation of the land being rezoned, should be increased on the part of the gain that consists of the difference between the sale price of the land and its 'current use value' at the time of its sale.

Recurrent property tax on zoned development land

A recurrent property tax on all land zoned for development should be introduced where the land is not being developed. The recurrent tax should be applied to land rezoned for all types of development. Such a tax would be a useful policy tool to ensure that developers do not hoard land-banks and that land is utilised in accordance with its planning categorisation. We recognise that the design of such a proposal would be difficult and would have to address some anomalies. For example, a farmer owning such property who intends to keep farming should not face such a tax.

We also suggest that each local authority should decide when the recurrent tax should commence having regard to the services available to the rezoned land. In other words, the rezoned land should not be subject to the tax immediately following rezoning but should be subject to the tax as soon as it is capable of being developed, making reasonable allowances for the delays that can occur in the planning process and which are outside the control of the landowner.

Recommendation 6.5

The windfall gains from increases in land values due to rezoning decisions should be subject to an additional capital gains tax charge.

Recommendation 6.6

A recurrent property tax on land zoned for development should be introduced.

Section 4: The main features of the proposed annual property tax on residential housing

The following are the main components of what we consider should form the design of an annual property tax scheme.

4.1 The annual property tax should be applied to all residential housing units

The proposed annual property tax should have as broad a tax base as is feasible and few exemptions from liability to the tax should be allowed. These exemptions are outlined in section 4.2.

The tax should apply to all residential housing units including holiday homes, second homes and houses that are let or available for letting. It should also apply to vacant houses (subject to some time-limited exemptions set out below) and to bed and breakfast and guesthouse accommodation (where these are not brought within the commercial rates base as a result of our recommendations in Part 11 of our Report).

4.2 Exemptions

The only exceptions to the principle that all residential property be subject to the proposed annual property tax should be as follows:

- Local authorities and other social housing providers (such as Respond and Alone)
- Residential facilities provided solely for the purposes of caring for the elderly or for disabled persons (such as care facilities or nursing homes)
- Residential facilities provided for the exclusive purposes of the provision of education (such as boarding school accommodation)
- Residential facilities provided exclusively for charitable purposes by registered charities (for example, accommodation services provided by Focus Ireland or the Simon Community)

These exemptions are similar to those provided for in the commercial rates base.

4.3 The chargeable housing unit

The annual property tax should be applied to the residential housing unit and garden or grounds of up to one acre (exclusive of the area on which the house is built). The tax should be applied on the gross value of the property without regard to borrowing to fund its purchase.

4.4 The annual property tax should be payable by the owner of the property

- Owners and others beneficially entitled in possession (such as those with a life interest) should be liable for the tax

- Owners of affordable homes, which are initially part-owned by the State, should be subject to the tax. However, the tax should be pro-rated according to the ownership share held by the owner-occupier (but without regard to the owner-occupier's borrowing to purchase the equity in the house)
- Owners of residential housing units that are rented should be liable for the tax
- In the case of a residential housing unit that is held under a lease, agreement or licence, which has more than 50 years to run, the lessee (rather than the lessor) should be liable for the tax

4.5 The annual property tax should be self-assessed

We consider self-assessment is an appropriate method of assessment for the tax, subject to effective monitoring and audit mechanisms. Self-assessment is greatly simplified by the banding of valuations as suggested in Table 6.2 below.

We acknowledge that direct assessment would provide greater certainty for taxpayers. However, in our view, it is not capable of being implemented within an appropriate time-frame due to the lack of an existing valuation database for residential properties.

To assist the introduction of the tax, each householder who is liable to pay the tax and who gets a professional assessment of the value of his or her property should get a tax credit of up to €75 in the first year to compensate for costs incurred.

4.6 The annual property tax should be calculated by reference to the market value of the property using the valuation bands along the lines suggested in Tables 6.2 and 6.3.

We examined market value and floor space as possible bases for the tax. We consider that using floor space alone as a base for the tax would offend the principle of equity. A residential property owner who lives in or owns a 1,200 square foot house in an affluent area should pay more tax than one who lives in a similar sized house in a less affluent area.

We also considered using a combination of floor space and market value as the tax base. The introduction of a new annual property tax will be a significant challenge for Government, who will have to convince taxpayers that it is an appropriate policy approach. For this reason, the rules that govern the assessment and calculation of the tax should be as simple as possible so that taxpayers can calculate their tax with reference to as few parameters as is feasible. We consider that the application of floor space in addition to the market value would add undue complexity for householders liable to pay the tax.

There should be a fixed valuation date, set at a date in advance of the commencement of the tax, so that all house-owners self-assess at the same time.

4.7 Illustrative tables

Tables 6.2 and 6.3 set out a potential yield for an annual property tax using a distribution of houses by valuation bands based on 2004 house price data⁶. They apply tax rates of 0.25% and 0.30% to the mid-point of the valuation band – these rates are for illustrative purposes only. Other rates will achieve lesser or greater yields. The setting of the rate is a matter for Government.

6 We use 2004 house price data (and house price distribution using the number of housing units in 2009) as being broadly equivalent to house prices at the time of writing. Data sourced from the Department of the Environment, Heritage and Local Government housing statistics.

The following assumptions are made in the tables:

- A waiver rate of 25% (for valuation bands A – E) broadly reflects the proportion of the workforce that is now on the Live Register
- A waiver rate of 10% is assumed for those in valuation bands F and G
- 136,000 local authority houses are excluded from valuation bands A and B but are included in the overall total of 1,934,000 houses, and
- A projected yield for Band H is not ascertainable in the absence of values for houses in this category

Table 6.2 – applying a tax rate of 0.25% to the midpoint of the valuation band

	Valuation band	No. of houses	Charge per property	Projected gross yield	Waiver	Net yield
	€		€	€m	€m	€m
A	0 - 150,000	140,000	188	26	7	19
B	150,001 - 300,000	1,165,000	563	656	164	492
C	300,001 - 450,000	330,000	938	310	78	232
D	450,001 - 600,000	120,000	1,313	158	40	118
E	600,001 - 750,000	30,000	1,688	51	13	38
F	750,001 - 1,000,000	11,000	2,188	24	2	22
G	1,000,001 - 1,500,000	2,000	3,125	6	1	5
H	1,500,001 and higher	1,000	MV x 0.25%	–	–	–
	Total	1,934,000		1,231	305	926

Table 6.3 – applying a tax rate of 0.30% to the midpoint of the valuation band

	Valuation band	No. of houses	Charge per property	Projected gross yield	Waiver	Net yield
	€		€	€m	€m	€m
A	0 - 150,000	140,000	225	32	8	24
B	150,001 - 300,000	1,165,000	675	786	197	589
C	300,001 - 450,000	330,000	1,125	371	93	278
D	450,001 - 600,000	120,000	1,575	189	47	142
E	600,001 - 750,000	30,000	2,025	61	15	46
F	750,001 - 1,000,000	11,000	2,625	29	3	26
G	1,000,001 - 1,500,000	2,000	3,750	8	1	7
H	1,500,001 and higher	1,000	MV 0.30%	–	–	–
	Total	1,934,000		1,476	364	1,112

Calculating the charge

For the suggested approach a house-owner, on a self-assessment basis, declares that his or her house is in a particular valuation band. The flat charge that is applicable to that band is applied to the property.

For houses valued at more than €1.5 million (Band H) the actual market value of the house is multiplied by the tax rate, for example, a house valued at €3 million will have a property tax liability of €7,500 at a rate of 0.25% or a property tax liability of €9,000 at a rate of 0.30%.

4.8 The annual property tax should be supported by an accessible valuation database

Information on the location and valuation of property and similar information on the sale or transfer of property should be published online in a database of residential property. In this way all residential property owners can obtain up-to-date information on actual and reported values in their area and distortions in reported valuations should be apparent. This is particularly important in a self-assessment system. Such a database could also assist in the development of a property appreciation index, which could assist self-assessors to value their house for tax purposes. This information is routinely available in jurisdictions (including Northern Ireland) applying an annual tax to residential property.

4.9 The annual property tax should be proportionate

We considered a flat charge per property but rejected it as inequitable. We consider that owners of more valuable properties should pay more tax than those who own less valuable properties.

As can be seen from Tables 6.2 and 6.3, the banded valuation system we are proposing provides for a proportionate system of taxation with owners of more valuable properties paying proportionately more than owners of less valuable properties. Because of the use of valuation bands, the proportionality can only be approximate. However, we believe that the suggested banding approach has significant advantages and will ease compliance for taxpayers.

We also considered but rejected a progressive tax as it would be more difficult to administer than a proportionate tax using valuation bands.

Recognising the fact that very valuable houses may be difficult to categorise within valuation bands, we consider that owners of houses valued at more than €1.5 million should be required to provide a valuation for their house and apply the tax rate to that valuation to calculate their liability – see Tables 6.2 and 6.3.

4.10 An annual property tax should have regard to ability to pay

All residential housing units – with the exception of local authority and social housing provided units – should be liable to the tax. However, account must be taken of cases where there is inability to pay.

- A general waiver provision exempting house-owners under a low income threshold should be provided. The onus should be on the taxpayer to seek a waiver. The income threshold should have regard to criteria such as long-term social welfare rates and the annualised minimum wage
- In other cases where there is inability to pay, and by election of the taxpayer where

appropriate criteria are met, the tax could be deferred and recovered when the property is subsequently sold or transferred. Where a liability is deferred, interest should apply at a rate equivalent to the time value of money and not the rates applicable to outstanding taxes. The principal target group for this deferral option is those on lower income with valuable properties who lack the cash resources to finance an annual tax

- There should be a 10% reduction for owner-occupiers where the principal income earner in the household has a substantial and permanent disability

We considered whether a minimum charge should apply which would not be subject to deferral. Whilst such an approach would protect the tax base and reduce the Exchequer cash-flow loss from deferrals, we considered that it should not form part of the initial implementation of our proposals. However, a provision of this nature could take effect at a future date (for example, after five or ten years), subject to review of the operation of the tax after its implementation.

4.11 The annual property tax should be administered by the Revenue Commissioners

We consider that the Revenue Commissioners should administer the tax – it has the appropriate expertise to administer taxes nationally.

4.12 The annual property tax should be a national tax for use as a source of local government financing

At present second homes and houses held as investments are subject to a levy of €200 which accrues to the local authority. Our proposal to impose an annual property tax on all residential housing would involve removing this levy.

In Section 5 of Part 11 of our Report we recommend that, after an appropriate introductory period, all of the revenues from an annual property tax should be used for local government financing and that, by no later than the next local elections (June 2014), rate-setting powers should be devolved to local government (subject to considerations we set out in section 5.3 of Part 11).

4.13 Provision should be made for an exemption from the annual property tax for purchasers of principal private residences who paid stamp duty during the previous seven years

We consider that this is an important transitional arrangement for purchasers of principal private residences who paid high rates of stamp duty. They would be exempted from paying the annual property tax for a seven year period from the year they paid stamp duty.

This provision reflects the reality that many home-owners paid considerable amounts of stamp duty, particularly over the period early 2000s to 2008. However, we consider that the exemption should not be open-ended and that all house-owners should be liable for an annual property tax after the suggested seven-year period.

4.14 The proposed annual property tax should be applied to vacant housing units

We consider that the annual property tax should be applied to all housing stock, including vacant units. We consider that applying it to vacant houses is preferable to exempting vacant houses as it would incentivise the sale and/or use of those properties and this represents a better economic outcome. There are two exceptions to this:

- Firstly, the trading stock of a builder should be exempted and it will be necessary for this purpose to set criteria distinguishing between such stock and a house available for occupation, and
- Secondly, there should be a time-limited exemption (of no more than, say, twelve months) to avoid a double charge for owner-occupiers who have moved to a newly acquired housing unit and are unable to sell their previous residence (which remains unoccupied)

We considered providing for a time-limited exemption provision for vacant property to deal with the property overhang that is particularly apparent in some areas. However, we decided not to recommend such an exemption. We consider that the imposition of an annual property tax could incentivise the use of property whereas an exemption would more likely lead to property remaining vacant. However, we recommend that in cases of hardship the tax liability that would fall due in respect of vacant houses could be deferred for a period with interest applying (equivalent to the time value of money).

4.15 The Revenue Commissioners should have access to data on house-ownership held by agencies providing public utility services and other public sector organisations

The Revenue Commissioners administration of the proposed tax will be made more difficult by the lack of a database that identifies all residential property. In order to allow the Revenue Commissioners to quickly populate their own annual property tax database they should, in our view, have access to databases which contain details of house ownership and occupation. The Property Registration Authority has a comprehensive record of property ownership. A number of public utility companies and agencies have databases which contain house-ownership data. These include: An Post, Ordnance Survey Ireland (both of whom operate the GeoDirectory), ESB, the Private Residential Tenancies Board (PRTB) and the local authorities.

4.16 To assist compliance with the tax, appropriate monitoring and audit mechanisms should be put in place

As with any self-assessment tax, but particularly so in the case of a new tax such as APT, it is vital that there is a clear understanding from the outset by taxpayers that the tax will be subject to appropriate audit and compliance actions monitoring. The Revenue Commissioners have effective mechanisms in place for this. In addition, the Revenue Commissioners should develop facilities – such as helplines and promotional websites – in advance of the commencement of the tax, to ensure taxpayers are fully informed as to how to comply with the tax.

Other measures which would assist the administration of the tax should be put in place as follows:

- There should be data sharing between local authorities and the Revenue Commissioners so that the latter can update data on residential housing arising from planning applications
- Taxpayers should be required to make a property tax return at least every three to five years and the valuation returned should be used to calculate the tax for the following three to five years. Interim returns should be required when material alterations (such as an extension) are made to a house or a new house is acquired
- Electronic returns should be encouraged as a feature of the administration of the annual property tax

- When a house is sold or transferred, a tax clearance certificate from the Revenue Commissioners should be required to show compliance with the tax. The design of this aspect would need careful consideration including the development of streamlined and automated clearance processes to cater for the majority of tax compliant vendors
- The application of a tax by reference to a valuation date would mean that appropriate relativities between houses could be established by reference to the banding system. The valuation date should be between six and twelve months before the date for submission of the property tax return

4.17 Timing of purchase and liability to pay property tax

Where a house is purchased during the tax year the tax should apply pro-rata between the respective owners.

4.18 A range of payment options should be made available

We consider that a wide range of payment options should be made available to taxpayers. In particular we would like to see PAYE taxpayers have the option to pay their property tax through the PAYE system. The Revenue On-line Service (ROS) should be developed to facilitate on-line payment and the possibility of payment through post offices and banks via direct debit and otherwise should be explored. Payment methods should include periodic (annual, quarterly or monthly) options. Having a range of payment options that avoid a single annual payment should go some way to improving public acceptance of the tax.

Section 5:

Stamp duty on commercial property

We considered whether the rate of stamp duty applicable to commercial properties should be further reduced following the rates reduction provided for in Budget 2009 – (see Table 3.9 in Part 3).

We consider that, whilst the reduction in stamp duty revenues arising from our recommendation to zero-rate residential housing transactions for purchasers of principal private residences can be financed from an annual property tax, there is no scope to finance a reduction in the rate of stamp duty on commercial property through an increase in the annual property tax that already exists on such properties, commercial rates. We do not favour a narrowing of an existing tax base through a reduction of stamp duty on commercial property.

The reduction of the stamp duty rates in Budget 2009 has narrowed the gap between stamp duty rates on commercial property between Ireland and our nearest neighbour, the United Kingdom⁷. We take the view that the rates applicable in Ireland do not differ from rates elsewhere in the EU to such a degree as to merit a further reduction at this time. We also note that transaction costs – including taxes – are not materially higher in Ireland than in most other EU jurisdictions.

The approach to the taxation of commercial property – through stamp duty and commercial rates – should be informed by the principle of bringing a degree of certainty to that market for a longer time period.

⁷ Which has a maximum rate of 4% on transactions of more than Stg£500,000.

At the time of writing, levels of activity in the commercial property market have substantially decreased compared to levels over the past decade or so. There are a number of factors which have contributed to the decline in that market. The primary factor is the worldwide financial crisis, which has led to the withdrawal of financing facilities for commercial property investment.

Conclusion

Stamp duty should continue to apply to commercial property transactions. The rate should take account of the transaction tax rate (and thresholds) that apply to commercial property in other EU jurisdictions, with particular regard to the United Kingdom.

Section 6:

Land or site value tax

6.1 Introduction

A land or site value tax is a recurring tax on the land or site value of a property. No tax is levied on the buildings or improvements that are on the land or site. It is therefore different from other property taxes, and commercial rates, where tax is generally applied to the capital or rental value of the property. The basic principle of site or land valuing is that land is valued according to its optimal potential use as defined by the planning authorities. Therefore, a land value tax on a site on which a building is permitted would reflect that value. The tax liability remains the same whether or not a site is utilised in accordance with its planning permission.

6.2 Overview

We consider that there is a sound economic rationale for considering the introduction of a land or site value tax if the problems – outlined below – associated with the practical aspects of its implementation could be addressed. Many of its economic advantages – it is far less distortionary than stamp duty; encourages the productive use of all land; provides for a stable revenue base; and discourages the flow of capital out of more productive areas of the economy into residential construction activity – also underpin our decision to recommend an annual property tax based on capital value.

A land value tax in Ireland may have merit when property registration is recorded under a single system which applies nationally (and no ‘unregistered title’ to land remains) and when all registered property is mapped and a system of valuation can be put in place and is regularly updated.

We consider that, if a land value tax policy proposal were pursued, it would take a number of years to become established and would involve a long and sustained challenge for policy-makers to inform the community of its benefits and to implement the proposal. We therefore recommend that a land or site value tax should not be pursued at this stage.

6.3 Analysis

The basic principle of site or land valuing is that land should be valued according to its optimal potential use as defined by the planning authorities. Therefore, a land value tax on a site on which a building was permitted would reflect this value and hence may encourage the development of land that would not otherwise be developed, or may encourage the earlier development of land.

The site or unimproved land would then form the basis of a property tax. The tax liability remains the same whether a site is left derelict or fully utilised. The principal benefit of a land value tax is the penalty it imposes on a failure to put land to its most efficient use.

It has been argued that the economic case in favour of a land value tax rests not merely on the penalty it imposes on leaving a site vacant or derelict, but on the fact that all suboptimal land use is penalised. However, it would place an additional cost on developers who acquire lots piecemeal for eventual consolidation into a single large development and who allow the existing structures to deteriorate while waiting to consolidate the entire site.

Because the land value tax is based on a valuation where the land or site is valued according to its most remunerative potential use as defined by the planning authorities, it is argued that it can provide a means through which the community or government can tax the benefit that private landholders receive as a result of public or community investments (such as rezoning decisions or the provision of transport infrastructure to an area). NESCC, for example,⁸ suggests that it could recoup some of the value created by particular transport investments, such as LUAS or a Dublin Metro.

6.4 Practical considerations: implementation and design of a land value tax

The application of a land value tax on a national, regional or local basis would require a single register of land owners that clearly identifies the land owner, where the site is located and a valuation system that can apply a valuation to the site. These are major challenges.

In technical terms this involves the development of what is known as a cadastre – a comprehensive mapped register of all properties including details of ownership, precise location, dimension and value of all individual parcels of land. The development of a cadastre to form an accurate basis for a land value tax would, in Ireland, require co-operation between a number of public bodies.

Determining an accurate valuation of the site value of land for land value tax purposes would, in our view, be a difficult exercise due to the requirement to distinguish the site value from the value of buildings and improvements. Decoupling the site value from the overall property value would present difficulties. To establish practices and procedures that are acceptable to all would, undoubtedly, take some considerable time to bed down.

One of the most significant challenges presented by a land value tax proposal is the issue of fairness. Taxpayers would consider it very unfair if the same amount of tax was payable in respect of two properties of different sizes, simply because they were located on identical parcels of land. Whilst economically such an outcome might be reasonable we consider that most taxpayers would consider it to be inequitable. Capital values have the advantage of being clearer and more relevant to most householders and business people. In our view, not many people would be familiar with the value of the land on which their property is located.

It is also unclear to us whether a tax based on what could be construed as a theoretical value of the site rather than a value of the property on that site would necessarily be seen as progressive or proportionate.

We are also concerned that a land value tax would involve issues of complexity in valuation which could be a significant obstacle to its implementation. At its most basic level, a land value tax could be

8 The NESCC report, *Housing in Ireland: Performance and Policy – Background Analysis 2004*, at 7.4.3.

applied through measurement of the area covered by the ground of a home. Such a basis of valuation would not be sophisticated enough to take account of factors that might influence the value of land locally, such as the provision of schools or transport links or proximity to tourism attractions.

The inclusion of such adjustments, which are necessary for a land value tax, would complicate the valuation process and would be very difficult to communicate to home-owners and land-holders.

We acknowledge that a number of possible methods exist that could be used for the valuation of land parcels for the purpose of a land value tax. However, we consider that no basis of valuation can provide the value of direct and demonstrable supporting evidence that can be presented by using capital values.

The value of land-only transactions is not available in Ireland. Therefore, valuation for the purposes of land value taxation would have to:

- Establish house sales data
- Identify the building value and disregard it
- Identify values relating to the size and location of the land

This is a difficult process and in our view would be likely to lead to much uncertainty about both the definition of land value and the way the value has been calculated.

In addition, the valuation of buildings in multiple occupation or ownership would be problematical. The value for the site of the building would have to be assessed and apportioned among each of the occupiers in the building. Variations in value would arise from different uses within a building (e.g. retail use on the ground floor, office use on the first floor and residential use on the top floor). Whilst there may be robust evidence for capital values relating to such properties, evidence for site values or the apportionment of site values would be most likely either unobtainable or not readily agreed.

6.5 Conclusion

We can see an economic rationale for land value tax. However, we consider that it may not be a pragmatic approach to the restructuring of our property taxation system in the context of the operational difficulties of introducing it and communicating its benefits to home-owners and landholders. We therefore conclude that a land value tax should not be pursued at this stage.