

Legal Update

31st January, 2017

TRANSFERS: MERGING OF CAPITAL GAINS TAX AND STAMP DUTY PAYMENT PLATFORMS

It has come to our attention that a purchaser who seeks to complete Stamp Duty Payment Registration on the iTax platform is unable to do so – nor thus to proceed to effect payment of stamp duty – unless the vendor in the transaction first completes the relevant capital gains tax (CGT) details on the vendor's iTax page and effects payment of the relevant CGT.

This implies that the vendor has already been paid some or all of the purchase price or is funding the required CGT out of his own funds.

The new administrative requirement puts either the vendor or the purchaser at risk, depending on how the sale and purchase terms are structured. In particular, does the vendor risk payment of CGT, not knowing if the purchaser is going to pay the proceeds of sale? Or, conversely, does the purchaser pay the purchase price, risking the possibility that he cannot proceed with the formal requirements of paying stamp duty (and compliance with the Stamp Duty Act) unless and until CGT is paid?

We note that where the transaction is exempt from CGT, the platform provides an option for completion of the CGT3 Form.

We are still carrying out our investigations on this development and will keep you notified as we make progress.

In the meantime, those entering into new transactions and those with transactions pending completion should bear the new procedures in mind.

If you have any queries, please contact any of our [partners](#).

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