

Legal Review



DOCUMENT DUTY- NOT WHAT IT ALWAYS APPEARS TO BE

by Richard Ogier,
Partner, Collas Day -
Property Department

Since Treizième (more commonly known as “Congé”) was abolished in 2003, Document Duty is now the only duty payable at the time of registration of a conveyance of Guernsey real property.

Congé was levied at 2% of the price of the property (remembering that in most transactions involving residential property, approximately 5% of the total price is attributed to carpets, curtains and such like). At the time of the abolition of Congé, Document Duty was levied at 1% of the total price, although there were thresholds below which ½% or no duty was payable.

Regrettably the abolition of Congé has not reduced the amount payable because at the same time the Document Duty Ordinance 2003 was passed, which, as a general rule, increased the amount payable from 1% to 3%.

There are, however, a number of situations where a reduced level of duty or no duty at all is payable. These can be summarised as follows:-

1. Conveyance to the States of Guernsey or a Friendly Society
No Document Duty is payable.

2. Fee Farm Land or other Congé Exempt Areas

Certain areas of the island, mostly comprising reclaimed marshland, are known as “Fee Farm Land”. These areas did not form part of a fief (seigneurial division) and are owned by the Crown who grant renewable long leases of the land. For practical purposes as regards ownership status, the land is treated in the same way as the rest of the island, but no Congé was payable at the time of the conveyance before Congé was abolished.

At present, the rate of Document Duty payable on conveyances of Fee Farm Land is 2%. The States have therefore gained an additional 1%.

Other small areas of land were, for varying historical reasons, exempt from payment of Congé at the time of transfer. The Document Duty payable in respect of a conveyance of these areas is once again 2%.

3. Exchange

Where properties are exchanged, Document Duty is payable at the rate of 1% on the value of each property. If there is a difference in value, the purchaser of the more expensive property will pay an additional 2% on the difference in value between the two properties.

4. Conveyance Within a Year and a Day

If a property is conveyed within a year and a day of the previous conveyance, the Document Duty will be reduced by 2% in respect of the amount payable at the time of the first conveyance and 3% will be payable only in respect of any surplus.

5. Conveyances of Dwellings for £250,000 or Less

A conveyance of a dwelling for more than £150,000 and up to £250,000 will attract a reduced rate of 2½%.

A conveyance of a dwelling for £150,000 or less will attract Duty at the rate of 2%.

It is important to note that these savings only apply to conveyances of dwellings (which include flats and dwellings in the course of construction). Before the 2003 Ordinance, the savings applied to conveyances of any property.

In conclusion, whilst the large majority of conveyances will involve payment of Document Duty at 3%, there are circumstances in which savings can be made. Sometimes these are a complete, but very welcome, surprise to the purchasers concerned. I was recently involved in a transaction where the purchasers saved over £6,000 by completing the purchase exactly one year after the previous conveyance.

It should be noted that the non-payment of Document Duty in relation to the transfer of the shares of Guernsey companies continues to apply and it remains common for open market properties to be owned by companies.

Collas Day | Advocates

P.O. Box 140, Manor Place,
St. Peter Port, Guernsey, GY1 4EW.
Telephone 01481 723191
Facsimile 01481 711880
Email: inbox@collasday.com
Website: www.collasday.com