

The Costs Involved

THE COST RELATING TO THE TRANSFER/ PURCHASE OF A FIXED PROPERTY

TRANSFER DUTY

Where Transfer Duty is payable, a formula is applicable based on the value of the property. Transfer Duty normally constitutes the majority of the costs and is usually payable by the Purchaser.

Transfer Duty is also payable on the transfer of a member's interest or shares in a company or beneficial interest in a trust. Where the Purchaser of the interest or shares is a natural person, Transfer Duty is charged on a sliding scale while an entity other than a natural person pays Transfer Duty at a flat rate of 10% of the purchase price.

VAT

No Transfer Duty is payable if the Seller is registered as a VAT vendor on date of registration, in which event the Seller is liable to make payment of the VAT, charged at 14%, to the Receiver. The VAT is deemed to be included in the purchase price, unless specified to the contrary in the agreement. In the latter event the Purchaser will have to pay the VAT in addition to the purchase price.

RATES AND LEVIES top

Whilst not a cost of transfer, rates and levies must be paid in full on date of transfer. A pro rata (normally to date of possession) portion of the charges is payable on the fixed property to the relevant local authority or the levies payable to the Body Corporate in the case of a sectional title unit.

FEES

The Conveyancer's fees are prescribed by a tariff and are calculated on a sliding scale based on the purchase price. The Purchaser is usually liable for payment thereof together with VAT thereon.

INFORMATION ON THE CONVEYANCING PROCESS

"CONVEYANCING" describes the legal process whereby a person, company, close corporation or trust becomes the registered and lawful owner of fixed property and ensures that such ownership cannot be challenged. It also encompasses the process of the registration of Mortgage Bonds.

A Conveyancer is an attorney who by law is the only person who can register fixed property transfers. This is necessary to ensure the protection of the various interests the parties have in the transaction and to maintain the high standard of land registration.

The first requirement is a valid Agreement of Sale. This is a written agreement, which is signed by both the Purchaser and Seller (and by the Seller's spouse in cases where the parties are married in community of property, or account to the laws of a foreign country). A written "Offer to Purchase" signed by a Purchaser and accepted by a Seller also constitutes a binding agreement. An oral contract for the sale of fixed property is invalid.

The Agreement of Sale/Offer to purchase is handed to the appointed Conveyancer, who will draft the necessary documents. Both the Seller and the Purchaser will be required to call at the offices of the Conveyancer to sign the necessary documents. The documents to be signed include the following:

- A Power of Attorney to Pass Transfer.
- Declaration in respect of Marital Status, Identity Number and Insolvency.
- Transfer Duty and Value Added Tax (VAT) Declaration.
- FICA Documents.
- Bond Documents, if a Mortgage Bond is to be registered.

FEES & CAPITAL GAINS TAX

BOND REGISTRATION COSTS

Conveyancer's fees are calculated on a sliding scale based on the amount of the bond and are payable by the Purchaser to the Conveyancer who registers the bond.

BOND CANCELLATION COSTS

If the Seller has a bond registered over the property, this must be cancelled on transfer and the Seller is responsible for payment of the Conveyancer's fees for cancellation.

CAPITAL GAINS TAX (CGT)

Capital Gains Tax is a tax payable on the profit a Seller makes when a property is disposed of, and not on the entire value of the property.

The Profit (Capital Gain) is calculated by deducting the base cost of the property from the proceeds on disposal of the property. Disposal includes sale, donation, and exchange, vesting the property in the name of a beneficiary of a trust.

The amount of CGT payable depends entirely on the entity that owns the property. Non-Residents are also liable for the payment of CGT.

Please Note: This very short introduction to Capital Gains Tax. For a more in-depth view [click here](#)