ELRN EUROPEAN LAND REGISTRY NETWORK

Property taxes in the EU property market

1. INTRODUCTION AND AIM OF THE STUDY

In some countries it is sometimes hardly possible for young people to buy a house because of several reasons. In the Netherlands at the time of the issuance of this questionnaire prices were sky-high. Such price developments are not helping these prospective buyers at the moment. Especially in Amsterdam, first-time buyers are not able to gain position in the real estate market, even though the interest rate for mortgages decreased to a historically low level.

Against the backdrop of low-interest rates and rising property prices, residences and (especially) apartments in the large Dutch cities are considered an interesting investment. This situation can be compared or extrapolated to other European Member States. Because of the demand for housing and property to let, (rental) prices are rising even further which result in better rental income for investors, who buy new properties with the (rising) rental income. Buy-to-let properties (and accompanying mortgages) are very popular, especially with investors and expats. This makes it even harder for first-time buyers, sometimes even called 'the lost generation', to become a property owner and gain position at the property market.

For this reason, as of 1 January 2021 the Dutch Government introduced a new differentiation of the real property transfer tax. Before this new differentiation, in the Netherlands a 2% transfer tax was payable for residential properties and 6% for other properties. In the new differentiation a zero% transfer tax is introduced for first-time buyers of residential property, who meet the following conditions:

1. the buyer will use the property as main residence;
2. the buyer is between 18 and 35 years old;
3. the buyer did not use this exemption of transfer tax before; and
4. the property price is € 400,000.00 or less.

Furthermore, a 2% transfer tax is applicable to buyers of residential property who will use the property as main residence, but who do not meet the other aforementioned conditions of the exemption of transfer tax.
A transfer tax of 8% is applicable to buyers of other (residential) properties. For example, this applies to buyers of commercial property or industrial buildings. This also applies to buyers of residential properties for investment purposes (buy-to-let) or buyers who will use the property as a second home.

We know, similar differentiations have partly been introduced in some other jurisdictions. It may be of interest for (foreign) buyers and investors to better understand the housing markets, tax rates and the obligations and conditions that have to be met, prior to buying property abroad.

Therefore, a questionnaire on property tax was sent to the European registrars. The questions focused on possible differentiations in use in the different jurisdictions and, if in use, about how this works in practice. By means of an analysis of the answers resulting from these questionnaires, this study aims to give insight and gain an overview of the applicable legal, practical and/or fiscal conditions and obligations for (first-time) buyers and investors regarding the (differentiation of) real property transfer tax in different jurisdictions. The conclusions of this study are therefore based on the answers given by the participating jurisdictions to the questions of the questionnaire and are based on the legislation in these jurisdictions that was effective at that time. The information for this factsheet was not updated after December 1st 2021.

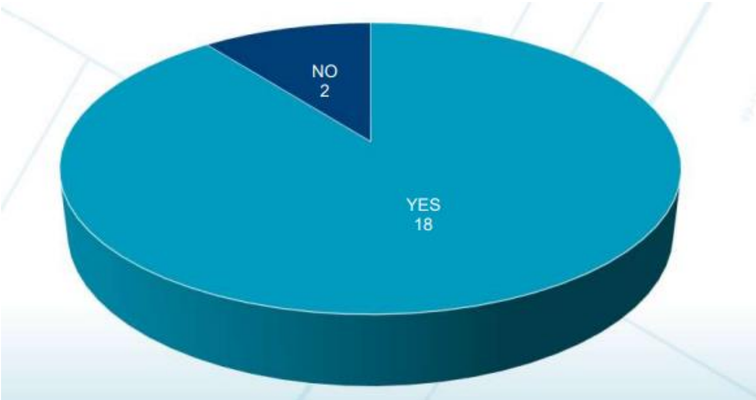
2. ANALYSIS

20 countries replied to the questionnaire, i.e.: Austria, Belgium, Croatia, Estonia, Finland, Ireland, Italy (*Agenzia delle Entrate*), Latvia, Luxembourg, Malta, Northern Ireland, the Netherlands, Poland, Portugal, Romania, Scotland, Slovakia, Spain, Sweden and Turkey.

Below, an analysis is provided of the answers to each question of the questionnaire. For each question a diagram showing the different answers is provided as well.

Q1: In your country, is there a transfer tax for properties?

In almost all of the participating jurisdictions (18 out of 20) real property transfer tax is payable. Only Estonia[1] and Slovakia do not have a system of real property transfer tax.



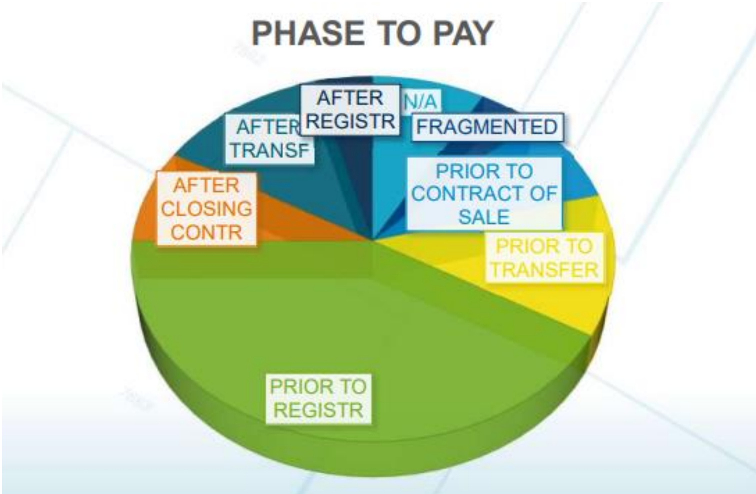
Q2: If yes, (Q1), at what phase of the process of transfer does the transfer tax have to be paid?

The answers to this question vary widely between the different jurisdictions. In most of the jurisdictions the transfer tax has to be paid prior to registration at the Land Registry (i.e. in Belgium, Finland, Ireland, Italy (*Agenzia delle Entrate*), Latvia, Luxembourg, Portugal, Romania, Scotland and Spain)[2]. In Sweden, the moment of paying the transfer tax is also related to the moment of registration at the Land Registry, but in Sweden the payment has to take place within 1 month after registration at the Land Registry.

In some of the other countries the payment of transfer tax has to take place prior to the transfer of the property (for example in the Netherlands and in Turkey). In Austria and Croatia transfer tax has to be paid before a certain date after closing the contract of sale. In Northern-Ireland, however, transfer tax is payable within 14 days after the transfer of the property. Other countries, such as Poland and Malta, have other specific regulations regarding the moment of payment of transfer tax.

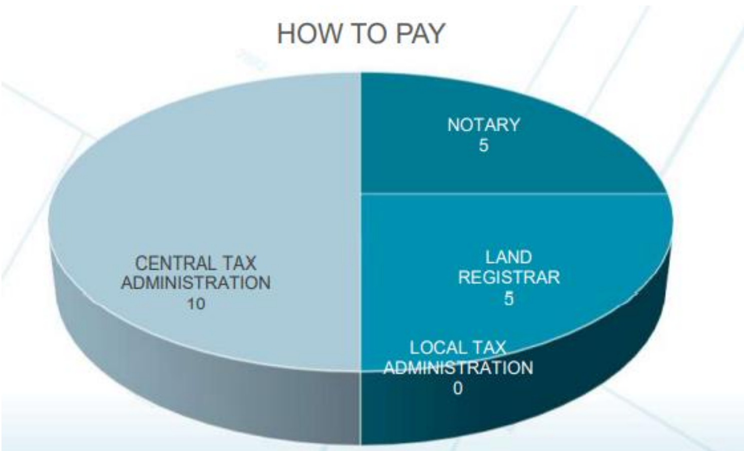
[1] In Estonia no transfer tax is payable. However, a state fee is payable in the cases provided by law for an amount as established in the State Fees Act.

[2] In some of these countries additional regulations apply regarding the moment the transfer tax has to be paid. In Spain, for example, the moment of the payment also has to take place ultimately 30 working days after the transfer of the property.



Q3: If yes, (Q1), to whom do the transfer taxes have to be paid?

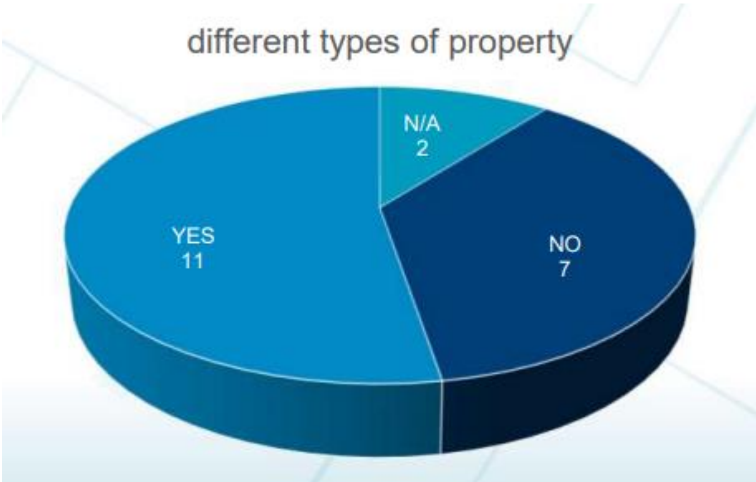
In a majority of the jurisdictions that replied to the questionnaire transfer tax has to be paid to the central tax authority (in some cases first through a notary). This applies to – amongst others – Belgium, Croatia, Finland, Ireland, the Netherlands, Northern Ireland, Scotland and Turkey. In some of the other jurisdictions payment has to take place to the notary or licensed conveyancer (for example in Italy (*Agenzia delle Entrate*) and Poland). In some countries the transfer tax has to be paid to the land registrar (such as in Latvia, Luxembourg and Sweden). Other countries, such as Austria, Malta, Portugal, Romania and Spain, have other specific regulations (in Austria and Portugal, for example, payment has to take place to the land registrar or the central tax authority).



Q4: If yes (Q1), is there, for property tax purposes, any differentiation in the type of property?

Eleven (11) jurisdictions that participated in this study do have a differentiation in the type of property to determine the amount of transfer tax. This concerns Belgium, Finland, Ireland, Italy (*Agenzia delle Entrate*), Latvia, Malta, The Netherlands, Northern Ireland, Portugal, Scotland and Spain. The other 7 countries who have real property transfer tax (Austria, Croatia, Luxembourg, Poland, Romania, Sweden and Turkey) do not have a differentiation in the type of property for property transfer tax purposes.

The categories on which the differentiations are based vary from country to country. In most of the countries where differentiation in the type of property for transfer tax exists, a distinction is made between residential properties and commercial properties (for example in Northern Ireland, Ireland, the Walloon region in Belgium and the Netherlands). In some cases, distinction in the type of property is made between rural properties and properties in an urban area (for example in Portugal). Moreover, in Finland distinction is made between acquiring the property itself or acquiring shares in a housing / real estate company.



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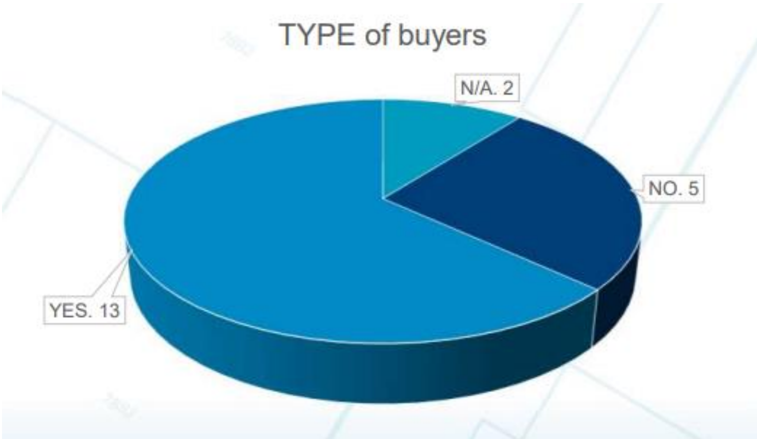
Q5 A: If yes (Q1), is there, for property tax purposes, (also) any differentiation in the type of buyers?

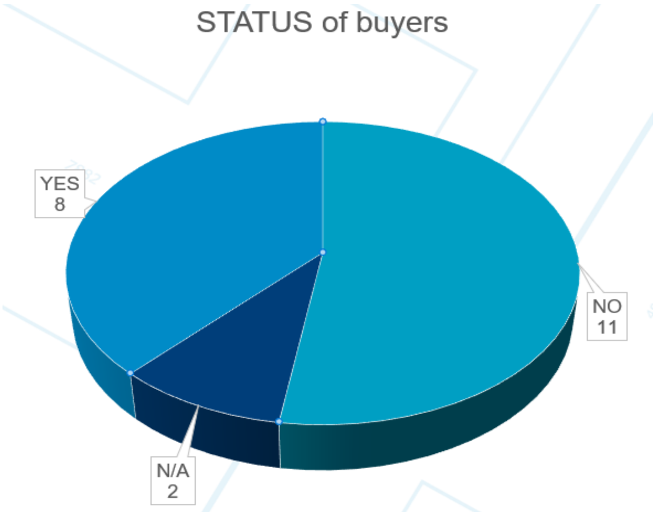
For property tax purposes, 13 of the participating jurisdictions make a differentiation in the type of buyers (i.e. Belgium, Finland, Ireland, Italy (*Agenzia delle Entrate*), Malta, The Netherlands, Northern Ireland, Portugal, Romania, Scotland, Spain, Turkey and Sweden). In several countries, such as Belgium, Finland, Ireland, Italy, the Netherlands, Portugal, Spain and Turkey, governmental bodies are exempt from transfer tax. Furthermore, in Belgium, for example, a further distinction is made for professional parties.

Five (5) of the participating jurisdictions do not make a differentiation in the type of buyer (i.e. Austria, Croatia, Latvia, Luxembourg and Poland).



Q5 B: If yes (Q1), is there, for property tax purposes, (also) any differentiation in the status of buyers?

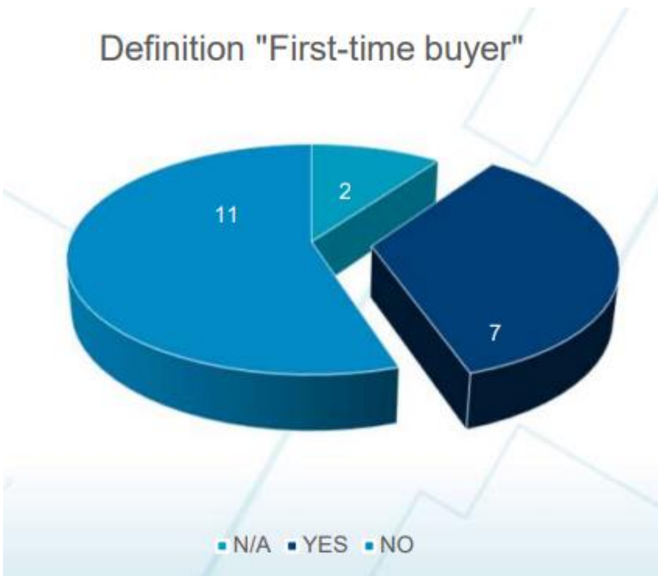
Some countries do make a differentiation in the status of buyers with regard to first-time buyers. For example, in Finland, Malta, the Netherlands, Northern Ireland and Scotland no transfer tax is payable by buyers who buy their first apartment / house if they meet certain conditions. Furthermore, some jurisdictions (also) make a distinction with respect to buyers who will use the property as permanent main residence or as a second home (for example in the Netherlands and Portugal). However, most of the jurisdictions that have a transfer tax do not make a differentiation with regard to the status of the buyer (such as Austria, Belgium, Croatia, Ireland, Latvia, Luxembourg, Poland, Romania, Sweden and Turkey).



Q6: If yes, (Q1) if there is a differentiation regarding the status of the buyer, being a 'first-time buyer' and/or a 'buyer for investment purposes' (Q5 B), what is the official definition used to determine a 'first-time buyer' and/or a 'buyer for investment purposes'?

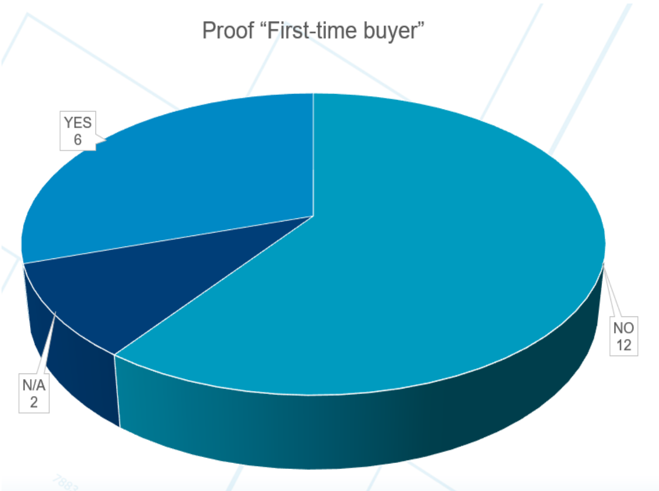
Most of the jurisdictions do not have an official definition when it comes to the determination of a 'first-time buyer' and/or a 'buyer for investment purposes'.

Most of the countries that do have a differentiation with regard to 'first-time buyers' also have an official definition. This applies to – amongst others – Finland, Malta, The Netherlands, Northern Ireland and Scotland. Furthermore, Northern Ireland also has an official definition with regard to investors.



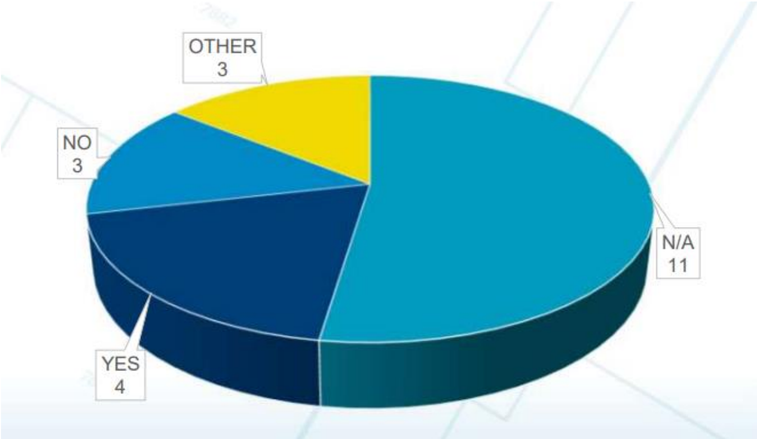
Q7: And in what way, with what means, can one ascertain or proof to be a 'first-time buyer' or a 'buyer for investment purposes'?

With regard to first-time buyers there are a few jurisdictions that ascertain if a buyer is a first-time buyer by means of a check in the land registry (i.e. in Finland and Malta). By contrast, in the Netherlands a declaration of the concerning buyer is required. In other cases, the first-time buyer himself must ascertain that the conditions are met (for example in Scotland). In almost all cases where there is a differentiation with regard to first-time buyers, a check takes place to ascertain that the buyer is a first-time buyer or proof / a declaration from the buyer is required.



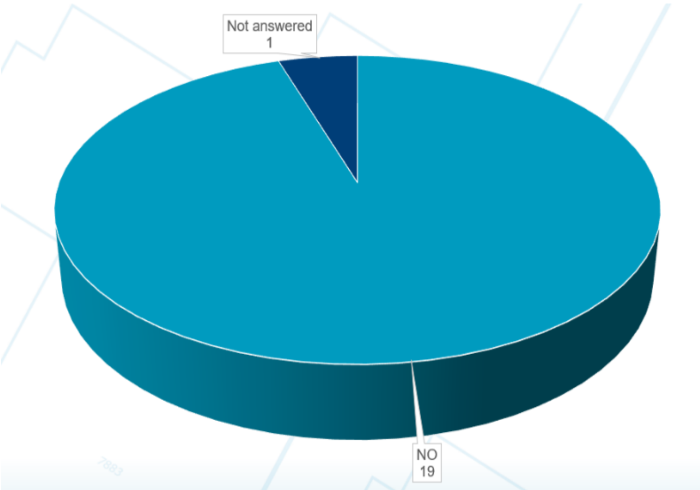
Q8: Does the first-time buyer need to apply for a discount in tax-rate or a tax-return?

The answers to this question vary widely between the different jurisdictions. In The Netherlands, before the transfer of the property, a first-time buyer has to provide a declaration regarding the exemption of the transfer tax to the notary. In Malta, for example, no application is needed by the first-time buyer.



Q9: Is there also any tax-related differentiation regarding the foreign buyers?

In all of the jurisdictions that answered this question no differentiation is applicable regarding foreign buyers of real property. However, Belgium does make an exception for purchase by way of contributing to a company. In that case there is a differentiation in being a foreign buyer.

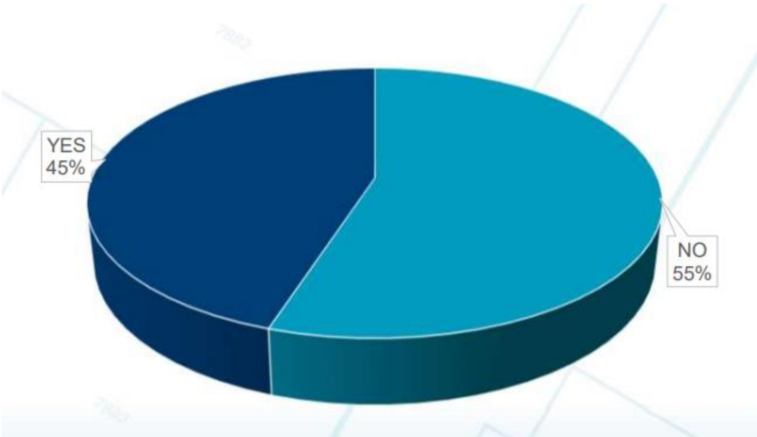


Q10: Are there any other (legal or practical) restrictions or conditions for foreigners when buying property in your country?

A small majority of the participating jurisdictions (11 out of 20) do not have (legal or practical) restrictions or conditions for foreigners who buy property in their jurisdiction. However, in 9 jurisdictions restrictions or conditions are applicable to foreigners as regards buying property in these jurisdictions.

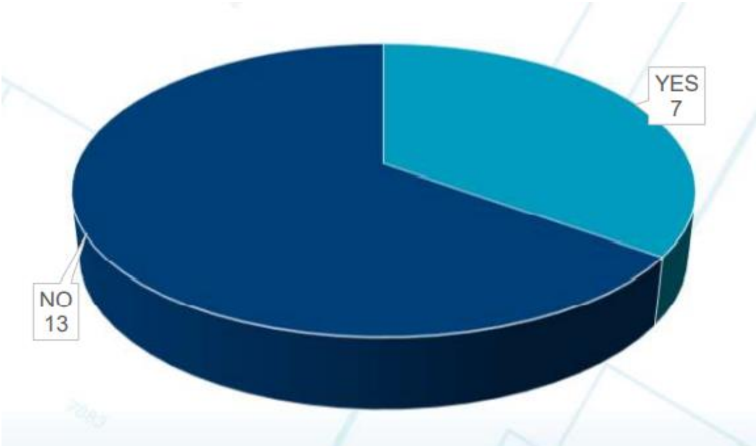
In some jurisdictions restrictions are applicable to foreigners with regard to buying agricultural land and/of forest land (i.e. Estonia) and sometimes even a prohibition is applicable for foreigners who want to buy such properties (i.e. Croatia). It is also common that in some jurisdictions a consent or permit is required for foreigners buyers outside of the European Union (i.e. Croatia, Finland and Poland).

Furthermore, in some cases it is prohibited for certain foreigners to buy property in state boarders or island areas for national security purposes (i.e. Estonia and Spain) or the government has a right of pre-emption with regard to these properties (i.e. in Finland). Also, in Turkey, for example, there is a limit as regards the total area of properties a foreign natural person is allowed to have.



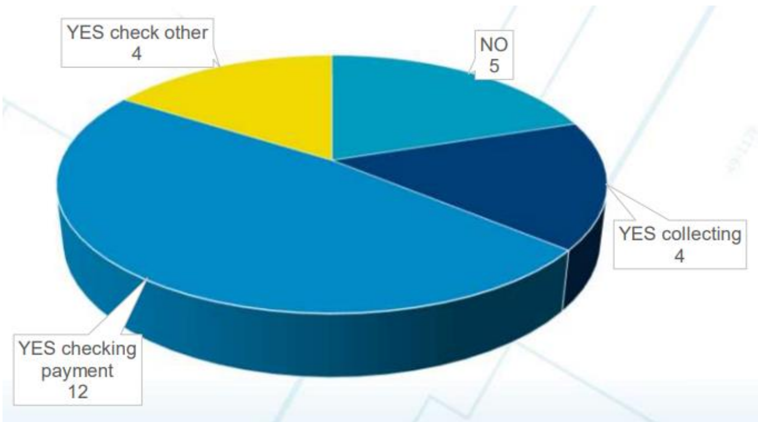
Q11: Is the land registrar involved in this determination/ differentiation and/or restrictions and conditions with regard to property transfer (questions 6 – 10) , and if so, is there a liability for errors in the transfer taxes process?

The involvement of the land registrar in these cases varies from country to country. In 13 out of the 20 jurisdictions there is no involvement from the land registrar at all in this regard. However, in 7 jurisdictions there is. For instance, in Austria, Latvia, Luxembourg and Spain, the land registrar verifies the tax payment. In Croatia and Estonia, the land registrar verifies that permission has been given by the government with regard to foreigners who buy property.



Q12: Is the land registrar involved in collecting the transfer taxes, checking the fulfilment of tax payments or other fiscal payments or obligations otherwise?

With respect to collecting transfer taxes, checking tax payments or other fiscal payments or obligations, the land registrar is involved in most of the participating jurisdictions (15 out of 20). However, the specific role of the land registrar in these cases vary between the jurisdictions. In 12 of the jurisdictions, the land registrar verifies payments of transfer taxes (for instance in Austria, Belgium, Finland, Ireland, Italy (*Agenzia delle Entrate*), Latvia, Luxembourg, Portugal, Romania, Scotland, Spain and Turkey). In 4 of the jurisdictions, the land registrar even collects payments (i.e. in Luxembourg, Portugal, Spain and Sweden). In 5 jurisdictions (i.e. Croatia, Malta, the Netherlands, Poland and Slovakia) the land registrar does not have any role in collecting or checking on amounts due or payments made.



3. OVERALL CONCLUSION

Transfer tax

Each of the 20 jurisdictions has its own regulations when it comes to property taxes. Transfer tax is very common in these jurisdictions. However, the phase in the process in which the transfer tax is payable and the party to whom the payment has to take place vary widely from country to country. The question arises if these different regulations are transparent enough for EU citizens and for other (foreign) conveyancers and parties.

Differentiation for property tax purposes

Also in relation to differentiation for property tax purposes there is a wide variety between the countries as regards the type of property and the type and status of buyers. Most of the jurisdictions do make a differentiation concerning one or more of these aspects. However, there are multiple differences in the precise implementation, as each of these jurisdictions has its own regulations and conditions. Also in this respect the question of transparency arises.

First-time buyers

There are several jurisdictions that introduced a differentiation for property tax purposes for first-time buyers. In most of these jurisdictions it is required to ascertain or proof that the buyers in these cases are indeed first-time buyers.

Foreign buyers

With respect to foreign buyers almost all of the jurisdictions do not have any tax-related differentiation. On the other hand, there are quite a few jurisdictions that have legal restrictions or conditions with respect to foreign buyers.

Involvement of the land registrar

Finally, most jurisdictions do not have any involvement of the land registrar with respect to the determination, differentiation and/or restrictions and conditions with regard to property taxes relating to the transfer of property. However, there are several jurisdictions where the

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land registrar is involved in collecting taxes and/or checking the fulfilment of payments of property taxes.