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A fresh approach to accounting

STAMP DUTY LAND TAX

Who pays the tax?

SDLT is payable by the purchaser in a land transaction occurring in England and Northern Ireland. For land transactions occurring in Scotland, Land & Buildings Transaction Tax (LBTT) applies and in Wales land transactions are chargeable to Land Transaction Tax (LTT).

What is a land transaction?

A transaction will trigger liability if it involves the acquisition of an interest in land. This will include a simple conveyance of land such as buying a house, creating a lease or assigning a lease.

What is the tax charged on?

Tax is chargeable on the consideration. This will usually be the actual cash that passes on the sale. However the definition is very wide and is intended to catch all sorts of situations where value might be given other than in cash: for example, if the purchaser agrees to do certain work on the property.

When is the tax payable?

The tax has to be paid when a contract has been substantially performed. In cases where the purchaser takes possession of the property on completion, that will be the date. However, if the purchaser effectively takes possession before completion - known as 'resting on contract' - that will be regarded as triggering the tax.

How much tax is payable on residential property?

Each SDLT rate is payable on the portion of the property value which falls within each band.

SDLT rates

The current rates are as follows:

Residential property Purchase price of property	Band % Rates
£0 - £125,000	0
£125,001 - £250,000	2
£250,001- £925,000	5
£925,001 - £1,500,000	10
£1,500,001 and over	12

First-time buyer relief

First-time buyers may be eligible for first-time buyer relief on purchases of residential property up to £500,000. The rates apply to the portion of the total value which falls within each band.

Each SDLT rate is payable on the portion of the property value which falls within each band. The rates and thresholds are:

Property value	Band % Rates
£0 - £300,000	0
£300,001 - £500,000	5

No relief can be claimed if the property is over £500,000 and the normal SDLT rates will apply to the full amount of consideration.

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Additional residential properties

Higher rates of SDLT are charged on purchases of additional residential properties (above £40,000).

The main target of the higher rates is purchases of buy to let properties or second homes. However, there will be some purchasers who will have to pay the additional charge even though the property purchased will not be a buy to let or a second home. The 36-month rule set out below helps to remove some transactions from the additional rates (or allow a refund).

The higher rates are 5% above the SDLT rates shown in the table above. The higher rates potentially apply if, at the end of the day of the purchase transaction, the individual owns two or more residential properties.

Some further detail:

- Purchasers will have 36 months to claim a refund of the higher rates if they buy a new main residence before disposing of their previous main residence.
- Purchasers will also have 36 months between selling a main residence and replacing it with another main residence without having to pay the higher rates.
- A small share in a property which has been inherited within the 36 months prior to a transaction will not be considered as an additional property when applying the higher rates.
- There will be no exemption from the higher rates for significant investors.

SDLT surcharge on non-UK residents

There is a 2% SDLT surcharge on non-UK residents (and certain UK resident companies that are controlled by non-UK residents) purchasing residential property in England and Northern Ireland.

What about non-residential and mixed property?

The rates for non-residential and mixed property are set out in the table below.

The SDLT rates are payable on the portion of the property value which falls within each band.

Non-residential and mixed	Band % Rates
£0 - £150,000	0
£150,001 - £250,000	2
£250,001 and over	5

Are there any exemptions?

Yes. There are a number of situations in which the transfer of land will not be caught for SDLT. No SDLT will be payable and no return will be due. These include:

- the value of the freehold is less than £40,000
- a licence to occupy
- a gift of land
- transfers of land in a divorce or on death
- transfer of land to a charity
- transfers of land within a group of companies where an SDLT group relief claim is made.

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How does the tax work on leases?

The SDLT payable on the purchase of a lease depends on whether the lease is new or existing (an assigned lease).

Where a new lease is purchased the SDLT payable will be calculated on the value of the premium (upfront lump sum payment). If anything more than a nominal rent is payable, SDLT will also be payable on the net present value (NPV) of the rent over the term of the lease. The premium and the NPV are treated as two separate amounts. If the calculated value of either exceeds £250,000 for residential property and £150,000 for non-residential, the excess is charged SDLT at the normal rates.

An SDLT return will be due where the premium is £40,000 or more, even if no SDLT is due, unless the term of the lease is less than seven years.

If an existing lease is purchased, SDLT is calculated in the same way as the purchase of a freehold property. The amount of the premium is the consideration subject to SDLT and is also calculated in the same way as the purchase of a freehold property.

The government has SDLT calculators which work out the amount of SDLT payable. The calculators can be found at **www.gov.uk/stamp-duty-land-tax-calculators**.

How do I tell HMRC about a liability?

The purchaser must complete an SDLT1 return and this must be submitted to the relevant HMRC office within 14 days of the transaction's effective date. Solicitors and conveyancers can submit the return online on your behalf. Otherwise, a paper return must be used. Payment must be made at the same time. A late return triggers an automatic penalty of £100, and late payment of the tax will mean a charge to interest.

What will HMRC do then?

A certificate will be sent to the purchaser to show that they have paid the tax. This certificate is required to change the details of the property ownership at the Land Registry. The fact that HMRC has given the purchaser a certificate does not mean the SDLT calculations are agreed. HMRC has nine months in which to decide whether or not to enquire into the return and challenge the figures.

How we can help

If you are planning to enter into an arrangement to purchase land, we can advise you of the precise impact of SDLT on the transaction so please contact us. We can also help you complete the SDLT1 and submit it to HMRC.

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