



Stamp duty land tax (SDLT) – An introduction

### **A brief history**

Stamp Duty Land Tax (SDLT) was introduced on 1 December 2003 and replaced Stamp Duty in respect of land transactions.

### **What is SDLT?**

SDLT is a tax that is generally payable on the purchase or transfer of land and property in the UK. It is also payable in respect of certain lease premiums.

Purchasers of property are only able to register their ownership at the Land Registry if they have a Land Transaction Certificate issued by HMRC. This certificate will only be issued when the purchase has been reported to HMRC on an SDLT return. All property transactions valued at £40,00 or more must be so reported.

SDLT is usually chargeable by reference to the cash value of the transaction. However the definition of 'consideration' 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 or to take on the mortgage debt secured on a property.

### **Rates of SDLT**

During the current tax year, from 6 April 2011 - 5 April 2012, SDLT is payable at the following rates on properties with values as stated below:

Rate	Residential Property	Residential Property (Disadvantaged area)	Non-residential
Zero	£0 - £125,000	£0 - £150,000	£0 - £150,000
1%	£125,001 - £250,000*	£150,001 - £250,000*	£150,001 - £250,000
3%	£250,001 - £500,000	£250,001 - £500,000	£250,001 - £500,000
4%	Over £500,000	Over £500,000	Over £500,000
5%	Over £1,000,000	Over £1,000,000	Over £500,000

*\*First time buyers can claim relief from SDLT on residential property transactions where the value involved is up to £250,000 between 25 March 2010 and 25 March 2012.*

The amount of SDLT is calculated as a flat percentage which means that many property transactions are priced at or below the thresholds noted in the table.

This is best illustrated by way of an example. An individual (not a first time buyer) is planning to buy a house which will cost £250,000. The SDLT which he will have to pay will be £2,500 being 1% of the £250,000 purchase price. If the figure was just £1,000 higher (ie: £251,000), the SDLT would be calculated at 3% on the total amount, resulting in a liability to SDLT of £7,530. A £1,000 difference in the selling price increased the amount of SDLT by over £5,000.



### **Notifying HMRC of liability to SDLT**

This may be done by the solicitor acting for the purchaser of the property. Notification is made using an SDLT return (SDLT1). The quickest and easiest way to file SDLT returns is online. The alternative is to complete a paper SDLT return, which may involve the completion of supplementary forms.

SDLT returns must be submitted to HMRC within 30 days of the transaction. Paper returns all go to HMRC's SDLT office in Netherton, Merseyside.

If you do not file your SDLT return by the due date you will become liable to an automatic fixed penalty. This is initially £100 but increases to £200 if the return is more than 3 months late. An additional tax based penalty becomes payable if the return is more than 12 months late.

### **Payment of SDLT**

The tax is due for payment within 30 days of when the purchase contract has been substantially performed. In most cases this means when the purchaser takes possession of the property on completion rather than on exchange of contracts.

HMRC prefer payment to be made electronically to their account at Shipley quoting an 11 digit Unique Transaction Reference (UTR). You will find your UTR on the online submission receipt (SDLT5) if you file your return over the web, or you can use the UTR on your paper SDLT return.

Late payment of the tax will mean a charge to interest.

### **SDLT on leases**

SDLT is payable both by reference to lease premiums and to the rental element of a lease. The premium is treated for SDLT purposes the same as if it was a payment for the purchase of a freehold. However, for non-residential properties the nil rate band does not apply if the relevant rental figure for the lease is more than £1,000 per year.

In cases where SDLT is payable both of the following are calculated separately and then added together to obtain the amount of SDLT payable:

- the lease premium or purchase price
- the net present value of the rent payable



## **SDLT and non-residential properties**

As is apparent from the table above SDLT applies to non-residential properties as well as to houses and flats. So SDLT will also be due in respect of the purchase of:

- commercial property such as shops or offices
- agricultural land
- forests
- any other land or property which is not used as a dwelling
- six or more residential properties bought in a single transaction

## **First time buyers**

The special relief for first-time buyers of residential property (up to £250,000) was announced in Labour's March 2010 Budget. The relief is restricted to those situations where none of the purchasers of a property has previously owned a property. The relief is only available for property acquisitions that take place up to 24 March 2012 and where the buyer(s) intend to live in the property as their only or main home.

## **Other SDLT exemptions and reliefs**

There are a number of situations where a property transaction does not need to be reported on an SDLT return. These include transactions where no money or value changes hands, property that is left in a will and the transfer of property in a divorce or when a civil partnership is dissolved.

In addition, you do not need to notify HMRC of property transactions where the value involved is less than £40,000. However if the new owner takes over a mortgage debt above £40,000 this will count as consideration. In such cases an SDLT return will be required and SDLT will be payable unless the property was left in a will.

SDLT returns are also required in the following situations but, if the relevant conditions are satisfied, no SDLT will be payable:

- acquisition of residential property (upto a value of £150,000) in a designated disadvantaged post code area
- house-building company buys an individual's home
- 'chain-breaking' purchases
- compulsory purchases as part of property development
- property developer subject to planning obligations
- transfers of property between companies in the same group
- transfers of property to a recognised charity
- 'right to buy' properties
- registered social landlords



### **Zero carbon homes**

There are special rules for homes with zero carbon emissions from all energy use in the home over a year. To achieve this, the fabric of the home will be required to reach a very high energy efficient standard and be able to provide onsite renewable heat and power.

The relief is available for the five years to 30 September 2012 and applies to new homes which would otherwise be liable to SDLT on the first sale. SDLT relief will be available where the purchase price is up to £500,000. Where the price exceeds £500,000 SDLT will be due but the liability will be reduced by £15,000.

### **Other special situations**

When two or more property transactions involve the same buyer and seller, special rules apply. Such transactions are treated as being 'linked' for Stamp Duty Land Tax (SDLT) purposes. The rules may also apply when the 'linked' transactions involve people connected to a buyer or seller.

There are also special rules that apply when someone buys a property through a formal 'shared ownership scheme'. These are generally operated by an approved qualifying body such as a housing association, local authority or other public sector body.

### **How we can help**

We would welcome the opportunity to assist you and to determine if there might be ways to limit your liability to pay SDLT. We could then discuss with you the steps that you could take to reduce your liability. These will normally be quite complex so may only be worth considering if the sums involved are especially high.

In any event we would be happy to advise you as to the precise impact of SDLT on transactions you may be contemplating. We can also help with completing SDLT returns, claiming available reliefs, advising you on payment of SDLT and negotiating with HMRC.