

# Stamp duty land tax (SDLT) – an introduction

## Property in England, Wales and Northern Ireland

### 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 England, Wales and Northern Ireland. 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 £40,000 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

Major changes to the way that SDLT is calculated on residential properties came into force on 4 December 2014. Prior to this change, SDLT was charged on the "slab" basis: whatever rate applied to the total value of the property was applied to the entire purchase price. So if your purchase was £275,000 you would pay a 3% charge on the total price, £8,250.

The rates are now applied on a graduated basis, like income tax. In the above example, the SDLT charge for a property purchase of £275,000 would be £3,750, a saving of £4,500.

SDLT is payable at the following rates on residential properties:

Rate	Residential property
Zero	£0 - £125,000
2%	£125,001 - £250,000
5%	£250,001 - £925,000
10%	£925,001 - £1,500,000
12%	Over £1,500,000

A higher rate of SDLT was introduced on 1 April 2016 and applies to purchases of additional residential property such as buy to let and second homes. The higher rate is 3% higher than the current SDLT rates and applies to the purchase of additional residential properties valued at over £40,000.

The higher rates apply to purchases of additional residential properties in England, Wales and Northern Ireland. The higher rate does not apply to individuals who own only one residential property, irrespective of the intended use of the property. There are also some other limited reliefs from the surcharge.

A special 15% rate is applied to residential properties held in a 'corporate envelope' costing over £500,000.

The current rates of SDLT for the purchase of non-residential property are as follows:

Rate	Non-residential property
Zero	£0 - £150,000
2%	£150,001 - £250,000
5%	Over £250,000

## Property in Scotland

### Scottish land and buildings transaction tax (SLBTT)

The SLBTT came into force on 1 April 2015 and replaced SDLT in Scotland. There are two sets of rates for residential and non-residential properties.

#### Scotland: Land & buildings transaction tax (LBTT)

Rate	Residential property
Zero	£0 - £145,000
2%	£145,001 - £250,000
5%	£250,001 - £325,000
10%	£325,001 - £750,000
12%	Over £750,000

#### LBTT on non-residential and mixed use properties

Rate	Non-residential property
Zero	£0 - £150,000
3%	£150,001 - £350,000
4.5%	Over £350,000

These rates are applied on a graduated basis with the portion of the purchase price within each tier charged at the applicable rate.

There is a 3% SLBTT supplement for purchases of additional residential properties in Scotland. The rules are like those in operation across the rest of the UK.

## **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.

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

## **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:

- 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

### **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 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.

### **Annual tax on enveloped dwellings (ATED)**

An annual tax on enveloped dwellings (ATED) came into effect from 1 April 2013. The annual tax is payable by certain non-natural persons that own interests in dwellings valued at more than £2 million. This provision affects certain companies, partnerships with company members and managers of collective investment schemes described in the legislation as non-natural persons (NNPs).

From 1 April 2017, charges on affected properties will be as follows:

- More than £500,000 but not more than £1 million – £3,500
- More than £1m but not more than £2m - £7,050
- More than £2m but not more than £5m - £23,550
- More than £5m but not more than £10m – £54,950
- More than £10m but not more than £20m - £110,100
- More than £20 million - £220,350

There are certain NNPs which may not be required to pay the ATED such as:

- property development, investment rental and trading businesses
- residential properties open to the public for at least 28 days a year on a commercial basis
- residential properties held for employee accommodation
- residential properties owned by a charity and held for charitable purposes
- working farmhouses
- diplomatic properties and
- some other publicly-owned residential properties

For the ATED period 1 April 2017 to 31 March 2018, both the return and payment are due by 30 April 2017. A copy of the ATED return is available online and HMRC has published a comprehensive notice containing information about ATED together with instructions as to how to complete the form.

### **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.