

Stamp Duty Land Tax

Stamp duty land tax (SDLT) came into effect on 1 December 2003 and replaces the old Stamp Duty on purchases of land and property, including certain leases. It is payable by the purchaser or tenant and is charged on the purchase of freehold land and buildings, grants and assignment of leases, and transfers of rights or options. It is charged on completion or when the contract has been substantially performed, whichever occurs first. This might be the time of actual occupation, the payment of rent, or payment of at least 90% of the purchase money.

What do I have to do?

- A SDLT1 is required for all transactions, unless it is below the notifiable threshold, which has increased from April 2008 from £1,000 to £40,000 for non-leasehold transactions. Generally your solicitor will complete this form, but given the rules on Linked Transactions and connected parties, we may be well placed to assist your Solicitor, as we may have details of connected parties, or earlier transactions that may be linked. It is the responsibility of the buyer or tenant to ensure that it is correct before signing. On receipt of the correctly completed SDLT1 form, together with any payment due, HMRC will issue a certificate, enabling the Land Registry to register the property in your name.
- If there is consideration from the purchase, for example where property is transferred subject to a debt or mortgage, a Return is still necessary. Where there is no consideration you do not need to tell HMRC, but you will need to notify the Land Registry by self-certifying on form SDLT6. Transfers on divorce and on death would be dealt with in this way.

How much will I have to pay?

Property excluding leases

The rates for buying property range from 1% to 4% of the purchase price. There is a 0% band, which from 6 April 2006, is £125,000 for residential property and £150,000 for non-residential property. Mixed-use properties are treated as non-residential. The rates are shown below:

Residential Property Purchase Price	SDLT % purchase price	Non-residential property Purchase Price	SDLT % purchase price
£125,000 or less	0%	£150,000 or less	0%
£125,001 to £250,000	1%	£150,001 to £250,000	1%
£250,001 to £500,000	3%	£250,001 to £500,000	3%
£500,001 or more	4%	£500,000 or more	4%

For "Zero Carbon Homes", purchased after 1 October 2007, a 0% rate of stamp duty applies.

Leases

The rate for leases applies to grants and assignments of new leases, but not generally to existing ones. A flat rate of 1% of the net present value (NPV) of rent on new leases applies to residential leases with an NPV in excess of £125,000 (£150,000 in disadvantaged areas) and to non-residential leases with an NPV in excess of £150,000. A mixed lease is treated as a non-residential lease. A charge is made both on any premium and on the NPV of the rent payable over the term of the lease.

Leases for a term of 7 years or more need only be notified if the rent is £1,000 or more, or other chargeable consideration exceeds £40,000.

Break clauses and Options have special rules and, with planning, substantial tax can be avoided.

Do I have to pay SDLT on fixtures and fittings?

SDLT is charged on the purchase price of land and buildings, and this includes any items fixed to the property, such as fitted bathrooms and kitchens. However, the cost of moveable items, such as carpets, curtains, furniture etc (known as chattels) are not chargeable to SDLT. Whilst it is good planning to apportion the cost between the purchase price and chattels to reduce SDLT, you should be realistic to avoid unnecessary enquiries from HMRC.

Linked transactions

If two or more transactions form part of a single scheme, arrangement or series of transactions between the same buyer and seller, or persons connected with them, they will be treated as a single transaction, which may result in additional tax being due. Connected parties in an SDLT context is far wider than under the old "Stamp Duty Regime", and includes Spouses, Civil Partners, Siblings, Ancestors and Linear Descendants. Since 19 July 2007, exchanges of property are not treated as linked transactions.

Can I claim any reliefs or exemptions?

Relief can be claimed if residential property is located wholly or partly in a disadvantaged area (see www.hmrc.gov.uk/so/england.pdf as to whether your property is in such an area). Relief is given by raising the 0% threshold to £150,000 in place of the usual £125,000. Prior to 17 March 2005, total relief was available for commercial property, but from this date all relief has been withdrawn. If properties are of mixed use, i.e. not wholly residential, then the purchase price is apportioned on a just and reasonable basis.

If you exercise a right to buy a property at a discount from say a local housing association, relief is available so as to ensure you do not pay SDLT on any contingent consideration, i.e. only on the amount actually paid.

How long do I have to keep records?

You must keep all records for 6 years, although 21 years would be recommended, given HMRC's powers of discovery. Such records would include (where applicable) the sale contract or agreement; apportionment of purchase price including fixtures and chattels; valuation and maps; other documents relevant to the transfer. HMRC have the right to enquire into any transaction, and will apply this on a random basis each year. Enquiries are generally raised within 9 months from the filing date, although this period is extended 21 years in the case of negligent or fraud.

SDLT is another form of taxation and as such prior planning could reduce the amount payable. For more information please contact:

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