

Stamp Duty Land Tax Client Guide

SDLT is not the same as Stamp Duty

Stamp Duty on documents was abolished in 2003 and replaced with a new tax on the buyers of properties, which was confusingly called Stamp Duty Land Tax (or 'SDLT'), even though it is very different and much more complex. The legislation often conflicts with HMRC's guidance.

For example, the old 'Stamp Duty' was calculated on the value stated on the face of the property transfer document. In contrast, SDLT is a 'self assessed tax' on what is the total 'consideration' for the transaction.

You pay tax on the 'consideration'

The amount you pay tax on, the 'consideration', might be the amount stated on the transfer - but it might also include the value of anything attached to the property that is paid for separately. It will also include any cash paid over directly or not recorded in the contract, or where you pay any of the seller's fees or expenses, or take over all or part of a debt or mortgage.

Similarly, the amount tax is paid on, might be less than the figure on the transfer where not all the amount is paid over because the seller offers a discount, or gifts part of the purchase price.

The rate of tax payable on the 'consideration' will depend on many things, for example whether the property is a residential property or a commercial one, whether the buyer is a company or an individual, and whether the property is part of a series of 'linked transactions' (see overleaf).

It goes without saying that you **MUST** tell us if there is any other aspect of the 'deal' not mentioned in the purchase documents, and whether there are other properties involved in the deal you have agreed with the seller.



We cannot give detailed tax advice

Although as conveyancers we cannot advise on complex SDLT issues, we can prepare the tax return for you assuming the transaction is straightforward. If there are unusual circumstances or tax complications then specialist advice will be needed before we take any steps in the transaction.

We will draft the SDLT Tax return based on the information you give to us. It is your responsibility to give us the right information and we will not have any responsibility to check that the replies you give to us are correct.

Assuming there is nothing unusual about the transaction, and based on the information you give us, we will estimate the amount of SDLT payable on the transaction as accurately as we can.

HMRC may claim more SDLT is due

HMRC may claim more SDLT is due for many reasons, for example other simultaneous or future linked transactions, or failure to disclose key information to us or HMRC.

Our fee does not cover dealing with investigations by HMRC nor any claims by HMRC for further tax, penalties or interest. Your accountant should deal with this aspect. HMRC may also decide to investigate your VAT, CGT or Income Tax if your SDLT return is wrong.

At the moment only a relatively small percentage of returns are investigated by HMRC.

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The higher rate of SDLT for additional dwellings introduced from 1st April 2016

Where you buy an additional residential dwelling the rate of SDLT will be increased by 3% above the normal rates of tax.

The rules on this are extremely complex, but in general terms the higher rates are payable on any second or additional residential dwelling you buy.

A company that buys a residential dwelling will pay the additional rate on any residential dwelling that it buys, even if it does not already own a residential dwelling.

The Global Reach of SDLT

If you or your spouse already own all or a share of any residential dwelling anywhere in the world, then if you buy another dwelling in England and Wales you will have to pay the higher rate of tax on the new dwelling.

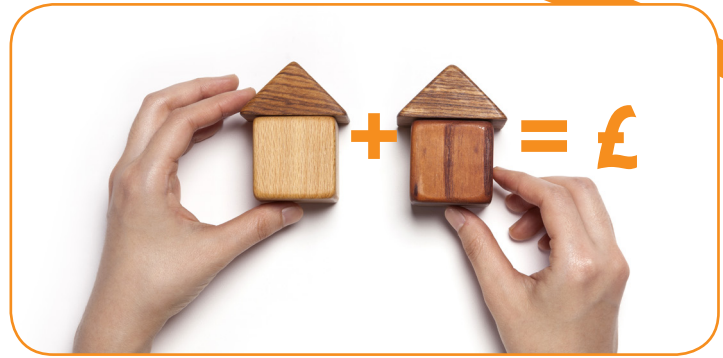
The only exception is where you sell your existing main residence on the same day you buy your new main residence. In that case you will not pay the higher rate on your new main residence, even where you or your spouse do own all, or a share in, another dwelling, such as a buy-to-let property, or holiday home, or an overseas property.

Chain complications

If a conveyancing chain breaks down and you decide to buy your new home without selling your old home, you will, as a result, own two residential dwellings for a few days. If this happens, you would have to pay the higher rates on your new home and claim it back when you sell your old home. We cannot fund this extra tax for you, even for a short period of time.

Complex situations may mean you need to obtain specialist tax advice

There are complex exceptions and reliefs available, for example where you inherit a share in a property or where a second dwelling is bought following divorce or separation. We may suggest you obtain specialist tax advice on the transaction from an accountant or Chartered Tax Advisor. This is because what you might save in SDLT by structuring a deal to minimise SDLT may mean you pay more Capital Gains Tax or Income Tax.



Linked Transactions

'Linked transactions' are defined as a 'series of transactions between the same seller or buyer or persons connected with them', whether or not there is any formal contractual linkage between the transactions.

If transactions are linked the amount is calculated on the total price and apportioned between them, usually meaning higher tax rates apply overall.

This means that the tax you pay on a transaction may be increased (even retrospectively) if it is part of a 'deal' involving other properties. This will also apply where there is a family or business connection between the parties involved.

As a result, you have to honestly 'self-assess' whether going ahead with one purchase affects the price, or other terms of another future purchase.

SO YOU CAN'T SAVE SDLT BY:

Buying two or three properties using different contracts and transfers and completing on them on different days.

Buying different parts of the 'deal' through different family members or connected companies or partnerships.

Multiple Dwelling Relief

You may be able to claim 'multiple dwelling relief' if a number of residential transactions are 'linked'.

In some cases you may have to pay the relief back if in the following three years you demolish the dwellings or join any of them together into one dwelling, for example.

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