

Stamp Duty Land Tax

Overview

Stamp Duty Land Tax (SDLT) was introduced by Finance Act 2003, however, its roots date back long before, as far back as 1694.

SDLT is a tax paid by the purchaser, on transactions in land and buildings, including leases. Depending whether the property is ‘residential’ or ‘non-residential’ (definition below), SDLT will be charged at varying rates, calculated on the amount of ‘chargeable consideration’.

Definitions

Residential property is defined as:

- (a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use, and
- (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land), or
- (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).

Non-residential property is defined as any property that is not residential property.

Chargeable consideration is usually cash, or the value of an asset exchanged instead of cash, however other items such as the assumption of debt can also be included.

Should a property be gifted to an individual, and therefore no chargeable consideration changing hands, there will be no charge to SDLT, however gifts to connected companies are always chargeable to SDLT at market value.

Any contingent, uncertain or unascertainable consideration is generally included when calculating the SDLT liability. Repayments can be requested when exact consideration is known.

Rates of Stamp Duty

Current rates of SDLT for properties situated in England and Northern Ireland are as follows:

Rate %	Residential £	Non-residential £	Rate %
0	0 – 125,000	0 – 150,000	0
2	125,001 – 250,000	150,001 – 250,000	2
5	250,001 – 925,000	In excess of 250,000	5
10	925,001 – 1,500,000		
12	In excess of 1,500,000		

For example, the SDLT liability on a residential property costing £550,000 is as follows:

Band £	Amount £	Rate %	SDLT payable £
0 – 125,000	125,000	0	-
125,001 – 250,000	125,000	2	2,500
250,001 – 550,000	<u>300,000</u>	5	<u>15,000</u>
Total	550,000		17,500

A rate of 15% SDLT applies to residential property costing more than £500,000, purchased by a company or partnership whereby one of the partners is a company, and is not used for:

- I. A property rental business, or
- II. Property developers and traders, or
- III. Property occupied by employees, or
- IV. Farmhouses.

Where there is VAT included on the purchase of a property, the amount of SDLT is calculated on the VAT inclusive value of the property.

If two or more transactions are linked, i.e a vendor selling two adjacent properties to the same purchaser, then the SDLT liability will be based on the combined consideration subject to any reliefs being available.

Purchases which contain both residential and non-residential property (mixed transactions) always have their SDLT liabilities calculated on non-residential rates.

Please note, properties situated in Scotland and Wales are not subject to SDLT, these nations having their own equivalent land tax.

Surcharge

Introduced on 1 April 2016, the 3% surcharge on additional residential dwellings was introduced in order to combat the rise in the ‘buy-to-let’ market. If applicable, the result is that in addition to the rates detailed on the previous page, 3% is added to the rates when calculating the liability to SDLT.

For individual purchasers, there are two exceptions, one of which must apply to all purchasers (if more than one):

- I. The purchased dwelling is not an additional dwelling, or
- II. The purchased dwelling is to replace an ‘only or main’ residence, i.e. someone’s home.

Companies are always subject to surcharge, unless already subject to 15% SDLT.

What reliefs are available?

First time buyer relief

Purchases whereby all purchasers are first time buyers, of property valued below £300,000 will pay no SDLT, with property valued between £300,000 and £500,000 paying a reduced amount.

Multiple dwellings relief

If a purchase includes more than one dwelling, you can claim to calculate the amount of SDLT based on the average purchased properties' value, and then multiply by the number of dwellings. This is as opposed to calculating the liability on total consideration.

Reconstruction relief

Transfers of property that are part of a scheme for reconstruction of companies are exempt from SDLT.

Other reliefs

Transactions of 6 or more dwellings are automatically subject to SDLT at non-residential rates for individual and company purchasers. This is also a method by which the purchaser can escape paying surcharge.

Unlike for disposals of shares, there is no relief from Stamp Duty for exchanges of property. They are treated as separate transactions at market value.

Administration

SDLT returns must be completed and filed, as well as the tax paid within 30 days of the 'effective date' of the transaction. The 'effective date' is generally the date of completion.

SDLT returns can be amended within 12 months and 30 days of the effective date by the taxpayer, HMRC have 9 months for the elective date.

Planning

Given that SDLT can be an extremely penal tax, when considering the purchase of any land or buildings it is prudent to consider your situation well in advance, not only be aware of the size of liability you may be facing, but also whether there are any reliefs or planning available that can reduce the liability.

We have extensive experience of advising on the reliefs surrounding SDLT, and also advising on planning to reduce the liability.

If you would like to find out more about Stamp Duty Land Tax and how we at RRL can assist, please contact our Tax Partner, Steve Maggs, on 01872 276116 or steve.maggs@rrlcornwall.co.uk

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