

STAMP DUTY LAND TAX – Residential Property

What is SDLT?

The most substantial fee involved in a purchase of residential property is very often the stamp duty land tax (SDLT) charged by HMRC following completion, on buyers of property.

Major changes to the regime were made in the 2003 Finance Act and more recently in 2016. Stamp duty was a relatively simple calculation on the price of property bought, and required the submission of a one page document. Stamp duty Land Tax, now in conformity with other taxes, involves more complex calculations and a form resembling a tax return.

When and how it is paid

SDLT is a self assessed tax and it is the taxpayer's responsibility to pay the correct amount of tax within 28 days of completion. Normally this is done through the taxpayer's "agent" e.g. their conveyancing solicitor.

How it is calculated

SDLT is charged on the acquisition of a chargeable interest in land in England Wales and Northern Ireland, however that acquisition arose, i.e. by purchase, court order, inheritance etc. It is immaterial where the parties live.

There are exemptions for deeds of gift, for some leases from social landlords, for some transactions involving divorce and dissolution of civil partnerships, and variation of wills. These exemptions are not available to companies buying from a connected seller.

If the main subject matter of a transaction consists entirely of residential property the residential rates apply. These may be the standard rates, the surcharged rates, or occasionally the higher 15% rate.

What counts as residential property

Residential property is

- a) A building that is used or suitable for use as a dwelling or in the process of being constructed (i.e. the walls have been started) or
- b) Land that is or forms part of the garden or grounds of such a building or
- c) An interest in or a right over land, which is for the benefit of such a building

If a single transaction involves six or more separate dwellings this does not count as residential property

The rates

Standard rates are 0% for prices or parts of prices up to £125,000, plus 2% of any additional part of the price up to £250,000, plus 5% of any additional part of the price up to £925,000, plus 10% of any additional part of the price up to £1,500,000, plus 12% of any additional part of the price over this

Surcharged rates are 3% above the standard rates

The higher rate is 15% on the total consideration

When the surcharged rates apply

It is safest to assume that the surcharge applies, unless one of the exemptions below applies

- a) The purchase is of a dwelling which is not an “additional” dwelling. If there is an existing dwelling anywhere in the world the new purchase will attract the surcharge. If land only is being bought, e.g. part of a garden, there will be no surcharge. There are other exclusions also. The legislation is ambiguous where the taxpayer already has a “major interest” in another dwelling because the definition of “major interest” is unclear
- b) The dwelling is to replace the buyer’s main home

These exemptions do not apply to companies

When the higher rate applies

This will apply when the price exceeds £500,000, where the property is a single dwelling, and where the buyer is a company

Other provisions

The legislation contains provisions for linked transactions, multiple dwellings, purchases by trusts, and other considerations. Wales is due to have its own SDLT rules from next year.

The above is a brief summary of quite complex law. For further information see HMRC guidance or contact Alison Fielden & Co The Gatehouse Dollar Street Cirencester GL7 2AN, 01285 653261 alison@alisonfielden.co.uk or your own solicitor.