

Stamp Duty Land Tax - Guide and Questions

Multiple Dwellings Relief | A new complex tax | The 3% Additional Rate

We do not give tax advice

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

We will draft the SDLT/LTT Tax Return based on the information you give to us and it is your responsibility to give us the right information in order to complete it. We will not have any responsibility to check that the information you give to us is correct.

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

HMRC/WRA enquiries

HMRC/WRA may claim more SDLT/LTT is due plus backdated interest at 3%, and penalties of up to 100% for many reasons.

It may be that they discover there were other simultaneous, or future linked transactions, or they may seek to reclaim a relief.

Our fee does not cover dealing with investigations by HMRC/WRA nor any claims by HMRC/WRA for further tax, penalties or interest. You will need to appoint specialist tax advisers to deal with this for you.

'Residential' or 'Mixed' use?

If part of a property is used for some genuine business or non-residential use the purchase can be taxed at the often lower 'Mixed or Commercial use' tax rates.

You must tell us if you are aware that any part of the property is used for anything other than purely residential purposes, or if the property is entitled to receive rents or payments of any kind, or if it is used for any kind of business, farming, grazing, or by a club, or for social, charitable or communal use. If so, this may affect the rates of tax or reliefs that may be applicable.



SDLT is not the same as the old 'Stamp Duty'

The old 'Stamp Duty' stamped on documents was abolished in 2003 and replaced by a complex tax on the buyers of properties, and a detailed tax return that needs to be completed on each purchase. In Wales the equivalent tax is known as Land Transaction Tax or 'LTT.' This is very similar to SDLT but the rates and details have some differences. In England SDLT is collected by HMRC, and in Wales LTT is collected by the Welsh Revenue Authority, the 'WRA'.

You pay tax on the 'Consideration'

You pay SDLT/LTT on the 'Consideration' for the purchase. This might also include the value of anything attached to the property that is paid for separately. It will also include any cash paid over direct or not recorded in the contract, or where you pay any VAT on the property, or any of the seller's fees or expenses, if you pay all or part of the seller's debts or mortgage.

Similarly the taxable amount might be less than the figure on the transfer where the seller offers a discount, or gifts part of the purchase price.

The **rate** of SDLT/LTT payable on the 'Consideration' may vary from 0% to **as much as 17%**, and will depend on many things, for example whether the property is wholly residential property, whether the buyer is a company or an individual, whether they are a UK resident, what the overall 'deal' is and so on.

Hence, 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 overall 'deal' that you have agreed with the seller.

The 3% Additional Rate of SDLT/LTT

Where you buy two or more 'dwellings', the rate of SDLT/LTT 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 additional residential dwelling that you or your spouse buy. A large property may have an annexe or cottage that triggers the extra charge, but you may be able to claim Multiple Dwelling Relief (see the next page) or claim that the second 'dwelling' is only a 'subsidiary dwelling' worth less than a third of the total price and so avoid this extra 3% rate.

A company that buys any residential dwelling generally pays an additional rate of tax ranging from 3% to as much as 17%, though there are reliefs.



The Society of Licensed Conveyancers

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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.

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

Specialist tax advice

There are many possible complex situations where we will not be able to advise you on the SDLT/LTT payable.

This might include where the SDLT/LTT Additional Rate may apply, or where a second dwelling is bought, or following divorce or separation, or where Multiple Dwelling Relief may be claimed.

We may suggest you obtain specialist tax advice from an Accountant or Chartered Tax Adviser. Not only are the SDLT/LTT rules complex, but Capital Gains Tax or Income Tax may need to be considered. Only a tax specialist can advise on all these aspects.

HMRC/LTT will not advise you (or us) on what you should self-assess the tax to be, or whether you should claim reliefs, or how to pay less tax.

Also, be warned that the HMRC online calculator is only a guide and doesn't take into account the 40+reliefs available.

Similarly, many agents and mortgage brokers' websites have misleadingly simple 'Stamp Duty calculators' on them but **none of them can be relied upon as accurate**, nor do they take into account many of the points mentioned in this guide, nor do they accept any responsibility for the figures given by their calculators.



Multiple Dwelling Relief or 'MDR'

If you buy a property that has a granny annexe or has a separate 'dwelling' forming part of it, or you buy more than two dwellings or properties at the same time, you may be able to offset the extra 3% Additional Rate by claiming Multiple Dwelling Relief ('MDR'). This can often reduce the tax payable by £10-20,000 or more.

The rules on whether there are truly separate dwellings on a property depends on many issues including the physical layout of the building, its rooms & corridors, the existence of doors and locks between them, the presence of adequate cooking and washing facilities in each dwelling, and so on. We cannot advise on this and you will need to obtain specialist advice on whether you can claim MDR.

If you do not claim MDR on the purchase at the time, then generally you will not be able to make a reclaim more than approx. 12 months after the transaction. Be aware that SDLT reclaim tax advisers often charge as much as 25% of the reclaimed tax for dealing with any reclaim.

Also, note that you may have to pay the tax authority back any relief claimed if, for example, in the following three years you demolish the dwellings, or join any of them together into one dwelling.

The Global Reach of SDLT/LTT

In general, if you or your spouse already own all, or any share of, any **residential dwelling anywhere in the world**, then if you buy **another** dwelling in England and Wales, you may have to pay the Additional Rate of SDLT/LTT on the new dwelling. As a result you must tell us if you or your spouse or minor children owns or has inherited any **residential** property anywhere, or any share in one.

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

Extra 2% SDLT tax on non-residents - England only

In general, where one or both of the buyers of a property has not been resident in the UK for more than 183 days in the 365 days up to midnight on the date of the completion then an additional 2% tax is payable on top of the normal tax.

You must tell us if you think this might apply to your purchase. However, it may be possible to reclaim this if they then become resident here - but we cannot deal with this for you. The position involving trusts and companies is extremely complex and we cannot advise on such matters.

Chain complications = extra tax payable

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 will have to pay 3% Additional Rate 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. You will have to find the money in time for completion of the purchase, and then reclaim the tax when you sell your old home. Again our conveyancing fee does not include dealing with this for you.

Address of Property

Buyer 1 - Full Name:.....

Address.....

Postcode.....

National Insurance Number of Buyer 1.....

Daytime phone number of Buyer 1.....

Buyer 2 - Full Name:.....

Address.....

Postcode.....

Buyer 3 - Full Name:.....

Address.....

Postcode.....

Buyer 4 - Full Name.....

Address.....

Postcode.....

Delete as appropriate

<p>1. Are you buying the property for someone else? Are the Buyers buying the property for someone else, to hold on trust for that person, or using someone else's money to pay for any part of it? (Other than any proposed mortgage on the property)</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>2. Connected Parties - family or business connections? Is there any possibility that one of the Buyers, or their family, companies, or businesses, may be related or connected in any way to the one of the Sellers, or their family, companies or businesses? "Family" includes brothers, sisters, children, grandchildren, great-grandchildren, parents, grandparents, great-grandparents, and the spouses of any of those people mentioned, including civil partners (but not unmarried couples). 'Connected' includes companies that are controlled by any of these people, or where any of the parties own shares in, or are directors of, any company involved on either side of the transaction. You may need to get your accountants advice on whether any of the parties are 'connected' with any companies, or each other.</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper If you think any of this might apply, please give us the fullest information possible, so that we can advise you, or suggest you get independent tax advice</p>
<p>3. Linked Transactions? Have any of the Buyers ever bought any property from anyone who might be within any of the definitions in paragraph 2 above, or are they going to do so some time in the future as part of the 'deal'?</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>4. The "Consideration" - What is the 'deal'? Are you giving any of the sellers (or any of the people in paragraph 2) any money or things, or releasing any debt, or carrying out any work, or buying anything attached to the property, other than as mentioned in the contract?</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>

<p>5. Effective Date of the transaction? Have you already had possession, or access to the property for carrying out works, or for any reasons, or do you intend to get access before completion?</p> <p>Early possession of the property after exchange of contracts (but before completion) by the buyer, or any family member, or a 'connected' company or person may also trigger the liability to pay SDLT before completion of the purchase.</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>6. The Higher Rates & Annexes? Does the property you are buying contain a self-contained part, or a 'granny annexe', or more than one separate residential dwelling? If so, is annexe worth more than a third of the value of the whole property?</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper Yes / No / Not sure</p>
<p>7. Business or Commercial uses of the property Is there any business or commercial use of any part of the property, or rents or payments receivable in relation to any part of the property?</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>8. Any other property ownership worldwide? Do any of the Buyers, or their spouses, business partners or civil partners, or children under 18, own, or control, or receive the income from, or have any interest in any other residential dwelling anywhere in the world, or have a share or inheritance, or trust benefit in all, or any part of, any other residential dwelling anywhere in the world?</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>9. Replacement of main residence? If you do own another residential dwelling anywhere in the world, is this new dwelling replacing a previous main residence that you are selling, or have sold? (If so, you may not have to pay the Higher Rates)</p>	<p>No Yes/Possibly - please give details on a separate sheet of paper</p>
<p>10. 2% surcharge for Non- Resident buyers (SDLT only) Will all of the buyers have been resident in England or Northern Ireland continuously for at least 183 days before the completion date (or effective date if earlier)?</p>	<p>Yes No/Possibly - please give details on a separate sheet of paper</p>

We declare that the information given above is correct and complete to the best of our knowledge and belief
We understand that if we give false information we may face financial penalties and prosecution
We agree to tell you if any of the information we have given to you changes in any way
We authorise you to submit the SDLT tax return as our tax agent

We understand and accept that:

- You do not guarantee that the amount of SDLT due on the transaction is the amount shown on your completion statement.
- The SDLT tax return that you will complete for us may be investigated by HMRC, and that we may have to pay more SDLT, if for example there is a linked transaction, or if any of us own another dwelling anywhere in the world.
- That your fee does not include dealing with any investigations or claims by HMRC.
- That you are not advising us on SDLT, and that we have had the opportunity to obtain independent tax advice.

Each client must write in their name in capitals in the box below	Each client must sign their signature in the box below	Date Day/month/year
1.....	/...../.....
2.....	/...../.....
3.....	/...../.....
4.....	/...../.....

Please complete and return this sheet