Stamp duty land tax: Reform of structure, rates and thresholds

Guidance Note
Updated 12 December 2014

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Chapter 1: Introduction

At Autumn Statement on 3 December 2014, the Chancellor of the Exchequer announced a reform of how stamp duty land tax (SDLT) is calculated for residential property purchases which complete on or after 4 December 2014. The reform does not affect purchases of non-residential property, enveloped property or the charge on rents. The reform will apply to residential property purchases throughout the UK. In Scotland, it will apply until Land and Buildings Transactions Tax (LBTT) replaces SDLT for transactions from 1 April 2015.

This reform will mean that, rather than a single rate of tax being charged on a purchase, each new SDLT rate will only be payable on the portion of the property value which falls within each band. Details of the rates and bands are provided in Chapter 2 below. These new rates and bands will apply to residential property purchases completing on or after 4 December 2014, subject to the following transitional rules. Where contracts have been exchanged before 4 December but complete on or after that date, the purchaser can choose whether to pay tax under the old or the new rules. SDLT will be cut for 98% of people who pay it. All those purchasing a property for less than £937,500 will pay less or the same SDLT under the new rules.

The changes will eliminate the ‘cliff edge’ increases in SDLT liability which occurred under the old rules, and so reduce pricing distortions which occurred around the previous thresholds.

A calculator is available on HMRC’s website which calculates the SDLT due under both the old and new rules: **http://www.hmrc.gov.uk/tools/sdlt/land-and-property.htm**

This note provides further details of the changes that are being made and how they will affect purchases from 4 December 2014.

Chapter 2: The main changes and transitional rules

The new rules for residential property (from 4 December 2014)

1. For purchases of residential property that complete on or after 4 December 2014, the stamp duty land tax (SDLT) calculation will change (subject to the transitional provisions described below). There will be a series of SDLT rates that apply to the amount of consideration falling within the new bands.

2. The new rates are:

Purchase price of property	**Rate paid on part of price within each band**
Up to £125,000	0%
Over £125,000 and up to £250,000	2%
Over £250,000 and up to £925,000	5%
Over £925,00 and up to £1,500,000	10%
Over £1,500,000	12%

3. For example, under the new rules the SDLT due on the purchase of a residential property for £450,000 which completes on or after 4 December 2014 would be calculated as follows:

	SDLT due
0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the final £200,000 =	£10,000
Total SDLT due =	**£12,500**

4. The necessary legislative changes will be included in a Stamp Duty Land Tax Bill and given provisional effect by a resolution made under the Provisional Collection of Taxes Act1968.

The old rules for residential property (up to 3 December 2014)

5. Under the old rules that applied up to 3 December 2014, the SDLT due on purchases of residential property was calculated by applying a single rate to the total purchase price. The old rates were:

Purchase Price	**Rate**
Up to £125,000	0%
Over £125,000 and up to£250,000	1%
Over £250,000 and up to £500,000	3%
Over £500,000 and up to £1 million	4%

Over £1 million and up to £2 million	5%
Over £2 million	7%

Using the same example as at 3 above, if completion was before 4 December 2014 the SDLT due would have been £13,500 (£450,000 x 3%).

The transitional provisions

6. Where contracts for the purchase of a property were exchanged before 4 December 2014 but the contract is completed on or after that date, purchasers can choose not to apply the new rules and so pay SDLT under the old rules. See paragraphs 10 below for exclusions from this rule.

7. Purchasers can also choose not to apply the new rules where the contracts were exchanged before 4 December 2014 and the contract was substantially performed but not completed before that date. In these circumstances the effective date of the transaction will be the date of substantial performance but there will be a further notifiable transaction on completion, which will attract SDLT if the chargeable consideration exceeds that for the first transaction.

8. To choose the old rates, the purchaser just has to enter the appropriate amount of SDLT in box 14 of the land transaction return. If the return has already been submitted under the new rules and the purchaser wishes to pay under the old rules (or vice versa) they can amend the return. A land transaction return can be amended up to 13 months after the date of completion. An election may be made in a return or later return following a later linked transaction (section 81A FA 2003), subject to the time limits associated with that return.

9. These transitional rules may not apply to certain transactions which involve variation of a contract, assignments of rights and subsales, or which arise from the exercise of certain rights or options. The terms of certain conditional contracts may also cause the transitional rules not to apply.

10. The new SDLT rates and the transitional rules will apply to residential property transactions in Scotland until LBTT replaces SDLT in Scotland on 1 April 2015. Transactions in Scotland settled after 1 April 2015 will be liable to LBTT if missives were concluded on or after 1 May 2012, the date of Royal Assent to the Scotland Act 2012.

11. See Chapter 3 for examples of how the transitional provisions apply.

Chapter 3: Examples of how changes apply

1. Tax due under the new rules

1.1. The SDLT due on the purchase of residential property for £200,000 is calculated as follows:

0% on the first £125,000 =	£0
2% on final £75,000 =	£1,500
Total SDLT due =	**£1,500**

1.2. The SDLT due on the purchase of a residential property for £750,000 is calculated as follows:

0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the final £500,000 =	£25,000
Total SDLT due =	**£27,500**

1.3. The SDLT due on the purchase of a residential property for £1,250,000 is calculated as follows:

0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the next £675,000 =	£33,750
10% on the final £325,000 =	£32,500
Total SDLT due =	**£68,750**

1.4. The SDLT due on the purchase of residential property for £2,000,000 is calculated as follows:

0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the next £675,000 =	£33,750
10% on the next £575,000 =	£57,500
12% on the final £500,000 =	£60,000
Total SDLT due =	**£153,750**

2. Transitional rules

2.1. Contracts were exchanged for the purchase of a residential property for £450,000 on 13 October 2014 and the purchase is due to complete on 12 December 2014.

Under the new rules the SDLT is calculated as follows:

0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the final £200,000 =	£10,000
Total SDLT payable =	**£12,500**

Under the old rules the SDLT is calculated as follows:

3% of £450,000 =	£13,500
Total SDLT payable =	**£13,500**

The purchaser can choose whether to pay £12,500 or £13,500 by entering the appropriate amount on the land transaction return.

2.2. Contracts were exchanged for the purchase of a residential property for £1,250,000 on 25 October 2014 and completion is expected to be on 4 December 2014 (or later).

Under the new rules the SDLT is calculated as follows:

0% on the first £125,000 =	£0
2% on the next £125,000 =	£2,500
5% on the next £675,000 =	£33,750
10% on the final £325,000 =	£32,500
Total SDLT payable =	**£68,750**

Under the old rules SDLT is calculated as follows:

5% of £1,250,000 =	£62,500
Total SDLT payable =	**£62,500**

The purchaser can choose whether to pay £68,750 or £62,500 by entering the appropriate amount on the land transaction return.

Chapter 4: Questions and Answers

Q1. Why are you making these changes?

A1. The Government is reforming SDLT on residential properties to make it more efficient and fairer, ensuring that SDLT will be cut for 98% of people who pay it. The old structure of SDLT created distortions in the housing market and acted as a brake on aspiration as those wishing to move onto or up the housing ladder were met with large increases in tax when properties fell into higher tax bands. The new system will provide help to first time buyers and aspirational homeowners wishing to move up the housing ladder.

Q2. I am due to complete today. Can I delay completion until tomorrow to benefit from the new rules and if so, would this be treated as tax avoidance?

A2. Yes, you can delay completion until tomorrow, provided your seller agrees. This would not be regarded as tax avoidance?

Q3. I am due to exchange contracts tomorrow. Can I bring this forward to today to benefit from the old rules, and if so, would this be treated as tax avoidance.

A3. Yes, you can bring this forward, provided your seller agrees. Doing so would not be regarded as tax avoidance.

Q4. I have just exchanged contracts (before 4 December 2014) but have not yet completed. Can I apply the new rules?

A4. Yes. There are transitional arrangements that allow you to choose whether to be taxed under the new rules or the old rules. The SDLT calculator shows the SDLT due under new and old rules:
http://www.hmrc.gov.uk/tools/sdlt/land-and-property.htm

Q5. What are the transitional arrangements and when do they apply?

A5. The transitional arrangements allow you to choose whether to be taxed under the new rules or the old rules. They apply if you exchanged contracts for the purchase of the property on or before 3 December 2014 but do not complete until on or after 4 December 2014.

Q6. I have just completed (on or before 3 December 2014), can I have a refund?

A6. No, you will not be able to get a refund. If completion is before 4 December 2014, you are within the old rules and the transitional rules do not apply.

Q7. Do I need to claim the transitional arrangements or do they apply automatically?

A7. No. SDLT is a self-assessed tax so you just enter the appropriate amount of tax in the return. The contract date shown in the return will indicate that you are entitled to benefit from the transitional rules. The SDLT calculator shows the SDLT due under new and old rules:
http://www.hmrc.gov.uk/tools/sdlt/land-and-property.htm

Q8. Can I change my mind about which set of rules to use?

A8. Yes. You can amend your return any time within 13 months of completion.

Q9. I bought off plan but haven't completed yet – what does this mean for me?

A9. Under the transitional arrangements, you can choose whether the old rates or the new rates apply. The transitional arrangements apply if you exchange contracts before 4 December 2014 and complete on or after that date. The SDLT calculator shows the SDLT due under new and old rules:
http://www.hmrc.gov.uk/tools/sdlt/land-and-property.htm

Q10. I have not yet completed, but I have already paid the tax to my agent. Can I benefit from the new rules and do I need to reclaim the overpaid tax.

A10. It is likely the transaction will be under the new rules. You will need to discuss with your agent the return of any money that is no longer needed to meet your tax liability?

Q11. I completed recently but my solicitor has not yet filed my SDLT return and paid my tax. Can I apply the new rules?

A11. If the transaction completed before 4 December 2014 then it will be taxed under the old rules. The return will need to be filed within 30 days of completion.

Q12. What is the date of a transaction (the "effective date") for SDLT purposes – is it the exchange date, completion date, moving-in date, or when the SDLT return is filed?

A12. The date of the transaction for SDLT purposes is almost always the completion date (or settlement in Scotland). It can be an earlier date if, before completion, either 90% or more of the consideration is paid or if the purchaser takes possession of the property. In those cases, the date of the transaction for SDLT purposes is when either eventuality occurs.

Q13. My conveyancer is unwell and won't be able to carry out the necessary paperwork to avoid being impacted by an increased charge, will HMRC allow any leeway?

A13. There are transitional rules where contracts have been exchanged before 4 December 2014 but the transaction is completed on or after that date. If contracts are not exchanged before 4 December then the new rules will apply.

Q14. Do these changes apply to Scotland, Wales and Northern Ireland?

A14. The new structure applies across the whole of the UK. However, the Scottish Government's Land and Buildings Transaction Tax (LBTT) will come into force on 1 April 2015, replacing SDLT for land transactions in Scotland settled on or after that date.

Q15. How will SDLT interact with the Scottish Land and Buildings Transaction Tax (LBTT)?

A15. It won't. SDLT and LBTT are completely separate taxes. A land transaction in Scotland can only be liable to either SDLT or LBTT – not both. SDLT will apply to residential property transactions in Scotland until LBTT comes into force on 1 April 2015.

Q16. How do the new rules affect the 15% higher rate SDLT charge?

A16. The 15% higher rate charge is not affected by the new rules. SDLT continues to be charged at a single rate of 15% of the chargeable consideration for a high-value residential transaction. Where the acquisition of a higher threshold interest benefits from one of the exclusions in Schedule 4A Finance Act 2003, SDLT is charged at normal rates under the new rules.

Chapter 5: Consequential Changes

Linked transactions

1. The approach to taxing linked transactions will be different under the new rules for transactions completing on or after 4 December 2014 (unless the transitional rules apply and they are taxed under the old rules). Where linked transactions include a transaction which includes non-residential land, then all the transactions are charged to SDLT under the rules for non-residential or mixed use land. This guidance applies where there are a number of linked transactions concerning wholly residential land, at least one of which is subject to the new rules.

2. For any of the linked transactions that are taxed under the old rules, there is no change to how the tax due is calculated. But for any that are taxed under the new rules, the following steps have to be performed.

    - Step 1: Add together the amounts paid for all of the linked transactions, this aggregate amount being called the "relevant consideration".

    - Step 2: Apply the new rates to the relevant consideration to calculate the amount of tax that would be due on that consideration.

    - Step 3: Work out the fraction given by dividing the amount paid for the particular transaction by the relevant consideration.

    - Step 4: Multiply the amount given by Step 2 by the fraction calculated at Step 3. This gives the amount of tax due for that particular transaction.

3. Example

    - **Transaction 1**: P purchases a house from V on 1 December 2014 for £400,000. The old rules apply.

    - **Transaction 2**: P purchases a house from V on 1 March 2015 (having exchanged contracts the previous month) for £300,000. The new rules apply.

    - The surrounding circumstances are such that the transactions are linked.

    - The relevant consideration is £700,000 (£400,000 plus £300,000).

    - The tax due on Transaction 1 is worked out using the old rules. The rate of tax is the rate that would have been payable on the relevant consideration. That is 4%, giving tax due of £16,000 (4% of £400,000).

    - The tax due on Transaction 2 is worked out in the way described above.

        - **Step 1**: The relevant consideration is £700,000.

- **Step 2**: The tax due under the new rules on £700,000 is £25,000.
- **Step 3**: The fraction is 300,000/700,000 or 3/7.
- **Step 4**: Three sevenths of £25,000 is £10,714.

Shared Ownership Transactions

4. If you bought an initial share in a shared ownership property before 4 December 2014 and now want to buy the remaining share, the tax payable on the remaining share is calculated under the new rules as the tax payable on one of a series of linked transactions. The relevant consideration for this purpose is the sum of all the amounts paid (excluding rent but including any intermediate “staircasing” payments) for all the shares in the property.

5. If you bought the initial share before 12 March 2008 there will be more tax to pay on that share under the old rules, if the rate of tax on the relevant consideration is higher than the rate you originally paid. In this case you will have to calculate the amount of tax due on the initial share at the higher rate and pay the difference between that and the amount you paid originally. If you bought the initial share on or after that date, there will be no more tax to pay on that share.

6. If you made a market value election at the outset, there will be no more tax to pay

Multiple dwellings relief

7. Multiple dwellings relief (MDR) will continue to operate in a similar way as before the changes, but with modifications to take into account the reform of the rates structure. The tax due on a transaction to which MDR applies will be the sum of two amounts: "the tax related to the consideration attributable to dwellings" and "the tax related to the remaining consideration".

8. The first stage in working out "the tax related to the consideration attributable to dwellings" for a transaction is to divide the "total dwellings consideration" by the "total dwellings". The definition of these terms is unchanged. The tax due on this amount under the new rules is then calculated.

9. This amount is then multiplied by the "total dwellings" to give the amount of tax due in respect of the “total dwellings consideration”. However, if this amount is less than 1% of the “total dwellings consideration” then the amount of tax due is the 1% figure.

10. If MDR is being claimed in respect of a single transaction which includes multiple dwellings; then the amount of tax due in respect of the total dwellings consideration is the same as “the tax related to the consideration attributable to dwellings” for the transaction.

11. If the transaction is one of a number of linked transactions, each of which includes one or more dwellings, then the amount of tax due in respect of the “total dwellings

consideration" is apportioned between the transactions in proportion to the amounts of consideration attributable to dwellings for each transaction.

12. "The tax related to the remaining consideration" is given by an apportionment of the tax that would have been due on the total transaction. That amount is multiplied by a fraction. The fraction is given by dividing the "remaining consideration" by the total consideration. The calculation is slightly different if the transaction is one of a number of linked transactions.

13. Example

- P acquires some land from V consisting of Dwelling1, Dwelling2 and Office. The amounts given for each are £300,000, £250,000 and £200,000 respectively, making a total consideration of £750,000.

- The total chargeable consideration is £750,000.

- The consideration attributable to dwellings is £550,000 (the £300,000 for Dwelling1 plus the £250,000 for Dwelling2). This is also the total dwellings consideration since there are no linked transactions.

- The remaining consideration is £200,000 (the total chargeable consideration less the consideration attributable to dwellings).

- The total dwellings is 2.

    - **Working out the tax related to the consideration attributable to dwellings:**
    - The total dwellings consideration divided by the total dwellings is £275,000 (£550,000 divided by 2).
    - Tax due under the new rules on £275,000 is £3,750. Multiplying this by the total dwellings gives £7,500 (£3,750 times 2). This is larger than 1% of the consideration attributable to dwellings, £5,500. So the tax related to the consideration attributable to dwellings is £7,500.

    - **Working out the tax related to the remaining consideration:**
    - The tax due on the total chargeable consideration (£750,000) would be £30,000.
    - Dividing the remaining consideration (£200,000) by the total consideration (£750,000) gives a fraction of 4/15.
    - Multiplying £30,000 by 4/15 gives an amount of tax of £8,000.

- So the total tax due is £7,500 plus £8,000, which is £15,500. (The amount that would have been due without the relief was £30,000).

Exercise of collective rights by tenants (collective enfranchisement)

14. The legislation sets out how to calculate the SDLT due where lessees of a block of flats exercise certain statutory rights to purchase the freehold of the block.

15. These rules are being amended as a result of the reform of the SDLT rates structure.

16. Where the rules apply (and where they are not superseded by the 15% higher rate for certain transactions), there are two steps to calculate the amount of tax due. A preliminary calculation is to divide the total consideration for the transaction by the number of qualifying flats. The first step is then to work out the amount of tax that would be due on that fraction of the total consideration. The second and final step is to multiply that amount by the number of qualifying flats.

17. Example

- A group of tenants exercise their right to acquire the freehold of a block of flats for £450,000. There are 3 qualifying flats.

- Dividing the consideration by the number of flats gives £150,000 (£450,000 divided by 3).

- Performing the first step, the tax due on £150,000 would be £500.

- Performing the second step therefore gives total tax due of £1,500 (£500 multiplied by the number of flats, 3).

18. There are similar changes to the rules on the crofting community right to buy.