

Amendment to Clause 117: SDLT: Higher rates for additional dwellings and dwellings purchased by companies

Summary

1. Clause 117 is amended to address an issue where the higher rates of SDLT apply to purchases of dwellings that are financed by alternative finance arrangements. The effect of this amendment is to assess whether the higher rates apply by reference to the person who is entitled to occupy the property as a result of the alternative finance transaction and not by reference to the financial institution.

Details of the amendment 40

2. The amendment [40] introduces new paragraph 14A into new Schedule 4ZA FA2003. This paragraph change the rules where the transaction is the first transaction in an alternative finance transaction. In such a transaction the conditions for the higher rates to apply are now measured against the person who is entitled to occupy and eventually purchase the property and not the financial institution financing the transaction.
3. This amendment has effect from 1 April 2016. A transitional provision is introduced to ensure that no-one will be required to pay more tax for any transaction between 1 April 2016 and Royal Assent.

Background note

4. The higher rates of SDLT for additional dwellings and dwellings purchased by companies was introduced by the Government to support home ownership. These changes have had effect since 1 April 2016 by virtue of a Provisional Collection of Taxes Act resolution.
5. SDLT relief is available where alternative finance transactions lead to there being additional transactions compared to a purchase using mortgage finance.
6. Ordinarily in an alternative finance funded purchase there will be a first transaction which is the purchase of the property by a financial institution from the vendor. There will then be a second transaction which is either a further sale to or lease by the financial institution to the ultimate purchaser. In the case of a lease there may be a subsequent sale back to the ultimate purchaser. Under a purchase funded by a mortgage, there would be one transaction only.
7. The SDLT relief for alternative finance transactions applies to the second (and

subsequent) transaction only, leaving SDLT chargeable on the purchase by the financial institution.

8. Under the rules for the new higher rates of SDLT announced on 16 March 2016, the financial institution (as a corporate body) would be liable to the higher rates of SDLT if the property purchased was purchased for more than £40,000 and it was not a reversionary interest in respect of a 21-year or longer lease. This would be the case regardless of the situation of the ultimate purchaser of the property (the purchaser in respect of the second transaction).