Stamp Duty Land Tax - Client Guide

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.

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.


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= £

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 than183 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.