



# Fenn and Co

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## **Stamp Duty Land Tax**

Stamp Duty Land Tax (SDLT) was introduced on 1 December 2003 and replaced Stamp Duty in respect of land transactions. Stamp Duty was an old tax which required the existence of a document, such as a conveyance. SDLT is a very different type of tax and the new regime is intended to be robust. This factsheet sets out some of the basic things you need to know about the tax.

### **Who pays the tax?**

SDLT is payable by the purchaser in a land transaction.

### **What is a land transaction?**

A transaction will trigger liability if it involves the acquisition of an interest in land in the United Kingdom. This will include a simple conveyance of land such as buying a house, creating a lease or assigning a lease.

### **When is the tax payable?**

The tax has to be paid when a contract has been substantially performed. In cases where the purchaser takes possession of the property on completion that will be the date. However, if the purchaser effectively takes possession before completion – known as ‘resting on contract’ – that will be regarded as triggering the tax.

### **How much tax is payable?**

This depends on whether the land is ‘residential property’ or not. The rates currently are as set out in the table below. You should remember that the whole of the price is taxed at the appropriate rate:

<b>Residential property</b>	<b>Rate %</b>
£0 - £125,000 *	0
£125,001 - £250,000	1
£250,001 - £500,000	3
£500,001 and over	4
<b>Non-residential and mixed</b>	
£0 - £150,000	0
£150,001 - £250,000	1
£250,001 - £500,000	3
£500,001 and over	4

\* The £125,000 nil rate band for SDLT on residential property has been temporarily increased to £175,000 for the period 3 September 2008 to 2 September 2009. Legislation will be introduced to extend the increased threshold to land transactions where the effective date for SDLT is before 1 January 2010.

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You are planning to buy a house which will cost £350,000. The SDLT which you will have to pay will be at 3%. The tax will be £10,500.

If the house costs £550,000, the SDLT will be £22,000

Broadly speaking, 'residential property' means a building that is suitable for use as a dwelling. Obviously it includes ordinary houses. Buildings such as hotels are not residential.

### **Are there any exemptions?**

Yes. There are a number of situations in which the transfer of land will not be caught for SDLT.

These include:

- a licence to occupy
- a gift of land
- transfers of land in a divorce
- transfer of land to a charity
- transfers of land within a group of companies.

### **What is the tax charged on?**

Tax is chargeable on the consideration. This will usually be the actual cash that passes on the sale. However the definition is very wide and is intended to catch all sorts of situations where value might be given other than in cash. For example if the purchaser agrees to do certain work on the property.

### **You mentioned that leases are caught. How does the tax work on them?**

If a lease is created for the payment of a premium ie a lump sum in addition to any rent, then the amount of the premium is the consideration subject to SDLT.

Where there is no premium there is still a potential charge to SDLT which has to be calculated.

The calculation has to take account of all the rent that will be paid under the lease subject to a discount. If the calculated value exceeds £125,000 for residential property and £150,000 for non-residential, the excess is charged at 1%. The threshold for residential property has been increased to £175,000 for the period 3 September 2008 to 2 September 2009 inclusive for leases of 21 years or more only.

### **I have heard something about disadvantaged areas. How does that work?**

A number of areas in the country are designated as 'disadvantaged'. The definition is based on post code areas. If a residential property is located in one of these areas, SDLT only applies where the consideration exceeds £150,000. However for a temporary period of one year from 3 September 2008 to 2 September 2009 inclusive, the threshold at which no SDLT is payable is increased to £175,000.

### **How do I tell HMRC about a liability?**

The purchaser must complete an SDLT 1 return and this must be submitted to a special HMRC

office within 30 days of the transaction. You must also send a cheque for the tax at the same time

so this means that you have to calculate the tax due. A late return triggers an automatic penalty of

£100, and late payment of the tax will mean a charge to interest.

### **What will HMRC do then?**

A certificate will be sent to you to show that you have paid the tax. You will need this in order to change the details of the property ownership at the Land Registry. The fact that HMRC has given you the certificate does not mean your calculations are agreed. HMRC has nine months in which to decide whether or not to enquire into your return and challenge your figures.

### **How we can help**

If you are planning to enter into an arrangement to purchase land, we can advise you of the precise impact of SDLT on the transaction. We can also help you complete the SDLT1 and submit it to HMRC.

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