

What is Stamp Duty Land Tax?

Stamp Duty Land Tax is a tax payable to Her Majesty's Revenue and Customs (HMRC) on residential and non-residential properties in England and Northern Ireland. In Scotland, the equivalent is called Land and Buildings Transaction Tax, and in Wales, this is called Land Transaction Tax.

In the case of Stamp Duty Land Tax (SDLT) in England and Northern Ireland, the tax only applies to property and land that meets certain criteria. The criteria include, most notably, a price threshold when the chargeable consideration is over £125,000 for residential properties and over £150,000 for non-residential properties. From this threshold, the percentage of tax payable increases incrementally up to £1.5 million. There are, however, some exceptions to this rule.

This article explains what you need to know about Stamp Duty Land Tax in our latest blog post below.

When Stamp Duty Land Tax is paid

SDLT is only paid in certain circumstances, although it is more commonly paid than not. The following are the most common examples of when you will need to pay SDLT on the chargeable consideration of a property you are purchasing.

Chargeable consideration is the price paid for land or property. Usually, this is paid in cash or by taking on some/all liability for the outstanding mortgage. It can, however, be a combination of both. The chargeable consideration can also include anything of monetary value, such as offering to pay legal fees.

Freehold Property

When you are replacing your main residence and you have bought a property before, the following fees will apply:

- Up to £125,000 0%
- The portion from £125,001 to £250,000 2%
- The portion from £250,001 to £925,000 5%
- The portion from £925,001 to £1.5 million 10%
- The portion above £1.5 million 12%

If you are buying a second property, are buying as a Company or you are buying-to-let and it is worth more than £40,000, there will be an extra 3% SDLT to pay on each of the portions above the threshold.

While the consideration is usually the cash paid or mortgage of a property, it can also be another form of payment such as the following. There will still be SDLT paid on the value of these alternate payment methods, though:

- Goods
- Works or services
- Release from a debt
- Transfer of debt, including the value of an outstanding mortgage

New or Existing Leasehold

In terms of leasehold sales and transfers, the same fees apply as the above breakdown. The SDLT is paid on the lease premium, however, rather than the chargeable consideration.

A **lease premium** is the price you pay for the new lease when it is granted by the landlord. In some cases (such as for commercial leases) after the lease premium is paid then further payments of rent due under the lease can also apply.

Lease Extensions

When extending a lease for a property that is not your main residence, be aware that if the lease extension premium is over £40,000 then this will attract SDLT at the higher rate, even though you may have already paid SDLT when you purchased the property.

Shared Ownership Scheme

When buying a property through an ownership scheme from an approved public body, you may have to pay SDLT. You can pay a one-off fee or pay in stages, but examples of these schemes are:

- Local housing authorities
- Housing associations
- Housing actions trusts
- The Northern Ireland Housing Executive
- The Commission for New Towns
- Development corporations

When making a **one-off payment**, SDLT is paid at the residential rate on the total market value market value election – even if you are only buying a share. Once you have bought a share, there is no SDLT to pay until you own over 80% of the property shares.

The **market value election** is simply the total market value of a property. This is important because it means you pay SDLT on the total value of the property when you make a one-off payment, whereas you only pay SDLT on your consideration (or lease premium) when you pay in stages.

When you pay in **stages**, the first payment is made on the lease premium, provided it is above the threshold. If it is below the threshold, there is no SDLT to pay but a return must still be submitted. There may also be extra SDLT to pay when you pay in stages if the net present value is over £125,000 – this payment is made at 1% for any amount over £125,000.

The **net present value** of a property is the total rent payable over the life of the lease.

Transfer of Land for Payment

When ownership of a property is transferred between joint-owners outside of a court order or legal agreement, there may be SDLT to pay. The person taking on the other half of the ownership will pay tax on the total chargeable consideration if it is over the usual threshold of £125,000 for residential properties and £150,000 for non-residential properties.

The **total chargeable consideration in the case of transferring land for payment** is the price of the other half of the equity and also the liability of the other half of the remaining mortgage.

Exemptions from Stamp Duty Land Tax

There are certain situations that warrant a discount or complete exemption from SDLT. The following examples are where this is true:

First-Time Buyers

For first-time buyers, SDLT is either discounted or free, as of 22nd November 2017, unless the chargeable consideration exceeds £500,000. This rule applies when there are multiple buyers and at least one of them is a first-time buyer.

There is no SDLT to pay if the price is below £300,000, and SDLT is limited to 5% for prices between £300,001 and £500,000. As mentioned, if the property exceeds £500,000 then the same tax brackets apply as if it was not the buyer's first property.

Transfers

When transferring property, there should be no SDLT payable. This rule still applies if the value of the property is above £125,000, provided the chargeable consideration – or the price of the portion being transferred – is below that sum.

Gifts

When property is a gift, there usually is not any SDLT required. There is no monetary transaction in a gift, which is why transfers can still be subject to SDLT and why gifts are usually exempt; there cannot be a chargeable consideration if the person receiving the gift takes no liability for the mortgage and pays no cash for the property.

Inheritance

Property inherited in a will is also exempt from SDLT, even if the receiver takes on liability for the mortgage.

Legal Agreements and Court Orders

There is no SDLT to pay when divorcing, dissolving a civil partnership, annulling a marriage, or legally separating and transferring an interest in a property as part of an agreement or court order. If joint-owners are unmarried when transferring interest from one owner to another, and the value is over £125,000, there may be SDLT to pay.

Dividing Joint-Owned Property

When dividing a jointly-owned property, there is no SDLT to pay if the property is split physically and equally. If the property is not split physically and equally, there may be SDLT to pay.

Paying Stamp Duty Land Tax

An SDLT return must be sent to HMRC and paid within 14 days of the completion. You may also be required to send an SDLT return even if you have not paid any tax on your property.

Conveyancer or Accountant?

As conveyancers, we can prepare a tax return, estimate the amount of SDLT payable, and send your SDLT return to HMRC for you, if the transaction is routine and you provide all of the information required. A conveyancer will also ask you to accept full responsibility for the information you provide.

For unusual or complex matters, you should seek advice from a specialist accountant.

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