

PROPERTY BRIEFING APRIL 2005

NEW STAMP DUTY LAND TAX

This factsheet provides basic information in relation to the new Stamp Duty Land Tax. We have also provided links to comprehensive guidance issued by the government on the new Stamp duty land tax.

Stamp Duty Land Tax (SDLT) came into effect on 1 December 2003 – this may change the advice and actions that either you or your surveyor will need to consider.

SDLT replaces stamp duty and is a tax on land transactions. This includes commercial and residential freeholds, leaseholds, shorter leases, farm business tenancies, mineral and land rights.

Does it change the rates and thresholds of the previous stamp duty?

Only for leases and commercial property transfers. The rates and thresholds for commercial and residential transactions will remain as they were, excepting the commercial property zero rate threshold increases to £150,000. For leases however the government has radically changed the basis of calculation and will now charge stamp duty land tax on leases based on their net present value (NPV). The NPV is defined as the total rent payable over the life of a lease, reduced by an annualised discount rate of 3.5% and charged at a flat rate of 1% on the excess of NPV above the zero rate thresholds (£60,000 for residential and £150,000 for commercial properties).

Special provisions apply to circumstances where the rent is contracted to change under the terms of the lease or is otherwise uncertain or contingent. You would be advised to check the guidance provided by the government on these measures (see links/phone number provided below under 'further information').

What are the practical differences?

You, or more usually the conveyancer, will need to notify the Inland Revenue when liability for SDLT arises. To do this a new Land Transaction Return (LTR) must be completed and sent to the Inland revenue within 30 days of the transaction. You should be aware that the transaction may not need to have actually been completed but merely 'substantially performed' for the requirement for an LTR to be triggered. [Obtain copies of the LTR](http://www.inlandrevenue.gov.uk/so/sdlt_website.htm) at http://www.inlandrevenue.gov.uk/so/sdlt_website.htm.

There may be some circumstances in which an LTR is not necessary. For leases the main criteria for making a notification are:

Any lease of over 7 years duration

Any lease where the net present value leads to an SDLT charge (including any where relief negates the charge)

More red tape - why is it necessary to submit an LTR?

Three main reasons. First, it is the law. Second, your transaction will need to be certified by the Inland Revenue for SDLT purposes, or self-certified by yourself if no SDLT is payable. In England and Wales for example if you do not obtain an SDLT certificate then you will be unable to register your interest in land with the land registry and this could mean you would be unable to register the transfer of your right to title.



Finally, fines rising from £100 to £200 will be payable for failure to comply with the new legislation.

Records

The legislation introducing SDLT imposes a requirement to maintain relevant records relating to the transaction (for SDLT purposes) for six years after the transaction is completed. The Inland Revenue will be investigating transactions to check the appropriate SDLT has been paid and the Finance Act 2003 allows the Revenue to levy substantial fines where relevant records are not produced.

Further information

There are special rules governing contracts entered into before 1 December and you would be advised to check your position with the Inland Revenue directly.

For those engaged in lease transactions the Inland Revenue are committed to producing an on-line calculator for the purposes of establishing your net present value. This will become available at the [Inland Revenue website](http://www.inlandrevenue.gov.uk/so) at <http://www.inlandrevenue.gov.uk/so>.

This website also holds the SDLT manual, which provides technical guidance on eligibility for SDLT. If you are in any doubt about your liability for the new tax and the procedures that need to be completed in order to comply with the provisions of the new tax there is also a helpline staffed by the Inland revenue and available on +44 (0)845 6030135.

WHO CAN HELP US?

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