

PENGILLYS

SOLICITORS • MEDIATORS

A guide to

Stamp Duty Land Tax



www.pengillys.co.uk

Your guide to Stamp Duty Land Tax (SDLT)

This guide provides a basic explanation of the Government's property tax for land transactions called **Stamp Duty Land Tax (SDLT)**. This tax imposes personal obligations on you. The purchaser / tenant is the person legally responsible for calculating the amount of tax due and for providing **HM Revenue & Customs (HMRC)** with a correctly completed tax return and payment of any tax due. This guide provides you with the opportunity to ask us to deal with this work on your behalf. If you would like us to deal with the tax return on your behalf please sign and return the appointment form accompanying this guide to us.

What is Stamp Duty Land Tax?

In the Finance Act 2003 the Government abolished stamp duty and replaced it with a wider ranging tax called Stamp Duty Land Tax. This is a self-assessed tax and applies to almost all property transactions. As a result of major changes to the SDLT regime in December 2014 affecting residential properties the system was changed so that SDLT is now charged at differing rates within bands rather than at a fixed percentage on the whole consideration:

Residential properties - The current bands for residential properties are as follows:-

• Up to £125,000.00	0%	• £925,001.00 to £1,500,000.00	10%
• £125,001.00 to £250,000.00	2%	• Over £1,500,000.00	12%
• £250,001.00 to £925,000.00	5%		
• An even higher rate applies to residential properties where the value is at least £500,000.00 and the purchaser is a 'non natural person' e.g. a company.			15%

Commercial properties - For commercial properties the old system of thresholds remains in force and the rates for commercial properties are at present:-

• Up to a purchase price of £150,000.00	0%	• £250,001 to £500,000.00	3%
• £150,001.00 to £250,000.00	1%	• £500,001.00 and over	4%

Please note the position on commercial leases is complex and SDLT is payable upon figures inclusive of any VAT that may be payable so please ensure you factor in this 'tax on tax'.

Who is liable to pay SDLT?

Payment of SDLT is the responsibility of the purchaser. Most clients appoint us to deal with the tax return and the payment of the SDLT for them.

If there is more than one buyer the liability for SDLT is joint and several – this means that all of the buyers are taxpayers and each has the potential personal liability for the payment of all the tax. Therefore, if it is not paid, any one buyer can become liable to pay the whole of the SDLT due.

What is a Land Transaction Return (LTR)?

Whenever a property transaction needs to be reported to HMRC we will submit the required returns online on your behalf.

The LTR must be completed and received by HMRC within a fixed time limit of 14 days of the 'effective date' which is in most cases the completion date but can be the day when the transaction is substantially performed e.g. when a purchaser / tenant goes in to possession. Therefore if you go into possession or a substantial part of the purchase price is paid before completion you must let us know immediately so we can submit the return. If the return is filed late whether or not tax is payable, automatic fines are imposed.



The Land Transaction Return

When a satisfactory completed LTR has been processed by HMRC it will issue a Land Transaction Return Certificate. HMRC work on a 'process now, check later' basis so that an issue of the Tax Certificate does not confirm that the correct sum has been paid. The certificate is very important because the Land Registry is not allowed to accept an application to register you as the owner of the property unless the Tax Certificate is included with the application.

If you are having a mortgage to assist with the purchase then your mortgage lender may also instruct us to act for them in connection with the registration of their mortgage. The lender will require the tax certificate to be issued directly to us as your agent in order to prevent any delay in making the application to the Land Registry to register you as the owner and to register the lender's mortgage.

Tax investigations

HMRC can ask you for verification of the information on an LTR at anytime during nine months following the completion date.

Appointing a tax agent and the agents role

As a taxpayer you can employ this firm (as a tax agent) to complete the LTR for you. If you wish we will also deal with any relevant correspondence from HMRC on your behalf including correspondence from any tax investigation. This limited function will be the extent of our duty to you. We will not provide tax advice or any other taxation service unless this is specifically agreed by us in writing. Although we can complete and submit your LTR and calculate and pay your SDLT, **you remain responsible** for the accuracy of the return and for paying the correct amount of tax.

Your Tax Agents fees

a) Land Transaction Returns (LTR)

The work involved in completing your personal LTR and calculating and paying any SDLT on your behalf is charged separately from conveyancing work. Our fees for the completion and return of the LTR and the payment of SDLT are as set out in our costs estimate and terms of business.

b) HMRC SDLT investigations

Most transactions will not be subject to an HMRC investigation. Our fee for preparing

the LTR will not cover any future tax investigation. If the transaction is selected for investigation and if you instruct us to act for you as your agent then we will advise you at that time how much we will charge for the additional work the investigation will create.

c) HMRC penalties and interest

HMRC will charge a penalty against you as the taxpayer if the return is received more than thirty days after the effective date or if the information provided is incorrect or false.

Retaining your tax records

You are required by law to keep your SDLT records or ask us as your tax agent to keep them for you for six years. Failure to do so can lead to penalties of up to £3,000.00.

Buy to Let properties and second homes

A higher rate of SDLT will be applicable to acquisitions of additional properties where an extra dwelling is acquired (such as second homes and Buy to Let properties). The table below shows the increased rates:-

• Up to £125,000.00	3%	• £925,001.00 to £1,500,000.00	13%
• £125,001.00 to £250,000.00	5%	• Over £1,500,000.00	15%
• £250,001.00 to £925,000.00	8%		

Please note the rules in relation to the higher rate of SDLT are complex and please check with us as to whether it will be payable.

Since the introduction of higher rate SDLT a great deal of circumstances and transactions are now caught by this additional tax and the area is complex. An assessment of the transaction will be undertaken as soon as practicable during the conveyancing process and kept under review to ascertain as to whether higher rate SDLT may be payable.

Multiple Dwellings Relief (MDR) and other reliefs

A common relief sought to be claimed is MDR. We reserve the right to refer this type of relief to specialist accountants well versed in such claims. They would then contact you to prepare the LTR to include the claim for us to then submit upon Completion – they will charge a separate fee for doing so. Transactions involving ‘annexes’ or ‘granny flats’ may fall outside of our retainer and you will be advised of this at the earliest opportunity. If you are aware of any other possible reliefs against SDLT that can be claimed we need to know well in advance to establish whether such relief is available to you.

We hope that this guide has helped you in understanding more about Stamp Duty Land Tax. We would be pleased to discuss any questions that you may have. If you would like to appoint us to act as your agent for Stamp Duty Land Tax purposes, please complete the attached appointment form and return it to us.

Please call us on **01305 768888**

We will then put you in touch with a member of our experienced Team.

Please visit www.pengillys.co.uk where full details of our Conveyancing Team are available.

For further details about Pengillys and how we work, please refer to our Terms of Business and Privacy Policy which are available on our website or on request as printed documents.



PENGILLYS

SOLICITORS • MEDIATORS

Looking after you and your property



Call us for professional help and advice on

01305 768888

or email

contact@pengillys.co.uk

Our Offices

Weymouth

67 St Thomas Street
Weymouth
Dorset DT4 8HB

Dorchester

Challacombe House
Beechwood Square
Poundbury
Dorchester
Dorset DT1 3SS

 @pengillysLLP

We can also advise on:

Family and Relationships | Private Clients | Legal Disputes | Business Matters

www.pengillys.co.uk