

# STAMP DUTY LAND TAX (SDLT) RESIDENTIAL & INVESTMENT PROPERTY GUIDE



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# WHAT IS STAMP DUTY LAND TAX?

Stamp Duty Land Tax (or SDLT) is a tax charged on UK property purchases and is calculated using a range of percentages based on 'slices' of the price paid for the property, as per the table opposite. This in itself may seem complicated, but it is just the start of the complexity involved in calculating your SDLT liability.

Every year, thousands of buyers overpay their SDLT on residential, BTL and commercial purchases. Thanks to the complexity, there are misclassifications of property and a lack of awareness of relevant exceptions which may apply.

As a general rule, if a normal residential purchaser acquires a fully residential property with no additional land or outbuildings, on or after April 1st 2016, then the normal rate bandings described opposite will apply. Additionally, if the purchase is of an additional residential property (including second residences, holiday homes and Buy To Let properties) then an additional 3% 'surcharge' of SDLT will be added to each 'slice'.



# AMOUNT OF TAX CHARGEABLE:

The new rates apply for acquisitions on or after 23 September 2022

Purchase Price Bands	Basic Residential SDLT rates %	Higher Rate Transactions SDLT rates % 2 <sup>nd</sup> house buyers +3%
£0 - £250,000	0	3
£250,001 - £925,000	5	8
£925,001 - £1,500,000	10	13
£1,500,001 +	12	15

Overseas homebuyers face an additional 2% SDLT surcharge on top of the existing 3% stamp duty tax levied on the purchase of second homes.

## NON-RESIDENTIAL OR MIXED-USE RATES:

Purchase Price Bands	Percentage Rate (%)
Up to 150,000	0
Above 150,000 and up to 250,000	2
Above 250,000+	5

## WHY DOES SDLT OVERPAYMENT HAPPEN?

The main port of call for SDLT calculation is HMRC's own online SDLT calculator. This is the first and often biggest issue. Per HMRC's own comments to the media, the calculator is only intended as a guide. It does not account for various scenarios applying to the type of buyer as well as the type of property. Simply put, it assumes the users have an awful lot of complex tax knowledge.

But where many financial advisers, mortgage advisers and even solicitors are using the calculator to produce a figure for purchasers, the scope for mistakes is large. Purchasers, of course, tend to rely on their solicitor, not realising either the extent of this issue or the simple truth that the amount of SDLT to be paid – as a self-assessed tax – remains their ultimate responsibility, and not strictly that of any of their advisers.

This accidentally unrealistic expectation of property professionals to also be tax experts leads to errors, and worse, thanks to the lack of effort to educate the general public, errors which are often missed by those actually footing the bill. SDLT overpayment errors are also almost never caught by HMRC, meaning that the money will sit with them until it is either reclaimed, or too much time has passed for a reclaim to be possible.

**We believe that 1 in 4 calculations are done incorrectly.**

## HOW MUCH CAN I RECOVER?

The amount will vary dependent on various factors including the purchase price paid, the type of property and the way in which the property was acquired. As a general rule of thumb, we find that the most common mistake is standard residential rates of SDLT being applied to non-standard properties, which can result in up to an 80% overpayment of SDLT.

## HOW DO I KNOW IF MY RESIDENCE WILL QUALIFY?

**When you are about to purchase a property there are some key features to look out for, such as:**

- ❓ Is there access to communal facilities (gym, pool, spa etc.)?
- ❓ Is the land over half a hectare?
- ❓ Are there any commercial or non-residential buildings on the land, like stables or workshops?
- ❓ Are there any annexes, flats or cottages in the grounds?
- ❓ Are there any rights over or interest in land, that does not benefit the dwelling, for example, commons rights to pass through over nearby parkland?
- ❓ Is there any element in the acquisition that indicates residential use, for example wayleaves, licenses and commercial rents?

**Key words to look out for include:**

- ✔ **Communal Facilities (gym, pool, cinema)**
- ✔ **Office Workshops**
- ✔ **Gardens**
- ✔ **Granny Annex**
- ✔ **Paddocks**
- ✔ **Stables**
- ✔ **Woodlands**
- ✔ **Grazing Land**
- ✔ **Lakes**
- ✔ **and Many, Many More!...**



# HOW DO I KNOW IF MY INVESTMENT PROPERTY WILL QUALIFY?

As an investor acquiring buy-to-let property you would normally be subject to higher rate transactional tax, or 3% Loading.

Who pays the additional 3%?

- ✓ Companies buying a Residential Property
- ✓ Individuals buying a new property that are NOT replacing their main residence
- ✓ Investors / buy-to-let purchasers

**If you are subject to 3% loading, then dependent on the way you purchase your property there may be reliefs available to you.**

Who is exempt?

- ✓ Any Buyer (individual or company) buying commercial land or mixed-use land
- ✓ Any transaction that is less than £40,000
- ✓ An individual that owns any number of properties, but this purchase will be their new main residence
- ✓ First time buyers
- ✓ Purchases that are subject to the 15% loading



## POST-COMPLETION DEVELOPER CASE STUDY

Our Client purchased a new main residence in for £725,000. The land consisted of a four- bedroom property along with an annexe next door. Her solicitor had assessed her SDLT liability on the purchase at £26,250, which was paid at completion.

A few months after purchase our SDLT partner was asked to conduct a forensic review of the transaction to see if the client had paid the correct amount of SDLT.

The review concluded that as there was an additional dwelling on the grounds, the SDLT liability had been incorrectly assessed on purchase, resulting in an overpayment of £10,000

A report detailing the findings was submitted to HMRC, along with a request for a refund. Upon reviewing the findings, HMRC swiftly sent a cheque in the post confirming the original calculations that had been used were incorrect!



## WHAT SERVICES ARE OFFERED?

### 1. Advice on live transactions

For current, live property purchases, our Specialist Partner can analyse your transaction prior to exchange of contracts, reviewing all elements to ensure you pay the correct rate of SDLT.

### 2. Forensic review of completed property transactions.

If you have already exchanged/completed on your purchase, our Specialist Partner can review property transactions going back up to four years. If the forensic review finds that SDLT was calculated incorrectly, they can write to HMRC on your behalf to request a refund directly.

### 3. Restructuring of property portfolios

Accurately assessing your potential tax liabilities when looking to re-structure your property portfolio to maximise profit can be difficult. Our service helps you to review your property portfolio and provides advice on how best to undertake any such restructure, to achieve maximum tax efficiency.

# WHAT ELSE CAN WE OFFER?

## PROPERTY INCORPORATION

Property Incorporation is the process of transferring interest in a property from a single name or partnership into a limited company.

By assessing your property portfolio, we can make sure that you have them structured correctly. Any recommended restructuring can result in significant tax savings.

## GROUP RELIEF AND up to 37 MORE!

Our service can help you to organize your property SPVs into a Group to enable the tax efficient use of capital around all your companies. Our specialist tax consultants can also advise when you make additional purchases and check whether you are eligible for the 37 other reliefs that Traders, Housing Associations and Local Authorities often don't realise the purchasers qualify for.

## WEALTH PROTECTION AND SUCCESSION PLANNING

*"Yesterday is Gone, Tomorrow is unknown all we have is today."*

Planning for the future has never been more uncertain but by acting now you can preserve your family wealth and provide a secure future for yourself and loved ones. Talk to a Soteria Consultant today.

# MULTIPLE SOLUTIONS IN THE SANCTUARY OF SOTERIA



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Soteria Trusts are operated by Business Class Group. In Greek mythology Soteria was the goddess of safety and security and we believe that these are two essential elements in the structuring of your Trust account.