

## Stamp Duty Land Tax

### Frequently Asked Questions

#### What is Stamp Duty?

Officially called Stamp Duty Land Tax (SDLT), as the name suggests it's a tax on the purchase of land or property in England, Wales and Northern Ireland. More specifically, SDLT is due on:

- The purchase of a freehold property
- The purchase of a new or leasehold property
- The purchase of a property through a shared ownership scheme
- Land or property which is transferred in exchange for payment
- The threshold for owing SDLT starts at £125,000 for residential properties and £150,000 for commercial properties
- Since 1 April 2016 there has been a 3% surcharge on the purchase of second and subsequent residential properties applicable to purchases costing more than £40,000.

A similar tax is in place in Scotland called Land and Buildings Transaction Tax.

SDLT should not be confused with:

- Stamp Duty on the purchase of shares (using a stock transfer form) due at 0.5% (if the value is over £1,000)
- Stamp Duty Reserve Tax on the electronic purchase of shares – usually due at 0.5% but can be up to 1.5% for transfers into a depositary receipt scheme or a clearance service other than CREST

#### How much SDLT can I expect to pay?

There are different scales of SDLT for residential and for non-residential property. SDLT is calculated on the following progressive sliding scales:

Residential Properties		Non-residential Properties *	
Property price	SDLT rate	Property price	SDLT rate
Up to £125,000	0%	Up to £150,000	0%
£125,000.01 - £250,000	2%	£150,000.01 - £250,000	2%
£250,000.01 - £925,000	5%	£250,000 +	5%
£925,000.01 - £1,500,000	10%		
£1,500,000.01 +	12%		

\* SDLT on non-residential property leases is calculated on both the price paid for the lease and on the ground rent payable throughout the term of the lease. Professional advice will need to be sought in order to assess the SDLT payable in such circumstances.

#### Example 1:

*On a residential property priced at £200,000, SDLT would be payable on:*

*0% up to £125,000*

*2% of £75,000 (the amount above £125,000) = £1,500*

***Total SDLT payable: £1,500***

#### Example 2:

*On a residential property property priced at £535,000, SDLT would be payable on:*

*0% up to £125,000*

*2% of £125,000 (the amount between £125,00 - £250,000) = £2,500*

*5% of £285,000 (the amount above £250,001) = £14,250*

***Total SDLT payable: £16,750***

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Work out how much you will pay using our [Residential Stamp Duty Calculator](#) or our [Non-Residential Property Calculator](#).

### What counts as a non-residential property?

Non-residential property includes:

- commercial property, e.g. shops or offices
- agricultural land
- forests
- any other land or property which is not used as a residence
- 6 or more residential properties bought in a single transaction
- “mixed use” property

A “mixed use” property is one that has both residential and non-residential elements, e.g. a flat connected to a shop, doctor’s surgery or office.

### When does the 3% surcharge become due?

A surcharge of 3% of the total purchase price will apply on purchases of additional residential properties, such as buy to let properties and second homes. The surcharge will be applied even if you own just a share in another property so long as that share is worth more than £40,000.

The surcharge applies also to any purchase of buy to let properties by limited companies.

Taking the same examples again, see how much more is due when the 3% surcharge is applied:

#### Example 1:

On a buy to let property priced at £200,000, SDLT would be payable on:

0% up to £125,000

2% of £75,000 (the amount above £125,000) = £1,500

3% surcharge on £200,000 = £6,000

**Total SDLT payable: £7,500**

#### Example 2:

On a buy to let property priced at £535,000, SDLT would be payable on:

0% up to £125,000

2% of £125,000 (the amount between £125,000 - £250,000) = £2,500

5% of £285,000 (the amount above £250,001) = £14,250

3% surcharge on £535,000 = £16,050

**Total SDLT payable: £32,800**

Work out how much you will pay using our [Residential Stamp Duty Calculator](#).

### Are there any exemptions from the 3% surcharge on additional residential property?

Certain cases are, in the main, exempt from the higher 3% levy including.

- Timeshares
- If you inherit a property  
*Although inherited property will be relevant when determining if a purchaser is buying an additional residential property or not*
- Caravans
- Mobile homes
- Houseboats
- Transactions under £40,000
- Non-residential property

### Is the first dwelling purchased by a Ltd Company exempt from the 3% surcharge?

No – all purchases of residential property within a limited company are subject to the surcharge.

### I own a rental property; will I have to pay the 3% surcharge when I buy my first home?

Yes – it is the number of dwellings owned by you, not the use to which they are put that determines whether the surcharge is payable.

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**I want to buy a mixed-use property; will I have to pay residential or non-residential SDLT rates?**

Mixed use properties are subject to non-residential rates of SDLT and there is no SDLT surcharge.

Also called semi-commercial property, mixed use properties have both a residential and a commercial component e.g. a shop with a flat above, owned on the same freehold, or a guest house with separate owner accommodation. *If you already own a mixed use property that includes a dwelling within it, then it is possible that a subsequent purchase of a residential property will be deemed to be the purchase of a second dwelling and thus attract the 3% SDLT surcharge. If you are in this situation you are strongly advised to seek specialist advice on your particular circumstances.*

**My partner owns a property that we intend to rent out once we have bought our new home together. Will we pay the 3% surcharge and, if so on what property?**

Yes, the surcharge will be due on the new purchase as your partner will have an interest in more than one dwelling.

**I am buying a new home but I want to keep hold of my old home and turn it into a buy to let, will I have to pay the SDLT surcharge on the new purchase?**

Yes.

**I am buying a new home and I plan to sell my old one; will I have to pay the SDLT surcharge on the new purchase?**

If you sell your old home and buy a new one at the same time, you will not have to pay a surcharge.

If you do not sell your existing home at the same time as you buy a new one, in effect you will own two properties which means that you will be liable for SDLT and the surcharge on the new property. However, if you go on to sell your old home within 36 months of buying the new one, you can apply to HMRC to have the surcharge refunded. In order to benefit from this, the home being sold will need to have been your main or only home at some point during the 36 months leading up to buying the new one.

**I am about to inherit a house; will I have to pay SDLT on it?**

No.

However, if you then go on to purchase another residential property, you will have to pay SDLT and the surcharge on the purchase.

**My wife owns a property and now I want to buy (solely) a new home for us to live in. Will I have to pay the surcharge?**

Yes. Married couples and civil partners are treated as one entity so you will be obliged to pay the relevant rate of SDLT on the purchase plus a 3% surcharge on the total purchase price. Co-habiting couples are not caught by this and so long as there is no legal relationship (marriage or civil partnership) between you at the date of completion of the purchase then no surcharge is due.

**I own my own home and now want to help my son buy his home. In order to get the required level of mortgage that he needs me to be on the mortgage as well. Will this trigger the 3% SDLT surcharge on my son's home?**

Being a party to the mortgage will not of itself trigger the SDLT surcharge. However, some lenders will require that you are also on the deeds of your son's home - and this would trigger the surcharge. Accordingly before committing to the transaction you should ensure that you are able to meet the lender's requirements without triggering the SDLT surcharge.

**I own a property overseas and now want to buy a house in the UK; will I have to pay the 3% surcharge?**

Yes, even if you own the other property in Scotland.

**I am buying a warehouse and plan to convert it into residential apartments; will I have to pay the 3% surcharge?**

No - it is the use at the time of purchase that determines whether the property is a "dwelling" that is subject to the surcharge. This would apply even if there is planning permission for a change of use to residential. If however work had already commenced on conversion to residential use then it is likely that the residential rates of SDLT - including the 3% surcharge - would apply.

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### **I am buying a residential building and intend to convert it to office use; will I pay the 3% surcharge?**

Yes, because the property you intend to buy is a dwelling (“is used or suitable for use as a single dwelling” is the key legal criterion) at the time of purchase. However, if you negotiate a provision in the contract (for the vendor) to demolish the house prior to completion you could legitimately avoid the surcharge. Use at the effective date of the transaction overrides any past or intended future uses for this purpose. If a building is not in use at the effective date but its last use was as a dwelling, it will be taken to be ‘suitable for use as a dwelling’ and treated as residential property, unless evidence is produced to the contrary.

### **How much SDLT can I expect to pay on land purchase?**

Undeveloped land is essentially non-residential but may be residential property if, at the effective date, a residential building is being built on it. Where, at the effective date, an existing building is being adapted or marketed for, or restored to, domestic use, it is treated as residential property.

### **How do I pay SDLT?**

Normally your solicitor, agent or conveyancer will file an SDLT return with HMRC on your behalf and pay the duty for you on the day of completion, then add the amount to their fees.

If you intend to file the return yourself you must complete a [paper SDLT1 return](#) – it can’t be done online.

### **What is the deadline for paying SDLT?**

You must make your payment within 30 days of completion. Failure to pay within the required timescale may result in a penalty.

### [Residential Stamp Duty Calculator](#)

### [Non-residential Stamp Duty Calculator](#)

The information provided should be used as a guide only. As ever we advise all clients to take their own tax advice as we are not tax experts and do not know the detail of clients’ tax affairs.

### **When is the SDLT flat rate of 15% applied?**

SDLT is charged at 15% on the entire value of residential properties costing more than £500,000 bought by certain corporate bodies - or ‘non-natural persons’. These include:

- companies
- partnerships including companies
- collective investment schemes

The 15% rate doesn’t apply to property bought by a company that is acting as a trustee of a settlement or bought by a company to be used for:

- a property rental business (i.e. buy to let)
- property developers and trader
- property made available to the public
- financial institutions acquiring property in the course of lending
- property occupied by employees
- farmhouses

The standard residential rate of SDLT applies in these cases.

Essentially this flat rate of SDLT is designed to tax properties that are purchased by foreign nationals within a UK limited company – and which would normally escape any SDLT on re-sale through the simple expedient of selling shares in the company (attracting just 0.5% Stamp Duty). The impact of this “penal” rate of SDLT has diminished as the top rate of SDLT on second homes has now risen so that this is also 15%.

### **What is ATED?**

ATED (“Annual Tax on Enveloped Dwellings”) is an annual tax payable mainly by companies that own UK residential property valued at more than £500,000. The tax is calculated in bands and starts at £3,500 / year for properties valued at between £500,000.01 and £1,000,000.

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Some properties aren't classed as dwellings. These include:

- hotels
- guest houses
- boarding school accommodation
- hospitals
- student halls of residence
- military accommodation
- care homes
- prisons

You may be able to claim relief for your property if it is:

- let to a third party on a commercial basis and isn't, at any time, occupied (or available for occupation) by anyone connected with the owner – i.e. buy to let is not liable to this tax although annual ATED returns may be required
- open to the public for at least 28 days a year
- being developed for resale by a property developer
- owned by a property trader as the stock of the business for the sole purpose of resale
- repossessed by a financial institution as a result of its business of lending money
- being used by a trading business to provide living accommodation to certain qualifying employees
- a farmhouse occupied by a farm worker or a former long-serving farm worker
- owned by a registered provider of social housing

As with the SDLT flat rate of 15% this is designed to ensure that residential properties bought by foreign nationals cannot avoid all UK taxation (in particular taxes that would otherwise be due on re-sale such as CGT and SDLT).

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