

STAMP DUTY IN CONVEYANCING

WHY “STAMP DUTY LAND TAX”?

Stamp duty land tax is a tax, normally payable by purchasers or lessees of property. The tax is payable when entering in to a contract for the purchase or leasing of land. Usually it is paid on the Transfer or Lease, for the requirement that the tax be paid on the Contract may be waived, so allowing payment after completion of the transaction.

PURCHASES

Stamp duty land tax on the purchase of Freehold or Leasehold property is at the following rates:

If the price does not exceed £175,000: Nil-this only applies until 2nd September 2009 at which point the threshold reverts back to the previous limit of 125,000.

Over that, but up to £250,000 : 1%

Over that, but up to £500,000 : 3%

prices over £500,000 : 4%

The temporary threshold of £175,000 for residential property transactions does not apply to:

- the assignment of an existing lease which has less than 21 years to run

- the grant of a lease for a term of less than 21 years

In these cases the normal thresholds of £125,000 (£150,000 if the property is situated in a disadvantaged area) apply.

Duty is paid on the whole price, not just on the amount in excess of the bands shown, so try not to pay only a small amount above the relevant figure. Prices are rounded up to the nearest £100, and the duty payable is rounded up to the nearest £5.

Residential Properties bought in areas designated by the government as ‘disadvantaged’ have historically qualified for Disadvantaged Area Relief (whereby the SDLT threshold was higher than for other residential properties). This relief will not apply for property purchases between 3 September 2008 and 2 September 2009 inclusive. Instead the Stamp duty land tax threshold will be the same as for all other property as shown above. The new threshold is higher than the previous Disadvantage Area Relief threshold of £150,000.

SUB-PURCHASES

It sometimes happens that a buyer of property promptly re-sells that

property. Provided the original seller transfers the property direct to the sub-purchaser only one payment of Stamp duty land tax is due. The duty will be paid by the sub-purchaser. The intermediate buyer will not be liable to any duty.

EXCHANGES

On an exchange of properties Stamp duty land tax is paid on the value of each property in the usual way i.e. as if they were separate transactions, unless one party is a building company where exceptions may apply.

NEW LEASES

On entering into a new lease Stamp duty land tax is paid both on any premium, at the same rate as on a purchase of property, and on the rent. The rate payable on the rent varies depending on the length of the term granted and the average annual rent payable during that term. The stamp duty land tax is calculated separately and the added together.

VAT

Prices and rents must be calculated inclusive of VAT, even though this leads to a tax on a tax. For example: if the price is £125,000 no Stamp duty land tax is payable; when VAT is payable (e.g. on commercial property) that

price rises to £141,000 on which £1410 is payable.

CHATTELS

If included in the price of the property there are chattels which can pass by delivery, i.e. not fixtures and fittings which form part of the property, you are entitled to pay a separate price for those chattels, and that does not attract Stamp duty land tax. By so doing you may well be able to bring the price of the property down into a lower band, or avoid Stamp duty land tax altogether if the price is thereby reduced to no more than £175,000. Please do not pay more for those chattels than they are worth as that may lead to a prosecution for cheating the Public Revenue.

BREAK-DOWNS

Each document transferring property worth under £500,000 has to include a certificate to the effect that the document does not form part of a larger transaction or of a series of transactions. This prevents the avoidance of Stamp duty land tax by artificially breaking a transaction down into parts, each liable to a lesser or no payment.

REPORTS

On completing every purchase, or lease of 7 years or more, or purchase of such a lease, we must make a report to the Inland Revenue, whether or not any Stamp duty land tax is payable. That report goes to the District Valuer, an Officer of the Inland Revenue, who keeps detailed records of all properties in his area. Naturally, he will investigate if he thinks something is "not quite right" and may well call for the contract and other papers relating to that transaction.

PENALTIES

Technically, the Stamp duty land tax is payable on the contract and before entering into the transfer document or lease. It is usually paid after completion because there is no penalty if then paid within 30 days. If paid later than that there is a scale of penalties imposed, and they can be very heavy.

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