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## STAMP DUTY IN CONVEYANCING

### WHY "STAMP DUTY"?

Stamp Duty is a tax, normally payable by purchasers or lessees of property. Payment is evidenced by a stamp impressed on a document: hence the name "Stamp Duty".

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 on the purchase of Freehold or Leasehold property is at the following rates:

If the price does not exceed £120,000: Nil  
over that, but up to £250,000 : 1%

over that, but up to £500,000 : 3%

prices over £500,000 : 4%  
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.

### 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 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 is paid on the value of both properties unless the transaction is carefully structured so that the less expensive property is taken in part payment for the more expensive one. Then Duty is paid in full by the buyer of the more expensive property, and at the fixed rate of £5 by the buyer of the less expensive property.

### NEW LEASES

On entering into a new lease Stamp Duty 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. That Duty is:

1% of the rent if the term is not over 7 years or is indefinite; 2% if over 7 years but not more than 35 years; 12% if over 35 years but no more than 100 years; and 24% if over 100 years but not indefinite.

Fixed Duty of £5 is payable on the counterpart Lease signed by the tenant.

### 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 £120,000 no Stamp Duty 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. By so doing you may well be able to bring the price of the property down into a lower band, or avoid Stamp Duty altogether if

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the price is thereby reduced to no more than £120,000.

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 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 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 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 except where the lease is completed more than six months after the contract. If paid later than that there is a scale of penalties imposed, and they can be very heavy.

**SANCTIONS**

As a further inducement to payment, HM Land Registry will not register your title to the property you have purchased or leased unless the document is properly stamped. Similarly, the Courts should not accept documents in evidence unless properly stamped.

**EXEMPTIONS**

A document transferring property other than on a purchase is usually liable to a fixed Duty of £5. However, there are many exemptions covering such transfers as those between trustees of a trust, to beneficiaries of an estate, in consideration of a marriage, in connection with a divorce, on properties under £150,000

in deprived areas designated by the Inland Revenue, or as a gift or other voluntary transfer for no consideration.

No Stamp Duty is payable by a Charity, whatever the purchase price.

Richard Wilson & Co  
Solicitors

Cymbal House  
High Street  
Goring on Thames  
RG8 9AU

Tel: 01491 879100  
Fax: 01491 874187

web: [www.richard-wilson.co.uk](http://www.richard-wilson.co.uk)