

## STAMP DUTY LAND TAX QUESTIONNAIRE

This form is designed to provide a simple explanation of the tax for property in England & Wales and the personal obligation that it creates for you. The buyer is now legally responsible for calculating the tax due, completing the tax return and submitting it to the Inland Revenue together with the appropriate duty.

Stamp Duty Land Tax (SDLT) is a complicated tax and this form describes only those aspects that are relevant in order to complete a residential transaction and to appoint your lawyers as your tax agent. Please read this form carefully and complete one of the boxes below as this will enable us to help you comply with the new regulations.

N.B. It is important that you deal with this form immediately as, if not, it may delay your transaction. In completing this form, you are instructing us to carry out this work on your behalf.

**STAMP DUTY LAND TAX** The government has abolished stamp duty on transfer deeds and leases and replaced it with a wide ranging tax called Stamp Duty Land Tax ("SDLT") which applies to the majority of property transactions. This is an additional tax bringing stamp duty in line with income tax self assessment. The law requires that details of property transactions are reported to the Revenue on a tax return. The information must be provided every time a property changes ownership.

The present rates of SDLT correspond to those which applied under the previous rules and are as follows:-

Up to £125,000 rate)	(nil	£125,001	to	£250,000	£250,001	to	£500,000	Over	£500,000
				1			3		4
		%		%			%		

If the purchase price exceeds a particular rate band then the duty payable is at the higher rate on the whole purchase price.

The new tax regime did not change the law in respect of dividing the purchase price between the property and the fittings sold with it. The price disclosed to the revenue on the return and upon which tax is calculated is for the property only. The law states items attached to the property, for example, fitted wardrobes, kitchen units or electric sockets are 'fixtures'. These are part of the property, their value being included in the purchase price. Items on or in the property that are moveable, for example, curtains, rugs or freestanding sheds are 'fittings' and not taxed.

If fittings are included, you can request that the purchase price is apportioned, since no tax is payable for fittings and you may avoid some tax particularly if the price of the fittings takes the purchase price to a lower tax band.

The return does not require information in respect of the allowance for fittings but only the actual purchase price. If any part of the price paid allowed for fittings, then this will only become evident upon an enquiry by the revenue.

If any part of the purchase price is apportioned for fittings, this must be a sum that is reasonable. It must be the fittings' second hand value. The larger the sum allowed to fittings, the wiser it is to have appropriate evidence, for example, receipts for nearly new items or a recent valuation supporting the attributed value. The evidence must be copied to your lawyers for use in the event of any revenue enquiry. If an allowance for fittings has the effect of reducing the price into a lower tax band, its accuracy must be considered carefully. An allowance for fittings that is unreasonable and designed to evade tax is fraudulent. Any return showing a price at or just below a tax band will be more likely to be the subject of an enquiry by the revenue than a transaction above the tax band where higher tax has been paid. Therefore, you will need to justify any allowance.

If a new lease is purchased, tax may be payable both on the ground rent and the purchase price. The duty is assessed using the net present value of the total rent payable over the term of the lease. This calculation is complex but for residential leases the majority will be below the threshold.

In respect of mixed use properties – partly residential, partly non-residential and for homes in disadvantaged areas, the same tax rates apply except that the nil band extends to £150,000.

**THE RETURN** When a property transaction has to be reported, the purchaser is required to complete and sign IN BLACK INK, a Land Transaction Return (The Return). The buyer must also pay any SDLT. This return has 70 questions and the guidance notes to assist its completion runs to 37 pages. When completed, you are responsible for its accuracy, so check it carefully before signing.

The Return must be received by the revenue within a strict period of 30 days from the date of completion and if filed late, whether or not any tax is payable, fines are imposed on you. If it is submitted incomplete, you will need to supply the missing detail. Similarly, if you have underpaid tax, then any further payment is due immediately.

**WHO IS RESPONSIBLE TO PAY SDLT** The law makes payment of SDLT the duty of named individuals, similar to other taxes such as income tax. The liability for SDLT is the buyers. You are therefore liable to pay. The liability is 'Joint and Several', meaning that all buyers have a personal liability to pay all the tax. One buyer can therefore be responsible for the whole of the tax due.

**THE CERTIFICATE** When a completed return has been processed or the revenue is satisfied that any outstanding questions have been answered, it will issue a 'tax certificate'. This certificate will be issued to the tax agent.

The certificate confirms receipt of the return and that tax has been paid. The revenue adopts a 'process now check later' policy so the issue of a certificate does not accept that the appropriate tax has been paid. Any obvious errors

in the return or tax paid is likely to be questioned on receipt by the revenue, however, the return may not be checked thoroughly until some time after completion of the transaction.

The certificate is important as the Land Registry cannot accept an application for registration of your title without inclusion of the certificate. Your legal title to the property is evidenced only when the Land Registry registers the transaction. Your lawyer usually acts for any lender funding your transaction and will have a dual duty both acting for you registering your purchase and your lender in registering the mortgage. If anything delays the receipt of the certificate, this will result in reporting the problem to the lender.

The Return asks if the certificate is to be issued directly to your agent. If your lawyers are acting for your lender, they will require the certificate to be issued to them.

Some transactions do not require to be reported to the revenue. This is rare and unlikely to apply to your matter. It usually applies when property is acquired without payment or is transferred as part of a divorce settlement or under the terms of a Will. The buyer must complete and sign a different return, confirming that no tax is payable. If applicable, the required form will be issued by your lawyer. The completed form is sent direct to the Land Registry and therefore penalties do not apply. The Land Registry will not register your transaction without the certificate. The information contained in the certificate will still be checked by the revenue. There are severe penalties if an incorrect return has been filed.

**THE TAX AGENT** As a tax payer you can appoint an agent to complete your return for you. If required your agent can deal with any correspondence from the revenue including any enquiry. The Return informs the revenue if you are using an agent authorised to handle correspondence on your behalf. This limited function is the extent of the agent's duty to you. The agent will not provide you with tax advice or any taxation service unless specifically agreed in writing. The agent can complete your return, calculate and pay the tax but you are responsible for its accuracy and for paying the correct amount of tax. The agent is not responsible for inaccurate information given in your return and signed by you.

You have a choice of advisors who you can appoint as your agent, but it is unlikely anyone other than your lawyers will have the experience and information required to complete the return or provide the documents if there is an enquiry. If your lawyers decline to act as your agent, they will make this clear to you. If you wish to deal with the return yourself, you must comply with the timescales given by your lawyers. If there is a mortgage then your lawyers will need to submit the return and pay the tax. The certificate will be returned directly to them. It is normal for buyers to appoint their lawyers to act as their agents. If your lawyer accepts your instructions to act as your agent, then their charges will be in addition to any other fees. Your lawyers will confirm the administration fee for acting as your agent at the start of the transaction.

The majority of transactions will not be subject to a revenue enquiry. However, they can happen up to nine months after completion of your transaction. It is impossible to predict transactions that will be investigated by the Revenue, therefore your lawyers have not made provision in their fees for work they might have to do as your agent in any future enquiry. If your transaction is selected for enquiry and if your lawyers act as your agent, then they will advise you of the charge for additional work the enquiry creates. This is likely to be by an hourly rate for the time taken. Since each enquiry is different, it will not be possible to assess the time required. The fee will be agreed with you before any work relating to the enquiry commences.

**SIGNATURE OF RETURN** Only the buyers can sign the return or authorise their agent to sign the return on their behalf. An exception is someone having a valid power of attorney. If the form is sent to you, you must sign and return it to your lawyers without delay and in accordance with their requirements. Your lawyer will delay exchange of contracts until they hold your properly signed form.

**THE PENALTIES** The revenue may apply penalties against a tax payer in the following circumstances:-

1. For late submission of the return –

If the return is received by the revenue more than 30 days after the completion date, then an automatic penalty of £100 will apply. This applies whether or not tax is due. If the return is more than 3 months late, there is an additional penalty of £200. In addition, interest can be applied at a daily rate. If the return is more than a year late, further penalties may be charged up to the amount of the tax due.

2. For providing false or incorrect information on a return -

This will lead to penalties and liability for more tax if underpaid. It is also a criminal offence leading to prosecution, fines and/or imprisonment.

3. Your tax records -

The law requires that SDLT records are kept for seven years. Failure to keep such copies can lead to penalties of up to £3,000. Your lawyers, if requested, will give you a copy of your signed return. If you

request copy documents, a copy charge may be made and if your file is in storage, then a further charge may apply.

**INVESTIGATION** The Inland Revenue may ask for verification on a return at any time up to 9 months following the date of legal completion. This is called an 'enquiry'. A proportion of transactions are randomly selected by the revenue for investigation.

**MATTERS WHICH YOU ARE TO DO**

(i) Provide us, as your agent with the relevant information to complete the return. (ii) Sign the return and send it to us without delay (iii) Pay our professional fees for this work as quoted.

*Exchange of contracts will not take place until you have authorised us to fill out this form as your agent, completing all the information we so require you to and returned to us. A delay in returning this document may delay the transaction.*

**YOUR DECISION**

- a. We confirm that we have read carefully the above and fully understand the information provided.
- b. We have received two copies of this form and have retained one for our future reference
- c. We instruct you to proceed as follows (please tick one of the boxes below)

We authorise you to act as our agent and complete the appropriate return on our behalf, including inserting the relevant dates, submitting it to the revenue and paying any tax due in respect of the transaction of the property mentioned below.

PROPERTY:

.....  
....

DATE:	CLIENT'S FULL NAMES: (in capitals please)	NATIONAL INSURANCE NO:	CLIENT'S SIGNATURE:
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....