



BUDGET 2016 UPDATE

KEY CHANGES TO THE STAMP DUTY LAND TAX ('SDLT') REGIME

Since the Budget Announcement on 16 March 2016, new SDLT measures are in place:

1. The treatment of non-residential SDLT rates and bands, effective from midnight on **16 March 2016**.
2. **As from 1 April 2016**, an additional 3% rate for the purchase of additional residential properties has been introduced.

WHAT IS SDLT?

SDLT is a tax that is due and payable when purchasing a property in England and Wales. The amount to be paid depends on the acquisition price of the property.

RESIDENTIAL PROPERTY UPDATE

FORMER SDLT RATES (until 31 March 2016)

The Stamp Duty Land Tax (SDLT) rates and thresholds for **residential** properties were as follows:-

TABLE 1

Purchase Price	SDLT (in %)
Up to £125,000	0%
From £125,001 to £250,000	2%
From £250,001 to £925,000	5%
From £925,001 to £1,500,000	10%
Above £1,500,000	12%
Over £500,000 (purchase by a "non-natural" person)	15%

ADDITIONAL 3% SDLT RATE ON PURCHASES OF RESIDENTIAL PROPERTIES

- **As from 1 April 2016**, higher rates of SDLT are payable on purchases of additional **residential properties** purchased in England, Wales and Northern Ireland – including **second homes** and **buy to let properties**.
- The higher rates of SDLT are 3% above the former rates (listed above) and are payable on the total purchase price paid for the property.
- The higher rate does not apply to purchases which are under £40,000.

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As from 1 April 2016, the SDLT rates and thresholds for the purchase of additional residential properties are as follows:

TABLE 2

Purchase Price	SDLT (in %)
Transaction below £40,000	0%
Up to £125,000	3%
From £125,001 to £250,000	5%
From £250,001 to £925,000	8%
From £925,001 to £1,500,000	13%
Above £1,500,000	15%
Over £500,000 (purchase by a "non-natural" person)	15%

WHAT IF I AM REPLACING MY MAIN RESIDENCE?

- If you own two or more **residential properties** (anywhere in the world) on the date which you purchase the 'additional' property, the applicability of the additional rate will depend on whether you are **replacing your main residence**.
- Purchasers will potentially have up to **36 months to claim a refund** of the additional 3% SDLT paid if they are **replacing their main residence**. You can claim a refund of the higher rate if you buy a new main residence before disposing of your previous main residence, provided that your previous main residence is sold within the 36 month period of the acquisition date.
- If you already own another property (for example, an investment property) and the purchase of the new property is a **replacement of your main residence**, and you had sold your previous main residence within 36 months before the transaction, you will not pay the additional rate of SDLT.
- It will be regarded that you are **not** replacing your main residence if you have not sold your previous main residence within the last 36 months and you will pay the higher rate of tax.
- If the acquisition of the additional residential property after 1 April 2016 is not your new main residence (such as an investment property), you will pay the additional 3% SDLT.
- The concept of 'main residence' will be based on fact (where you live) rather than subject to election – which differs from other taxes, such as Capital Gains Tax.

JOINTLY OWNED PROPERTY

- If any co-owner already owns a residential property (wherever situated - anywhere in the world), the higher rate of SDLT will be paid on the purchase of the property, even if this is a first purchase for the other co-owner(s).

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CHILD & CHILD

- Spouses and civil partners are treated as one unit and they are only entitled to one main residence between them. If, however, a married couple are separated in circumstances that are likely to be permanent, they will be exempt from this tax treatment and the rules will be brought in line with the Capital Gains Tax treatment.
- Examples:
 - The higher rate of SDLT will apply if a parent (who already owns a residential property, anywhere in the world) is purchasing a property for their child, or purchases a property jointly with their child.
 - If one spouse already owns a residential property (wherever situated) and the other spouse is purchasing their first residential property in their sole name, the higher rate of SDLT will nevertheless apply.

WHAT IF CONTRACTS WERE EXCHANGED BEFORE 1 APRIL 2016?

- There are special arrangements for purchases with delayed completions.
- The additional rate does not apply to purchases where:
 - **Contracts were exchanged on or before 25 November 2015**
 - **But not completed until on or after 1 April 2016**
 - Provided that the **contract has not been varied** on or after 25 November 2015.

COMPANIES AND OTHER NON-INDIVIDUALS

- A Company or non-natural person (NNP) purchasing a property will be subject to the higher rates of SDLT if one or more of the following conditions is met in respect of the property:
 - The property being purchased is worth £40,000 or more;
 - The property is subject to a lease which has less than 21 years from the date of purchase.

If neither of the above conditions are met, the higher rates of SDLT will not apply.

- Furthermore, if the property being purchased by the Company or NNP is worth over £500,000, and is therefore subject to the 15% SDLT charge (as per Table 2), the additional 3% charge will not apply, regardless of whether the purchase is the first acquisition or not. To clarify, in such circumstances, the maximum SDLT liability for the Company or NNP will be 15%, and not 18%.

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- Certain reliefs can be obtained to reduce the rate at which SDLT will be payable. If HMRC accept the relief which the Company or NNP has applied for, the SDLT rates applicable will be the rates listed in Table 2; this being the equivalent to what an individual would be paying for a second property.
- If the Company or NNP acquires an additional residential property for less than £500,000, the SDLT rates stated in Table 2 will apply.

TRUSTS

- If a Trust is purchasing the residential property, then the rate of SDLT payable depends on the nature of the trust.
- For the purposes of SDLT, a distinction is made between bare trusts and discretionary trusts:

Bare Trusts

- Where beneficiaries are absolutely entitled to the trust assets and not the Trustee;
 - This includes assets held as nominee, for example, on behalf of a minor (if the individual is under 18, for the purposes of the 3% SDLT rules, the purchaser will not be that individual but instead his parents will be treated as the purchasers) or other person under a disability; and
 - Settlements (any trust that is not a bare trust).
- When calculating the SDLT for a residential property purchased by a bare trust, the Trustees would need to consider the status of the beneficiary.
 - If the beneficiary already owns a property, the higher rates would be due.
 - The same applies for interest in possession and life-interest trusts.
 - A property held in an interest in possession trust will be treated as owned by the life tenant, so if that life tenant owns another property, the Trustees will pay the 3% surcharge. If that life tenant proceeds to purchase another property personally, he/she will pay the surcharge as he/she already 'owns' the trust property.

Discretionary Trusts

If it is a discretionary trust that acquires the residential property, the higher rates of SDLT would always be charged.

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COMMERCIAL PROPERTY UPDATE

SDLT : NON-RESIDENTIAL RATES AND BANDS

- Formerly, the SDLT rates on freehold and lease premium transactions were calculated on a 'slab' system, where one rate of SDLT is due on the entire transaction value, with rates between 1% to 4%.
- For purchases of non-residential property **completing on or after 17 March 2016** SDLT will be calculated on a 'slice' system and payable on the portion of the transaction value which falls within each tax band.
- The relevant SDLT rate for freehold and leasehold transactions will be payable on the portion of the consideration which falls within each band as follows:

NON-RESIDENTIAL RATES FROM 17 MARCH 2016

Purchase Price	SDLT (in %)
£0 to £150,000	0%
£150,001 and up to £250,000	2%
Above £250,000	5%

- A new **2% rate** has also been introduced for leasehold rent transactions where the net present value exceeds £5,000,000.
- Leasehold rent transactions up to £5,000,000 remain unaffected.

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BUDGET 2016 UPDATE – OTHER TAX ANNOUNCEMENTS

- The Welsh Assembly Government is planning to propose a replacement of **SDLT in Wales with a Land Transaction Tax**. If this becomes law, it could come into effect in April 2018.
- **Corporation Tax**: a new reduced rate of Corporate Tax will be introduced in 2020 – with a rate as low as 17%.
- **Capital Gains Tax ('CGT')** changes from 6 April 2016:
 - Higher rate of CGT decreasing from 28% to 20%
 - Basic rate of CGT decreasing from 18% to 10%
 - The former 28% and 18% rates will continue to apply for chargeable gains made on residential property disposals.
- **Income Tax personal allowance** increases:
 - From 6 April 2016: £11,000
 - From 6 April 2017: £11,500
- **Income Tax higher rate tax band** increases:
 - From 6 April 2016: £43,000
 - From 6 April 2017: £45,000
- **Reliefs for Corporate Entities**
 - **Corporate entities applying for a relief on the Annual Tax on Enveloped Dwellings ('ATED') and 15% SDLT rate** benefit from 1 April 2016 from an extended set of reliefs available to them, which include the following additional reliefs:
 - Equity relief schemes (home reversion plans);
 - Property development activities; and
 - Properties occupied by employees.
- **ATED:**
 - From **1 April 2016**, residential property purchased by a 'non-natural person' valued over £500,000 are subject to ATED, with the annual tax charge starting from £3500.
- **Non-UK domiciled individuals:**
 - From April 2017, non-UK domiciled individuals will be deemed to have become UK domiciled for all tax purposes after they have been UK resident for 15 of the past 20 tax years.
 - Individuals who were born in the UK and who have a UK domicile of origin will revert to their UK domiciled status for tax purposes whilst resident in the UK. This means that as a UK domiciled individual, they will not be able to claim the remittance basis and will pay tax on their worldwide assets.
 - Inheritance Tax will also be charged on all UK residential properties indirectly owned through an offshore structure from 6 April 2017.

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