



Hidden SDLT increase

Headline announcements stated that a new 3% surcharge would be applied to additional homes. But what was not immediately obvious is that the additional 3% rate will apply to the slice of value lying below £125,000, which we understand includes the first £40,000 if the purchase is for more than £40,000.

| Band | Existing Rate | New Rate |
|--------------|---------------|---|
| £0-£125k | 0% | 3% <small>(only applies to purchases over £40,000)</small> |
| £125k- £250k | 2% | 5% |
| £250k- £925k | 5% | 8% |
| £925k- £1.5m | 10% | 13% |
| £1.5m + | 12% | 15% |

The higher rates will not apply to;

- Purchases below £40,000.00
- Purchases of caravans
- Purchases of mobile homes
- Purchases of house boats
- Purchases by investors or funds making a significant investment in residential property

For instance, the cost to a buyer of an additional home worth £350,000, which would have been £7,500 will now be £18,000.

| Amount of purchase price | Rates for purchase of first property | Amount of SDLT due (£) | Rates for additional purchases | Amount of SDLT due (£) |
|--------------------------|--------------------------------------|------------------------|--------------------------------|------------------------|
| First £125k | 0% | 0 | 3% | 3,750 |
| Next £125k | 2% | 2,500 | 5% | 6,250 |
| Final £100k | 5% | 5,000 | 8% | 8,000 |
| Total | | 7,500 | | 18,000 |

Mixed use

The attractions of selling a country house with farmland are even more obvious now. A 4% “mixed use” rate on, for instance, any transaction over £500,000 will be mean a significantly lower SDLT bill.

What is an additional property?

The answer to this is unclear. The press releases referred to “buy to let properties” and “second homes” as examples. In view of the move to more general anti-avoidance measures in tax legislation, it would be wise to adopt a common sense approach to these rules. For instance, if a couple already own a house in joint names, buying an additional property in only one name is unlikely to be effective to avoid the surcharge.

The completion deadline

Unlike many SDLT changes, this change does not take immediate effect. If a purchase of an additional property is completed before 1 April 2016, the existing rules will apply. It is likely that there will be a significant increase in activity in second home hotspots in March 2016.

Other transactions excluded from the surcharge

If a contract has been entered into before 26th November 2015, it is expected that the old rules will apply even if completion is after 1st April 2016. However, it seems likely that this benefit will not be passed to certain buyers if their purchase results from a variation of the contract, assignment of rights and sub-sales or which arise from the exercise of certain rights or options. Further details are awaited.

Substantial performance deadlines

Completion is not always the date triggering an SDLT charge. If the contract is “substantially performed” before completion this will trigger the charge at the earlier date. “Substantial performance” occurs when:

- a. the buyer or a person connected with the buyer takes possession of the whole or substantially the whole of the property; or
- b. the whole or a substantial amount of the consideration is paid or provided.

Any contract entered into before 31st March 2016 will avoid the surcharge if substantial performance takes place before 31st March 2016 even if the transfer is dated later.

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