
STAMP DUTY LAND TAX, CAPITAL ALLOWANCES AND TAX ON CAPITAL GAINS: ALTERNATIVE FINANCE INVESTMENT BONDS

Who is likely to be affected?

1. Anyone wishing to obtain finance by issuing Alternative Finance Investment Bonds using land assets as securities under the arrangements for issuing the bonds in the United Kingdom.

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to provide relief from the provisions of stamp duty land tax (SDLT) and the Taxation of Chargeable Gains Act 1992 for persons wishing to raise finance by using land assets in the United Kingdom.
3. Further legislation will also set out the capital allowances consequences of the SDLT and capital gains measures.

Operative date

4. The relief from SDLT and from tax on capital gains is available in respect of land transactions whose effective date for SDLT purposes is on or after the date that Finance Bill 2009 receives Royal Assent. The capital allowances changes apply to the same transactions.

Current law and proposed revisions

5. The current SDLT rules mean it is not currently economically viable to issue land assets as securities in alternative finance arrangements. Land asset based securities will be a key element in structuring alternative finance investment bonds.
6. One of the main barriers to issuing such bonds is the SDLT charges that arise both on the transfer of the land asset to the bond issuer and the eventual return of the asset back to the person seeking to obtain finance. There is also a potential charge to SDLT arising on bond-holders. These charges put such alternative financing structures at an economic disadvantage compared to normal bond issuances.

7. The SDLT relief introduced by this measure will remove the SDLT charge on the transfers of property to and from the bond issuer and ensures that no charge arises on the bond-holders.
8. The effective date of a transaction is normally the date of completion, not the date of exchange of contracts. However, the effective date may be earlier than the date of completion if the contract is substantially performed before then - for example, if the purchaser takes possession or pays the purchase price in advance of completion. Most residential contracts will not be substantially performed in advance of completion.
9. Another barrier to the issue of land asset based securities is that the transfer of the land asset to the bond issuer; the grant of a lease by the bond issuer to the person obtaining the finance; and the eventual return of the land asset, could all give rise to capital gains on which a liability to tax could arise. The new provisions provide relief from such charges, by "ignoring" the various transactions. The effect is that, when the arrangements have run their course and the land asset has been returned to the original owner, that person is treated for the purposes of tax on capital gains as though they had owned the asset throughout the period of the bond.
10. Under current legislation the person obtaining the finance may lose their entitlement to capital allowances whilst the land asset is held by the bond issuer for the purposes of the bond.
11. The new provisions provide that the person obtaining the finance will continue to be entitled to the allowances whilst the land asset is held by the bond issuer for the purposes of the bond.

Further advice

12. If you have any questions about:

- the SDLT relief please contact the Stamp Taxes Helpline on 0845 603 0135;
- the capital gains reliefs please contact Colin Weston on 020 7147 0127 (email: colin.weston1@hmrc.gsi.gov.uk); or
- the capital allowances consequences, please contact Brian Stokes on 020 7147 2546 (email: brian.stokes@hmrc.gsi.gov.uk).

Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk