

Stamp Duty Land Tax in Scotland – A brief guide for practitioners

This guidance is for practitioners acting on behalf of purchasers.

Introduction

This guidance explains how you work out what to pay and the forms that you need to complete. It does not replace either the [guidance notes](#) to completing the land transaction return or the [Stamp Duty Land Tax manual](#).

When is Stamp Duty Land Tax (SDLT) payable?

SDLT applies to most land and property transactions on or after 1 December 2003, involving any estate, interest, right or power over land in the UK.

SDLT applies to

- changes of ownership of land
- grants and assignments of leases, including missives of let
- contracts for land transactions which are substantially performed (need a [hyperlink <<LINK NEEDED>>](#) to 'What is substantial performance?' on page 2) before settlement
- assignments of such contracts
- options and rights of pre-exemption in respect of land transactions.

There are a number of exclusions, such as

- the creation and transfer of security interests
- licences to use or occupy land
- transactions for no chargeable consideration.

What is the rate of SDLT?

Residential

Purchase price	Rate of SDLT
£125,000 or less	0%
£125,001 to £250,000	1%
£250,001 to £500,000	3%
£500,001 or more	4%

Non residential

Purchase price	Rate of SDLT
£150,000 or less	0%
£150,001 to £250,000	1%
£250,001 to £500,000	3%
£500,001 or more	4%

There is a different structure for charging the rent on the grant of a new lease.

When does the tax have to be paid?

The tax must be paid by the filing date, which is 30 days after the effective date of the transaction. The effective date for the majority of purchases in Scotland is the date of settlement.

The effective date for a

- completed transaction, whether or not it is completed by a document is the date of settlement
- contract substantially performed before settlement is when it has been substantially performed
- option and right of pre-emption is when the option or right is acquired or created

What is substantial performance?

When the purchaser or tenant

- takes possession of the property
- pays any rent
- pays substantially the whole, normally not less than 90 percent of the consideration

Who has to pay SDLT?

The purchaser, including the tenant on the grant of a new lease, has to pay SDLT.

It is also the purchaser's responsibility to make sure that they complete a land transaction return and that the information contained in it is complete and correct.

What if part of the purchase price is deferred?

SDLT is payable on the total consideration for the transaction whether or not any part of the consideration is deferred. If any part of the consideration is contingent or dependent on uncertain future events it may be possible to defer part of the payment. Contact the [Helpline](#) for further details.

What forms should I complete?

You should complete the land transaction return SDLT1, which will cover most residential purchases.

A sample [SDLT1](#) is available, but you must complete an original form which you can get from our [Orderline](#). Please do not photocopy the SDLT1 as each land transaction return has a unique reference number.

In some cases you will also need to complete supplementary returns, including

- [SDLT2](#) – if there are more than two sellers or purchasers
- [SDLT3](#) – if we need additional information to identify the property, or the transaction involves more than one property
- [SDLT4](#) – if we need additional information about the transaction, for example
 - when the purchaser is a company
 - when land is part of a business sale agreement
 - on some leases

You can get all the forms from our [Orderline](#).

Can I notify you electronically?

Online notification is available. Please see our website hmrc.gov.uk for further information. Notification is also automatic for any transactions processed through Automated Registration to the Title of Land (ARTL).

Who should complete the land transaction return?

Although we expect that in the majority of cases the land transaction return SDLT1 will be completed by the solicitor, licensed conveyancer or other adviser dealing with the transaction, the purchaser must sign the declaration on page 6 of the land transaction return.

The [guidance notes SDLT6](#) explain how to complete the land transaction returns.

When can someone else sign the land transaction return?

Normally, the purchaser must sign the land transaction return. There are exceptions when the following can sign on the purchaser's behalf

- any one trustee can sign the land transaction return
- all partners or a representative partner in a partnership. If there are more than four partners acting as trustees, the first four partners can sign
- the proper officer or any person of a company who has authority to act on its behalf
- an attorney, if a power of attorney is in force at the effective date of the transaction

Where can I get the land transaction return?

You can get the land transaction returns from the Orderline by

- [phone](#)
- email at saorderline.hmrc@gtnet.gov.uk
- writing to
IRCC

PO Box 37
St Austell
Cornwall
PL35 5YN.

When must I send the land transaction return to HM Revenue & Customs?

You must send the completed land transaction return by the filing date, that is, within 30 days after the effective date of the transaction.

Where do I send the land transaction return?

Unless the special arrangements for personal presentation (need a [hyperlink <<LINK NEEDED](#) to 'What are the special arrangements for personal presentation?' on page 5) apply, you must send the completed form SDLT1 to our [data capture centre in Netherton](#).

Please send one land transaction return including any relevant supplementary returns, unfolded, in a separate envelope for each transaction. It is not necessary to send a covering letter.

We have designed the land transaction return for electronic scanning. If correctly completed, it will contain all the information that we need.

What do I send in for multiple transactions?

If you have transactions that are linked but form part of a single scheme, arrangement or series of transactions between the same seller and purchaser, or connected people you can notify the details on one SDLT1.

You will need to complete a supplementary return [SDLT3](#), for each additional property.

In cases where a large number of properties are being transferred, we may be able to agree special arrangements to minimise the amount of land transaction returns that you need to complete. Please contact our [Helpline](#) for guidance on this before you prepare the return.

What happens if I send the land transaction return in late?

If we do receive the correctly completed land transaction return, or any payment of the SDLT due, within 30 days of the effective filing date but within three months of the 30-day limit, the purchaser will automatically get a £100 penalty. In all other cases, they will automatically get a £200 penalty. If the purchaser pays late, they will also get an interest charge.

If the land transaction return is more than a year late, the purchaser may be liable to a tax-based penalty, which can be up to the amount of SDLT due on the land transaction return.

Can I amend the land transaction return?

If you need to amend the land transaction return, you will need to either call our [Helpline](#) or write to the [Birmingham Stamp Office](#) who will be able to amend the original notification. The data capture centre cannot make any amendments.

You can only ask for an amendment within 12 months after the date that you should have sent us the land transaction return.

What happens at the data capture centre?

When we receive the land transaction return, we will process it and issue a certificate if

- the return has been correctly completed
- all the information we were expecting has been sent

You can make a payment

- by cheque made payable to HM REVENUE & CUSTOMS ONLY, which must accompany the completed land transaction return
- by BACS or CHAPS by a transfer of funds electronically
- at your bank by cheque made payable to HM REVENUE & CUSTOMS ONLY, and completing the payment slip
- at the Post Office with a cheque made payable to Post Office Ltd

Who receives the certificate?

We will send the certificate as instructed in box 58 on the land transaction return. This certificate must be submitted to the Registers of Scotland when applying. This includes registration in the Book of Council and Session.

They allow personal payment to the Edinburgh Stamp Office and 'same day' completion of SDLT requirements so that registration can take place immediately without needing to notify HM Revenue & Customs by post.

The facility is available only to

- any transaction where the seller is a corporate entity and the seller's solicitor has not given a solicitor's personal letter of obligation in respect of the charges register or the company file
- any other transaction where the seller's solicitor has been requested to give a solicitor's personal letter of obligation but has refused to do so
- any transaction where the purchaser needs to register ownership before obtaining access to the transaction funding

In these circumstances, anyone wishing to make a personal payment can sign a declaration in the form of a covering letter setting out why 'same day' service is required.

This letter should be presented in person to the [Edinburgh Stamp Office](#), with the completed return SDLT1, and any other necessary returns and payment of the tax.

In return, that office will

- Give the person presenting the items a certificate confirming that the land transaction return has been received. This certificate will allow the Keeper of the Registers to link it to the land transaction documents to be registered and will allow registration to take place.
- Treat the date that the land transaction return is presented as the date on which the transaction is notified to HM Revenue & Customs.

When is a transaction notifiable?

Unlike Stamp Duty, you must notify HM Revenue & Customs about any transfers of ownership and assignments of leases even if SDLT is due at the rate of 0 percent, because the purchase price is not more than the threshold. £125,000 for residential transactions and £150,000 for non-residential transactions.

You must notify us about all grants of leases for a term of seven years or more or the assignment for consideration of a lease originally granted for such a term. However, you do not need to notify us about leases for less than seven years, unless SDLT is due - on the premium or rental element, or both at 1 percent or more, ignoring any relief available.

You do not have to report a land transaction where there is no chargeable consideration. However, where a property is subject to any charge there is likely to be chargeable consideration and you will need to complete a land transaction return.

When is a transaction not notifiable?

You do not have to notify us about transfers with no chargeable consideration or about certain transactions in connection with divorce and testamentary dispositions. Instead you can self-certify. Full details are available with the [guidance notes SDLT6](#).

If you need to register a transaction which does not have to be notified, the Registers of Scotland will need a self-certificate [SDLT60](#).

Are any reliefs available?

A number of complete and partial reliefs are available. The reliefs available are listed in the [guidance notes](#) and full details can be found in the [SDLT manual](#). Many of the reliefs have been carried over from the former stamp duty, but some are new.

To make a relief, you must complete the relevant box on the land transaction return.

Does buying with a mortgage affect the amount of SDLT payable?

SDLT is chargeable on the total consideration for the land, which in most cases is the purchase price.

What documents do I have to keep?

The purchaser is responsible for keeping all records relating to any transaction for six years. However, you may wish to arrange with your client that you will keep the records on their behalf. But, the purchaser is still responsible for their safe keeping.

We do not expect you to create any additional records. For example, we would only expect to see a valuation if you have received one in the normal course of the transaction.

If they exist, you should keep

- any missives or agreement for sale and related papers
- details of any apportionment of consideration between the land transaction and other transactions, eg purchase of chattels and moveables
- any professional valuations that you have
- relevant instruments relating to the transaction, in particular any contract or disposition, and any supporting maps, plans or similar documents
- partnership agreements
- records of relevant payments, receipts and financial papers

Why do I need to keep records?

In line with other taxes, for example Income Tax and Corporation Tax, SDLT has an enquiry regime, so you must keep all records for six years. There are a number of enquiries each year, some of which will be selected on a random basis.

The liable person is the purchaser.

Enquiries

We may start an enquiry in the nine months after

- the filing date, if the land transaction return is delivered on or before the filing date
- the date on which the land transaction return was delivered, if delivered after the filing date
- the date on which any amendment was made

In most cases, we will start an enquiry after issuing a certificate.

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We will direct our enquiries to you as the agent, if box 59 on the land transaction return has been completed, authorising you to handle correspondence on behalf of the purchaser.

Help and advice

You can get further [information](#) on our website and from our [Helpline](#).