

# **SD7 Penalties for late land transaction returns and interest charges for late payments of Stamp Duty Land Tax (SDLT)**

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## **Introduction**

This publication tells you about additional charges that you may incur if you do not complete and send your land transaction return or payments on time. It also explains how to avoid these charges and what you can do to appeal against penalties and get help with your return if you need it.

## **Penalties and Interest Summary**

### **Penalties**

Penalties are a fixed charge imposed when an SDLT 1 form is received at HMRC after the filing date. These are automatically generated when the form has not been submitted by the filing date.

Penalties are charged at set rates depending on the date the return is received.

For example, if the SDLT 1 is returned after the filing date but within the next 90 days, there is a £100 fixed penalty charge. If it is returned over 120 days later than the effective date, a £200 penalty is charged.

In addition, should it be over 12 months late, a tax-based penalty is due (up to 100 per cent of the tax).

You may appeal against a penalty charge if you believe you have sufficient reason for the return being late.

## **Interest**

Interest is separate charge to penalties that will be applied when we have not received a payment of SDLT on time. For the purposes of interest calculations, please note that interest will begin to accrue from and including the day after filing date.

Interest is a legislative charge designed to recompense the Chancellor of the Exchequer for money it was legally entitled to, but which it was denied the benefits of.

As such it is not a penalty.

Because this is a mandatory charge, there is no appeal process for interest.

### **When should a land transaction return be delivered?**

A land transaction return should be delivered so that we receive it by the 'filing date'. This is **30 days** after the effective date of the transaction. The effective date is normally the completion date of the transaction, whether or not a document shows this.

However, if a contract is substantially performed before completion, the date that 'substantial performance' takes place is the effective date. Broadly, substantial performance is when:

- payment of a substantial amount of the consideration (generally 90 per cent of the total amount) is made
- the purchaser takes possession of the property
- the first payment of rent is made
- option or right of pre-emption is acquired

### **What happens if my land transaction return is late?**

If you miss the filing date, you will be charged a penalty.

## When penalties occur

### **Fixed penalties**

If we do not receive the return within 30 days of the effective date but within three months of the 30-day limit, you will be charged a £100 penalty. If your return is more than three months late you will be charged a penalty of £200. If you pay the tax late, you will also be charged interest.

### **Tax-based penalties**

If your return is more than a year late, you may be liable to a tax-based penalty, which can be up to 100 per cent of the amount of SDLT due on the return.

### **How will I know if I have been charged a penalty?**

If you are charged a penalty, we will send you a formal notice. The penalty is due for payment 30 days after the date of the notice. We may charge interest on any penalties paid late.

### **What if I receive a penalty notice?**

If you have not already done so, you should:

- do what is necessary to send in your return as soon as you can, to avoid further possible penalties
- pay the penalty on time, to avoid any interest charge

### **Checking your notice for a tax-based penalty**

Check that you agree the calculation shown on the notice. Where a tax-based penalty is imposed, we will normally have written to you (or your tax adviser, if you have one) about it and shown how it has been calculated.

### **What if the taxpayer has died?**

If you are acting on behalf of a taxpayer who has died since submitting a return for which we have charged a penalty, please tell us the date of death and give your details.

## **Appeals and Commissioners**

### **Can I appeal?**

You can appeal against a penalty if you think you have 'exceptional circumstances' for not sending your return on time.

You should read the guidelines on what we agree are exceptional circumstances before you make an appeal.

You may want to appeal if you think that the calculation of a tax-based penalty is wrong.

You should make your appeal to the Commissioners, although you should send your application to appeal against the penalty determination (form SDLT46) to us. This enables us to consider whether we agree you have exceptional circumstances. If we do, there is no need for the Commissioners to consider your appeal. If we do not, we will arrange for the Commissioners to hear your appeal.

### **How do I appeal?**

You can appeal in writing or by completing the form we send with each penalty notice within 30 days of the date of the penalty notice.

### **Appealing because you have exceptional circumstances**

If you appeal because you think you have exceptional circumstances for not sending your return by the deadline, you need to give us full details of your excuse, including dates of when events happened. When the situation causing the exceptional circumstances ends we expect the land transaction to be sent to us immediately, but normally we will make reasonable adjustments on a case by case basis.

### **Do I need to pay the penalty if I am appealing?**

To avoid any interest which may be charged on the late payment of a penalty you should pay the penalty even if you are appealing against it. If you pay it and your appeal succeeds, we will repay the penalty with interest.

If your appeal succeeds and you have not paid the penalty, no interest charge arises. But, if your appeal does not succeed and you have not paid the penalty, you may be charged interest from 30 days after the date of the penalty notice until the day you pay it.

### **If we agree you have exceptional circumstances**

If we agree that your circumstances are exceptional, we will write to tell you and cancel the penalty.

### **If we do not agree you have exceptional circumstances**

If we do not agree that your circumstances are exceptional, we will explain why and ask if you accept this. If you still think you have a good reason, the Commissioners, who are an independent tribunal, will consider your appeal at an appeal hearing. They listen to the arguments of both sides and decide if you have exceptional circumstances.

We usually arrange the hearing, but you can do it yourself if you wish.

## **Commissioners**

There are two bodies of Commissioners, General and Special, and both are independent of the HM Revenue & Customs (HMRC). It is possible for you to elect the General or Special Commissioners hear your appeal. Unless you or HMRC request otherwise, your appeal will normally be heard by the General Commissioners. If your case is unusually complicated, technical or lengthy, or if either you or HMRC so choose, it will normally be heard by the Special Commissioners.

The General Commissioners are appointed by the Lord Chancellor - rather like local magistrates - to deal with cases arising in a particular area, or Division. They are assisted by a Clerk who is often a solicitor or accountant.

Normally, the General Commissioners consider appeals. When you appeal, you must choose whether you want the General Commissioners for:

- the area where the property (which is the subject matter of the land transaction return) is situated
- where you live
- where your business is

They usually hold their proceedings in public, but they can suggest that all or part of a hearing should be in private if justice so requires. Likewise, if you want your hearing to be in private, you should ask the Clerk to the Commissioners who will hear your appeal.

Alternatively, you can choose to have your appeal considered by the Special Commissioners.

The Special Commissioners are a special tribunal with full-time members. Their meetings are normally public and held in London, Manchester, Belfast or Edinburgh.

If you need more details about the Commissioners, you can get the Department for Constitutional Affairs leaflet 'Tax Appeals. A guide to appealing against decisions of the HM Revenue & Customs on tax and other matters' from any HMRC Enquiry Centre.

## **Reasons for not meeting the deadline**

### **What are exceptional circumstances?**

We consider each case on its own merits.

In our view, you only have a reasonable excuse where some exceptional event, beyond your control, has prevented you:

- sending your completed return to us
- making other arrangements to do this by the deadline

If you disagree with our view of what are exceptional circumstances then you can appeal to the independent Commissioners.

**Examples of what we may agree as exceptional circumstances:**

- **Lost or delayed in the post**

You should allow sufficient time for your return to reach us by the due date. However, where it was posted in good time, we would agree as a reasonable excuse an unforeseen event, which disrupted the normal postal service and led to the loss or delay of your return. For example:

- fire or flood at the Post Office where the return was handled
- prolonged industrial action within the Post Office or other document carrier, which occurred after the return had been posted to us or delivered to the document carrier to send to us

- **Serious illness of your adviser**

We would agree that serious acute illness, such as a heart attack, stroke, or other life threatening condition that prevented your adviser from controlling his or her business and private affairs are exceptional circumstances.

- **Death of your adviser**

We would agree that the death of the adviser dealing with your return is an exceptional circumstance.

When the circumstances causing the exception cease the position must be remedied immediately.

**What are not exceptional circumstances?**

It is your responsibility to gather all the necessary information to ensure that your return is completed and sent by the deadline.

We are unlikely to agree you were prevented from sending in your return if you were able to manage the rest of your private or business affairs during the period which you claim to be covered by exceptional circumstances.

**Examples of what we would not agree as exceptional circumstances:**

- **Land transaction return is too difficult**

We would not agree as exceptional circumstances your opinion that the return is too difficult to complete. If you have difficulties, you should ask for help as early as possible from

- the stamp taxes helpline on 0845 6030135
- a tax adviser

- **Pressure of work**

We would not agree that pressures of work are exceptional circumstances.

- **Adviser is waiting for payment**

We would not agree as exceptional circumstances that the reason for not submitting your return on time is because your adviser is waiting for payment or the SDLT is being paid by another firm of advisers.

- **Waiting for a valuation**

We would not agree that waiting for a valuation are exceptional circumstances for not sending your return on time. You should submit one with a best estimate of the valuation.

- **Delay caused by vendor's adviser**

If the delay is due to the vendor's adviser, and this means that your adviser is unable to submit the return within 30 days, we would not accept this as exceptional circumstances.

- **Return cannot be signed as you are abroad**

We expect you to submit the return within the deadline. Although your adviser cannot sign the return, your Power of Attorney can. They must indicate they are signing in that capacity within box 71, by writing 'Power of Attorney' underneath their signature. (The Deed of Attorney does not need to be submitted with the return.)

## **Help and advice**

### **Do you need our help?**

You will find your tax affairs easier to manage if you keep them up to date.

If you have any queries relating to any aspect of stamp duty or stamp duty land tax, please telephone the [Stamp Taxes Helpline](#). Calls are charged at the local rate.

You can get copies of our leaflets from the [Orderline](#)

- Tel 0845 302 1472
- Fax 01726 201015
- email
- writing to:  
HMRC CC  
PO Box 37  
St Austell

Cornwall  
PL25 5YN

You can also get information by visiting the [Stamp Taxes area](#) of the HMRC website and by viewing the [Stamp Duty Land Tax Manual](#)

## **Additional Information**

We produce a wide range of leaflets. Some you might find useful are:

- [C/FS Complaints and putting things right \(PDF 264K\)](#)
- [COP25 Stamp Duty Land Tax. Enquiries into companies and partnerships](#)

Our leaflets are available from our website and any HM Revenue & Customs Enquiry Centre. Most are open to the public from 8.30 am to 5.00 pm, Monday to Friday. Addresses are in your local phone book under HMRC and contact your [local office](#)

You can get many leaflets from our [Orderline](#).