

The Budget on 17 March announced that changes would be made to Stamp Duty Land Tax (SDLT) amending legislation that is in Finance Act 2003. Details of these changes are listed below and they will take immediate effect.

These changes will affect only larger and more complex transactions, and many of the changes merely clarify existing legislation. The vast majority of purchasers will be completely unaffected.

### **Sub-sale relief**

The changes ensure that the legislation works correctly when there is a sub-sale of part only of the property, and to counter potential avoidance using group relief and sale and lease-back relief.

### **Transitional provision**

The changes ensure that the Government achieves its intentions as set out in our earlier Customer Newsletter 3, on our website at [www.inlandrevenue.gov.uk/so/bull\\_news\\_flyers\\_sdlt.htm](http://www.inlandrevenue.gov.uk/so/bull_news_flyers_sdlt.htm)

### **Private Finance Initiative (PFI) relief**

The changes ensure that all PFI transactions are notifiable.

### **Contracts and substantial performance**

The changes ensure that the legislation works as intended for certain complex contracts where there is to be a conveyance to a third party.

### **Works carried out on land**

Under certain conditions an obligation to carry out works on land does not count as chargeable consideration. The changes ensure that where a contract is followed by a conveyance, the work does not count as consideration for the conveyance if they did not count as consideration under the contract.

### **Leases**

The changes ensure that agreements for leases, once substantially performed, are treated as leases, in line with normal commercial practice. In particular the assignment by a tenant of an agreement for lease, once that agreement has been substantially performed, will be treated as the assignment of a lease.

The changes ensure there is no charge on a landlord or tenant when a lease is varied, except that there will be a charge on the tenant (as if a new lease is granted) when there is a variation to increase the rent or extend the term.

Where a lease starts from a date earlier than the date of grant (often a quarter day) and as a result there is a rent review just before the end of year five, the rent payable for year five, for the purposes of calculating net present value, is only taken into account up to the review date. In other words there is no need to estimate the result of the review.

Under the rules of general law for leases it is not possible for the term of a lease to start before the date a lease is granted. The changes also ensure that 'rent' expressed to be for a period before the date a lease is granted is taxed as a premium.

### **Shared ownership leases**

The changes clarify that if a market value election is made, no further liability to SDLT will arise if the lessee decides to acquire further shares of the property.

Further they provide that similar treatment is given under SDLT to those who do not make the market value election. Under stamp duty, if the market value election was not made, a lessee paid tax on the acquisition of the initial share and on the final share, but the intermediate staircasing transactions side-stepped the charge. To preserve the parity of treatment between the two regimes, it is necessary to exempt similar transactions under SDLT. However, this is subject to a condition that immediately after staircasing, the lessee must not hold a share in the dwelling that is greater than 80%.

The new provisions also clarify the transitional arrangements to ensure that where a market value election was made under the 'old' stamp duty regime, no further liability arises if the lessee acquires a further share of the property under the 'new' regime.

### **Further information and updating our mailing lists for correspondence**

If you have any questions about these changes or any other questions about SDLT, please phone our enquiry line on **0845 603 0135**.

If you

- would like to receive additional copies of this newsletter,
  - are aware of a colleague who would also like to receive them, or
  - would like us to remove you from our mailing list
- please email Vanessa Jenkins at [msd.stampscondoc@irgsi.gov.uk](mailto:msd.stampscondoc@irgsi.gov.uk)