



MOORE

Stamp duty land tax administration

The administration system for SDLT is carried out using a self-assessment form. The details are contained in Finance Act 2003. Usually the solicitor or conveyancer working on the property transaction will be engaged to file SDLT returns and arrange payment of SDLT to HMRC.

Returns

Returns are required for a notifiable transaction. The purchaser must deliver a land transaction return to HMRC within 14 days of the effective date. In most cases the effective date will be the date of completion.

The land transaction return must include a self-assessment of the tax chargeable and be accompanied by payment of the amount chargeable.

Notifiable transactions include:

- the acquisition of a freehold
- the acquisition of a lease
- the grant of a lease for a term of seven years or more
- the grant of a lease for a term less than seven years if either the premium or rent is chargeable at 1% or more

No return is required if the transaction is exempt under Schedule 3 (eg gifts) or, in general, if the chargeable consideration is less than £40,000.

If a self-assessment is not made, HMRC has the power to make a determination to the best of its information and belief of the amount of tax chargeable in respect of the transaction.

The purchaser may amend the return within 12 months after the statutory filing date. HMRC may correct obvious errors in the return within nine months after the date of delivery (or the date of amendment by the purchaser).

Payment of tax

The purchaser is liable for payment of the tax which must be paid not later than the due date for filing the return. If a determination of tax is made by HMRC, that tax is payable within 14 days of the determination being issued.

Interest

Interest is payable on the amount of any unpaid tax from the end of 14 days from the effective date. Interest can also be charged on unpaid penalties.

If tax becomes repayable, interest is payable by HMRC between the actual date of payment and the date the order for repayment is issued.

Penalties

Late filing

There are late filing penalties for failure to deliver a land transaction return by the filing date as follows:

Within 3 months or later after the filing date	£100
3 months or later after the filing date	£200
Failure to file within 12 months of the filing date	Additional tax geared penalty up to level of SDLT payable

Incorrect returns

There are also penalties for incorrect land transaction returns, the rate of which are dependent upon the degree of culpability. The maximum penalties are as follows:

	Lost revenue
Failure by purchaser to take reasonable care	30%
Deliberate but not concealed error	70%
Deliberate and concealed error	100%

It should be noted that a new penalty regime was introduced for errors in returns and documents with effect from 1 April 2009, which was extended to cover (amongst other taxes and duties) stamp duty and SDLT from 1 April 2010. Under the new regime, penalties are calculated by applying a percentage penalty to the tax due, with reductions available for cooperation. For SDLT, those provisions are not yet in force but are intended to be introduced by secondary legislation in due course.