Advanced mortgage advice

R07: 2018–19 edition

Web update 1: 11 December 2018

Please note the following update to your 2018–19 edition of the **R07** study text:

Stamp duty land tax

As announced at the October 2018 Budget, first-time buyers' relief in England and Wales has been extended to include qualifying shared ownership property purchases, whether or not the purchaser elects to pay SDLT on the market value of the property.

Main points include the following:

- The first £300,000 of an initial share purchased is not liable to SDLT.
- The remainder of the initial share is chargeable at 5% on amounts over £300,000.
- No SDLT is chargeable on the lease.
- Relief is not available on any further shares purchased.
- The relief does not apply to purchases of properties valued over £500,000.

This change applies to relevant transactions with an effective date of on or after 29 October 2018 and has also been backdated to 22 November 2017.

These changes affect the following sections:

- Chapter 4, section I1C.
- Chapter 6, section I2.
- Chapter 9, case study 10 answers.

Amendments are shown in **bold.**

Chapter 4, section I1C, page 4/21

If a buyer meets the definition of a first-time buyer and purchases a property through a shared ownership arrangement, the SDLT exemption will apply to those who elect to pay SDLT on the full market value on the initial purchase **or through an initial stage payment**. It is possible **that an SDLT liability may arise in the future** as further parts of the property are purchased through staircasing but, in these cases, the first-time buyer exemption will not apply **to these additional purchases (see chapter 6, section I2).**

Chapter 6, section I2, page 6/30

When a purchaser buys a share in a property through an approved shared ownership scheme they may be liable to pay SDLT. The purchaser has two options on deciding how to pay. They can make a single payment which is calculated on the total market value of the property, or pay any SDLT payable in stages.

If the buyer decides to make a one-off payment up front, this is known as making a **market value election** for SDLT. If the purchaser elects to use this method, they will not have any further liability even if they take advantage of staircasing to purchase a greater percentage of the property. A purchaser needs to calculate if it is advantageous to them to select this method, but it is usually beneficial to elect this method if **they are not a first-time buyer and** the total market value of the property is below the threshold for paying SDLT (currently £125,000).

Following the changes to SDLT made in the **October 2018 Budget**, first-time buyers who are using a shared ownership scheme to purchase their first property can also benefit from first-time buyer relief. **The first-time buyer relief can be claimed irrespective of whether the buyer had opted for market value election or in stages.**

How much SDLT is charged if the lease gives the right to acquire the freehold?
If there is a market value election where the lease allows the buyer to acquire the freehold to the property then SDLT is charged on the market value of the freehold. This is its value at the time of the initial purchase, as stated in the lease. This most commonly applies to houses.

Example 6.5

If the market value of the freehold is £140,000 and the buyer purchases a 50% share for £70,000, SDLT is due on total market value of £140,000. The first £125,000 is in the nil rate band and the buyer will pay 2% on the remaining £15,000. So in this example the buyer pays £300 in SDLT, assuming they are not first-time buyers.

Where the purchase is made by first-time buyers, they may be entitled to first-time buyer relief which we will look at shortly.

How much SDLT is charged if the lease does not give the right to acquire the freehold?
If there is a market value election and the lease does not allow the buyer to acquire the freehold to the property then SDLT is charged on the 'open market premium' – that is, the premium that would be payable at the time of purchase for the maximum share of the property that can be acquired under the terms of the lease.

The 'net present value' of the rent that would be payable under the lease if the maximum share was purchased is also taken into account. This is based on the total amount of rent that would be payable over the term of the lease. In practice, tax will only be due on the rent when it is a significant amount.

If the buyer chooses to pay SDLT in stages, then they pay anything that is due on the initial purchase amount (the share they are buying), but then they do not have to make any further payments until they own more than an 80% share of the property.

Example 6.6

The market value of a property is £160,000 and the buyer purchases a 50% share for a premium of £80,000. There is no SDLT payable on the premium because its value is below the current SDLT threshold of £125,000. The buyer must still tell HMRC about it by completing a return.

However, if the market value of the property was £280,000 and the buyer sought a 50% share (£140,000) they would be liable to pay SDLT. This is because the value is above the threshold at which SDLT becomes payable (£125,000), and the buyer would pay 2% on the remaining £15,000. They would therefore pay £300 in SDLT assuming they are not first-time buyers.

Where the purchasers are first-time buyers, SDLT relief is claimed as follows:

Market value election
Where first-time buyers make a market value election, the SDLT rates for first-time buyers apply to the relevant consideration (i.e. the market value of the property) under that treatment. Where the relief is claimed, no SDLT will be due on any rent paid under the lease. A market value election can only be made at the point the initial lease is granted by the scheme provider. Once the purchasers have made an election it cannot be withdrawn.

Example 6.7

A first-time buyer pays £185,000 for a 50% share in a shared ownership property with a market value of £370,000. A market value election is made, with SDLT being due on the total market value of £370,000. As the relevant consideration is below £500,000, first-time buyer relief can be claimed. If relief is claimed, the purchaser will pay SDLT at 0% on the first £300,000 and 5% on the remaining £70,000, paying a total of £3,500 in SDLT. No further SDLT will be due on any further shares purchased or if the buyer goes on to purchase the property outright. No SDLT is payable on the rental payments.

Paying SDLT in stages

Where the first-time buyers choose instead to pay SDLT in stages, the SDLT rates for first-time buyers will apply to the actual consideration (the premium) paid for the initial share purchased. To be eligible for the relief, the overall market value of the property as referenced in the lease must be £500,000 or less. Where the relief is claimed, no SDLT will be payable on the rental payments irrespective of the amount. The relief applies only to the first transaction when the lease is granted by the scheme provider.

Example 6.8

A first-time buyer pays £180,000 (the premium) for a 40% share in a property with a market value of £450,000. The purchaser decides to pay SDLT in stages. As the market value of the property is below £500,000, the SDLT rates for first-time buyers apply. No SDLT will be due on the £180,000 as it is below £300,000. SDLT may be due on the rental payments but, as first-time buyer relief is being claimed, the relief also applies to the rental payments. Therefore, no SDLT is due on this transaction.

Staircasing transactions

The relief for first-time buyers does not apply to subsequent transactions where the purchaser, after being granted the lease (the first purchase), purchases further shares in the property (commonly referred to as 'staircasing'). Any staircasing transaction will not lead to the withdrawal of the relief claimed on the grant of the lease (the initial purchase), even if the total paid for all the transactions exceeds £500,000.

Where no market value election is made, no further SDLT will be due until the purchaser increases their ownership share in the property over 80%. Here the normal rules for shared ownership, including the standard SDLT residential rates and method of calculation, apply to the transaction that takes the purchaser's ownership share over 80% and any subsequent staircasing transactions.

Equity is split between the seller and the housing association or local authority

When the property is eventually sold, the equity is split between the seller and the housing association or local authority according to the share of the property that is owned and the proportion that is rented. If the property is not owned outright by the seller, then they may be required to offer it back to the housing association or local authority, which will then find a suitable purchaser from its own list. In many instances, however, the seller may be allowed to sell the property on the open market.

Chapter 9, case study 10 answers, page 9/30

10.4 When Scott bought the property, under the SDLT rules he had the option to pay SDLT immediately or in stage payments. As the total property value was below the SDLT threshold when he bought his initial share, the market value election enabled him to pay any SDLT upfront which would have been nil. Had he elected for the other method of stage payments and the property had risen on value to over £125,000, he would have a liability once he had bought more than 80% of the property **even if he was a first-time buyer as the relief would only apply to the first element that was purchased**. The initial election has ensured that he has no liability to SDLT on the **initial purchase or on any further purchases in the future.**

Additional amendments

Please note the following amendments (in **bold**) to your 2018–19 edition of the **R07** study text:

Chapter 9, case study 3 answers, page 9/23

3.3 Based on the offer they made for the property, they would like to borrow **£96,000**.

The deal is a five-year fixed assuming the lending is completed on an interest-only basis. The calculations would be as follows:

(**£96,000** × 4.29%) × 5 = **£20,592**.

(**£96,000** × 4.45%) × 5 = **£21,360**.

The difference in interest charges is **£768** over the period; therefore, it would not be financially beneficial to pay the arrangement fee.

3.5 As Aarav and Meena are seeking to purchase the property with the intention of letting it out as a business venture, the transaction would be treated as a business buy to let and would be **administered as a non-regulated mortgage**, which is less onerous than a consumer buy to let.

Chapter 9, self-test answers, page xi

3. Higher rate and additional rate.