

Explanatory Note

SDLT: Calculating tax on non-residential and mixed transactions

Summary

This clause introduces changes to the way Stamp Duty Land Tax (SDLT) is calculated in relation to non-residential property transactions and transactions involving a mixture of residential and non-residential properties.

Details of the clause

Subsection (1) amends section 55 of Finance Act 2003, which sets out the general rules for calculating the amount of SDLT on non-residential and mixed transactions.

Subsection (2) removes the reference to section 55(2) of Schedule 4A to Finance Act 2003, which is now omitted.

Subsection (3) substitutes new Table B into section 55(1B), which sets out the revised rates and bands for calculating stamp duty land tax on non-residential and mixed transactions. The amount of tax is calculated by applying each rate of tax to the appropriate part of the relevant consideration and adding together the different amounts. This subsection also makes consequential amendments to section 55(1B) take account of this change.

Subsection (4) makes amendments to subsection (1C), in relation to transactions that are linked.

Subsections (5) to (7) omit section 55(2) from Schedule 4A to Finance Act 2003 and makes consequential changes to section 55(3) and (4) of Schedule 4A.

Subsections (8) to (11) amend Schedule 5 to Finance Act 2003, which provides for the amount of tax chargeable in relation to transactions where the consideration includes rent.

Subsection (9) amends Table B in paragraph 2(3) of Schedule 5 to Finance Act 2003 and provides for an additional rate of 2% to be applied to non-residential or mixed transactions where the net present value of the rent exceeds £5 million.

Subsections (10) and (11) omit paragraph 9A, which applied to a consideration other than rent, from Schedule 5 to Finance Act 2003, and make a consequential change to paragraph 9 of Schedule 5.

Subsection (12) provides that these changes have effect in relation to any land transaction where the effective date is on or after 17 March 2016.

Subsections (13) provides that the purchaser may elect that the new calculation rules do not apply in certain circumstances. The first of these is where contracts were exchanged before 17 March and the

contract was “substantially performed” (that is, the purchaser occupied the property or paid over the whole, or substantially the whole, of the consideration) before that date. The second is where contracts were exchanged before 17 March and the contract is completed on or after that date, provided that there is no event of a kind listed in subsection (15), which results in the effect of the contract on completion being different from the effect of the contract when first entered into.

Subsection (14) provides that an election must be made in a land transaction return or an amendment to such a return and must meet any requirements specified by the Commissioners for Her Majesty’s Revenue and Customs.

Subsection (15) sets out the situations which will result in the new rules applying, even if contracts were exchanges before 17 March 2016. These situations are:

- where there has been a variation of the contract or assignment of rights under the contract on or after 17 March 2016,
- where completion of the transaction follows the exercise of an option or similar right on or after 17 March 2016, or
- where the land subject to the contact has been assigned or subject to a sub-sale to another person on or after 17 March 2016.

Subsection (16) defines the terms "land transaction return", "purchaser" and "substantially performed" as those set out in section 76, 43(4) and 44(5) respectively in Finance Act 2003.

Background note

These changes, to the way in which SDLT is calculated for non-residential and mixed property transactions, build on reforms to residential SDLT introduced at Autumn Statement 2014.

The changes will mean that rather than charging a single rate of tax on a transaction, each rate of tax is payable on the portion of the chargeable consideration which falls within each rate band. New rates and bands have also been introduced.

The changes eliminate the "cliff edge" increases in SDLT liability which occurred under the old rules as prices rose above a rate threshold.