

Stamp duty land tax: changes to the filing and payment process

Summary of Responses

20 March 2017

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1. Introduction

1. At Autumn Statement 2015, the government announced that from 2017-18, it would reduce the stamp duty land tax (SDLT) filing and payment window from 30 days to 14 days. A commitment was made to consult in 2016 on these changes, as well as on the SDLT filing and payment process generally.
2. The majority of SDLT returns and payments are already sent to HMRC within 7 days of completion, despite the current statutory 30 day window. Improvements to the filing and payment process will increase efficiency and reduce the compliance burden and costs for both HMRC and our customers.
3. HMRC held a consultation from 10 August 2016 to 7 October 2016, which included meetings with stakeholders. After careful consideration of the responses received, the government announced at Spring Budget 2017 that the implementation of the 14 day filing and payment window would be postponed until 2018-19. Delaying implementation will give HMRC time to address the issues raised during the consultation.
4. This document summarises the responses to the consultation and sets out the government's response and next steps.
5. The consultation received 85 written responses along with comments made during the meetings. Respondents were mainly solicitors' firms providing conveyancing services and other professional bodies. The businesses and organisations that submitted written responses and/or sent representatives to attend a meeting are listed in Annex A.
6. Common themes were raised by respondents in writing and in the meetings. The main concerns relate to the reduction in the SDLT filing and payment window to 14 days. In particular, conveyancers dealing with certain complex transactions could have difficulties in complying with this change. Although the transactions likely to be affected represent a small proportion of reportable transactions, they amount to approximately 50,000 transactions every year.
7. Part 2 of this document provides a summary of the responses, along with the government response to each issue. Part 3 outlines the next steps.
8. The government is grateful to all stakeholders who responded in writing or attended meetings in the course of the consultation.

2. Responses

9. There was a high degree of consistency in the content of responses to the consultation. The responses to each of the questions set out in the consultation document are summarised below, together with the government response.

Q1: Are you aware of any issues that may arise as a result of the reduction in the filing and payment window to 14 days? If so, do you have any suggestions on how they could be overcome?

10. Almost all the respondents were concerned about the proposed reduction to the SDLT filing and payment window from 30 days to 14 days. Many felt it would be manageable for straightforward transactions – for example most purchases of residential property. Many envisaged difficulties for more complex transactions where the property purchased is subject to leases. Although only a small proportion of reportable transactions are likely to be affected, they amount to approximately 50,000 transactions every year. In such cases, in addition to information in relation to the calculation of SDLT, the return captures information about leases and subleases. Respondents believe that in these cases, 14 days would not be enough time to prepare the return; complete the various processes that have to take place between the agent and client, such as approval and the transferring of funds; and arrange payment to HMRC. A number of respondents advised that the reduction in the filing and payment window to 14 days would be manageable if information not directly relevant to working out the SDLT liability is collected separately from the main SDLT return, with a different filing timetable.
11. Some respondents believe that a 14 day filing timetable would be difficult in cases where the purchaser wishes to apply to defer payment of SDLT. An application to defer must be in writing on the relevant form (SDLT 22) or by letter, and can be made where the amount payable for a property is uncertain or contingent on a future event, for example, gaining planning permission. A shorter filing timetable would increase the number of cases where an application to defer had been made, but approval from HMRC had not been received before the filing date for the return. Respondents were uncertain how the SDLT return should be completed in such cases where approval was still pending by the time the return needed to be sent.
12. Some respondents pointed out that the difficulties in complying with the reduction in the filing and payment window to 14 days could lead to late filing penalties, which would result in additional work and costs for both HMRC and customers.

The government response

13. The government has carefully considered the concerns regarding the reduction in the filing and payment window to 14 days, and acknowledges there could be difficulties for some conveyancers dealing with complex transactions, particularly where they are required to provide additional information in relation to property subject to leases.

14. The additional information requested by HMRC in respect of property subject to leases is collected on behalf of the Valuation Office Agency (VOA) and is used by them to inform their valuation work. The VOA's valuation work is important for determining and assuring central and local government revenues and the SDLT return provides an effective method for obtaining the relevant information.
15. As a result of the concerns raised, Spring Budget 2017 announced that the government will postpone the implementation of the reduction in the filing and payment window until 2018-19. Postponing implementation of this change will give HMRC and VOA time to determine the best way to obtain the information necessary for the VOA in future, and to consider whether some or all of the information on complex transactions still needs to be linked to the main SDLT filing timetable. However, if it emerges that the additional information for VOA must continue to be collected, but not necessarily to the same timetable, HMRC will consider separating it from the main SDLT return and place it into a separate online return with a different timetable.
16. Regarding applications for deferment pending a decision from HMRC, the government does not consider that they present a barrier to a shorter filing timetable. In these circumstances, the customer should complete the return, calculating SDLT as usual on a self-assessment basis, taking into account any amount they believe should be deferred. In answering the question: 'Have you agreed with HMRC that you will pay on a deferred basis?' the customer should answer 'no'. HMRC maintains a database of all deferment applications and has a target of processing these, within 28 days of receipt. If HMRC do not approve the application for deferment, the return must be amended within 12 months of the filing date.
17. HMRC acknowledges that guidance on the process for making a deferment application could be improved and will revise this where necessary.

Q2: Do you have any views on the proposals for mandatory online filing and mandatory electronic payment?

Q3: What exemptions to mandatory online filing and mandatory electronic payment do you consider would be necessary?

18. Respondents were generally supportive of the proposals to require agents to file online and submit payments electronically. Some gave support, subject to there being reasonable exemptions from the mandatory treatment, improvements to the helpline, and the current payment options, such as CHAPS and BACS continuing to be available. Some respondents had experienced problems with electronic payments not being correctly matched with returns.

The government response

19. The government recognises that mandatory online filing and mandatory electronic payment would have to be supported by reasonable exemptions and improved guidance. The government is currently looking at the feasibility of introducing these changes and if a decision is made to implement them, will consider whether they

can be made at the same time as the reduction in the filing and payment window or as part of a separate change

20. Some respondents were concerned about the reliability of matching electronic payments to returns in the current system. HMRC has confirmed that provided the unique transaction reference number (UTRN) is correctly quoted when making payment, HMRC can match it to the return easily and quickly. Some common input errors, such as adding the letters “UTRN” to the start of a UTRN can cause automatic matching to fail.

Q4: What is your view regarding the option for HMRC to reject paper returns in circumstances where agents should have filed online?

21. Many respondents objected to the proposal which would allow HMRC to reject paper returns where the agent is required to file online. Some respondents indicated a preference for a reasonable penalty regime as a way to drive compliance with an online filing requirement if this is introduced. Respondents pointed out that rejecting paper returns would delay the conveyancing process, in particular, the registration of the new owner with the Land Registry, which would be unfair on the purchaser.

The government response

22. The government accepts the concerns raised regarding rejecting paper returns and does not intend to consider the proposal further. If online filing does become mandatory for agents, other alternatives to drive compliance will be considered.

Q5: Do you have any views on how best to drive compliance with mandatory online filing and mandatory electronic payment?

23. Some respondents felt that any penalty regime would have to be reasonable and not linked to the amount of SDLT involved. It was suggested that there should be a transitional period before the introduction of any penalty system, to allow agents time to become aware of their responsibilities and to review their processes. Some respondents suggested that each field on the online return should have a link to guidance and that HMRC should ensure help is available, for instance, through the helpline. One respondent suggested incentives for agents to file online and pay electronically.

The government response

24. At this stage HMRC is looking at the feasibility of and timescales for introducing mandatory online filing and mandatory electronic payment. The government recognises that if such measures are introduced, they will have to consider how to encourage compliance and that any penalty regime would have to be proportionate.

Q6: If the HMRC online return was modified to allow a user to input direct debit details, is this an option you might use and why?

25. Respondents said that such a payment option would have to be optional. Many respondents explained that due to their internal governance processes, they would not be able to provide direct debit details from their firm's client account.

The government response

26. Taking note of the responses that such a facility would not be widely used, the government has decided not to proceed with this proposal.

Q7: Do you have any views regarding the proposal to give purchasers who are not filing through an agent access to the HMRC online filing service?

27. Respondents were generally supportive of the proposal to allow purchasers who are not filing through an agent, to access the HMRC online filing service. However, some respondents felt it could lead to an increase in incorrect returns.

The government response

28. The government believes that allowing purchasers, who are not filing through an agent, access to HMRC's SDLT online service would be appropriate in today's digital environment. This will be taken into account as part of HMRC's work to improve the SDLT returns process.

Q8: Would you find it useful to have the UTRN earlier in the process?

Q9: Do you have any other comments on the further improvements that are being considered to the HMRC online filing service; and can you identify other areas that could be improved?

29. Some respondents felt that having the UTRN earlier in the HMRC online service would not make much difference; but some respondents saw advantages, for instance it would facilitate agents to set up a CHAPS payment ready for their internal authorisation process. It was suggested that there should be a way of cancelling the UTRN where a transaction does not go ahead.

30. Many respondents were supportive of an 'address look up', provided free text field remains available – this would be needed where there was no postcode, for example, a plot on a new development.

31. Some respondents supported HMRC issuing the information required for the registration of land directly to the Land Registry, provided a copy was sent to the agent.

32. There was significant support for the proposal to build functionality to allow customers to amend the SDLT online return within 12 months.

The government response

33. The government recognises there is clear support for making improvements to HMRC's SDLT online service. HMRC will undertake further work to determine which improvements should be implemented.

Q10: What are the expected one-off and ongoing costs of reducing the filing and payment window to 14 days?

Q11: What are the expected one-off and ongoing costs if online filing and electronic payments are mandated?

Q12: Are there any specific impacts for small & micro businesses not covered above?

34. Some respondents felt that reducing the filing and payment window to 14 days could lead to an increase in errors, penalties and interest, as well as associated administrative costs.

35. Respondents felt that mandatory online filing and mandatory electronic payment would not lead to significant costs. Some firms may want to upgrade their computer systems and there will be costs of training staff, but again these are not likely to be significant.

The government response

36. The government recognises the importance of ensuring costs on businesses are kept to a minimum. We will make sure that the impacts of any changes are fully identified and evaluated.

3. Next Steps

37. The government announced at Autumn Statement 2015 that the reduction in the SDLT filing and payment window from 30 days to 14 days, would come into effect during 2017-18.
38. The government will now introduce the 14 day filing and payment window during 2018-19. Implementation will not be before April 2018. The exact commencement date will be communicated well ahead of time.
39. Postponing the implementation of the measure will give HMRC time to address the issues that were raised during the consultation; and take into account the findings from the VOA review when determining the best way to separate the information for the VOA from the main SDLT return information.
40. The government recognises that there are benefits of improving the SDLT online filing system and will consider the feasibility of implementing these at the same time as the reduction in the filing and payment window or as part of the wider transformation programme. The government is also looking at the feasibility of mandatory online filing and mandatory electronic payment and acknowledges that there would have to be reasonable exemptions.

Annex A List of stakeholders

We are grateful to all those who took time to send written responses to the consultation, each of which has been carefully considered. The businesses and organisations that submitted written responses are as follows:

asb law LLP
Berwin Leighton Paisner LLP
Blake Morgan LLP
Bond Dickinson LLP
Boodle Hatfield LLP
British Property Federation
Burgess Salmon LLP
Chartered Institute of Taxation
City of London Law Society
Clarke Willmott LLP
Clifton Ingram LLP
DAC Beachcroft LLP
Deloitte LLP
Eversheds LLP
Ernst & Young LLP
Fieldfisher
Forsters LLP
FTI Consulting
Greenwoods Solicitors LLP
Hill Dickinson LLP
Hogan Lovells International LLP
Home Builders Federation
Howard Kennedy LLP
Irwin Mitchell LLP
KPMG LLP
Law Society
Law Society of Northern Ireland
Liverpool Law Society
Mishcon de Reya LLP

Nabarro LLP
Nationwide Building Society
Pinsent Masons LLP
SDLT.co.uk user group
Shakespeare Martineau LLP
Sharratts (London) LLP
Shoosmiths LLP
Stamp Taxes Practitioners Group
Stevens & Bolton LLP
Taylor Wimpey plc
Wright Hassall LLP
Zurich Financial Services (UKISA) Ltd

We are also grateful to those who took time to attend one of the consultation meetings in September 2016. The following businesses and organisations sent representatives:

Berwin Leighton Paisner LLP
Clarke Willmott LLP
Clifford Chance LLP
Deloitte LLP
FTI Consulting
Howard Kennedy LLP
Hunters
KPMG LLP
Landscape Software Limited
Law Society
Laytons Solicitors LLP
Stamp Taxes Practitioners Group