



Part 4 of the Finance Act 2003 introduces a tax on land transactions known as the Stamp Duty Land Tax (SDLT). SDLT will come into force on 1 December 2003. This update gives advice on how the introduction of SDLT affects the way in which applications are made to the Land Register of Scotland, the General Register of Sasines and the Books of the Lords of Council and Session (the Deeds Register).

This update does not attempt to address whether a particular transaction is a land transaction or whether particular land transactions require a return to the Inland Revenue, can be self-certificated, or are exempt transactions. Advice on these matters can be obtained from the Stamp Taxes Enquiry Line on 0845 6030135, open 8.30 am to 5.00pm Monday to Friday, except Bank Holidays, or visit www.inlandrevenue.gov.uk/so.

Copies of the Land Transaction Return and supplementary returns can be obtained from the Stamp Taxes Orderline on 0845 3021472. The Inland Revenue does not accept photocopies of the Land Transaction Return as they contain a unique reference number. However, the supplementary returns may be photocopied. Guidance notes on how to complete the SDLT returns can also be obtained from the orderline.

What is a land transaction?

A land transaction is defined in section 43(1) of the Act as "any acquisition of a chargeable interest". A chargeable interest is defined in section 48(1) as:

"(a) an estate, interest, right or power in or over land in the United Kingdom, or (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest right or power; other than an exempt interest".

How does SDLT affect my transaction?

SDLT replaces Stamp Duty for most land transactions completed on and after 1 December 2003. Land transactions will fall into three categories:

- (1) Those requiring completion of a Land Transaction Return. The Return must be submitted to the Inland Revenue, who will issue a SDLT certificate - the **original** of which must accompany the application for registration or recording to which the land transaction relates;
- (2) Those which do not require the purchaser to submit a Land Transaction Return to the Inland Revenue, but which nonetheless require the purchaser to complete a Self certificate form certifying the reason that no Land Transaction Return is required. (Self-certificates can be obtained from the Stamp Taxes Orderline); and
- (3) Those that are exempt from SDLT or fall outwith the definition of land transactions in terms of the Act.

Appendix A sets out guidelines for determining which category applies to a particular land transaction.



Evidence required by the Keeper

Section 79(1) of the Act places a duty on the Keeper not to register, record or otherwise reflect any document effecting or evidencing a land transaction falling within either category (1) or (2) above in any of the Registers maintained by him unless a certificate as to compliance with the requirements of the Act accompanies the application. The Keeper will **reject** any application in respect of a land transaction falling within categories (1) and (2) above which is not accompanied by the appropriate SDLT Certificate or Self-certificate. Land transactions falling within category (3) require neither a SDLT certificate nor a Self certificate. A checklist for the submission of certificates is contained in **Appendix B** to this update. The certificate will be returned to you once the registration or recording process is complete.





Transitional Provisions

Schedule 19 of the Act details the circumstances in which deeds will remain subject to Stamp Duty on or after 1 December 2003. The general rule is that a transaction will not be subject to SDLT unless its effective date is on or after the 1st of December 2003. The rule is that the effective date will generally be the date of completion of the contract. Special provisions apply where the transaction is effected in pursuance of a contract concluded before 10 July 2003 and also where the transaction is effected in pursuance of a contract entered into and substantially performed before 1 December 2003, but after 10 July 2003. If you are in any doubt as to whether a land transaction is liable for SDLT or Stamp Duty you should contact the Inland Revenue for advice.

Section 121 of the Act provides that completion in Scotland means, in the case of a lease, when it is signed by the parties or constituted by any other means, or in relation to any other transaction the settlement of that transaction.

Situations may arise after December 1 where a deed, which on the face of it is subject to SDLT, is in fact subject to Stamp Duty because of one of the transitional provisions. In that circumstance a covering note should accompany the deed explaining why the deed is not subject to SDLT. A covering note should be submitted in the following circumstances:

(1) where the deed is subject to Stamp Duty but on the face of the deed the effective date of the transaction is on or after 1 December 2003; and

(2) the deed itself has not been examined by the Inland Revenue (i.e. the deed contains a Finance Act clause or reference to the Stamp Duty (Exempt Instruments) Regulations 1987).

Land Transactions involving multiple properties

Where a number of properties are transferred as part of one transaction or as part of a series of transactions or a single scheme, the purchaser need only submit one Land Transaction Return to the Inland Revenue accompanied by a form SDLT3 listing the properties. The Land Transaction Return

(question 27) gives purchasers the choice of receiving one SDLT certificate with a schedule appended listing all the properties involved in the transaction or a separate SDLT certificate for each individual property.

The purchaser faces a similar choice with the completion of a self-certificate.

The Keeper would recommend that where a number of properties are conveyed in one deed then only one certificate with a schedule appended listing the properties is required. Conversely, if a number of properties are being conveyed, each in a separate deed, a separate Revenue Certificate or Self-certificate should be obtained for each deed. Guidance on this matter can be obtained from the Keeper's Customer Service Centres.

Edinburgh, Customer Service Centre

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68 Queen Street
Edinburgh, EH2 4NF
DX 550905, Edinburgh 15
LP-50, Edinburgh 5
Tel: 0845 607 0161
Fax: 0131 200 3932
email:customer.service@ros.gov.uk

Glasgow, Customer Service Centre

9 George Square
Glasgow, G2 1DY
DX 501752 Glasgow 9
LP - 12, Glasgow 5
Tel: 0845 607 0164
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This is the latest in a series of updates to keep you informed on the various aspects of Registers of Scotland's services, policies and procedures. More details can be found at www.ros.gov.uk/updates, or by contacting Customer Relations on 0131200 3944.



