

Does the Higher Rate SDLT threshold apply to my transaction?

Background to supplemental 3% charge

On 25 November 2015, as part of the 2015 Autumn Statement and Spending Review, it was announced that higher rates of SDLT would apply to the purchase of an interest in a residential property for £40,000 and over. The higher rates are 3% above the current SDLT rates for residential property and will apply for transactions that complete on or after **1 April 2016** where relevant.

SDLT rates if supplemental 3% charge applies

The higher SDLT rates are 3% above the current SDLT rates for residential property and apply on a progressive basis as per the table below.

Amount paid for property	Basic SDLT rate	Higher Rate
Not more than £125,000	0%	3% (except for properties where the price paid is less than £40,000)
More than £125,000 but not more than £250,000	2%	5%
More than £250,000 but not more than £925,000	5%	8%
More than £925,000 but not more than £1.5 million	10%	13%
More than £1.5 million	12%	15%

The Higher rates are applicable to the relevant part of the purchase price as per the example below. If the amount paid is £40,000 or more the total amount (up to £125,000) is chargeable at 3% (not just the slice between £40,000 and £125,000).

Example purchase price: £1,250,000.

Portion of price from £0 - £125,000	£125,000 x 3% -	£3,750
Portion of Price from £125,000 - £250,000	£125,000 x 5% -	£6,250
Portion of Price from £250,000 - £925,000	£675,000 x 8% -	£54,000
Portion of Price from £925,000 - £1,250,000	£325,000 x 13% -	£42,250
Total		£106,250

It should be noted that the supplemental 3% charge does not apply to acquisitions of non-residential property nor to acquisitions of mixed property.

Conditions for 3% additional charge to apply

The higher rate will apply if, at the end of the day on which completion takes place, you own or have an interest in another property with a market value of £40,000 or more and that interest is not subject to a lease with an unexpired term of more than 21 years.

You are deemed to have an interest in another property if any of the following apply:

- Your spouse or civil partner has an interest in another property
- You have an interest in a property overseas
- You are a beneficiary of a trust which has an interest in another property
- You have inherited a 50% or greater interest in a property which is yet to be sold or
- You have inherited an interest of less than 50% of the total value of the inherited property but you inherited that property over 3 years ago.

Buying in joint names

If a house is purchased by more than one buyer then, if any one of above criteria are met by **any** of the buyers then the higher rates apply to the whole of the purchase price regardless of the joint owners' respective interests in the new dwelling. Therefore, even if the only person who meets one of the criteria is obtaining just a 1% share in the property, the higher rates will still apply to the whole purchase price. This will catch most parents who are buying jointly with children.

Buying in the name of a limited company

The higher rate will **always** apply if you are purchasing an interest of £40,000 or more in the name of a limited company regardless of whether that company owns any other property or ever has done.

However, if the 15% charge on acquisitions of high-value residential property by non-natural persons applies, the 3% supplemental charge will not.

Replacement of your main residence

In most cases where you are moving home you will complete the sale and purchase on the same day and, as such, at the end of the day you will not have an interest in two properties and therefore the higher rates will not apply.

If however you have already sold your main residence and presently only own an investment property then you can acquire a new main residence without paying the higher rates provided:

1. On the completion date for the purchase of the new dwelling, you intend the new dwelling to be your only or main residence,
2. You (or your spouse or civil partner) disposed of your main residence within 3 years of your new purchase and
3. You (or your spouse or civil partner) have not acquired a major interest in any other dwelling with the intention of it being your only or main residence in the period starting with the completion date of the disposal and ending with the completion date of the purchase of the new dwelling.

Equally, if a new dwelling is bought before the sale of your existing residence and the above 3 criteria apply then you may be able to get relief from the higher rate. However, you must pay SDLT at the higher rate first and then, once the conditions are met, i.e. once the old house is sold, seek to reclaim the additional SDLT. This can occur if you are buying a new build property, relocating or significantly downsizing perhaps into a retirement or assisted living property.

Ownership of overseas property

The increased SDLT rates apply to:

- Foreign individuals and people not domiciled in the UK in the same way as they apply to UK residents.
- UK individuals who own overseas property and buy a residential property in England, Wales or Northern Ireland.

Inheriting a property

If an individual inherits a £40,000 interest in a dwelling then that individual is not treated as having a major interest in the inherited dwelling in the three-year period beginning with the date of inheritance, provided that the individual's beneficial share in the interest does not exceed 50%

If, at any time in that three-year period, the individual's beneficial share in the interest exceeds 50%, the individual is treated as having a major interest in the inherited dwelling from that date.

The individual and the individual's spouse or civil partner are taken together when calculating whether a 50% or more interest has been inherited.

The individual and the individual's spouse or civil partner are beneficially entitled as joint tenants to the interest and there is no more than one other joint tenant who is so entitled.

Consequently, if an individual does not dispose of their interest in an inherited property within three years of inheritance the higher rates will apply on that individual's purchase of another dwelling, unless that purchase is to replace an existing only or main residence.

Important information

Horwood and James LLP are not tax advisors. We are not qualified to give you formal taxation advice and we are not doing so. Our retainer (agreement) with you **does not** extend to giving taxation advice and it should not be construed as doing so. This information is designed as guidance only to try and assist your decision as to whether or not to seek formal taxation advice from an appropriate source. If you are in any doubt, we recommend that you seek professional taxation advice. SDLT is a self assessment tax and you are therefore liable for the responses given on your return. Unless instructed otherwise we will complete and submit the SDLT return on your behalf. The duty to ensure the information on that return is correct to the best of your knowledge remains with you.