

Sergeant and Sims on Stamp Taxes

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STAMP DUTY LAND TAX MEASURES—DIVISION AA

Stamp duty land tax: first time buyers' relief – extension of relief to all purchasers of qualifying shared ownership property 2018 – Autumn Budget 2018: overview of tax legislation and rates, para 1.45

Shared ownership properties are sold by local authorities to qualifying individuals and involve the individual buying a share of the property and paying rent on the remainder. The individual is also given an opportunity to purchase further shares of the property periodically ('staircasing')

Stamp duty land tax measures—Division AA

Legislation will be introduced in the Finance Bill 2018–19 to amend certain provisions in Schedule 9 of the Finance Act 2003 (stamp duty land tax: right to buy, shared ownership leases etc) to extend the coverage of relief for first-time buyers purchasing shared ownership properties. The changes will take effect from 29 October 2018: see Budget Resolution 43 (stamp duty land tax (relief for first-time buyers in cases of shared ownership)).

Prior to 29 October 2018, relief for first-time buyers purchasing a shared ownership property was only available where the buyer made an election to pay SDLT based on the market value of the property. For purchases on or after 29 October 2018, the relief will be available where the buyer does not make such an election. The relief will also apply to any SDLT payable on the rental payments.

First-time buyers who purchased a shared ownership property on or after 22 November 2017 (the date on which the relief was introduced) but before 29 October 2018 will be given until 29 October 2019 to amend their SDLT return and claim the relief. In other words, the extension of the relief will be retrospective: see Budget Resolution 44 (stamp duty land tax (repayment to first-time buyers in cases of shared ownership)).

The relief applies to the purchase of the first share in the property, meaning that no tax is payable where the amount paid for the first share is under £300,000 and tax at 5% is payable where the amount paid for the first share is over £300,000 but not over £500,000. The relief will not be available on the purchase of subsequent shares in the property.

For more information on the SDLT treatment of shared ownership leases and trusts, see shared ownership relief, see **AA9.8[AA213]** *Right to buy transactions, shared ownership leases and shared ownership trusts*.

SDLT higher rates: minor amendments – Autumn Budget 2018: overview of tax legislation and rates, para 1.48

The Finance Bill 2018–19 will make two changes to the legislation on the SDLT higher rates for purchases of ‘additional’ dwellings by individuals and purchases of dwellings by companies, Schedule 6ZA of the Finance Act 2003. The changes will take effect from 29 October 2018: see Budget Resolution 45 (Stamp duty land tax (higher rates of tax for additional dwelling etc)).

The first change is to extend the period within which tax reclaims may be made by nine months where:

- (1) an individual (A) purchases a new main residence;
- (2) the purchase is made before A (or A’s spouse or civil partner) has sold A’s old main residence;
- (3) the sale of the old main residence happens on or after 29 October 2018; and

- (4) the sale of the old main residence happens in the period beginning one year and 30 days of the purchase and ending three years of the purchase.

In those circumstances, the tax attributable to the higher rates paid on the purchase of the new main residence may be reclaimed by amending the SDLT return made in respect of the purchase within one year of the sale of the old main residence. For sales made before 29 October 2018, the SDLT return must be amended within three months of the sale or, if earlier, one year and 30 days of the purchase.

The second change is to insert a new provision (FA 2003 Sch 4ZA para 2(5)) confirming, in the opinion of HMRC for the avoidance of doubt only, that references to a ‘major interest’ in a dwelling in Schedule 4ZA include an undivided share in a freehold or leasehold estate in or over a dwelling. For purchases of dwellings on or after 29 October 2018 it is now certain that the interest acquired or held where a person acquires or holds property jointly is a qualifying major interest for the purposes of the higher rates rules.

For more information on the higher rates, see Chapter AA2B *Higher rates for additional dwellings acquired by individuals and dwellings acquired by companies*.

Stamp duty land tax for non-residents – Autumn Budget 2018: overview of tax legislation and rates, para 2.45

The Government will publish a consultation in January 2019 on the introduction of a 1 per cent surcharge (an ‘Overseas Buyers Levy’ if you like) for ‘non-residents’ – presumably, individuals and companies not resident in the UK rather than merely not resident in England or Northern Ireland – purchasing residential property in England and Northern Ireland. No further information on this measure is known at this stage.

Stamp duty land tax: changes to the filing and payment time limits

The Government will legislate in the Finance Bill 2018–19 for the 30-day filing and payment window to be reduced from 30 days to 14 days where a transaction is notifiable and an initial return needs to be made. The filing and payment window will remain at 30 days where a transaction is re-notifiable and a further return needs to be made because, eg, an SDLT relief is withdrawn. The changes will affect land transactions with an effective date on or after 1 March 2019. See Budget Resolution 47 (stamp duty land tax (changes to periods for delivering returns and paying tax)).

Consequential on the reduced time period, changes will be made to the design of the SDLT return by secondary legislation. The changes are meant to make it easier to complete the return, especially for complex transactions. Consultation on those changes was published on 30 October 2018: see www.gov.uk/government/consultations/draft-legislation-stamp-duty-land-tax-administration-amendment-regulations-2018.

Stamp duty land tax measures—Division AA

Stamp duty, stamp duty reserve tax (SDRT) and stamp duty land tax (SDLT): resolution of financial institutions – Autumn Budget 2018: overview of tax legislation and rates, para 1.44

Legislation will be introduced in the Finance Bill 2018–19 to exempt from stamp duty, SDRT and SDLT certain transfers of land and shares on the exercise of resolution powers under the UK special resolution regime for managing failed financial institutions. The exemptions will be effective from Royal Assent to the Finance Bill 2018–19. The legislation will insert two sections, sections 85A and 66A, into the Finance Act 1986 and the Finance Act 2003, respectively, to exempt from stamp duty, SDRT and SDLT a transfer of stock, marketable securities or land made by certain specific instruments in connection with the exercise of certain resolution stabilisation powers under the Banking Act 2009.

ANNUAL TAX ON ENVELOPED DWELLINGS MEASURES—DIVISION AB

Annual tax on enveloped dwellings: 2019 to 2020 annual chargeable amounts – Autumn Budget 2018: overview of tax legislation and rates

The annual tax on enveloped dwellings (ATED) chargeable amounts will increase by 2.4 per cent for the next chargeable period, 1 April 2019–31 March 2020. Provision is made in the Finance Act 2013 for the amounts to increase each year in line with the September Consumer Prices Index (CPI). The September 2018 CPI figure was 2.4 per cent.

The new chargeable amounts are as follows:

Taxable value of dwelling	Annual chargeable amount for 1 April 2019–31 March 2020
More than £500,000 but not more than £1m	£3,650
More than £1m but not more than £2m	£7,400
More than £2m but not more than £5m	£24,800
More than £5m but not more than £10m	£57,900
More than £10m but not more than £20m	£116,100
More than £20m	£232,350

For more information on ATED, see Division AB.

STAMP DUTY AND STAMP DUTY RESERVE TAX MEASURES—DIVISION A

Stamp taxes on shares consideration rules – Autumn Budget 2018: overview of tax legislation and rates, para 1.47

From 29 October 2018, transfers of listed securities to connected companies will be subject to stamp duty or SDRT on no less than their full market value at the effective time of the transfer (ie, the date of execution of the instrument of transfer in the case of stamp duty and the date of entering into an unconditional agreement relating to the transfer in the case of SDRT), subject to the availability of existing stamp duty and SDRT reliefs and exemptions: see Budget Resolutions 48 (stamp duty listed securities and connected persons) and 49 (stamp duty reserve tax (listed securities and connected persons)).

No exceptions are made for purchases by trustees or distributions in specie, as there are for the equivalent SDLT rule for transfers of land to connected companies (FA 2003 s 53); but provision is made for exceptions to be made. The legislation will be introduced in the Finance Bill 2018–19.

The Government will also publish a consultation on 7 November 2018 to consider the alignment of the stamp duty and SDRT consideration rules (currently the meaning of chargeable consideration for stamp duty is more limited) and introducing a general connected party market value rule. The targeted anti-avoidance rule effective from 29 October 2018 is aimed to prevent forestalling.

The changes are not of the type that had been proposed by the Office of Tax Simplification last year and appear to have been driven by a perceived threat to the revenue rather than a desire to simplify the rules.

Taxation of hybrid capital instruments

The Government will introduce legislation to revoke the Taxation of Regulatory Capital Securities Regulations 2013 and introduce new rules on the Taxation of Hybrid Capital Instruments with effect from 29 October 2018. The change follows the Bank of England earlier this year setting a ‘new minimum requirement for own funds and eligible liabilities’ (MREL) that banks, building societies and investment firms need to conserve to ensure that their own financial resources can be used to absorb any losses and recapitalise their business. To meet the MREL requirements, which will take effect from 1 January 2019, banks are allowed to issue types of hybrid capital instruments that are not covered by the 2013 Regulations. The substitution of the new tax rules for the 2013 Regulations ensures that the tax treatment associated with the old instruments translates to the new instruments. Draft legislation is expected on 7 November 2018. The exemptions for stamp duty and SDRT that exist for the transfer of regulated capital securities will apply to the transfer of hybrid capital instruments.

Stamp duty relief for share incentive plans – Autumn Budget 2018: overview of tax legislation and rates, para 1.46

Legislation will be introduced in the Finance Bill 2018–19 to make a minor correcting amendment to section 95 of the Finance Act 2001 (exemptions in relation to approved share incentive plans) with effect from 6 April 2016. In particular, references in section 95 to ‘approved share incentive plans’ and ‘approved SIPs’ will be replaced with ‘Schedule 2 SIPs’. The changes, which ought to have been made in 2014 and appear to have been overlooked in error, are consistent with HMRC’s practice and confirm that the stamp duty and SDRT reliefs in section 95 apply to share incentive plans, as intended.

Stamp duty, stamp duty reserve tax (SDRT) and stamp duty land tax (SDLT): resolution of financial institutions – Autumn Budget 2018: overview of tax legislation and rates, para 1.44

Legislation will be introduced in the Finance Bill 2018–19 to exempt from stamp duty, SDRT and SDLT certain transfers of land and shares on the exercise of resolution powers under the UK special resolution regime for managing failed financial institutions. The exemptions will be effective from Royal Assent to the Finance Bill 2018–19. The legislation will insert two sections, sections 85A and 66A, into the Finance Act 1986 and the Finance Act 2003, respectively, to exempt from stamp duty, SDRT and SDLT a transfer of stock, marketable securities or land made by certain specific instruments in connection with the exercise of certain resolution stabilisation powers under the Banking Act 2009.

OVERVIEW OF TAX LEGISLATION AND RATES

1 Finance Bill 2018–19

Stamp taxes

1.44 Stamp duty, stamp duty reserve tax (SDRT) and stamp duty land tax (SDLT): resolution of financial institutions

As announced at Autumn Budget 2017, the government will legislate in Finance Bill 2018–19 to ensure that Stamp Duty, SDRT and SDLT are not chargeable on exercise of resolution powers under the UK special resolution regime for managing failing financial institutions. The exemption will be limited to the temporary transfer of shares or land to a bridge entity, and the transfer of shares in exchange for temporary certificates issued to creditors that identify their entitlement to the shares. This will simplify and strengthen the process of resolving a failed financial institution and help to ensure that the ‘no creditor worse off’ principle is upheld.

Following publication of draft legislation on 6 July 2018, changes have been made which will extend the exemption to other types of financial institutions in resolution and certain transfers covered by the resolution regime.

The change will have effect for transfers made on and after Royal Assent of Finance Bill 2018–19

1.45. Stamp duty land tax: first-time buyers relief – extension of relief to all purchasers of qualifying shared ownership property

As announced at Budget 2018, the government will extend first-time buyers relief to include qualifying shared ownership property purchases, whether or not the purchaser elects to pay SDLT on the market value of the property. The first £300,000 of an initial share purchased will not be liable to SDLT. The remainder of the initial share will be chargeable at 5% on amounts over £300,000. No SDLT will be chargeable on the lease. Relief is not available on any further shares purchased. The relief will not apply to purchases of properties valued over £500,000. This change will apply to relevant transactions with an effective date on or after 29 October 2018, and will also be backdated to 22 November 2017.

Further information can be found in Tax Information and Impact Note [TIIN]: [Stamp duty land tax: first time buyers' relief – extension of relief to all purchasers of qualifying shared ownership property 2018].

1.46. Stamp duty relief for share incentive plans

The government will legislate in Finance Bill 2018–19 to amend section 95 Finance Act 2001. This will remove any reference to approved Share Incentive Plans or approved SIPs and replace with Schedule 2 SIPs. This amendment will ensure consistency across all legislation for share incentive plans and confirms that the existing stamp duty relief continues to apply. The amendment will have effect from 6 April 2014, when similar changes were introduced to Income Tax (Earnings and Pensions) Act 2003.

1.47. Stamp taxes on shares consideration rules

As announced at Budget 2018, a targeted market value rule for Stamp Duty and Stamp Duty Reserve Tax (SDRT) will be introduced for listed securities transferred to connected companies. Where the rule applies, the transfer will be chargeable based on the higher of the amount or value of the consideration (if any) for the transfer or the market value of the securities. Legislation will be published on Budget Day. The rule will come into force on Budget Day.

The government will also consult on aligning the Stamp Duty and SDRT consideration rules and introducing a general connected party market value rule. Reforming the consideration rules will simplify Stamp Taxes on shares and prevent contrived arrangements being used to avoid tax. The consultation will be published on 7 November 2018.

[Further information can be found in Tax Information and Impact Note [TIIN]: *Stamp Duty, SDRT: transfers of listed securities and connected persons*].

1.48. Stamp duty land tax higher rates – minor amendments

Overview of Tax Legislation and Rates

The government will legislate in Finance Bill 2018–19 to extend from 3 months to 12 months the time allowed to amend a tax return relating to Higher Rates for Additional Dwellings (HRAD) for those who sell their old home more than 12 months after they buy a new home. It will also clarify the meaning of ‘major interest’ in land for the general purpose of HRAD. These changes apply from 29 October 2018.

2 Measures not in the Finance Bill 2018–19

Stamp tax

2.44. ATED increases in annual chargeable amounts for the 2019–20 chargeable period

The ATED charges will rise by 2.4% from 1 April 2019 in line with the September 2018 Consumer Prices Index. This will be delivered by Statutory Instrument. A TIIN has not been published for this measure as it is a routine legislative change. Annex A [of the OOTLAR] shows the property bands and what the revised charges will be for the 2019 to 2020 chargeable period.

2.45. Stamp duty land tax for non-residents

The government will publish a consultation in January 2019 on a Stamp Duty Land Tax surcharge of 1% for non-residents buying residential property in England and Northern Ireland.

TAX INFORMATION AND IMPACT NOTES

Stamp duty and tax: first time buyers’ relief – extension of relief to all purchasers of qualifying shared ownership property 2018

Who is likely to be affected?

Individuals purchasing a residential property for the first time in England and Northern Ireland through a qualifying shared ownership scheme

General description of the measure

The relief for first time buyers will be extended to purchasers of qualifying shared ownership properties who do not elect to pay SDLT on the market value of the whole property when they purchase their first share.

The relief will apply retrospectively from 22 November 2017, meaning that a refund of tax will be payable for those who have paid SDLT after the 22 November 2017 in circumstances which now qualify for first time buyers relief.

Relief will be applied to the first share purchased, where the market value of the shared ownership property is £500,000 or less.

First time buyers will pay no SDLT where they are paying £300,000 or less for the first share. Those paying between £300,000 and £500,000 for their first share will pay SDLT at 5% on the amount in excess of £300,000, a reduction

of up to £5,000 compared to the amount of SDLT they would have previously paid. The relief will also apply to any SDLT due on the rental payments. The relief will not apply to the purchase of any further shares in the property.

First time buyers purchasing a shared ownership property whose market value is more than £500,000 will not be entitled to any relief and will pay SDLT at the normal rates, in line with the treatment for other first time buyers.

The relief must be claimed in an SDLT return, or by amendment where a SDLT return has already been filed.

The amendment window for those who completed their transaction before 29 October 2018 will be extended by a further 12 months until 28 October 2019.

Policy objective

This measure is part of the government's commitment to support home ownership and first- time buyers.

Background to the measure

This measure was announced at Budget 2018.

Detailed proposal

Operative date

This measure will have effect for transactions with an effective date (usually the date of completion) on or after 22 November 2017.

This measure does not apply in Scotland as SDLT was devolved to Scotland on 1st April 2015, or to transactions in Wales on or after 1st April 2018 when SDLT was devolved to Wales.

Current law

The main SDLT legislation is at Part 4 of the Finance Act (FA) 2003.

The rules for first time buyers are set out in Schedule 6ZA and those for shared ownership are in Schedule 9 of the Act. The current rules for first time buyers of qualifying shared ownership properties are at paragraph 16 of Schedule 9.

A first time buyer is defined as an individual or individuals who have never owned an interest in a residential property in the United Kingdom or anywhere else in the world and who intends to occupy the property as their main residence.

Qualifying shared ownership schemes are provided by approved bodies such as local authorities and housing associations which help people buy a home by allowing them to buy a share of their home and pay rent on the remainder.

Proposed revisions

Tax Information and Impact Notes

Legislation will be introduced in Finance Bill 2018–19 to amend Schedule 9 to extend the relief at Schedule 6ZA to first time buyers purchasing a qualifying shared ownership property who when first granted a lease do not elect to pay SDLT on the market value of the property.

The SDLT rates for first time buyers, which are set out in the table at paragraph 4 of Schedule 6ZA, will apply to the premium paid for the first share purchased.

Where relief for first time buyers is claimed on that first share purchase, relief will also apply so that no SDLT will be payable on the rental payments.

These revisions will also apply to shared ownership property purchased by first time buyers through shared ownership trusts.

First time buyers who purchased their property on or after 22 November 2017 but before 29 October 2018 will be given a further 12 months from 29 October 2018 to amend their return and claim the relief.

Summary of impacts

Exchequer impact (£m)

2018–19	2019–20	2020–21	2021–22	2022–23	2023–24
negligible	– 5	negligible	negligible	negligible	– 5

These figures are set out in Table 2.1 of Budget 2018 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Budget 2018.

Economic impact

This measure is not expected to have any significant economic impacts.

Impact on individuals, households and families

The measure will each year benefit around 1,700 first time buyers of residential properties purchasing through a qualifying shared ownership scheme where the market value of the property does not exceed £500,000 saving purchasers up to £5,000. Paying no or less SDLT reduces the upfront cost of buying a home for first time buyers.

This measure is not expected to have an impact on family formation, stability or breakdown.

Equalities impacts

This measure is likely to benefit younger people. This is because first time buyers are likely to be younger.

This measure is not expected to have an impact on any of the other protected equality groups.

Impact on business including civil society organisations

This measure is expected to have a negligible impact on businesses. Around 40,000 lawyers and conveyancers, who complete SDLT returns on behalf of purchasers, are expected to incur negligible one-off costs to familiarise themselves with the SDLT rules changes for first time buyers and shared ownership. Where the first time buyer is being granted a new shared ownership lease, users will need to overwrite the tax due figure on the return. Users can use the calculator on gov.uk to calculate how much SDLT is due. This is expected to involve negligible additional work. There is no impact on civil society organisations.

Operational impact (£m) (HMRC or other)

HMRC will need to make changes to IT systems and the online calculator on GOV.UK to support this change, at an estimated cost of £300,000.

Other impacts

Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will also be monitored and assessed through information collected from tax returns.

Further advice

If you have any questions about this change, please contact the HMRC SDLT Helpline on 0300 200 3510 (from abroad +44 1726 209 042).

Income tax: stamp duty relief for share incentive plans

(Policy paper: 29 October 2018)

Who is likely to be affected

Employers and employees who use or advise on Share Incentive Plans (SIPs).

General description of the measure

This measure will make a minor correcting amendment to section 95 of the Finance Act 2001 (exemptions in relation to approved share incentive plans) ('section 95 FA 2001') concerning stamp duty and stamp duty reserve tax relief for SIPs. This puts the legislation onto the basis already as operated by HMRC and will not change the basis on which relief is available.

Policy objective

This change clarifies the availability of stamp duty and stamp duty reserve tax relief for SIPs.

Background to the measure

This measure was announced at Budget 2018.

Tax Information and Impact Notes

Stamp duty and stamp duty reserve tax relief for approved employee share ownership plans was introduced by section 95 FA 2001. That section was substituted by section 723 of, and paragraph 257 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 ('ITEPA') so that it applied in relation to SIPs. At the time, tax advantaged share schemes such as SIPs had to be approved by HMRC before an employer could begin to operate them. This was reflected in section 95 FA 2001 (as so substituted) which made reference to 'approved share incentive plans'.

In 2014, the Government introduced self-certification for the tax advantaged share schemes that had required approval by HMRC. Changes were made in Finance Act 2014 (s51 and Schedule 8) to replace HMRC approval of SIPs with a self-certification process. The legislation concerning SIPs is contained in chapter 6 part 7 of and Schedule 2 to ITEPA. Among the changes made to the SIP legislation by FA 2014, were that references to 'approved share incentive plans' were amended to 'Schedule 2 SIPs'. In error such references in section 95 FA 2001 were not amended.

Detailed proposal

Operative date

This measure will be effective from 6 April 2014.

Current law

Chapter 6 of Part 7 of, and Schedule 2 to, ITEPA and the provisions mentioned in section 515 of ITEPA 2003 (including section 95 FA 2001) together constitute the SIP code.

Parts 2 to 9 of Schedule 2 ITEPA set out the requirements for a SIP to be a Schedule 2 SIP. Part 10 of that Schedule provides that for a SIP to be a Schedule 2 SIP notice of the SIP must be given to HMRC in accordance with that Part.

Section 95 FA 2001 provides (subsection (3)) that where, under an approved share incentive plan, partnership shares or dividend shares are transferred by the trustees to an employee –

- (a) no ad valorem stamp duty is chargeable on any instrument by which the transfer is made, and
- (b) no stamp duty reserve tax is chargeable on any agreement by the trustees to make the transfer.

Proposed revisions

Legislation will be introduced in Finance Bill 2018–19 to amend section 95 FA 2001. This will remove references to 'approved' in subsections (1) and (2) and in the heading and in subsection (3) 'an approved share incentive plan' will be substituted by 'a Schedule 2 SIP'. This will align the section with the other provisions of the SIP code.

Summary of impacts

Exchequer impact (£m)

2018 to 2019	2019 to 2020	2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024
nil	nil	nil	nil	nil	nil

This measure is not expected to have an Exchequer impact.

Economic impact

This measure is not expected to have any significant economic impacts.

Impact on individuals, households and families

There is no anticipated impact on employees who use SIPs as this measure only corrects legislation so that it is on the basis already operated by HMRC. The measure is not expected to impact on family formation, stability or breakdown.

Equalities impacts

It is not anticipated that any of the proposed changes will impact on any individuals with protected characteristics.

Impact on business including civil society organisations

It is not anticipated there will be any impacts on business administrative burdens as this measure is correcting an error in legislation and makes no change to the overall policy. There is no impact on civil society organisations.

Operational impact (£m) (HMRC or other)

There will be no significant operational impact.

Other impacts

Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be kept under review through communication with affected groups.

Further advice

If you have any questions about this change, contact Income Tax Structure and Earnings by email: incometax.structure@hmrc.gsi.gov.uk.

Stamp duty, stamp duty reserve tax: transfers of listed securities and connected persons

(Policy paper: 29 October 2018)

Tax Information and Impact Notes

Who is likely to be affected

Companies that acquire listed securities from connected persons.

General description of the measure

The measure will introduce a new targeted market value rule where listed securities are transferred to a connected company where stamp taxes on shares group relief is not available.

The measure will apply where money is paid or there is nil consideration or where the consideration is other than money.

Policy objective

HMRC are aware of contrived arrangements involving the transfer of listed shares to connected companies to minimise stamp taxes on shares liability on the acquisition of high-value share portfolios.

This measure makes the tax system fairer by removing this unfair advantage.

Background to the measure

This measure was announced at Budget 2018.

Detailed proposal

Operative date

For the charge to Stamp Duty under paragraph 1 schedule 13 Finance Act 1999, the measure will have effect in relation to instruments executed on or after 29 October 2018.

For the charge to Stamp Duty Reserve Tax (SDRT) under section 87 Finance Act 1986, the measure will have effect for agreements to transfer made on or after 29 October 2018.

Where the agreement to transfer is conditional, the measure will have effect where the condition is satisfied on or after 29 October 2018.

Where the Stamp Duty or SDRT charge is under section 67, 70, 93 or 96 Finance Act 1986 in relation to transfers to depositary receipt issuers or clearance services the measure will have effect for transfers on or after 29 October 2018 (whenever the arrangement was made).

Current law

The current law in respect of consideration for Stamp Duty is included at:

- section 6 Stamp Act 1891
- schedule 13 Finance Act 1999
- section 90 Finance Act 1965
- sections 67 and 70 Finance Act 1986

The current law in respect of consideration for SDRT is included at sections 87, 93 and 96 Finance Act 1986.

Proposed revisions

Legislation will be introduced in Finance Bill 2018–19 to provide for a new market value rule where listed securities are transferred to a company (whether or not for consideration), and the person transferring the securities is connected with the company.

In these circumstances, the transfer will be chargeable to stamp taxes on shares based on the higher of the amount or value of the consideration (if any) for the transfer or the market value of the securities.

Summary of impacts

Exchequer impact (£m)

2018 to 2019	2019 to 2020	2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024
negligible	negligible	negligible	negligible	negligible	negligible

This measure is expected to have a negligible impact on the Exchequer and supports the Exchequer in its commitment to protect revenue.

Economic impact

This measure is not expected to have any significant economic impacts.

Impact on individuals, households and families

The measure is not expected to impact on individuals.

Equalities impacts

It is not anticipated that this measure will impact on groups sharing protected characteristics.

Impact on business including civil society organisations

The measure will only impact on a small number of businesses which undertake transactions where listed shares are transferred to connected companies.

The impact on business costs and administrative burdens is expected to be negligible.

One off costs include familiarisation with the new rules.

Ongoing costs will consist of calculating market value.

Operational impact (£m) (HMRC or other)

HMRC will not incur any costs implementing this change.

Other impacts

Other impacts have been considered and none have been identified.

Tax Information and Impact Notes

Monitoring and evaluation

The measure will be kept under review through regular communication.

Further advice

If you have any questions about this change, please contact Stephen Roberts on Telephone: 03000 585 455 or Simon English on Telephone: 03000 585 446.

You can also email stamptaxes.budgetfinancebill@hmrc.gsi.gov.uk.

Stamp duty land tax: higher rates for additional dwellings – minor amendments

Who is likely to be affected

Individuals liable to Higher Rates of Stamp Duty for Additional Dwellings (HRAD) by virtue of buying a new home before selling their old home.

Persons liable to HRAD by virtue of owning, disposing of or purchasing residential property owned by more than one person.

This measure will apply solely to purchasers of property in England and Northern Ireland.

General description of the measure

The measure will extend the time allowed to claim back HRAD where an individual sells their old home within 3 years of buying their new one.

The measure also clarifies the meaning of ‘major interest’ in land for the general purpose of HRAD.

Policy objective

The measure will ensure that the HRAD rules are easier to understand and more transparent.

The measure will give purchasers of residential property more time within which to obtain a refund of HRAD paid.

The measure will also provide more certainty for purchasers of residential property by making it clear, that for HRAD, a ‘major interest’ includes an ‘undivided share in land’.

Background to the measure

HRAD was introduced in April 2016 as Schedule 4ZA to the Finance Act 2003.

As a rule, HRAD requires individuals who buy residential property while already owning such property to pay SDLT at rates 3 percentage points above the standard rates.

An exception to this rule arises when someone sells an old home and buys a new home. HRAD won’t be chargeable if the old home is sold before the new home is bought or if the old home is sold within three years of buying the

new home. In the latter case, HRAD must be paid upfront and can be claimed back so long as certain conditions are met.

Detailed proposal

Operative date

Both changes will take effect from 29 October 2018. The time limit changes will apply where the effective date of sale of the old home is on or after that date.

Current law

HRAD – time limit for an amended return

Someone selling their old home after they buy their new home must pay HRAD upfront.

By virtue of paragraph 8 of Schedule 4ZA a purchaser can reclaim the HRAD provided they sell their old home within 3 years of buying their new home.

By virtue of paragraph 8(3) (a) of Schedule 4ZA a successful reclaim must be made by the later of –

- three months from selling the old home, or
- a year from the filing date for the SDLT return for the new home.

In practice this means that anyone who fails to sell their old home within 12 months of the filing date of the SDLT return for their new home must rely on paragraph 8(3)(a) of Schedule 4ZA and reclaim their HRAD within three months of the sale of their old home.

Major interest

The design of HRAD broadly means that tax is charged when someone buys and already owns a ‘major interest’ in a dwelling.

The term ‘major interest’ is used to ensure that HRAD applies to only meaningful purchases of residential property and does not apply to ‘minor interests’, for example a right of way or a right to light.

Some external stakeholders have suggested that it is unclear whether the legal definition of ‘major interest’ includes an ‘undivided share in land’ and, consequently, whether transfers involving an ‘undivided share in land’ are within the scope of HRAD.

Proposed revisions

HRAD – time limit for an amended return

Paragraph 8(3)(a) of Schedule 4ZA will be amended so that a successful reclaim must be made by the later of –

- 12 months from selling the old home, or
- a year from the filing date for the SDLT return for the new home.

Tax Information and Impact Notes

Major interest

While HMRC’s view is that the HRAD legislation as it stands enables us to tax all purchases of undivided shares in land, paragraph 2 of the main Schedule will be amended to put the position beyond doubt, and make clearer that a major interest in a dwelling includes an undivided share in a dwelling for the purpose of HRAD.

Summary of impacts

Exchequer impact (£m)

2019/20	2020/21	2021/22	2022/23	2023/24	Total
negligible	negligible	negligible	negligible	negligible	negligible

Economic impact

This measure is not expected to have any significant economic impacts.

Impact on individuals, households and families

This measure is expected to have a positive impact on individuals as it extends the period from 3 months to 1 year to reclaim HRAD from the day individuals sell their old home. This proposal also clarifies HRAD’s rules to make it clear that a ‘major interest’ includes an undivided share in land.

One-off costs include familiarisation with the new rules. It is not expected that there will be any ongoing costs. The measure is not expected to impact on family formation, stability or breakdown.

Equalities impacts

The time limit extension aspect of this measure is likely to have a positive impact on groups with protected characteristics, particularly the elderly and vulnerable customers who for good reasons, such as serious illness, have been unable to reclaim HRAD within the previous time frame.

Impact on business including civil society organisations

This measure is expected to have a negligible impact on approximately 4,000 conveyancers and property professionals. One-off costs include familiarisation with the new rules. There are no expected on-going costs. There is no impact on civil society organisations.

Operational impact (£m) (HMRC or other)

HMRC will not incur any costs in implementing these changes.

Other impacts

Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be kept under review through communication with affected groups.

Further advice

If you have any questions about this change, please contact neil.zammit@hmrc.gsi.gov.uk.

BUDGET 2018: POLICY COSTINGS

Stamp duty land tax: extend first time buyers relief for shared ownership properties

Measure description

This measure will extend Stamp Duty Land Tax (SDLT) first-time buyers relief so that it applies to all first-time buyers purchasing residential property worth up to £500,000 through a qualifying shared ownership scheme.

This measure will be effective from 29 October 2018.

The relief will also apply to shared ownership property buyers who have already paid SDLT on the initial equity stake and rental amount since the introduction of the relief on 22 November 2017. They will have a year to make a backdated claim for the relief.

The tax base

The tax base is the Continuous Recording of Social Housing Letting and Sales (Core) dataset which contains information on shared ownership sales to first time buyers in England. The Core dataset is owned by the Ministry of Housing, Communities and Local Government (MHCLG).

Costing

The costing is estimated by applying the pre- and post-measure tax regimes to the tax base described above. The costing is grown in line with OBR's forecast for residential SDLT receipts and also reflects expected repayment of SDLT for backdated relief claims.

Exchequer impact (£m)

Exchequer impact	2018–19	2019–20	2020–21	2021–22	2022–23	2023–24
	neg	– 5	neg	neg	neg	– 5

Areas of uncertainty

The main area of uncertainty in this costing relates to the size of the tax base.

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