

The following is only intended as a quick guide to Stamp Duty / Stamp Duty Land Tax, and is not meant to be comprehensive. If you have any further questions, we would recommend that you contact the Inland Revenue Stamp Office Website: www.hmrc.gov.uk.

Importantly, for the vast majority of private residential landlords Stamp Duty / Stamp Duty Land Tax will not be an issue any more due to the changes in the law as of 1st December 2003. This help sheet provides information for Agreements both before and after the 1st December 2003 as some landlords may have older tenancy agreements which may require Stamping.

The information contained at the end of this help sheet for tenancy agreements prior to December 2003 may change and therefore if your tenancy is pre December 2003 you should contact the Inland Revenue Stamp Office for further information. We have simply stated the rules, as they were applicable.

Agreements created on or after December 1st 2003

The new Stamp Duty Land Tax (SDLT) system came into force on 1 December 2003, replacing Stamp Duty for private residential tenancy agreements.

This change was extremely important for private landlords and letting agents regarding residential letting. This help sheet only deals with residential letting, (there are slightly different amounts of SDLT in relation to commercial property).

Previously, landlords and their agents were required to have tenancy agreements stamped where the rental value of the tenancy exceeded £5,000 (either per annum, or over the term of the agreement, please see below regarding the position pre December 2003).

The new SDLT system replaced the old term of 'Stamp Duty' for residential tenancies. Now payment or a 'stamp' will only be required where the lease value exceeds the SDLT threshold - currently £125,000.

Below £125,000 no SDLT tax will be payable and so this change will be effectively remove this tax from the vast majority of landlords. If your tenancy agreement does exceed this amount, you should contact the Inland Revenue Stamp Office for more information.

If tax is payable, the person who needs to pay it, is the person to whom the lease is granted (i.e. the tenant) where there are joint tenants, they become jointly liable for the SDLT charge.

Please do note the tax is payable for the term of the tenancy agreement and therefore can become applicable if you were to grant a tenancy agreement for a number of years. For example a tenancy agreement as a rent of £4,000 per month granted for three years, would be £4,000 multiplied by 36 months = £144,000 and therefore tax would be due.

Under SDLT, it makes no difference whether the property is unfurnished or furnished, unlike the previous system.

The Law Prior to December 1st 2003

As noted above since the 1st December 2003 Stamp Duty, or more correctly SDLT will rarely be payable.

However, it is important to state the rules prior to December 1st 2003 as it may sometimes cause problems.

In the cases where it is payable, it must be paid, otherwise, the Tenant and Landlord may become liable not only for the original stamp duty, but also interest and penalties.

When should stamp duty be paid? Prior to December 2003 the landlord needed to look at furnished and unfurnished tenancy agreements separately.

1) Furnished Property - 'For a property to be classed as a furnished letting, there must be a reasonable degree of comfort available to the Tenant when he or she moves in. Furniture such as bed, tables, chairs and so on must be provided as well as cooking facilities.'

To answer the question of when stamp duty should be paid on furnished tenancy agreements, it is probably best to start with the situations when stamp duty does not need to be paid:

- If the total annual rent for the property is £5,000 or less then you do not need to pay any stamp duty, and, therefore, you do not need to read any further. (This is an average monthly rent of £416.67 or a weekly rent of £96.15)

- If the total for a term less than a year is less than £5,000. (For example a six month let, the rent could be as high as £832.32, or a weekly rent of £192.30. The key thing to remember is that the rent should not be more than £5,000 for the period.)

However, if the total rent on the premises is in excess of £5,000 then you should read the following, to limit your stamp duty and ensure you are complying with the law.

- Annual Rents - Stamp duty is calculated on the amount of rent paid, at a calculation of 1%, per annum, and is rounded up in units of £5, with the minimum payment of £5.

If the rent for the year is £7,000 then stamp duty would be £70, calculated as follows, 1% of £7,000 = £70, rounded up to the nearest £5, is £70.

If the rent for the year is £8,000, then stamp duty would be £80, calculated as follows, 1% of £8,000 = £80, rounded up to the nearest £5, is £80.

Always remember though that stamp duty is rounded up to the nearest £5. Thus if the rent was £7,200, the stamp duty would be £75, calculated as follows, 1% of £7,200 = £72, rounded up to the nearest £5, is £75.

- Less than a year - If a property is let for less than a year, even if the amount charged is in excess of £5,000, the stamp duty will only ever be £5. Therefore, the astute landlord will make

a 364 day tenancy agreements rather than an annual one, for high rents, as the stamp duty will only ever be £5.

Stamp duty must be paid within 30 days of the date the agreement becomes effective. This is normally the date on the document. If you don't have the document stamped within this period, you will be liable to pay a penalty as well as the stamp duty. Interest charges will also arise if the correct amount of duty has not been paid on time.

2) Unfurnished Property - 'An agreement which does not fall exactly into the categories for furnished letting, will be liable to stamp duty as if it were a lease.' However, for most unfurnished assured shorthold agreements, the stamp duty is not dissimilar to furnished agreements, when the letting period is for under 7 years.

The rules of 1% apply for 7 years or less or indefinite, as with furnished assured shortholds, and likewise, if the annual rent is less than £5,000 no stamp duty is payable.

For examples therefore, please see the furnished lettings.

Should your term be for more than 7 years, it would be advisable to contact the Inland Revenue Stamp Office direct.

For both furnished and unfurnished:

Which document should the stamp duty be paid on?

If the Landlord and Tenant each sign both copies, one would attract full duty, and the other, a fixed duty of £5 as a Duplicate. Before a duplicate can be stamped, we will need to see evidence that the full duty has been paid on the other agreement.

If the original document is charged with £5 fixed duty the same rate will apply to the counterpart/duplicate.

Contact Us

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