

We're often asked by clients why they need to pay Stamp Duty Land Tax (SDLT) on commercial leases – “isn't that just when you buy a property?” - is a common query.

The rules regarding payment of SDLT can be complex so we've pulled together the key things you need to know when taking out a commercial lease and when SDLT is payable.

## **Q: Is there a difference depending on where the property is located?**

A: The Stamp Duty Land Tax (SDLT) regime only applies to properties in England and Northern Ireland. Properties in Wales are subject to Land Transaction Tax operated by the Welsh Revenue Authority. Properties in Scotland are subject to Land and Buildings Transaction Tax operated by Revenue Scotland.

*(The below relates to land in England and Northern Ireland only.)*

## **Q: We're not buying the property, we're just taking a lease, so why do we have to pay SDLT?**

A: SDLT is potentially payable when any chargeable interest in land is acquired. This includes the grant of a lease, whether it is formally documented or on an informal basis. SDLT is always payable by the party acquiring the interest, in this case, the tenant.

## **Q: Do we have to notify HMRC of the transaction?**

All leases of land granted for a term of seven years or more have to be notified to HMRC by filing a SDLT return unless:

- The average rent is less than £1,000 per annum; and
- The lease premium is less than £40,000.

Leases granted for a term of less than seven years do not have to be notified to HMRC unless the amount of the annual rent or lease premium means that SDLT is payable.

## How do I know how much SDLT is payable?

### Lease premium

SDLT is calculated on the amount of the lease premium according to the percentage rates applied by HMRC at the date of the transaction. As at the date of this note the following rates apply:

<u>Premium</u>	<u>Rate</u>
Up to £150,000	0%
£150,001 to £250,000	2%
Above £250,000	5%

### Rent

SDLT is calculated using the 'net present value' ("NPV") of the rent payable over the term of the lease and this is calculated using a formula. The applicable percentage rates are then applied to the NPV. The easiest way to work out what, if any, SDLT might be payable is to use HMRC's calculator:

<https://www.tax.service.gov.uk/calculate-stamp-duty-land-tax/#/intro>

The rates applicable as at the date of this note are:

<u>Net Present Value</u>	<u>Rate</u>
Up to £150,000	0%
£150,001 to £5,000,000	1%
Above £5,000,000	2%

### Reliefs

In certain circumstances reliefs might apply to the transaction so that reduced, or no, SDLT is payable. This would need to be considered by your solicitor and accountant according to the particular circumstances.

It's a good idea to talk to your advisors, such as your agent, accountant and solicitor when considering the lease terms so you are aware what the SDLT implications are before agreeing the terms.

## How do we notify HMRC and pay the SDLT?

A SDLT return has to be submitted to HMRC within 14 days of completion of the lease. Your solicitor will deal with this following completion of the lease and can deal with payment of the SDLT to HMRC on your behalf.

## What if SDLT is not paid?

Penalties will be applied by HMRC. These are currently:

- £100 for a late return filed up to 3 months after the filing date;
- £200 for a late return filed more than 3 months after the filing date;
- A tax based penalty, which can be up to the amount of SDLT that was due, for a return filed 12 months or more after the filing date; and
- Interest on the tax due.

If you would like more advice regarding commercial leases, get in touch for a friendly and informal chat today.

Call **01622 759 900** or email [enquiries@outsetuk.com](mailto:enquiries@outsetuk.com)