Stamp Duty Land Tax (SDLT) – Guidance for GPs
March 2009

This guidance has been produced by the General Practitioners Committee with the aim of providing a basic overview of SDLT as it applies to GPs. ***It is not a substitute for individually tailored professional accountancy and tax advice and only covers the general principles behind SDLT.*** *GPs should always seek such professional advice when considering a transaction that may be subject to SDLT.*

This guidance applies to the UK as a whole, although there are slight variations in regulations across England, Scotland, Wales and Northern Ireland. Scottish regulations vary most widely from those in the rest of the UK.

Introduction

Stamp Duty Land Tax (SDLT) was introduced in December 2003, replacing the previous Stamp Duty. SDLT is payable on transactions relating to UK land and buildings.

Although not all transactions involving GPs will be liable for SDLT, it is likely that it will affect an increasing number of practices in the future, due to the increasing number of practices occupying leasehold premises and the varying nature of the property market - in particular in relation to property prices.

What types of transaction are liable for Stamp Duty Land Tax (SDLT)?

SDLT is payable on UK land transactions that have a chargeable consideration – for example, on the purchase price of a property, or when a lease is granted.

For the purposes of SDLT, a chargeable consideration is defined by HMRC as "anything given for the transaction that is money or money's worth". This often means cash, but can also include:

- the release or assumption of a debt
- works and services
- the transfer of other property

Usually, non-monetary (money's worth) considerations are valued at their current market value.

When the value of a transaction rises above a certain threshold, the purchaser is liable to pay the tax. Thresholds for **non-residential properties**[*] are as follows:

SDLT payable on transfers of land and buildings

Once the value of a transfer's chargeable consideration reaches the threshold, **SDLT is payable on the entire value of the chargeable consideration at the specified rate**.

Rate	Chargeable consideration
Zero	£0 - £150,000
1%	Over £150,000 - £250,000
3%	Over £250,000 - £500,000
4%	Over £500,000

[*] Note that these rates differ from those for residential properties.

An example of how this would apply is as follows:

Rate	Chargeable consideration	SDLT payable
0%	£149,999	£0
1%	£150,001	£1,500.01
3%	£250,001	£7,500.03
4%	£500,001	£20,000.04

Thresholds for non-residential properties in disadvantaged areas used to be set at a slightly lower rate, however this lower threshold was discontinued in March 2005.

SDLT payable on new leases

Since the introduction of SDLT in December 2003, a practice, on the grant of a new lease, will be liable for SDLT if the net present value (NPV) of the rental payments is in excess of £150,000. In contrast to arrangements for SDLT on transfers of land or buildings, **SDLT on new leases is charged only on the proportion of NPV which is over £150,000, and only at a flat rate of 1%**.

Rate	Net present value of rent
Zero	£0 - £150,000
1%	Over £150,000

The expected NPV of a lease is based on the first five years' rent (or less, if the lease is shorter), and can be calculated using the SDLT lease transaction calculator, which is available on the HM Revenue & Customs (HMRC) website: http://www.hmrc.gov.uk/so/new-sdlt-calculators.htm

A number of sample calculations, all based on hypothetical new five year lease, have been reproduced below:[†]

Rent Year 1	£20,000	£40,000	£60,000	£80,000	£100,000
Rent Year 2	£21,000	£42,000	£63,000	£84,000	£105,000
Rent Year 3	£22,050	£44,100	£66,150	£88,200	£110,250
Rent Year 4	£23,153	£46,305	£69,458	£92,610	£115,763
Rent Year 5	£24,310	£48,620	£72,930	£97,241	£121,551
Total Rent	£110,513	£221,025	£331,538	£442,051	£552,563
NPV	£99,460	£198,919	£298,379	£397,839	£497,299
Taxable amount (NPV - £150,000)	£0	£48,919	£148,379	£247,839	£347,299
SDLT payable	**£0**	**£489**	**£1,483**	**£2,478**	**£3,472**

Please note: *This example is for illustrative purposes only, and practices should always seek specialist tax or accountancy advice when calculating SDLT liabilities.*

[†] For the purposes of this calculation of NPV, it is assumed that the lease runs from 1st January 2008 to 31st December 2012; that rent increases by 5% per annum; and that no premium is paid to reduce the annual rent. Please note that the NPV calculator rounds SDLT payable calculations down to the nearest pound.

The expected NPV where a premium (where a part of the rent is paid as an up-front payment, usually resulting in a lower annual rental payment) is paid can also be calculated using the HMRC's calculator, but it is anticipated that this will not affect the majority of GP practices.

Exemptions from SDLT

Public Bodies – including Strategic & Special Health Authorities, Local Health Boards, Trusts and Primary Care Trusts – are exempt from SDLT. This also means that PCO-led premises development projects may be exempt from SDLT.

This exemption does not extend to GP practices premises that are not owned by the PCO, or GP practices working in NHS owned buildings/health centres but independent of the PCT. So if the practice has a lease on which they are paying rent and/or a premium the normal rules apply, but if they are not paying for use, or only paying very little, then there is no issue because they do not have a material land interest.

On the understanding that Local Improvement Finance Trust (LIFT) Companies are companies with shareholding split between qualifying bodies within the public sector and the private sector, they will not qualify for the public body exemption. This is because companies only qualify if all their shares are owned by a qualifying public body.

Who is responsible for paying SDLT?

It is the responsibility of the purchaser or tenant (upon the granting of a lease) to complete and return a Land Transaction Return (SDLT1) within 30 days of the effective date of completion of a transaction. A conveyancer or solicitor will normally complete this on behalf of the purchaser or tenant, but legally the purchaser is responsible for the accuracy and timeliness of the information submitted. Failure to submit the Land Transaction Return and/or to pay SDLT on time will result in penalties. Interest is charged on both late paid tax and outstanding penalties.

If you sign a lease with a length of seven years or more, you are obliged to notify HMRC, regardless of whether or not it attracts SDLT. However, if your lease is less than seven years **and** it is not of sufficient value to attract SDLT, you do not need to notify HMRC.

Joint purchasers, such as a partnership, are jointly liable to pay the tax, although the proportion that each individual partner should pay can be subject to private agreement within the partnership.

What support can practices expect to receive?

Practices are entitled to seek reimbursement for SDLT from their PCO under paragraph 30 of the National Health Service (General Medical Services – Premises Costs) (England) Directions 2004.

The same clause is included in the Premises Costs Directions in Northern Ireland, Scotland and Wales.

Stamp Duty Land Tax payable on agreeing a new lease
30. *Where–*
(a) a contractor agrees with its PCT to relocate to or additionally occupy modern leasehold practice premises approved by the PCT in the PCT's estates strategy for investment prioritisation;
(b) the relocation or additional premises will, in the opinion of the PCT, result in an improvement in the range and quality of services to be provided to patients by the contractor;
(c) the contractor makes an application to its PCT for financial assistance to cover the cost of any Stamp Duty Land Tax incurred by the contractor as a consequence of signing a lease to occupy premises,

the PCT must consider that application for financial assistance and, in appropriate circumstances (having regard, amongst other matters, to the budgetary targets it has set for itself), grant that application.

The PCO is not obliged to provide financial assistance. However, qualifying practices should always make an application for assistance, which the PCO is obliged to consider. Additionally, practices should seek to have their SDLT reimbursed as a condition of their moving to new practice premises.

Levels of support and financial assistance for SDLT payments are likely to vary from PCO to PCO, particularly in the current financial climate.

SDLT and partnerships

Applying SDLT rules to partnership is complex.

Where a partnership as a whole buys, sells or rents land from a third party it is subject to SDLT in the same manner as a similar transaction undertaken by an individual.

There are special and complex SDLT rules relating to other transactions involving partners. These broadly seek to tax movement in land interests between partners where the land interest is owned or used by the partnership. Where partners, or people connected with them, transfer property into or out of a partnership there is likely to be a SDLT charge. This charge is calculated by reference to the property's market value and the partnership shares of income and you should always seek specialist advice when considering such a proposal. If a partner retires from the partnership but retains an interest in property, this will be treated as a land interest leaving the partnership and a charge will in all likelihood arise.

Prior to 19th July 2006 changes in the comparative interests in the partnership (ie the income splitting arrangements) would often have also triggered a charge. However, practices will now normally be outside the charge arising on these changes. To escape the charge the practice needs to be able to show that the partnership's main activity is carrying out a trade that is not trading in, dealing in or developing land. So if the practice becomes involved in land development, etc., it should seek early specialist advice.

Note: It is important to be aware that, despite the recent attempt to simplify the way in which SDLT affects partnerships, the regulations governing partnerships are still among the most complex aspects of SDLT, and the manner in which they should be applied remains unclear in parts.

Practices should always ensure that they take professional advice on SDLT implications whenever they are considering a change in partnership.

Further key points to consider

Due to the complexity of SDLT regulations, it is beyond the scope of the BMA to give detailed advice to individual GPs. However, set out below are some of the key points practices should consider:

- Practices need to be aware that SDLT may be payable each time there is a change to the lease.
- Some changes in partnership arrangements may incur SDLT.
- It may be prudent to specify in partnership agreements where responsibility lies for payment of SDLT, should the need arise.
- SDLT regulations for freehold and leasehold properties differ.
- Practice accountants may be able to advise on how to limit the effect of SDLT.
- SDLT may be considered an expense for accounting purposes.
- There are small differences in the regulatory process in the devolved nations of the UK.

The BMA strongly recommends that practices obtain advice and support from their lawyer and/or accountant if they feel this is an issue which might affect them.

GPC action in relation to SDLT

At the time of introduction of SDLT, and on a number of occasions since, the GPC has raised this issue with the Department of Health, and has sought for SDLT costs to be reimbursed to practices. However, so far these attempts have not been successful. This is mainly because this issue is largely a tax matter, which the GPC and, to some extent the Department of Health, have very little influence over. The GPC will continue to monitor the situation and raise it at a national level as appropriate. It will also continue to encourage PCOs to assist with SDLT costs.