

STAMP DUTY LAND TAX

- Stamp Duty Land Tax will replace existing stamp duty for UK land and building transactions from 1 December 2003. This will see a move away from a process of sending in documents to be stamped to authorise the transaction towards a more straightforward tax on the transaction.
- The purchaser or person acquiring an interest in the property will be required to notify the Inland Revenue of the transaction within 30 days of its effective date by completing a Land Transaction Return.
- A new mechanism for calculating the overall value of a leasehold transaction will be introduced. This will only apply to the granting of new leases.
- The charge will be based on the Net Present Value of the lease. This calculation uses capitalised rental values over the lifetime of the leases, discounted by a rate of 3.5%. Where VAT is chargeable on rent under the leases, VAT is included in the rental income for the purposes of calculating the duty. The duty due will amount to 1% of the NPV. An on-line calculator will work out the NPV for you.
- Leasehold transactions with an NPV of less than £150,000 will be totally exempt. Larger transactions will see a 1% charge being levied on the NPV above this amount.
- If the lease contains a provision to review the rent after a period of time in order to increase the market value of the rent ie a standard rent review clause, then that is not taken into account in the NPV calculation. Similarly, standard terms which vary the rent by RPI are not taken into account.
- However, if the lease contains no provision to review the rent and the rent is subsequently increased, then the variation will be treated as if it were the grant of a new lease and stamp duty will be chargeable on the additional rent made payable by it. The same exemption threshold will apply.
- The assignment of a lease will be treated in the same way as freehold transfers and will not be subject to the same calculations outlined above.
- A second return will be required to notify the Inland Revenue of the transaction, but stamp duty will only be chargeable on the premium being paid to acquire the interest in the lease and no reference will be made to the rental stream. Where the premium is less than £250,000 then the charge will be 1% of the total amount.
- Following consultation, the Government has confirmed that it will provide partial relief from stamp duty for sale and leaseback transactions in recognition of the fact that these are largely vehicles for raising finance rather than genuine transactions.
- The initial sale of the premises will be subject to stamp duty – for the purposes of these clauses, sale also includes assignment of an existing lease - but the leaseback element will not provided that the property in question is commercial, not residential, the leaseback is of exactly the same premises and the consideration for the sale or assignment consists only of cash or the assumption of debt.