



**Response to HM Treasury consultation on higher rates of Stamp Duty Land Tax (SDLT) on purchases of additional residential properties
From Association of Residential Letting Agents (ARLA)
February 2016**

Background

1. The Association of Residential Lettings Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK. Today ARLA is recognised by government, local authorities, consumer interest groups and the media as the leading professional body in the private rented sector.
2. In May 2009 ARLA became the first body in the letting and property management industry to introduce a licensing scheme for all members to promote the highest standards of practice in this important and growing sector of the property market.
3. ARLA members are governed by a Code of Practice providing a framework of ethical and professional standards, at a level far higher than the law demands. The Association has its own complaints and disciplinary procedures so that any dispute is dealt with efficiently and fairly. Members are also required to have Client Money Protection and belong to an independent redress scheme which can award financial redress for consumers where a member has failed to provide a service to the level required.

Questions

Question 1:

Are there any difficult circumstances involving family breakdown which mean that treating married couples and civil partners as one unit until they are separated is not appropriate? If there are, how would you suggest those circumstances are treated?

4. If the Government treats married couples and civil partners as one unit until they are separated under the terms set out in 2.4 of the consultation document ARLA believes this will penalise people who choose to get married or enter a civil partnership.
5. For instance, if a partner is fleeing a relationship because of domestic violence and must purchase another property to live in as their main residence, whilst remaining on the mortgage at the previous address, under the Government's proposals the

partner purchasing an additional property would be penalised and pay an additional SDLT.

6. Whilst we understand that this individual may later claim a refund (section 2.11), more detail is needed about how they would do this. For instance would coming off the mortgage be classed as disposing of a previous main residence instead of selling it? In the case of domestic violence, information from the police or a doctor could help to allow victims to purchase another property whilst not having to pay the additional tax.

Question 2:

Do you agree that, where property is purchased jointly, if any of the purchasers in a transaction are purchasing an additional residential property and not replacing a main residence, the higher rates should apply to the whole transaction value? If not, how would you suggest the government treats joint purchasers?

7. If the new property is to be their main residence then existing properties should not be taken into account because this will penalise people who have made prudent investments in property earlier in life.
8. For example, under 'Example 19' given in the consultation document, C would be replacing a main residence if she was living in the new property which B and C are purchasing. Therefore the higher rates of SDLT should not apply to C regardless of whether C retains her existing property or now has additional property.

Question 3:

For the first stage of the test for determining whether a purchaser is replacing an only or main residence, does considering previously disposed or property in the way presented above cause practical difficulties or hardship in particular cases?

9. Yes. People may have significant cash flow problems if they have to find additional stamp duty when they have not sold their first home. Consequently ARLA believes that many people will not be able to afford this.

Question 4:

For the second stage of the test, do you agree that the rule should require the purchaser to intend to use the newly purchased property as their only or main residence?

10. Yes. Under the proposals we agree that the rule should require the purchaser to intend to use the newly purchased property as their only or main residence. However, more broadly we do not agree with the policy of additional stamp duty on second homes or Buy-to-Let / private rented investments.
11. The changes will deter new landlords from entering the market, which will push the gap between dwindling supply of available property and growing demand even further apart. As a result rental costs will increase because to make owning a Buy-to-Let property financially viable, landlords will need to pass on the increased stamp duty costs to tenants, who will in turn see less spent on maintaining their property.
12. Indeed, these moves go against the Government's aim of greater home ownership. The changes will mean that tenants will end up paying more in rent and therefore unable to save as much from their incomes. As house prices continue to increase and the amount tenants can regularly save decreases, these changes will further widen the affordability gap and put the dream of homeownership further out of reach.

Question 5:

Do you agree that 18 months is a reasonable length of time to allow purchasers a period between sale of a previous main residence and purchase of a new main residence that allows someone to claim they are replacing their only or main residence and therefore not pay the higher rates of SDLT?

13. The length of time to allow purchasers a period between sale of a previous main residence and purchase of a new main residence should be longer than 18 months. This is because if people are having to save for a deposit, it is likely to take them longer than 18 months to generate enough savings to buy their next home.

Question 6:

Do you agree there should be a refund mechanism in place for those who sell their previous main residence up to 18 months after the purchase of a new main residence? Are there any other cases where a refund of the additional SDLT paid should be given?

14. If the Government are going ahead with this proposal then 18 months seems sensible. However, for the reasons outlined in points 11, 12 and 13, ARLA disagrees with the whole additional SDLT concept as it will create significant cash flow problems for homeowners and landlords.

Question 7:

Can you suggest any other actions the government could take to mitigate the cash flow impact on those who only temporarily own two residential properties?

15. Yes. If the concept is swapped round then if someone doesn't sell their first property, after 18 months they will have to pay the extra SDLT. This would give those who only temporarily own two residential properties an incentive to sell the property within 18 months and not prevent extra housing from becoming available on the market.

Question 8:

Are there any other situations regarding main residences which require further consideration?

16. Yes. ARLA sees the introduction of higher rates of SDLT on purchases of additional residential properties causing big problems for people purchasing additional homes; particularly where parents are helping their children get on the property ladder by acting as guarantors. Generally with Guarantor Mortgages, the guarantors (parents) have to go on the mortgage and Title Deeds of the property with their children. Therefore, under the current proposals, the property will attract higher rate Stamp Duty because it will be the parent's second home when in reality, the property will be used as the main residence for the child who is being helped to purchase their first home. If the Government's agenda is to increase housing supply and low-cost home ownership they should not penalise people from trying to help their children achieve this aim.

Question 9:

Would there be a benefit to a significant number of purchasers if the test for whether someone owns one, or more than one, residential properties, were undertaken at the time of submitting the SDLT return, rather than at the end of the day of the transaction?

17. Yes. ARLA thinks there would be a benefit to a significant number of purchasers if the test for whether someone owns one, or more than one, residential properties, were undertaken at the time of submitting the SDLT return, rather than at the end of the day of the transaction.
18. However, the SDLT return should remain at 30 days after the completion of a purchase and not be reduced to 14 days as announced at the Spending Review and Autumn



Statement 2015. We believe this will give people more time to sell a property before having to file a SDLT return.

Question 10:

Do you agree with the government's proposed approach to considering property owned anywhere in the world when determining whether the higher rate of SDLT will be due?

19. Yes, ARLA agrees with the Government's proposed approach to considering property owned anywhere in the world when determining whether the higher rate of SDLT will be due. Otherwise we think it may create perverse consequences where people can be letting multiple properties in other jurisdictions, such as in Scotland, but able to avoid the higher SDLT in England.

Question 11:

Do you agree with the proposed treatment of furnished holiday lets?

20. Yes, ARLA agrees with the proposed treatment of furnished holiday lets.

Question 12:

Are there any other cases which the government should consider?

21. Yes. If people are purchasing a mobile home or home boat to become their main residence whilst still keeping their traditional house which they intend to let, then ARLA believes that they should pay SDLT on the mobile home/house boat at the higher rates.

Question 13:

Do you agree that an exemption should be available to individual investors as well as all non-natural persons? Alternatively, is there evidence to suggest any exemption should be limited to only certain types of purchaser? If so, which types of purchaser?

22. No. ARLA thinks that an exemption should be based on what is being purchased not whether it is an individual or company doing the purchasing.

Question 14:

Do you think that either the bulk purchase of at least 15 residential properties or a portfolio test where a purchaser must own at least 15 residential properties are appropriate criteria for the exemption? Which would be better targeted?



23. ARLA believes that exemptions should apply to both situations; either when someone buys 15 or more residential properties in one transaction or where someone is purchasing their fifteenth or further residential properties.

Question 15:

Are there better alternative or additional tests that could be used to better target an exemption and fulfil the government's wider housing objectives?

24. Yes. An alternative would be to allow both exemptions as outlined in point 23, but only where the properties are being purchased through a company vehicle.

Question 16:

Are there any other issues or factors the government should take into account in designing an exemption from the higher rates?

25. ARLA has been calling for simple changes to tax policy, such as reduced rates of VAT on property improvements and being able to offset works against Income Tax rather than Capital Gains Tax. These tax benefits are already available to business and would allow landlords to cost effectively churn their portfolios to meet local housing needs and better resource their maintenance budgets.

26. We also think the Government should consider allowing Capital Gains Tax roll-over relief to apply where proceeds of a rented property are re-invested in a rental property. In addition, we believe that Capital Gains Tax should be removed where a property is sold to a sitting tenant or first-time buyer.

27. To support the country's landlords to invest in new rental homes (which are in high demand) and to raise standards the Government should encourage development by landlords on small plots of unused public sector land that commercial investors do not find attractive.

Questions 17:

Do any specific kinds of collective investment vehicle or other non-individuals need to be treated differently to companies?

28. There are no specific kinds of collective investment vehicle or other non-individuals that we are aware of that need to be treated differently to companies.

Question 18:

Do you agree with the proposed treatment of trusts, including the higher rates of SDLT applying to trusts purchasing residential property except where a purchase is a first property or replacement of a main residence for a beneficiary?

29. Yes we agree with the proposed treatment of trusts, including the higher rates of SDLT applying to trusts purchasing residential property except where a purchase is a first property or replacement of a main residence for a beneficiary.

Question 19:

Do you think that purchasers are more likely to give accurate answers to main residence questions if HMRC provides specific questions for the conveyancer to ask the purchaser?

30. Yes. ARLA believes that if HMRC provide specific questions for the conveyancer to ask the purchaser this would be very helpful and create consistent questioning across all agents and conveyancers.

Question 20:

Would a formal declaration by the purchaser that the answer to any such questions are accurate help to increase compliance without creating undue burdens for conveyancers? How do you think such a declaration should work?

31. Yes, a formal declaration by the purchaser will protect conveyances and agents from fraudulent or vexatious claims against them.

Question 21:

Besides normal publically available guidance, are there any additional products that HMRC can provide to help purchasers understand what rates of tax they will be paying on a planned purchase?

32. Yes. A simpler flyer from HMRC which can be given to purchasers by agents, solicitors or conveyancers to understand what rates of tax they will be paying on a planned purchase would be helpful.