

Ken MacDonald & Co

Lawyers and Estate agents

Stamp Duty

Introduction

Stamp duty is a tax on the purchase of land or property.

The rates are:

0% on £0 - £125000

1% on £125000 - £250000 (or 0% for first time buyers)

3% on £250001 - £500000

4% on £500001 - £1 million

5% on £1 million and higher

These rates are not pro rata, for example if you are buying a property for £125001 you would pay 1% on the full purchase price and not just on the £1 over the threshold. This would equate to £1250.01 stamp duty on a price of £125001.

First time buyer relief

The 2010 budget resulted in the introduction of a zero rate on all properties costing up to £250000. For some this could result in a saving of up to £2500. At present the provision is set to last until 25 March 2012.

Whilst this initiative was welcomed it has proved to be far from straightforward. A first time buyer is defined as “ a person who has not acquired a freehold or leasehold interest in a residential property in the UK or an equivalent interest anywhere in the world... and (the buyer) must intend to occupy the property as their only or main residence”

You therefore do not qualify for exemption if you have owned a property in Britain or anywhere else in the world and it does not apply to second homes or buy to let properties.

This extremely strict and limiting definition has caused confusion and resulted in many buyers who assumed that they were eligible realising, to their cost that they are not.

We have prepared this information sheet to answer many of the questions that commonly arise.

I am buying with a partner?

All the buyers, when more than one, must be first time buyers. You therefore do not qualify for stamp duty exemption if one of you has previously owned a home.

Many years ago I bought a house jointly with my wife. We divorced a long time ago. I am now with a new partner, who has never owned before, can we be treated as first time buyers?

As you have been involved in buying a home in the past you will not be eligible for the stamp duty exemption if you decide to buy jointly. If your new partner meets the criteria then he or she would be eligible to buy the property in their sole name.

What about someone previously in shared ownership, are they disqualified, even though they never bought outright.

They are not eligible.

What about if my parents (who already own a property) buy a flat for me (I have never owned a property myself)?

The transaction would not be eligible for the stamp duty exemption.

What if I am buying on behalf of my parents?

No this transaction would not be eligible as relief is not available unless the first time buyer(s) is/are buying for themselves, a property they intend to use as their only or main residence.

What if I inherit a property?

This also does not qualify. In this case a person will be seen to previously have acquired a major interest in a property.

What about if I was/am a tenant of a croft?

It is thought that this also does not qualify. Due to the strict definition it would be seen as either being leasehold or a major interest in a residential property or equivalent.

How is it policed?

Anyone buying a property has to complete a stamp duty return form. This is sent to HM Revenue and Customs. If you have previously bought a property your name will flash up on their system.

What are the penalties?

If you are found to have abused the system, in that you are not a genuine buyer, you will be charged the stamp duty you have evaded and be penalised with a fine of up to £5000.

What about property owned overseas?

The inland revenue claim that they have a vast network of tax information exchange agreements with other countries, which enables it to find out information about people who are new to the UK.

Is there an age limit?

No first time buyers of any age can benefit.

Can I make a retrospective claim?

No, transactions with an effective date before 25 March 2010 do not qualify.

In the event that you believe you qualify for the exemption please ensure you inform your solicitor in order that he/she can discuss this with you, to ensure you qualify and have you sign a mandate to this effect.

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