

Finance Bill 2024 – SDLT changes (Lecture P1434 - 13.44 minutes)

Multiple dwellings relief (Clause 7)

The relevant legislation in FA2003 is repealed to remove the ability to claim multiple dwellings relief (MDR) for the purposes of Stamp Duty Land Tax.

MDR allows the duty to be calculated on an average value where more than one dwelling is purchased in a single transaction, with that figure then being multiplied by the number of dwellings. It has been subject to some perceived abuse although in reality this is probably just that it has been claimed in situations where it was not intended to apply.

The change will apply for land transactions where the effective date falls on or after 1 June 2024. The exception to this is where the contract was substantially performed before 1 June 2024 or the contract was entered into on or before 6 March 2024 and is not excluded.

Contracts are excluded where:

- there is a variation or assignment of rights under a pre-6 March 2024 contract that is made after 6 March 2024; or
- the transaction is effected pursuant to an option, pre-emption right or other similar right after 6 March 2024; or
- assignment, subsale or other transaction which results in the whole or part of the land being conveyed to someone other than the original purchaser.

These provisions are similar to the transitional provisions which are typically put in place when changes are made to Stamp Taxes provisions.

Since MDR can be claimed on linked transactions, there is a provision where some of those linked transactions qualify for the relief and some do not (on the basis that some complete before the cut-off date and some afterwards). If that is the case, MDR can only be claimed on those which complete before the 1 June 2024. Any subsequent transactions will not be considered as linked to the earlier transactions for any purposes of the SDLT provisions.

This may actually lead to some interesting outcomes from an SDLT perspective.

Example

An individual is buying a single property which will be the replacement for their main residence (so the 3% supplement does not apply) and from the same vendor is buying four rental properties which are co-located with the home. The latter purchase will be undertaken by the individual's limited company so will be a linked transaction.

The total value of the transaction is £2.4m with £975,000 being allocated to the residence.

As these are linked transactions, they are considered together for the purposes of any claim to MDR. However, they are dealt with separately when considering the 3% supplement so that the calculation of liability is not straightforward.

If we take a total purchase price of £2,400,000 and divide that by 5, that gives us an average cost of £480,000.

The SDLT on £480,000 including the 3% supplement is £25,900. If we multiply that by 5 it gives us a total to pay of £129,500.

The SDLT on £480,000 without the 3% supplement is £11,500. If we multiply that by 5, it gives us £57,500.

If we allocate £975,000 to the main house and £1,475,000 to the rentals the calculation would be:

$$975/2,400 \times £57,500 \text{ plus } 1,475/2,400 \times £129,500 = £102,947$$

If the whole transaction was delayed until, say, January 2025, when no MDR is available, the baseline figure for consideration of £2.4m is £199,250 without the 3% supplement and £271,250 with the supplement.

This would mean the amount to be paid on completion (assuming the same split as shown above) would be:

$$975/2,400 \times £199,250 \text{ plus } 1,475/2,400 \times £271,250 = £247,651.$$

What if the four dwellings were bought in the company now (or at least before 1 June 2024) and the farmhouse purchased in January 2025 when it is available for occupation? The contract could be exchanged now with delayed completion.

The transitional legislation states that if you have linked transactions with one completing before 1 June 2024 and one after, then MDR can only be claimed in relation to the pre-1 June transaction and they are not to be treated as linked for any purposes. We would then be treating them as separate transactions.

In that case, the average price for the four dwellings (based on £1,475,000) would be £368,750. The SDLT on this would be £17,000 so the total would be £68,000. The SDLT on the main house would then be £33,750 (based on price on £925,000).

This gives a total SDLT of £101,750. Not a huge saving over the amount payable before the 1 June 2024 but at least the cost is not hugely increased.

First time buyers relief (Clause 8)

First-time buyers relief from SDLT is available on the acquisition of a residential property where the purchaser is a first time buyer who intends to occupy the property as their main residence. If there is more than one purchaser, all of them must meet the condition. The consideration for the transaction cannot exceed the relevant threshold, which is currently £625,000. A first-time buyer is an individual who has not previously been a purchaser in relation to a residential property including property outside the UK.

The legislation is amended in relation to an anomaly with the provisions relating to grant of a lease under a bare trust as in that situation the purchaser is not the beneficiary but is the trustee. This would preclude a claim for first-time buyers relief and so the legislation is amended so that the grant of a lease under a bare trust or nominee arrangement is treated as if it were a purchase by the beneficial owner for the purposes of first time buyers relief assuming the other conditions are met.

A consequential amendment is made so that an individual who has used such an arrangement is not then a first-time buyer for a purchase in their own name.

The main change applies for transactions where the effective date falls on or after 6 March 2024. For the consequential amendment, the change also applies for transactions where the effective date is on or after 6 March unless the contract was entered into before that date and the transaction is not excluded.

Contracts are excluded where :

- there is a variation or assignment of rights under a pre-6 March 2024 contract that is made after 6 March 2024; or
- the transaction is effected pursuant to an option, pre-emption right or other similar right after 6 March 2024; or
- assignment, subsale or other transaction which results in the whole or part of the land being conveyed to someone other than the original purchaser.

Exemption for social housing providers (clause 9)

There is an exemption from SDLT where the purchaser is a registered social landlord who is purchasing property with the assistance of a public subsidy.

The provisions are being updated to clarify them and remove out of date terminology.

Those changes do not change the scope of the legislation.

Specifically the changes to s71 FA 2003 are:

- the general term of ‘registered social landlord’ is changed to ‘registered providers of social housing etc’;
- the condition for exemption that the purchaser is ‘a relevant housing provider controlled by its tenants’ is replaced with ‘the purchaser is a non-profit registered provider of social housing controlled by its tenants’;
- part of the definition of a relevant housing provider is changed from a registered social landlord to:
 - a housing association registered in the registered maintained under Article 14 of the Housing (Northern Ireland) Order 1992 or
 - an English local authority that is a registered provider of social housing.
- The term ‘relevant housing provider’ is replaced throughout with the term ‘non-profit registered provider of social housing’;
- The definition of qualifying body within s71(3) FA2003 is amended to exclude housing action trusts and Scottish bodies and to update the Northern Ireland qualifying institutions;

- The definition of public subsidy is amended to exclude social housing grants and Scottish grants and to update the general types of grants which qualify;
- The definition of social housing and English local authority is moved into this section from the definitions sections in s121 and s122 FA2003.

There are consequential amendments to the ATED provisions where providers of social housing are not liable to the 15% SDLT rate.

The changes come into force on 6 March 2024.

Purchases by public bodies (Clause 10)

The 15% rate of SDLT applies on purchases by non-natural persons of residential property costing £500,000 or more. The legislation in Sch.4A FA2003 is amended to make it clear that it does not apply to any company that is a public body.

This has effect for transactions with an effective date on or after 6 March 2024.