



BRODIES^{LLP}

SDLT and LBTT

by

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Commercial Real Estate Update
at the offices of Hogan Lovells International LLP
on Thursday 23 April 2015*

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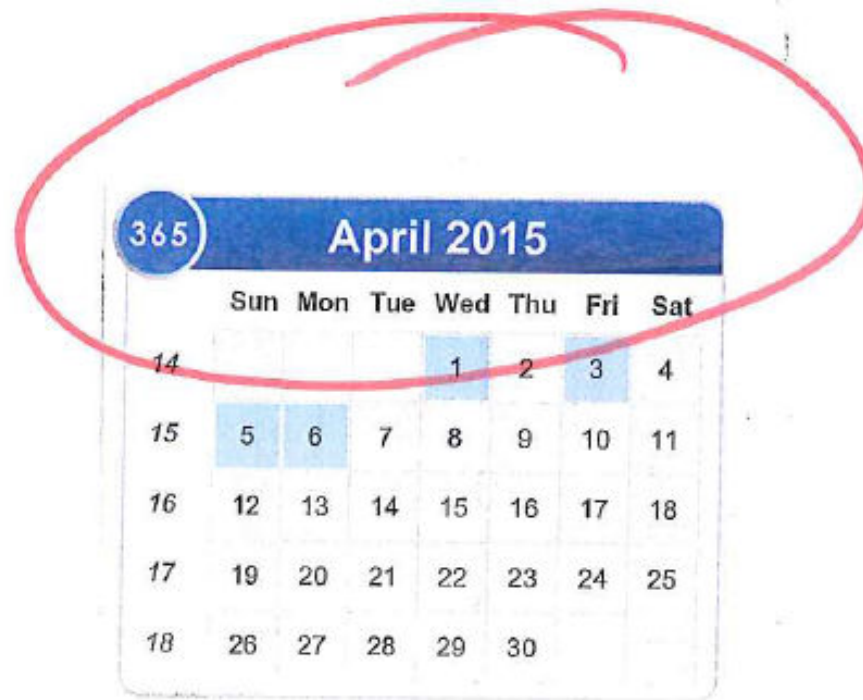
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Introduction

- Collection of Land Tax since?
- Who remembers Stamp Duty?
- Who remembers SDLT introduction in 2003?
- How will it work
- Worked examples
- Questions



All change again



New beginnings



- 1 April 2015 collection fully devolved to Holyrood, Edinburgh
- “Effective Date” same
- Does not affect share deals SDLT same
- SDLT/HMRC for England, Wales and Northern Ireland

How does this affect you?

- Portfolio deals for client's purchasing/selling/funding
- Procedures differ so you need to know



SDLT v LBTT

- Different rates Commercial and Residential
- Progressive rates
- Multiple Dwellings Relief
- Lease rates
- Different approach to tax avoidance
- More focussed approach to enquiries ?

LBTT - when is a return required

All transactions notifiable unless

- Transaction exempt
- Chargeable consideration less than £40,000
- Minor interest, e.g. option, no LBTT payable

LBTT - when is a return required

All leases are notifiable unless

- Residential lease
- Lease for less than 7 years where no LBTT is payable
- Lease for 7 years or more
 - Rent less than £1000 and
 - Chargeable consideration less than £40,000

Purchase of two assets simultaneously

Bath
Townhouse



Edinburgh
Townhouse



- Contracts issued separately – one Scottish, one English
- Contracts separate but conditional on each other
- Exchange contracts and conclude missives
- Simultaneous completion on 23 April 2015 being the Effective Date for SDLT and LBTT

England

Bath Townhouse



- SDLT return/ payment in 30 days of Effective Date
- Lodge at Land Registry
- HMRC correspondence at all?
- Application completed

Scotland

Edinburgh Townhouse



- “Effective Date”
- Revenue Scotland submission
- Tax has to be paid when the return is submitted
- Online link between Revenue Scotland and Registers of Scotland
- Certification to Registers of Scotland by Practitioner
- Application completed

Rates - Residential

England



- 0% on the first £125,000
- 2% on the next £125,000 (up to £250,000)
- 5% on the next £675,000 (up to £925,000)
- 10% on the next £575,000 (up to £1.5 million)
- 12% above £1.5 million

Scotland



- 0% on the first £145,000
- 2% on the next £105,000 (up to £250,000)
- 5% on the next £75,000 (up to £325,000)
- 10% on the next £425,000 (up to £750,000)
- 12% above £750,000

SDLT

Bath Townhouse Calculation (Residential)

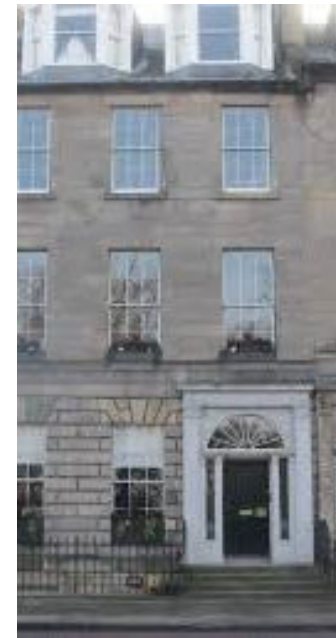
- Price of property in Bath - £1,000,000
- No SDLT payable on the first £125,000
- 2% on the next £125,000 = £ 2,500
- 5% on the next £675,000 = £33,750
- 10% on balance of £200,000 = £20,000
- **Total amount of SDLT payable is £56,250**



LBTT

Edinburgh Townhouse Calculation (Residential)

- Price of property in Edinburgh - £1,000,000
- No LBTT payable on the first £145,000
- 2% on the next £105,000 = £2,100
- 5% on the next £75,000 = £3,750
- 10% on the next £425,000 = £42,500
- 12% on the balance of £250,000 = £30,000
- **Total amount of LBTT payable is £78,350**



SDLT Rates – Non-Residential England, Wales and Northern Ireland “Slab calculator”

Purchase price of commercial property	% SDLT
Up to £150,000 (annual rent under £1,000)	Zero
Up to £150,000 (annual rent over £1,000)	1%
Over £150,000 to £250,000	1%
Over £250,000 to £500,000	3%
Over £500,000	4%

LBTT Non-residential rates

Up to £150k – 0%
150k to £250k – 3%
Above £250K – 4.5%

£5m purchase
SDLT = £200,000
LBTT = £215,250

£10m purchase
SDLT = £400,000
LBTT = £440,250

£15m purchase
SDLT = £600,000
LBTT = £665,250

Non-residential acquisition – England

- Price of freehold property in Birmingham - £10,000,000
- No SDLT payable on the first £150,000
- 1% on the next £100,000 = £ 1,000
- 3% on the next £250,000 = £ 7,500
- 4% on balance of £9,500,000 = £ 380,000
- **Total amount of SDLT payable is £388,500**



Non-residential acquisition – Scotland

- Price of freehold property in Aberdeen - £10,000,000
- No LBTT payable on the first £150,000
- 3% on the next £200,000 = £ 6,000
- 4.5% on the balance of £9,650,000 = £434,250
- **Total amount of LBTT payable is £440,250**



Leases – SDLT

- 1% of the net present value (NPV) of the total rental payments (including VAT) to be made over the duration of the lease, less £150,000 (or £125,000 for a residential lease).
- NPV is calculated on the basis that the rent for any years after the end of year 5 is at the highest annual rate payable over the first 5 years, even if the lease already fixes rent for any year from 6 onwards at a higher rate.

Leases – LBTT

- Residential leases are exempt from LBTT (unless they are for longer than 175 years).
- Commercial leases will pay LBTT at the same rate as for SDLT on rent - but tenants will be required to submit LBTT returns every 3 years, if there is an assignation of the lease and at lease end - with LBTT being adjusted if applicable.
- No cut-off on assessment at the end of year 5, as there is with SDLT.
- LBTT on any capital payment will be at the same rates as for a purchase.

Other

- **Licences to occupy**
 - Licences to occupy are not subject to LBTT.
- **Reliefs**
 - No sub sale relief from LBTT;
 - Exclusion of development projects (e.g Forward Funding)

UK tax collection for land transactions in the future?



Wales

consultation on the potential impacts of devolving to the National Assembly for Wales and Welsh Government from 2018



Scotland



England



Northern Ireland

ETA?

Late payment penalties for LBTT

- 30 days late – 5% of unpaid tax
- 6 months late – further 5% of unpaid tax
- 12 months late – further 5% of unpaid tax
- Offset against late filing penalties for the same tax

Who's going to collect the most?



Questions





SDLT and LBTT

Richard Smith 23 April 2015

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