

Shared Ownership and SDLT : Extension of First Time Buyer's Relief

Background

The Stamp Duty Land Tax (SDLT) position relating to shared ownership is complicated. Whilst this note will not explain SDLT payable in relation to shared ownership in detail, those who are familiar with shared ownership will know that SDLT can be paid in one of two ways:

- Option A : A Full Market Value Election

Where the buyer elects to pay SDLT on the full market value of the property based on the standard residential rates of SDLT and the rent payable. SDLT is paid once on this basis on the grant of the lease and no further duty is payable when the lease is staircased (whether on an interim staircasing or on a final staircasing).

- Option B : Payment in Stages

Where the buyer pays SDLT based on the price of the initial share with additional SDLT on the rent payable. There is no SDLT on interim staircasings, but any staircasing that takes the buyer's share over 80% attracts SDLT at the rate applicable to the value of the aggregate of the further shares purchased.

In the 2017 Autumn Budget the Government introduced a new relief for first time buyers. Aimed at genuine first time buyers the relief is staggered as follows:

- £0 - £300,000 – nil
- £300,000 - £500,000 – 5%.

The maximum price that can be paid is £500,000. If the price is over £500,000 there is no entitlement to any relief.

The relief was originally only made available to shared ownership first time buyers, where the buyer elects to pay SDLT on the full market value in a one-off payment up-front. Accordingly, the first time buyer's relief could only be claimed by a shared ownership buyer for properties which have a full market value of £500,000 or less and where a full market value election was being made.

Where the full market value is less than £300,000 and a full market value election is made, the SDLT will be nil. If the price is between £300,000 and £500,000 then SDLT is paid at 5% on the part of the purchase price in excess of £300,000.

The effect of this is that where the full market value exceeds £300,000 by a significant amount, it would be usual for a buyer to elect to pay SDLT on the Option B basis. Whilst probably cheaper than paying 5% on the difference between £300,000 and £500,000 (a full market value of £450,000 would attract a £7,500 SDLT bill), there would still be a substantial amount of SDLT to pay under Option B. On a 50% share of a full market value of £450,000 (ie £225,000), the SDLT would be in excess of £2000 as not only would there be SDLT on the price being paid for the share (£225,000), but there will also be SDLT payable on the specified rent reserved in the shared ownership lease.

Shared ownership buyers were at a disadvantage and in London in particular as with high values they were often unable to benefit from the relief even though they were paying the same "price" as

someone buying on the open market who would benefit.

The Changes

In the October 2018 Budget the Chancellor has extended the relief to buyers of qualifying shared ownership properties, who do not elect to pay SDLT on the full market value of the whole property when they purchase their first share.

It is important to note that the relief will only be applied to the first share purchased on the original grant of the lease, where the market value of the shared ownership property is £500,000 or less and buyers will still have the option to pay SDLT on the full market value.

First time buyers will pay no SDLT where they are paying £300,000 or less for their first share. Those paying between £300,000 and £500,000 for their first share will pay SDLT at 5% on the amount in excess of £300,000. The relief will also apply to any SDLT due on the rental payments (ie there will be no SDLT payable on the rental payments). The relief will not apply to the purchase of any further shares in the property. The position on staircasing remains as set out under Option B above.

First time buyers purchasing a shared ownership property whose market value is more than £500,000, will not be entitled to any relief and will pay SDLT at the normal rates, in line with the treatment for other first time buyers.

The Chancellor states that the relief will apply retrospectively from 22 November 2017, meaning that a refund of tax will be payable for those who have paid SDLT after the 22 November 2017 in circumstances which now qualify for First Time Buyers' Relief.

This is good news for many shared ownership buyers, but of course a large number of shared ownership properties in London will have full market values in excess of £500,000. SDLT position on shared ownership is indeed very complex and these latest changes are in danger of making it even more so.

For further information, please contact:



RUTH BARNES

Partner, Residential Development
T: 020 7593 5040
E: rbarnes@wslaw.co.uk