

## Stamp duty new rules

### The winners and losers

The new stamp duty rules took effect on 1 April 2016. For those buyers funding the purchase of a new home with the sale of an existing home, if their buyer pulls out but they still want to go ahead – perhaps by using a bridging loan – they will be liable for the stamp duty surcharge because they will technically own two residential properties at completion.

#### STAMP DUTY SURCHARGE

Although the cost of the stamp duty surcharge may be partially met by the buyer keeping the deposit paid under the failed sale contract, there could be a shortfall for the buyer to fund if they still want to proceed with the purchase of their new home.

Conveyancing lawyers must warn their clients at an early stage of the possibility of an increased tax charge. The extra tax will be repaid, but only if the previous home is sold within 36 months. For a £500,000 purchase, the stamp duty charge on a chain break will be double the amount that would be payable if a break hadn't occurred.

#### UNDER THE NEW RULES

The new stamp duty rules could affect the ability for many newly married couples and registered civil partners to purchase their first home together. The issue arises where one spouse already owns a property. This is because under the new rules, married couples and registered civil partners are treated as one buyer.

In essence, ownership of an existing home by one partner will affect the purchase of the couple's first home together. For a £500,000 purchase, the stamp duty charge in these circumstances will be double the amount that would be payable if the partner didn't retain their existing property.

#### MIXED-USE PROPERTIES

The new stamp duty rules will however bypass buyers of mixed-use properties in England, Wales and Northern Ireland. The stamp duty surcharge will not apply to the purchase of a property used for residential and non-residential purposes, for example, a country house with a stud farm or a residential property purchased at the same time as a non-residential property. Such transactions will continue to be taxed as if they were commercial properties.

In Scotland, however, the rules are different, and the price payable for a mixed-use property is split: the part payable for the residential property is taxed under the residential rates and the rest is taxed under the commercial rates. ■

*Information is based on our current understanding of taxation legislation and regulations. Any levels and bases of, and reliefs from, taxation are subject to change. Tax treatment is based on individual circumstances and may be subject to change in the future. Although endeavours have been made to provide accurate and timely information, we cannot guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No individual or company should act upon such information without receiving appropriate professional advice after a thorough review of their particular situation. We cannot accept responsibility for any loss as a result of acts or omissions.*

#### ARE YOUR FINANCIAL PLANS STILL ON TRACK AFTER BUDGET 2016?

There are likely to have been a number of key announcements in this Budget that could have a bearing on your current and future financial plans. To review what action you may be required to take to keep your plans on track, please contact us.