Stamp duty land tax on residential property

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In his Autumn Statement on 3 December 2014 the Chancellor George Osborne announced a major reform to the taxation of residential property.

At present stamp duty land tax (SDLT) is charged at a single rate on the whole purchase price of a property, with different rates for different value bands. When a property exceeds the threshold for a higher rate of duty, tax is charged at the higher rate on the *whole* value of the sale rather than the part of the price above the threshold.

The Chancellor proposed that from 4 December 2014 SDLT rates will only apply to the part of a property's selling price that fell within each value band. New rates and thresholds are to be introduced, to ensure that in removing these distortions from the way house sales are taxed, most house buyers will not have to pay more tax. In his speech the Chancellor explained that, "anyone who has exchanged contracts but not completed by midnight [on December 3] will be able to choose whether to pay under the old system or the new, so no one in the middle of moving house will lose out."[1]

It is estimated that this reform will cost £395m in 2014/15, rising to £760m in 2015/16.[2] The Government intends to introduce a Bill in December to give effect to these changes.[3] HM Treasury have published a short note explaining how the rules will affect house buyers who have already exchanged contracts but had not completed their sale before 4 December.[4] HM Revenue & Customs provides an online calculator for those who wish to determine how much duty they are liable to pay, on transactions for both residential and non-residential property.

This note gives a summary of the Government's proposals and the reaction there has been to them.

1 HC Deb 3 December 2014 c316

2 *Autumn Statement*, Cm 8961, December 2014 pp52-4, p64 (Table 2.1 – item 4)

3 HMRC, *Stamp duty land tax: reform of structure, rates and threshold*, December 2014. HMRC has published a draft Bill, with explanatory notes, on Gov.uk

4 HM Treasury, *Stamp duty reforms on residential property*, 3 December 2014. See also, HM Revenue & Customs, *Stamp Duty Land Tax: reform of structure, rates and thresholds*, December 2014.

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1.1 Autumn Statement 2014

At present stamp duty land tax is charged at a single rate on the whole purchase price of a property, with different rates for different value bands. When a property exceeds the threshold for a higher rate of duty, tax is charged at the higher rate on the whole value of the sale – the 'slab' basis – rather than the part of the price above the threshold – the 'slice' basis. The tax has been charged on the 'slab' basis for over forty years.[5]

In his Autumn Statement on 3 December, the Chancellor, George Osborne proposed that with immediate effect the tax would be assessed on a 'slice' basis, so that the rates of duty would apply only to the part of a property's selling price that fell within each value band:

> Stamp duty is charged at a single slab rate on the whole purchase price of a home. It means big jumps in tax when house values tip into a new band … If you buy a property worth £250,000, you pay £2,500 in tax. Buy a house worth just one pound more and you pay over £7,500, three times as much. And in recent years the burden of stamp duty has increased on low and middle income families trying to buy a new home, as prices have risen …
>
> So I am today abolishing the residential slab system altogether. In future each rate will only apply to the part of the property price that falls within that band – like income tax. Here are the new marginal rates. You will pay no tax on the first £125,000 paid. Then 2% on the portion up to £250,000. Then 5% up to £925,000. Then 10% up to £1.5 million. Then 12% on everything over that. As a result stamp duty will be cut for the 98% of homebuyers who pay it … The whole reform represents a tax cut of £800 million per year. Only homes that cost just over £937,000 will see their stamp duty bill go up under this system – gradually to start with, rising to more substantial sums for the most expensive homes. A £5 million pound house will see its stamp duty rise from £350,000 to £514,000 – but of course, this is a charge that is only paid once, when the property is bought.
>
> I can tell the House that these changes to stamp duty become effective from midnight tonight. Anyone who has exchanged contracts but not completed by midnight will be able to choose whether to pay under the old system or the new, so no one in the middle of moving house will lose out.
>
> The changes will apply in Scotland until the Scottish government's new regime comes into effect next April.[6]

The *Autumn Statement* illustrates the difference between the two rate schedules, as follows:[7]

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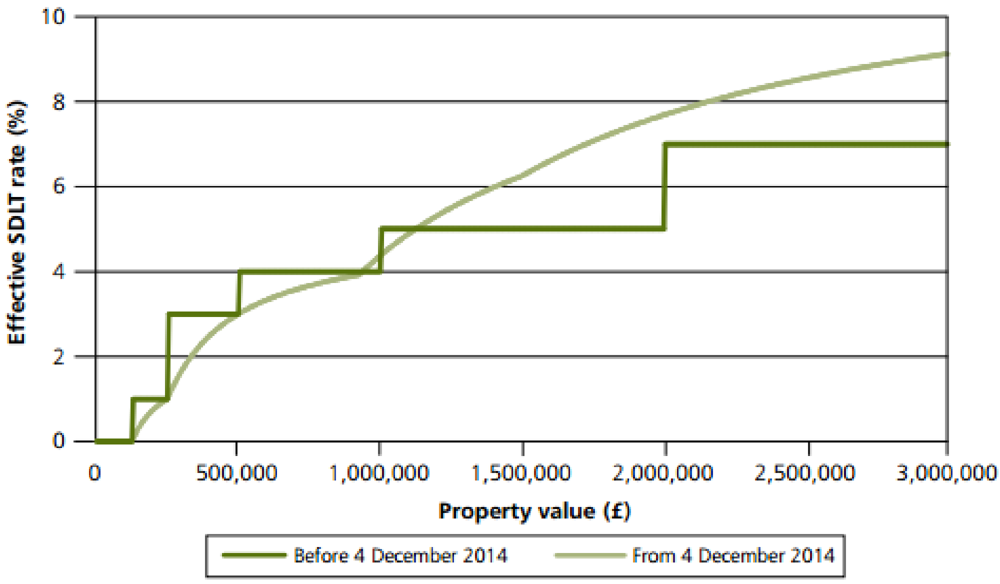
5 The rates of duty over the last fifty years are shown in, HMRC *National Statistics: Rates of stamp duty*, September 2012. Statistics on stamp duty receipts are collated on Gov.uk.

6 HM Treasury, *Chancellor George Osborne's Autumn Statement 2014 speech*, 3 December 2014

Chart 1.14: Effective SDLT rates before 4 December 2014 and from 4 December 2014



Source: HM Treasury calculations.

It is estimated that this reform will cost £395m in 2014/15, rising to £760m in 2015/16.[8]

As the Chancellor noted, UK stamp duty land tax is to be replaced in Scotland by the Scottish Government's Land and Buildings Transaction Tax from 1 April 2015. Both this tax and landfill tax were devolved to the Scottish Parliament under the *Scotland Act 2012*.[9] The Autumn Statement notes that, "the associated reduction in the Scottish Government's block grant will be around £80 million smaller in 2015-16 as a result of the changes in SDLT."[10]

Tax rates under the old UK system, and the two new systems will be as follows:[11]

Previous UK SDLT		New UK SDLT		Future Scottish LBTT	
Property value (£'s)	Rate on property value (Per cent)	Value between (£'s)	Marginal rate (Per cent)	Value between (£'s)	Marginal rate (Per cent)
£0-£125k	0	£0-£125k	0	£0-£135k	0
£125k-£250k	1	£125k-£250k	2	£135k-£250k	2
£250k-£500k	3	£250k-925k	5	£250k-£1m	10
£500k-£1m	4	£925k-£1.5m	10	£1m+	12
£1-2m	5	£1.5m+	12		
£2m+	7				

7 *Autumn Statement*, Cm 8961, December 2014 p53. The report provides further details of the effective rates of tax, and amounts of tax to be paid, across a range of property values (see p54).

8 *Autumn Statement*, Cm 8961, December 2014 p64 (Table 2.1 – item 4). Further details on this costing are given in, HM Treasury, *Autumn Statement policy costings*, December 2014 pp10-11

9 For more details see ,*The Scotland Act 2012: devolution of tax powers to the Scottish Parliament*, Library standard note SN5984, 10 October 2014.

10 *Autumn Statement*, Cm 8961, December 2014 para 1.211

11 Office for Budget Responsibility, *Economic and fiscal outlook (EFO), Cm 8966*, December 2014 p124

In his speech Mr Osborne stated that only 2% of residential house sales would see an increase in the amount of tax to be paid. The *Autumn Statement* report provides estimates of the impact of the new structure across the range of house prices:[12]

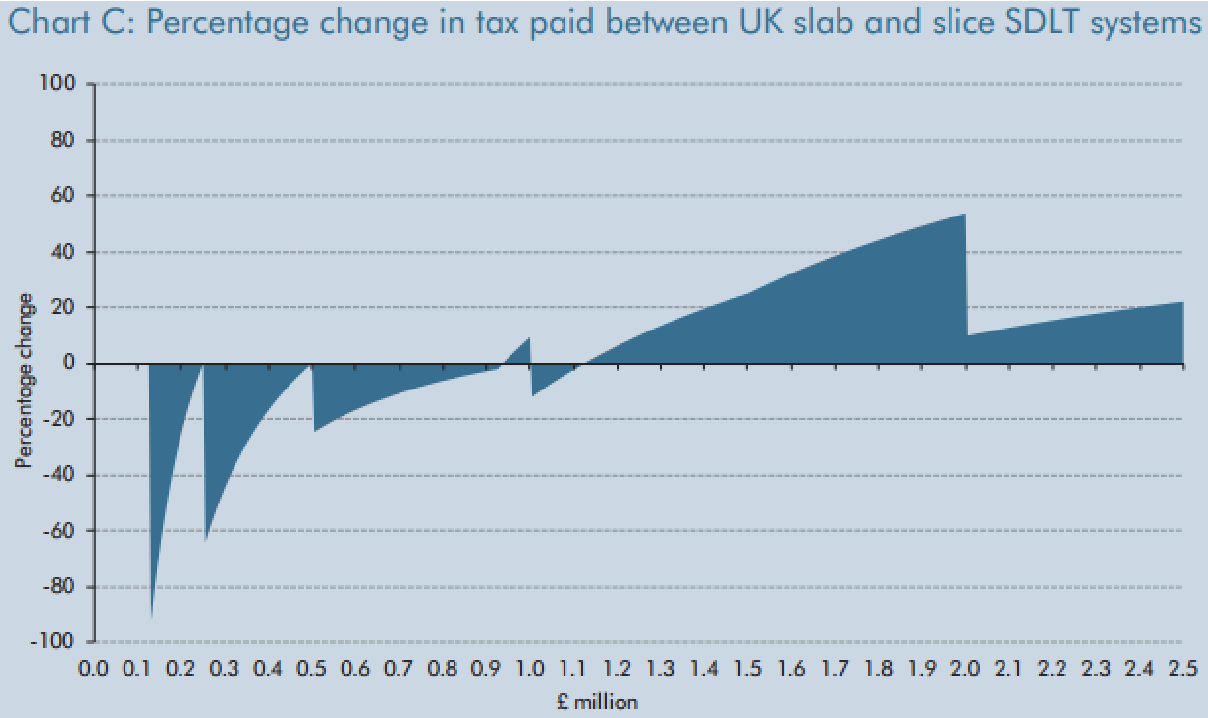
Table 1.9: Illustrative SDLT liability and effective tax rate before 4 December 2014 and from 4 December 2014

Property value (£)	Before 4 December 2014		From 4 December 2014		Change in SDLT due (£)
	SDLT due (£)	Effective tax rate (%)	SDLT due (£)	Effective tax rate (%)	
100,000	0	0.0	0	0.0	0
150,000	1,500	1.0	500	0.3	-1,000
200,000	2,000	1.0	1,500	0.8	-500
Average price paid by first-time buyer:					
210,000	**2,100**	**1.0**	**1,700**	**0.8**	**-400**
250,000	2,500	1.0	2,500	1.0	0
Average UK house price:					
275,000	**8,250**	**3.0**	**3,750**	**1.4**	**-4,500**
300,000	9,000	3.0	5,000	1.7	-4,000
350,000	10,500	3.0	7,500	2.1	-3,000
400,000	12,000	3.0	10,000	2.5	-2,000
450,000	13,500	3.0	12,500	2.8	-1,000
500,000	15,000	3.0	15,000	3.0	0
Average house price in London:					
510,000	**20,400**	**4.0**	**15,500**	**3.0**	**-4,900**
550,000	22,000	4.0	17,500	3.2	-4,500
600,000	24,000	4.0	20,000	3.3	-4,000
650,000	26,000	4.0	22,500	3.5	-3,500
700,000	28,000	4.0	25,000	3.6	-3,000
750,000	30,000	4.0	27,500	3.7	-2,500
800,000	32,000	4.0	30,000	3.8	-2,000
850,000	34,000	4.0	32,500	3.8	-1,500
900,000	36,000	4.0	35,000	3.9	-1,000
937,500	37,500	4.0	37,500	4.0	0
950,000	38,000	4.0	38,750	4.1	750
1,000,000	40,000	4.0	43,750	4.4	3,750
1,500,000	75,000	5.0	93,750	6.3	18,750
2,000,000	100,000	5.0	153,750	7.7	53,750
3,000,000	210,000	7.0	273,750	9.1	63,750
4,000,000	280,000	7.0	393,750	9.8	113,750
5,000,000	350,000	7.0	513,750	10.3	163,750

Source: HM Revenue and Customs calculations. Average house prices from ONS September 2014 House Price Index, rounded to nearest £5,000.

It is worth noting that the potential tax savings rise and fall unevenly over the spread of house prices, reflecting the 'cliff edges' of the old system. For houses priced at exactly the value of the two middle value bands - £250,000 & £500,000 – the new structure leaves the amount of tax to be paid as unchanged. The Office for Budget Responsibility illustrate this, in their analysis of the impact of this reform:[13]

12 *Autumn Statement*, Cm 8961, December 2014 p54
13 *EFO, Cm 8966*, December 2014 p126



HM Treasury has published a two page guide to these reforms, which explains how individuals who have already exchanged contracts but not completed their sale will be affected:

> The new rules start on 4 December 2014 – but if you've already exchanged on a property you'll have a choice about whether to use the old or new rules.
>
> **Completing your sale on and after 4 December 2014**
>
> If you exchange and complete (or in Scotland, settle) your home purchase on or after 4 December you will pay stamp duty under the new rules.
>
> **Completed your sale before the 4 December 2014**
>
> If you completed on the purchase of your property on or before 3 December 2014, but have not yet filed your stamp duty return, you still have to pay stamp duty under the old rules.
>
> **Exchanged on your contract before 4 December 2014**
>
> If you exchanged contracts (or in Scotland, concluded missives) before 4 December but complete on or after that date you'll be able to choose whether the old or new rules apply. In the majority of cases you'll pay less tax under the new rules.[14]

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[14] HMT, *Stamp duty reforms on residential property*, 3 December 2014. HMRC provides an online calculator for those who wish to determine how much duty they are liable to pay, on transactions for both residential and non-residential property: http://www.hmrc.gov.uk/tools/sdlt/land-and-property.htm

1.2 Initial reactions

In his response to the Chancellor's statement, the Shadow Chancellor, Ed Balls, argued that the Chancellor should have introduced an annual tax on high-value properties, akin to the mansion tax that the Labour Party has proposed:

> In the Chancellor's stamp duty reforms, he is accepting that high-value properties are under-taxed, which is welcome. But rather than taxing them only on sale, why does he not have the courage of his conviction? The average person pays 390 times more in annual council tax as a percentage of their property than the billionaire buyer of a £140 million penthouse in Hyde park. Why will the Chancellor not have an annual charge on the highest value properties and use that for a £2.5 billion a year investment in the NHS so that we can have 20,000 nurses and 8,000 GPs every year? Why will he not match that commitment?[15]

In their presentation on the Autumn Statement the director of the Institute for Fiscal Studies suggested that, "the changes to stamp duty are welcome, but really rather modest":

> They are welcome because they remove the absurd slab structure which, at the extreme, could result in a £40,000 additional tax bill accompanying a £1 increase in sale price. They are modest because they leave the system as a whole largely intact, raising large sums of money, and distorting the housing market. Indeed revenues from Stamp Duty on residential property are still expected to increase from £7 billion in 2013-14 to £16 billion in 2019-20.
>
> Transaction taxes such as stamp duty are highly inefficient however they are designed and the truth is Stamp Duty will continue to become a more important revenue raiser not a less important one even after these changes. This is most certainly not the substantial overhaul of the taxation of housing we need. It is also worth mentioning that the same slab structure which applies to non-residential property has not been reformed. That seems odd.[16]

IFS economist Stuart Adam suggested that "a very bad tax" had been transformed into "a bad tax"; an extract from his presentation is given below:

- Gains and losses will mostly be felt by properties' current owners
  - Property prices rise/fall to reflect change in expected future SDLT

- Move away from a 'slab' structure is a clear improvement

- But why only for residential property?
  - All the arguments for reform apply to non-residential property too

- SDLT still fundamentally flawed: shouldn't tax transactions at all
  - Why impose heavier tax on properties that change hands more often?
  - Assets should be held by the people who value them most
  - Reduced labour mobility one symptom of this more fundamental problem
  - SDLT should be replaced with better-designed property taxes.[17]

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15 HC Deb 3 December 2014 c320. For more details on the proposal for a 'mansions tax' see, *Land value taxation*, Library standard note SN6558, 17 November 2014. Generally Members raised other issues following the statement though the reforms were welcomed by both Mark Hoban (c334) and John Stevenson (c345).

16 "Introductory remarks: Paul Johnson", *Institute for Fiscal Studies: Autumn statement 2014 briefing*, 4 December 2014 p6

17 "Personal taxes and benefits: Stuart Adam", *Institute for Fiscal Studies: Autumn statement 2014 briefing*, 4 December 2014 (slide 6)

The *Financial Times* reported estate agents expected the change to encourage sales of homes that were priced close to the rate thresholds:

> Lucian Cook, residential research director at estate agency Savills, said buyers of average UK homes outside London would pay “much lower” levels of stamp duty. “In particular, first-time buyers and second-steppers will find it easier to raise the deposit needed to obtain mortgage finance, removing one of the major hurdles in the current market,” he said. London is the only region where more tax receipts will be raised, according to modelling by Savills …
>
> Mortgage brokers said the reforms would stimulate sales around the current tax thresholds in particular. Ray Boulger, technical director at broker John Charcol, said as well as encouraging buyers it would attract more houses on to the market around the “cliff edges” of the old system – the points where different rates applied. “If you have got a property worth £260,000 but were going to drop the price to below £250,000 to attract buyers to the lower stamp duty band, you can now put it on at the higher price,” he said.[18]

Writing in the *Financial Times*, John McDermott noted that the very large disparities in house prices between central London and the rest of the country had enabled the Chancellor to reform the tax at relatively little cost:

> The obstacle to reform has been that any change that doesn’t lead to a reduction in revenues is hard to achieve without some people losing money. The chancellor has ignored the first of those problems. His policy will cost about £800m per year from 2015/16, according to the Treasury’s policy costings document. We can chalk this down as another tax cut during a time when these are hard to afford.
>
> The rise in house prices in London, together with who has been buying those properties, has also made it easier to change the tax without having a lot of people lose out. Stamp duty revenues in Kensington & Chelsea have been higher than in Scotland, Wales and Northern Ireland combined, according to HMRC figures. The size of the prime London take means that only a fraction of would-be buyers will now be worse off after the changes announced today by George Osborne – 2 per cent, according to Treasury estimates. These buyers will mostly be in London …
>
> Labour and the Liberal Democrats have both proposed a so-called “mansion tax”. The chancellor may have felt politically exposed. His changes will annoy some of his future neighbours in Notting Hill but will be broadly popular. And remember that about half of property sales worth more than £1m in central London are to foreign nationals. The chancellor is improving an inefficient tax in a way that defends himself from political attacks, helps the average housebuyer and hurts a relatively small number of rich people, many of whom aren’t UK voters. These opportunities don’t come along very often – and the chancellor is canny enough to take them.[19]

1.3 The Stamp Duty Land Tax Bill

HM Revenue & Customs set out details of how this reform would be implemented in a tax information note published alongside the *Autumn Statement*:

> This measure will have effect on and after 4 December 2014. Where contracts have been exchanged but transactions have not completed on or before 3 December 2014,

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18 “Stamp duty reform aims to tackle ‘tax on aspiration’”, *Financial Times*, 4 December 2014

19 “The prime London property tax”, *Financial Times - Off Message blog*, 3 December 2014

purchasers will have a choice of whether the old or new structure and rates apply. This measure will apply in Scotland until 1 April 2015, when SDLT is devolved.

Current law

The main SDLT legislation is in Part 4 *Finance Act 2003*. Section 55 provides for the amount of tax chargeable and sets out separate tables of rates for purchases of residential and non-residential (or mixed residential and non-residential) property. Section 56 and Schedule 5 *Finance Act 2003* provide for a separate SDLT charge on the net present value of the rent payable under a new lease.

Proposed revisions

A Bill will be introduced in December 2014 to amend section 55, to provide for a new method of calculating the amount of tax due in respect of transactions to which Table A (residential property) applies and to amend the tax rates and thresholds set out in Table A. The changes will have effect on and after 4 December 2014 by virtue of a resolution under the *Provisional Collection of Taxes Act 1968*. There will be no changes in respect of transactions to which Table B (non-residential and "mixed" property) applies, or to the Schedule 5 charge on the net present value of rent.[20]

The department has given some details as to why these changes are to be brought in with a separate Bill, rather than the forthcoming Finance Bill

Why is the Government not consulting on this change?

Fast implementation of these reforms was essential. The Government decided to introduce these reforms with immediate effect in order to prevent any distortion in the housing market that would have resulted from a consultation period. The legislation and Bill will receive full scrutiny in Parliament.

Why a stand-alone Bill instead of the Finance Bill?

A stand-alone Parliamentary Bill is necessary in order to bring in the change from the 4 December and avoid any distortion of the housing market that that would have resulted from an extended consultation period.[21]

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[20] HMRC, *Stamp duty land tax: reform of structure, rates and threshold*, 3 December 2014

[21] *Email correspondence with HM Treasury*, 3 December 2014