

SDLT

Have you overpaid? Probably not!

STAMP
DUTY



Published on and correct as of 07/08/25.

What is SDLT?

Stamp Duty Land Tax (SDLT) is the tax you pay on the purchase price of a property. In Wales, it is called Land Transaction Tax (LTT) and Land & Buildings Transaction Tax (LBTT) in Scotland.

When purchasing an investment property in the UK, an SDLT 'surcharge' is applied to the normal residential rates of SDLT. In England & Wales, it is currently 5% and Scotland it is 8%.

Perhaps one of the most common questions Zeal are asked by holiday let owners is "did I pay too much Stamp Duty when I purchased my holiday let?". The reason many owners question the tax they paid when they purchased their property is due to online adverts, social media posts or direct mailing that promote SDLT refunds for holiday let owners.

Given how expensive SDLT has become with the additional surcharge (which continues to rise), there is no wonder owners question their SDLT, particularly when a carrot is dangled of thousands of pounds in cash refunds! These refunds are generally based on the property not being residential and so subject to the non-residential rates, which are much less!

We have summarised below the 2 main ways holiday let owners are targeted for SDLT refunds.

1. You purchased an existing holiday let. It's a commercial property so it should have been subject to much lower, non-residential SDLT rates.

The SDLT legislation is very clear. If a property is in use as a residential dwelling or is 'suitable for use' as a residential dwelling, the residential rates of SDLT will apply. This includes the SDLT surcharge if you own another property or your purchase the property via a limited company. In most cases, a holiday let would be suitable for use as a residential dwelling, even if it has been operating as a holiday let for many years.

There will be circumstances where a residential property will not be 'suitable for use as a dwelling'. For example, there are planning constraints that restrict use to holiday letting only or, the property is situated on a holiday site that is only accessible for certain months of the year. If this criteria is met, the non-residential rates can be applied, and the surcharge is not payable.

However, if your property is situated in Wales, there are **no exemptions for holiday lets**, even if there is, for example, planning constraints restricting use to holiday letting only.

2. The property was uninhabitable when you purchased it. The non-residential rates of SDLT should have been paid.

Over the past few years, there has been an influx of claims for SDLT refunds because a property was 'uninhabitable' on purchase. If the property was uninhabitable then it would not be 'suitable for use as a dwelling' and so non-residential SDLT rates would apply. This would result in less SDLT payable or claims for refunds of overpaid SDLT.

Whilst this SDLT relief is legitimately available to uninhabitable properties, the boundaries have been stretched to the point that property owners have been advised that it applies to properties that were purchased 'in need of repair'. This included damp in the property, faulty electrical systems, the boiler not working etc.

HMRC's long-standing view has been ... *"if a property requires repairs but retains the fundamental characteristics of a dwelling, it is still suitable for use as a dwelling and attracts residential rates of SDLT"*.

This however, did not stop an influx of claims by Agents (usually non-tax qualified firms and via social media, online adverts or direct mailing), often resulting in thousands of pounds of tax refunds. Many were successful due to the UK's self-assessment tax system. In short, they were not checked by HMRC!

The case of *Mudan & Anor v HMRC* in March 2023 provided clarity on what the Courts would consider to be 'uninhabitable'. The case was appealed to the Court of Appeal in June 2025, but the decision was upheld. In short, to be classed as uninhabitable, the property needs to be unsafe to live in. The fact it needs substantial repairs or has no utilities is not sufficient for it to be classed as 'not suitable for use as a dwelling'.

HMRC has since issued a warning to taxpayers of bogus SDLT claims, which included reference to the case of *Mudan & Anor v HMRC*. You can read the full article [here](https://www.pascuk.co.uk/news/hmrc-warning-bogus-sdl-claims).

What if I have overpaid?

If your property was not 'suitable for use as a dwelling' on purchase, there is a 4 year window from the date of purchase of the property to reclaim any SDLT overpaid.

If you have or are unsure if you have paid too much SDLT, you can email Zeal's free helpline at pasc@gozeal.co.uk and one of our tax specialists will contact you.