

# SDLT Advantage of mixed use property

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Purchasers of residential property pay SDLT under the punishing Table B rates of SDLT whereas purchasers of non-residential property pay much lower rates of SDLT under Table A. There is also no 3% additional rate of SDLT on non-residential which also does not apply to "mixed use" purchases. Mixed use rates of SDLT are the same as non-residential rates. There are SDLT planning advantages of buying a large country house with farmland, non-residential land and claiming "mixed use". Indeed this has been used as an SDLT planning tool for some time.

HMRC's current approach seems to ensure business use must be seen on the additional land before and after purchase.

**The non-residential rate of SDLT of Table A is as follows:**

£0 to £150,000	Zero rate
£150,001 to £250,000	2%

Above £250,000 5%

Clearly if the property can be legitimately defined as mixed use the advantage is obvious, especially as the 3% additional residential property rates do not apply to mixed use properties. Since 1 April 2016 the additional 3% was introduced.

**Residential SDLT rates of Table B:**

£0 to £125,000	£Nil
£125,001 to £250,000	2%
£250,001 to £925,000	5%
£925,001 to £1,500,000	10%
Over £1,500,000	12%

Problems arise on more marginal areas of land where guidance is taken from the capital gains main residence legislation regarding the land used for reasonable enjoyment of the dwelling. Help is given by the case *Longston v Baker* [2001] STC 6 where 7.56 hectares of stables were not deemed residential as they were not required for reasonable enjoyment of the main house.

There is a serious advantage to using the mixed rate of SDLT and buying land with the dwelling. However, many argue that HMRC are toughening up on the eligibility of the mixed use rate without changing the legislation to eliminate what many consider to be a 'loophole'. The SDLT planning point still remains, indeed some SDLT reclaims are available but beware HMRC resistance to such claims and the need for evidence and planning in advance.

The mixed use SDLT advantage of farmland cannot be overlooked. The key to attaining the advantage is to comply with the legislation. For some farmers they can sell small parcels of land linked to cottages and other residential property to add value to the property, not least when the property is sold with less SDLT.

These are difficult times for farmers and asset stripping in this way can be commercial “life savers”!



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