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Mixed-use and Multiple Dwellings Relief

On 13 November 2020 HMRC changed their view to confirm that the 3% surcharge will not apply to a transaction which includes dwellings and non-residential property where Multiple Dwellings Relief (“MDR”) is claimed.

What is mixed-use?

Purchases which include residential and non-residential elements are defined as mixed-use. HMRC class non-residential property to include:

- Commercial property e.g. shops or offices;
- Agricultural land;
- Forests;
- Any other land or property which is not used as a residence; and
- Six or more residential properties bought in a single transaction.

Mixed-use properties

The most common example is a when a property is purchased with a commercial pub on the ground floor with residential flats on the floors above.

In this scenario the purchaser can either apply the non-residential rates to the entire purchase or use a hybrid calculation which applies non-residential rates to the pub and residential rates including MDR to the flats.

In our example the purchase price is £1,165,000 which is split £250,000 for the pub and £915,000 for three self-contained flats.

- The SDLT liability when applying non-residential rates is £47,750.
- The SDLT liability under the old method before 13 November 2020 is £46,847.
- The SDLT liability under the new method is £19,397.

Please note the savings above are subject to the SDLT holiday which is in place until 31 March 2021.

The change of view by HMRC has resulted in a tax saving of £28,353 and it is as a result of removing the 3% surcharge from the transaction.

Why doesn't the surcharge apply?

To be a higher rate transaction and thereby subject to the 3% surcharge the purchase must meet the definition set out below:

“the main subject-matter of the transaction consists of a major interest in a single dwelling”

Mixed-use purchases ‘include’ a major interest in a single dwelling but they do not wholly consist of dwellings as there is a non-residential element. As a result the normal residential rates apply and the purchase is not deemed to be a higher rate transaction.

Claiming a refund

The window to make an amendment to a claim is 12 months and two weeks from completion.

The window can be extended to up to four years in certain cases.

Please contact us if you believe your purchase could qualify.

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