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## Purchases

### Stamp Duty Land Tax – What is mixed use purchase?

A residential property purchase is subject to residential rates and is also likely to be subject to the 3% surcharge. This surcharge has significantly increased the cost of purchase. A commercial property is subject to the lower non-residential rates and is not within the scope of the 3% surcharge.

A mixed use property is one which has both residential and commercial elements. The commercial element means that the purchase benefits from the lower non-residential rates and is not subject to the 3% surcharge, generating significant savings.

After the 3% surcharge was introduced taxpayers began to think creatively in order to classify a purchase as mixed use. HMRC have started to challenge these claims and a number of cases have now been heard by the First Tier Tribunal (“FTT”).

Four similar have been heard by the FTT, who have confirmed the following characteristics are likely to result in an unsuccessful claim:

1. Simply having excess land does not result in a mixed use property;
2. Land which is grazed is a good indicator but the agreement must be formally documented;
3. A home office is insufficient; and
4. The historic use of the land provides an indication of the possible classification but it is the use of the land around the time of purchase which is relevant.

Each purchase should be looked at carefully and on its own merits as one feature is unlikely to convert a property’s classification. To increase a claims chance of success an advisor should be engaged at the earliest opportunity to ensure the correct documentation is in place.

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