

LAND AND BUILDINGS TRANSACTION TAX – 3 YEARLY RETURNS NOW DUE



As Land and Buildings Transaction Tax (LBTT) reaches its third birthday, tenants in Scotland need to be aware of their ongoing responsibility to review the tax payable under their leases.

LBTT replaced Stamp Duty Land Tax (SDLT) for Scottish land transactions from 1 April 2015. Although in general LBTT and SDLT are very similar there are some important differences in particular in relation to commercial leases.

One of the most significant differences is that the tax position for a lease that is subject to LBTT must be reviewed and a further LBTT return must be submitted (i) on every third anniversary of the lease; (ii) if the lease is assigned; and (iii) when the lease comes to an end.

What does this mean for me?

If you have entered into a lease of Scottish property after 1 April 2015, or, if you are the tenant under a lease which was entered into before 1 April 2015 which has been varied (e.g. the term or the premises let have been extended) resulting in a deemed "new" lease for LBTT purposes, you will be required to submit a further return on every third anniversary of the effective date of the lease.

This further return advises Revenue Scotland of any changes made to the lease since the last return was submitted and the amount of tax chargeable on that lease is reviewed taking account of any such changes. If more tax is due (e.g. if there has been a rent review that increases the rent or an extension of the duration of the lease), then it must be paid and if less tax is due, then a claim for repayment can be made.

What if there have been no changes to the lease in three years?

It is important to be aware that this obligation to submit additional returns applies irrespective of whether there is a change in the tax that is payable. This means that even where there have been no changes to a lease in a three year period a return must still be submitted.

What do I need to do next?

As the third anniversary of the introduction of LBTT approaches, the first 3 yearly returns will be due in April 2018. Although we will not be reminding you when a return is due, Revenue Scotland have confirmed that they will be contacting tenants by letter (at the address given in their LBTT lease return) to remind them of their obligations.

Who to contact

If you are contacted by Revenue Scotland and require any assistance in completing the return please get in touch with the Scottish Real Estate LBTT team, Carrie Armstrong or Sally Anthony.

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