

## 9.7. Surrender and merger of leases

### 9.7.1. Surrender by deed

T surrenders his lease by deed to L with vacant possession, T pays L £150,000 for accepting the surrender and for releasing T from dilapidations liability. The remedying of the dilapidations would have cost £50,000, although this sum is not mentioned in the deed.

*Commentary:*

The surrender of the lease is a land transaction however as the purchaser (L) gives no consideration the transaction is not chargeable (on the assumption that L is not a company connected with T when the deemed market value rule would apply<sup>977</sup>).

**Note:** A self-certificate (SDLT 60) will need to be completed.

### 9.7.2. Surrender by operation of law

As in scenario 1.1.1 but T surrenders his lease by operation of law.

*Commentary:*

The SDLT analysis is as in scenario 9.1.1 The absence of a document is irrelevant for SDLT purposes.

### 9.7.3. Surrender and re-grant

T holds a lease of a shop which now has just under five years unexpired. There is an outstanding rent review almost agreed at £20,000 per annum. The landlord grants T a new 15 year lease of the shop at an initial rent of £22,500 per annum paying T a reverse premium of £12,000.

*Commentary:*

The grant of the new lease will be a land transaction for SDLT purposes. The surrender of the old lease will not be treated as chargeable consideration for the grant of that new lease.

If SDLT was paid in respect of the old lease relief will be available in respect of the rent payable during the period of the new lease which overlaps with the old.

The reverse premium is not chargeable to SDLT.

#### ***Calculation of the SDLT:***

Assuming that SDLT had been paid on the grant of the old lease and that the rent taken into account in determining the SDLT chargeable in respect of the acquisition of the old lease was £15,000 per annum then the RRV of the new

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<sup>977</sup> Which substitutes a consideration of not less than the market value of the property transferred in certain cases where the purchaser is a company – see 9.7.2 above

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lease will be calculated on the basis of an annual rent of £7,500 (£22,500 less £15,000) for the period of the new lease which overlaps with the old (just under five years) and £22,500 for the balance of the term.