

# ANN L HUMPHREY

*Solicitor & Tax Specialist*

## Calculating Stamp Duty Land Tax Overlap Relief for a New Lease of Commercial Property

### **Slide 1**

In this video I'm going to explain how to calculate stamp duty land tax overlap relief for a new lease of commercial property. I am going to take you through a real example and show you the steps you need to take in order to calculate the overlap relief.

### **Slide 2**

Before I begin let me tell you a little bit about Ann... She is a tax lawyer with over 30 years experience. She set up her own practice after working in the City for 16 years. She is a published author on stamp duty land tax and she has been profiled as a leading authority on VAT by UK Legal Experts 2012. She also specialises in business tax

### **Slide 3**

Bear in mind that overlap relief is not available if the old lease, which I will refer to as lease 1, was subject to stamp duty, which was the tax that was in place prior to the introduction of stamp duty land tax.

Also, if lease 1 was relieved of stamp duty land tax there is no overlap relief.

### **Slide 4**

To clarify, this calculation will deal with a commercial property where an existing lease has yet to expire and, is being surrendered to be replaced by a new lease. The two leases overlap in time and, there is no premium for either lease.

### **Slide 5**

Before we dive in with some figures here is a disclaimer:

- The technical information presented here was correct as at September 2012
- Mistakes can be costly so make sure you are confident that your figures are correct
- It is recommended that you check your calculations with a tax professional

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Please check the description below this video because I will be adding any updates here that you need to be aware of, if they occur after this video has been published.

There are of course lots of considerations to take into account when working out overlap relief and, while I will cover some of them, it is impossible to cover every single eventuality.

## **Slide 6**

Ok, the first thing you need to do when working out overlap relief is to collect the following information for both leases:

- Date of lease
- Term of lease
- Commencement date
- Rent amount
- Rent commencement date

We will be using HMRC's calculator for new leases to help work out some of the figures and there is a link to this calculator here and in the description below. You will need to make some calculations before using the HMRC tool and this is explained later on.

## **Slide 7**

In our example we will be using the following figures:

For lease 1, which is the surrendered lease we have:

Lease date of 23<sup>rd</sup> December 2008

Term of 6 years from commencement date

Commencement date of 25<sup>th</sup> Sept 2008

Rent of £850,000

Rent commencement date of 25<sup>th</sup> September 2010

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## **Slide 8**

For lease 2, which is the new lease, we have:

Lease date of 28<sup>th</sup> August 2012

The Term is From commencement date to 24<sup>th</sup> Dec 2019

Commencement date is 28<sup>th</sup> Aug 2012

Rent of £850,000

Rent commencement date is 29<sup>th</sup> June 2013

## **Slide 9**

Comparing these two leases you can see that the overlap period runs from 28<sup>th</sup> August 2012 to 24<sup>th</sup> December 2014 inclusive, which is a period of 2 years and 119 days.

Therefore, you need to reduce the rent figures for lease 2 for the overlap period and take into account any rent free periods.

## **Slide 10**

For lease 2 the stamp duty land tax with no overlap relief is £45,728.

This has been calculated on the basis of year 1 rent being £141,667, which is a 1/6<sup>th</sup> of £850,000. Years 2 to 5 is £850,000 yearly.

The net present value is £ 4,722,858

## **Slide 11**

When working out the SDLT on lease 2 giving overlap relief, which you will see in the next slide, we have to consider the overlap period of 2 years and 119 days. This explains why the rent is nil for years 1 & 2 and it is reduced in year 3 by subtracting rent for 119 days from the yearly rent of £850,000, which means the taxable rent is £572,877.

Let's have a look at those figures.

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## **Slide 12**

The stamp duty land tax on lease 2 giving overlap relief is £33,925. This has been calculated on the basis that rent for year 1 and 2 is zero and the year 3 taxable rent is £572,877 as already explained. Years 4 to 5 is £850,000 yearly.

The net present value is £3,542,548.

## **Slide 13**

To work out the overlap relief you need to take the stamp duty land tax figure for lease 2 and take away the figure for stamp duty land tax giving overlap relief and this provides the overlap figure for the new lease.

The overlap relief in this example is £11,803

## **Slide 14**

Let me show you a quick example of how you enter the information into HMRC's calculator. It is very simple to use and I am using the figures for lease 2 with no overlap relief. You first need to enter the Effective Date of the Transaction, which is the date of the lease. Click on Non-Residential as it a commercial property and then click on next.

## **Slide 15**

On the next screen you enter the details as requested and again it is very straightforward to enter these figures using all the information you have collected on the lease. When you have finished entering all the figures click on Next.

## **Slide 16**

When the figures are calculated you will see this page. As you can see the SDLT figure of £45,728 that we used in the calculation appears here as indicated by the red arrow.

It is recommended to carry out screengrabs and print copies of all the steps you take when working out these figures to show you have entered the correct information. You may need to present these figures to HMRC to show you have entered all the information correctly.

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## **Slide 17**

Thanks for watching and if you found this video useful please click Like!

There is further information on Ann's website on stamp duty land tax including case studies.

If you have any questions, please leave a comment or get in touch via email.

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