UK Property Accountants

FM Global Awards UK Tax Adviser of the Year 2022

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STAMP DUTY ON

DERELICT PROPERTY

A COMPLETE HANDBOOK

UK Property Accountants

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THE BASICS OF STAMP DUTY



Let's Revisit :

Stamp Duty, officially known as Stamp Duty Land Tax (SDLT), is a tax that property buyers in the UK must pay when purchasing a property or land over a certain price.

This tax applies to both residential and non-residential properties and land in England and Northern Ireland.

The purpose of Stamp Duty is to contribute to the country's revenue. The tax is used to fund various public services and is an essential part of the UK's taxation system.

Have you purchased an abandoned property which is inhabitable?

Did you know you can save your Stamp Duty Land Tax (SDLT) if your abandoned property qualifies as derelict property for Stamp Duty Land Tax (SDLT) purposes?

This handbook provides a complete exploration of the intricacies surrounding the application of Stamp Duty to uninhabitable or derelict properties.

This knowledge is particularly important for investors considering such properties in the UK, as the Stamp Duty implications can be quite different from those for habitable properties.

How Stamp Duty is Calculated :

The amount of Stamp Duty you pay depends on the price of the property you are buying and whether it is your first property. Stamp Duty is calculated using a tiered system, where different tax rates apply to different portions of the property price.

As of 2023, the Stamp Duty Land Tax (SDLT) for properties up to £250,000 is 0%. So, for a £500,000 property, the first £250,000 is tax-free, and the remaining £250,000 is taxed at 5%, which is £12,500.

Therefore, the total Stamp Duty you would pay on a £500,000 property would be £12,500.



Ready to calculate your own Stamp Duty? Use our exclusive Stamp Duty Calculator to get accurate results in minutes.

The Impact of Stamp Duty on Property Investment

Stamp Duty can significantly impact property investment as it adds to the cost of buying an investment property. Therefore, it's crucial for investors to factor in the cost of Stamp Duty when calculating the potential return on investment.

In 2023, the Stamp Duty Land Tax (Temporary Relief) Act was introduced, which reduces the amount of SDLT paid by many house buyers up to 31 March 2025. This temporary relief could influence investment decisions, as the reduced tax burden could make certain investments more attractive.

However, there have also been calls for Stamp Duty to be doubled for landlords to help younger generations buy amid rising interest rates and high inflation. If implemented, this could significantly impact the profitability of property investment for landlords.

STAMP DUTY ON UNINHABITABLE PROPERTIES

What is Derelict Property?

A derelict property is an abandoned, unusable, or vacant building or piece of real estate that has been uninhabited for a considerable amount of time and is in desperate need of repair.

A residential property that has fallen into disrepair and is no longer fit for habitation would not be considered a dwelling.

For a variety of reasons, including the owner's passing away and leaving the property in desolation, properties may be abandoned or left vacant.

Typical Indicators of Vacant Property

Few indicators are:

- The building has holes in the roof or walls, busted windows, and other structural damage;
- The windows and doors are boarded up or covered with metal screens.
- No one enters or is present in the building.
- Pests and rats are a problem on the property;
- The grounds are overgrown and neglected.
- The stairs in the property are in ruins.

Properties that are abandoned or uninhabitable because of their bad state put the residents' health and safety at risk of bodily harm or injury and prevent full use of the property.

The cost of renovating the property is high since it often needs extensive repairs, such as those for internal plumbing, roof leaks, structural failure issues, or plant growth or fungus, rodent infestation inside the building.

Did you know that you can save your Stamp Duty Land Tax (SDLT) if your abandoned property qualifies as derelict property for Stamp Duty Land Tax (SDLT) purposes.

Are all Abandoned Property Derelict?

There is a major difference between a property that is basically empty and abandoned yet liveable and in need of modernization, remodelling, or repair, issues that can be resolved without significantly altering the property's structural integrity.

Empty houses are those that are unoccupied and largely unfurnished. Depending on the number of vacant homes, the local government may offer a discount or charge a premium. If a property has been empty for more than two years, a premium on council tax may be levied.

As per Local Authority Council Tax base England, the total number of empty dwellings as at 13 September 2021 was 468,000 – a decrease of 11,000 or 2.4% on the previous year.

Of these, only 52,000 empty dwellings were subject to a discount, with 26,000 dwellings receiving a 100% discount. 72,000 empty dwellings were liable to pay a premium. 70% of dwellings being charged a premium have been empty for 2-5 years.

19% of dwellings have been empty for between 5 -10 years and 10% of dwellings have been empty for more than 10 years.

> *It is a question of fact if a property is derelict to the point that it no longer comprises a dwelling, and it only applies to a small percentage of properties*

Likewise, substantial repair required to windows or a roof would also make the building unsuitable for use as a dwelling.

Stamp Duty on Uninhabitable Property

When purchasing abandoned or uninhabitable property, the buyer may be exempt from paying Stamp Duty Land Tax (SDLT) or qualify for a tax refund.

HMRC assesses SDLT, based on residential and non-residential properties.

Since an abandoned or uninhabitable building is not deemed "suitable for use as a dwelling," non-residential rates apply when buying abandoned or uninhabitable properties.

The current non-residential rates for SDLT are as follows:

Property or lease premium or transfer value	SDLT rates
Up to £150,000	Zero
The next £100,000	2%
The remaining amount	5%

Our skilled advisors will collaborate with you to comprehend your objectives, evaluate your tax obligations, and create a customized strategy that satisfies your requirements.

You can Reclaim Stamp Duty Land Tax on Derelict Properties for Renovation or use today!

Suitable for Use as Dwelling

Suitable for Use as a Dwelling" is a key concept in understanding how Stamp Duty is applied, particularly when dealing with properties that are uninhabitable

HMRC considers a dwelling to mean “a building or a part of a building that affords those who use it the facilities required for day-to-day private domestic existence and a sufficient degree of permanence” and the definition also covers buildings or properties under construction as a dwelling.

Additionally, Section 116 Finance Act 2003, defines residential property as:

- An existing building that is used or suitable for use as a dwelling or is in the process of being constructed or adapted for use as such.
- Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land).
- Land that subsists (or will subsist) for the benefit of a dwelling.



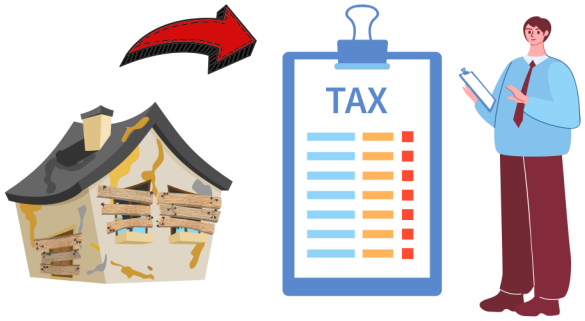
- An interest in a building (or part of a building) that is to be constructed or adapted for use as a single dwelling, where construction or adaption has not yet begun but the contract has been substantially performed.

What Makes a Property Derelict Property?

The building may be uninhabitable due to certain circumstances that forbid human habitation. Each building may have a variety of flaws or defect, but even one flaw may not render a building uninhabitable; this depends on several different factors in each case.

- Presence of asbestos, Japanese weed knot throughout the building.
- Leakage/flooding of the floors and parts of building including damps in wall and structures.
- Any rotting or mould growth in the building.
- Structural damage and issues in the property.
- Plumbing and issues in water supply and defects and unsafe electrical wires and networking.
- Leaking roof or major damage to the roof causing excessive damp and rot.
- Growth of plants on the structural areas of the building impacting safety and foundation.

Council Tax on Derelict Property



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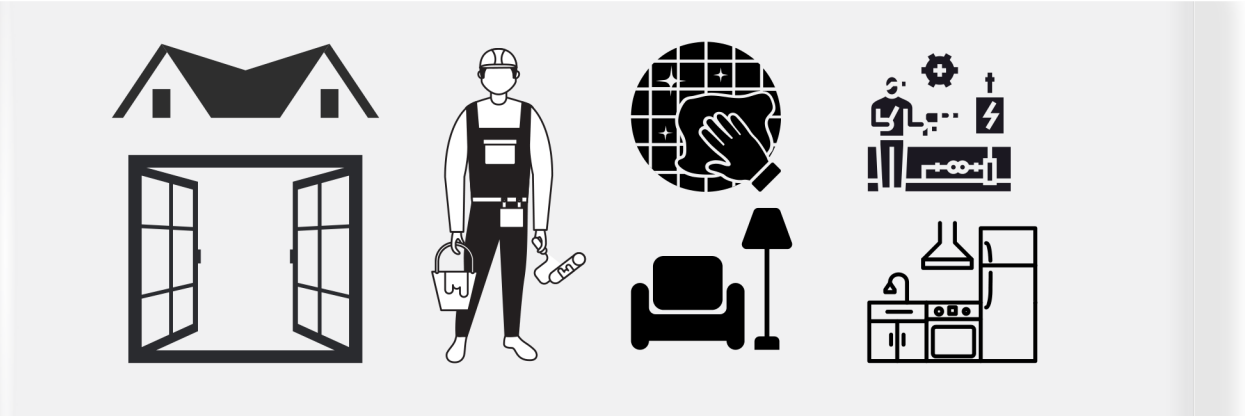
Stages of Identification for Uninhabitable Properties

Properties and buildings require regular maintenance and repair. The following

repair and maintenance work is not considered significant for the property to be uninhabitable and youre still required to pay your council tax.

Let's look at these exemptions:



- **Roof covering**:
  This could be anything from replacing a few tiles to installing a completely new roof.

- **Windows**:
  This could involve repairing a broken window or installing new ones.

- **Kitchen or bathroom fittings:**
  This includes things like replacing sinks, installing new cabinets, or updating your bathroom fixtures.

- **Rewiring:**
  This involves replacing old or faulty electrical wiring within the property.

- **Paintwork and decoration:**
  This could be repainting walls or updating the decor.

The Listing Officer may not remove the property or building for council tax purposes because these repairs are reasonable enough to allow the residents to live in the property while the maintenance or repair work is being done. However, where repair and maintenance which are more substantial and require structural alteration, major renovation, or other alteration during which the inhabitants cannot live inside, the council tax band can be deleted.

COURT/LEGAL INTERPRETATION

SDLT on Derelict Property

This section presents a brief overview of some cases related to stamp duty payment on Derelict Property, including their legal issues, court's ruling and implications.

1. Case Study: P N Bewley v HMRC

Introduction

This case study pertains to a ruling made by the First Tier Tribunal regarding a refund claim on a derelict property's eligibility.

The central question was whether the property was 'suitable' to be used as a dwelling at the time of purchase, not whether it could become so used in the future.

Background

The tribunal had to interpret the term "dwelling" and apply it to the property in question.

The definition provided by Section 116 FA 2003, which pertains to the meaning of residential property, was not considered relevant as it does not deal with what constitutes a dwelling.

Legal Issue

The key legal issue was the interpretation of the term "dwelling" and whether the property in question was suitable to be used as a dwelling at the time of purchase.

The tribunal had to determine whether the property was a "dwelling" at the time of purchase, considering its condition and suitability for habitation.

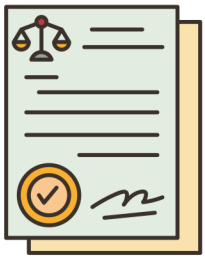
Court's Ruling

In the final judgment of the tribunal, it was unequivocally determined that the property in question did not qualify as a "dwelling" at the moment of its acquisition.

The property's suitability for habitation was significantly compromised due to the existence of asbestos, a hazardous material known for its detrimental health effects.

As a consequence of these findings, the tribunal made the definitive ruling that the Stamp Duty Land Tax (SDLT) should be charged at non-residential rates.

Implications



The tribunal's decision has significant implications for the interpretation of what constitutes a "dwelling" for SDLT purposes. It clarified that the intention of the buyer for future use of the property and the planning permission were irrelevant in determining whether the property was a dwelling or not.

It also emphasized that any action taken after purchase becomes irrelevant. This ruling sets a precedent for future cases involving derelict properties and their eligibility for SDLT.

Conclusion



This case study underscores the importance of the property's condition at the time of purchase in determining its classification for SDLT purposes.

It also highlights the irrelevance of future intentions highlights the irrelevance of future intentions or actions taken after purchase in this determination.

This ruling provides valuable insights into the legal interpretation of "dwelling" and its implications for SDLT.

This FTT case serves as a crucial reference for similar cases in the future.

2. Tajinder Mudan v The HMRC

Introduction

The case study in question revolves around the assessment of a derelict property, specifically in relation to its eligibility for a refund claim.

The property, which was in a state of disrepair at the time of purchase, became the subject of a tribunal to determine its status and the appropriate Stamp Duty Land Tax (SDLT) rate.

Background

The tribunal was tasked with assessing whether the property was 'suitable' for use as a dwelling at the time of purchase.

The property was in a derelict state, with no functional facilities or utilities, and was deemed uninhabitable. The buyer, however, had plans to renovate the property and use it as a dwelling.

Legal Issue

The crux of the case hinged on the interpretation of the term "dwelling" and its application to the property in question.

Therefore, the tribunal ruled that Stamp Duty Land Tax (SDLT) should be charged at non-residential rates.

Court's Ruling

The tribunal concluded that the property was not a "dwelling" at the time of purchase.

It was deemed unsuitable for habitation due to its derelict state, and therefore, should be charged at non-residential rates for SDLT. The tribunal stated that a property can only be considered a dwelling if it is suitable for use as a dwelling at the time of sale, regardless of any future plans for the property.

Implications

The ruling clarified that the buyer's future intentions and planning permission were irrelevant in determining the property's status for SDLT purposes.

This has significant implications for buyers of derelict properties, as it suggests that the SDLT rate will be determined by the property's condition at the time of purchase, not by any future renovation plans.

Conclusion

The case emphasizes the importance of the property's condition at the time of purchase in determining its SDLT classification.

It serves as a reminder to potential buyers of derelict properties to consider the potential tax implications based on the property's current state, rather than their future plans for the property.

Necessity of Legal Insight

Understanding the court's interpretation of Stamp Duty Land Tax (SDLT) on derelict properties is crucial for UK residents considering such investments.

The P N Bewley v HMRC case highlights this, where the tribunal ruled a property unsuitable for habitation at the time of purchase couldn't be classified as a 'dwelling' for SDLT purposes.

This ruling disregarded the buyer's future renovation plans, emphasizing the property's condition at the time of purchase as the determining factor for SDLT classification.

Therefore, potential buyers must be aware that their intentions to refurbish a derelict property won't influence its SDLT status. This insight is essential in financial planning and avoiding unexpected tax implications when investing in derelict properties.

Conclusion

Since assessment of Derelict property depends on various factors it is important to gather as many information about the property, its prior use, and current situation of damage to arrive at a definative conclusion.

The derelict property assessment form helps us assess whether purchased property qualifies for SDLT relief under Derelict Property and is applicable for a refund or arrive at correct estimation of SDLT payable.

Award-Winning Property Tax Accountants

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UK Property Accountants

CONTACT US



For More Information

Don't miss out! Scan the barcode to uncover expert insights on reducing your Stamp Duty Land Tax for derelict properties