

Gatehouse Bank - Guidance for conveyancers on the use of SDLT Alternative Finance Relief

Please note that this note does not form official HMRC advice and users should read this note together with published HMRC guidance

Background

- Stamp Duty Land Tax (SDLT) Alternative Finance (AF) relief is a tax relief available to users and providers of alternative finance products.
- The aim of the relief is to ensure that only one charge to tax arises where AF is used to purchase property so that purchasers pay a similar amount of tax as those using conventional mortgage finance.
- The relief also applies where refinancing takes place using AF, so that no SDLT charge arises on the transactions.
- The SDLT AF legislation is contained in [sections 71A to 73BA of the Finance Act 2003](#). Guidance on the rules can be found in the HMRC SDLT Manual at [SDLTM28000](#), which covers three types of arrangement:
 - Ijara
 - Musharaka
 - Murabaha
- The arrangements offered by Gatehouse Bank are Home Purchase Plans (HPPs) which substantially conform to the Musharaka type of financing. Gatehouse Bank is a Financial Institution as defined under [section 73BA\(3\) of the Finance Act 2003](#) as they are a home purchase plan provider regulated by the Financial Conduct Authority.
- More information on the types of arrangements and registration requirements can be found in the [HM Land Registry Practice Guide 69: Islamic Financing](#).
- SDLT applies to land transactions taking place in England and Northern Ireland. Transactions taking place in Scotland or Wales are subject to separate land transaction taxes which are not covered in this note.

Outline of Home Purchase Plans and SDLT

HPP financing will normally consist of a regulated provider - acting as a Financial Institution (FI) - and a client jointly purchasing a property, followed by the grant of a lease from the FI to the client. The client will pay rent to the FI and may also pay additional sums for the periodic transfer of beneficial ownership of the FI's interest in the property to the client.

Typically, this will result in a number of transactions for SDLT purposes which in the absence of AF relief, would be notifiable to HMRC and chargeable to SDLT in the normal way:

Transaction	Vendor	Purchaser	SDLT Status
1. Purchase of the freehold/headlease	Third Party	FI and Client	Liable to SDLT
2. Grant of lease/sub-lease	FI	Client	Notifiable to HMRC, relieved from charge
3. Periodic transfer of FI's share of the freehold/headlease	FI	Client	Exempt from SDLT, not notifiable to HMRC
4. Final transfer of FI's share of the freehold/headlease	FI	Client	Notifiable to HMRC, relieved from charge

Exceptions

There will be two instances where the transactions which take place differ from those above.

1. Where the client already owns the property and is refinancing – the client will in effect be the vendor in Transaction 1 whilst also acting as a purchaser alongside the FI. In those cases, Transaction 1 will be notifiable to HMRC but is relieved from charge.
2. Where the client is acquiring a property and the vendor requires the client to be the purchaser/take the conveyance of the property – there will be a transaction preceding Transaction 1, with the third party as the vendor and the client as the purchaser. The client will be liable to SDLT on this transaction in the normal way. The AF transactions will then take place as if they were a refinancing.

Application of the SDLT rules for each transaction

The SDLT return for each notifiable transaction must be completed in accordance with the guidance published in the [SDLT 1 Return Guide](#). The guidance below provides further information specific to HPPs and should be read as complementing the Guide. Furthermore, neither the Guide nor the guidance below should be treated as being exhaustive and care should be taken in particular in relation to the correct rate of SDLT due on a transaction.

Transaction 1 – Purchase by the financial institution and the client

To enable subsequent transactions to be eligible for AF relief,

- the purchase must be of a major interest or an undivided share in land situated in England or Northern Ireland, and
- the interest in land acquired must be held by the FI and the client as beneficial tenants in common, and

- the FI must grant a lease to the client out of their share of the major interest, and
- there must be an agreement for the client to be able to acquire the whole of the interest purchased by the FI and client.

As the FI and the client are joint purchasers of the interest in land, they are treated as being joint purchasers for SDLT purposes, even if the transfer of title is registered at HM Land Registry or at Land and Property Service Northern Ireland solely in the name of the Financial Institution as the legal owner. This means:

1. the obligation to submit a SDLT return to HMRC arises to both parties on a joint and several basis and
2. the obligation to pay any SDLT arising on the transaction arises to both parties jointly and severally.

Completing the return and making payment of tax

The SDLT return should be completed as follows:

1. Question 1 – Type of Property:

This should be completed as instructed in the SDLT return guide. Where the purchase is of a residential property and client is a company or is an individual who is liable to the higher rates for additional dwellings, Code 04 should be used.

2. Question 9 – Are you claiming relief:

Where the client is a first-time buyer (or if more than one client, they are all first-time buyers) and are eligible to claim First-time Buyers' Relief, code 32 should be used. Otherwise relief codes should be used as appropriate.

Where however the vendor is the client themselves (or where there is more than one client, all of them are the vendors) because they are refinancing, then Code 24 should be used to claim relief from SDLT. If multiple reliefs are being claimed, then code 29 should be used.

3. Question 10 – Total consideration:

This should be the total consideration given by the purchaser for the land. Where the interest acquired is an assigned lease, this should be the premium, with details of the lease and rent included in Questions 16 to 25. Where the interest is a newly granted lease, any premium should be entered at Question 22, with further details about the lease and rent entered in Questions 16 to 25.

4. Question 14 – Total amount of tax:

This should be the total amount of tax due in respect of the transaction, net of reliefs.

5. Purchasers' details –

The FI and the client should both be listed as purchasers on the SDLT return. Where there is more than one client, all of them should be listed. For the FI, their Corporation Tax reference

number should be entered at Box 51. Question 52 will need to be completed based on whether the client is a non-UK resident for the purposes of SDLT. If so, then tax will need to be paid inclusive of the non-resident surcharge. Where the client is an individual and is allowed to claim crown employment relief, the answer to the fourth part of Q52 should be “Yes”, and tax should be paid without the non-resident surcharge.

Where there is a tax liability in respect of this transaction, the tax is required to be paid within 14 days of the effective date using the transaction reference for this return **Do not use any other reference unless instructed to do so by HMRC. Do not use the reference for the second transaction.**

Transaction 2 – Grant of lease by the FI to the client

To qualify for relief,

- the purchase must be of a new lease granted by the FI to the client out of the interest held by FI, and
- the requirements specified in relation to the first transaction must have been complied with in full, including the payment of any tax chargeable under that transaction.

Only the client will be a purchaser under this transaction and so the obligation to submit the SDLT return in respect of the transaction arises on the client alone.

Completing the return and making payment of tax

The SDLT return should be completed as follows:

1. Question 1 – Type of Property:

This should be completed as instructed in the SDLT return guide. Where the purchase is of a residential property and client is a company or is an individual who is liable to the higher rates for additional dwellings, Code 04 should be used.

2. Question 9 – Are you claiming relief:

Code 24 for alternative finance relief should be used here, provided that the conditions for relief are met.

3. Question 10 – Total consideration:

This should be nil – as the interest acquired is of a newly granted lease, any premium given for the lease should be entered at Question 22, with further details about the lease and rent entered in Questions 16 to 25.

4. Question 14 – Total amount of tax:

Where alternative finance relief under code 24 has been claimed “0” should be entered here.

5. Purchasers’ details –

Only the client should be listed as a purchaser on the SDLT return. Where there is more than one client, all of them should be listed. Question 52 will need to be completed based on whether the client is a non-UK resident for the purposes of SDLT, even where tax has been relieved in full. Where the client is an individual and is allowed to claim crown employment relief, the answer to the fourth part of Q52 should be “Yes”.

Where the transaction is relieved in full under alternative finance relief, there is no tax liability to pay. **Do not make a payment using the reference for the second transaction except where a tax liability arises on that transaction specifically.**

Transaction 3– Periodic transfers of the FI’s interest to the client

To qualify for relief,

- the interest acquired by the FI under the first transaction must be still held by a FI and not been previously transferred to the client, and
- the lease granted by the FI out of its share of the interest acquired under the first transaction must still be held by the client, and
- the requirements specified in relation to the first and second transactions must have been complied with in full, including the payment of any tax chargeable under that transaction.

Completing the return and making payment of tax

No charge to SDLT will arise on these transactions, and there is no requirement to notify HMRC of them via an SDLT return.

Transaction 4 – the final acquisition of the FI’s interest by the client

To qualify for relief,

- the interest acquired by the FI under the first transaction must be still held by a FI and not been previously transferred to the client, and
- the lease granted by the FI out of its share of the interest acquired under the first transaction must still be held by the client, and
- the requirements specified in relation to the first and second transactions must have been complied with in full, including the payment of any tax chargeable under that transaction.

Only the client will be a purchaser under this transaction and so the obligation to submit the SDLT return in respect of the transaction arises on the client alone.

Completing the return and making payment of tax

The SDLT return should be completed as follows:

1. Question 1 – Type of Property:

This should be completed as instructed in the SDLT return guide. Where the purchase is of a residential property and client is a company or is an individual who is liable to the higher rates for additional dwellings, Code 04 should be used.

2. Question 9 – Are you claiming relief:

Code 24 for alternative finance relief should be used here, provided that the conditions for relief are met.

3. Question 10 – Total consideration:

This should be the aggregate consideration given by the client for the FI's share of their interest.

4. Question 14 – Total amount of tax:

Where alternative finance relief under code 24 has been claimed "0" should be entered here.

5. Purchasers' details –

Only the client should be listed as a purchaser on the SDLT return. Where there is more than one client, all of them should be listed. Question 52 will need to be completed based on whether the client is a non-UK resident for the purposes of SDLT, even where tax has been relieved in full. Where the client is an individual and is allowed to claim crown employment relief, the answer to the fourth part of Q52 should be "Yes".

Where the transaction is relieved in full under alternative finance relief, there is no tax liability to pay.