

THE LAW SOCIETY
OF NORTHERN IRELAND



STAMP DUTY LAND TAX: CHANGES TO THE FILING AND PAYMENT PROCESS

**Response of the Law Society of
Northern Ireland**

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Introduction

The Law Society of Northern Ireland (the Society) is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (NI) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitor's profession in Northern Ireland and to represent solicitors' interests.

The Society represents over 2,600 solicitors working in some 530 firms, based in over 74 geographical locations throughout Northern Ireland and practitioners working in the public sector and in business. Members of the Society thus represent private clients in legal matters, government and third sector organisations. This makes the Society well placed to comment on policy and law reform proposals across a range of topics.

Since its establishment, the Law Society has played a positive and proactive role in helping to shape the legal system in Northern Ireland. In a devolved context, in which local politicians have responsibility for the development of justice policy and law reform, this role is as important as ever.

The solicitor's profession, which operates as the interface between the justice system and the general public, is uniquely placed to comment on the particular circumstances of the Northern Irish justice system and is well placed to assess the practical out workings of policy proposals.

September 2016

The Society responds to the proposed changes as follows:

1. Reduction in the SDLT filing and payment window

The proposed reduction in the SDLT filing and payment window from 30 days to 14 days after the effective date of the transaction causes major difficulties for the Society, our members and their clients. It is the Society's view that the current period of 30 days works well, is established with clients and their lenders and does not need to change. The Society is particularly concerned at the potential increase in penalties charged as a result of this change. There is also an issue that due to the increase in cyber crime, a lot of our members are reverting to completion by solicitor's client account cheques rather than telegraphic transfer. Given the time that a cheque takes to clear, time may be too tight for completion monies to clear and payment to be made to HMRC within the 14 days.

2. Mandatory online filing for agents

Assuming that exceptions are included for situations where online filing was not reasonably practical, the Society is generally supportive of this move. An exception in relation to remoteness of location would be of particular benefit on this issue as some of our rural members do not have sufficient IT connection to enable online filing on a consistent and timely basis.

3. Mandatory electronic payments for agents

As with 2 above, assuming that exceptions are included for situations where electronic payment was not reasonably practical, the Society is generally supportive of this move. Again, rural members would require an exception due to their location and availability of IT connection.

4. Including the facility to allow a user to provide direct debit details on the HMRC online return

The Society has some concerns in relation to this suggestion. There are concerns about a solicitor giving a direct debit mandate to a third party for collection rather than positively paying out to HMRC from their account. Such a direct debit arrangement may not be flexible enough to take in to account individual transactions and could potentially lead to a solicitor incurring a deficit on their client account in the event that funds received from the client have not yet cleared but HMRC taking payment telegraphically. This would be a breach of the Solicitors Accounts Regulations.

5. Issuing the SDLT 5 after receipt of both the SDLT return and the tax due

The Society has concerns that this proposed system can be made to work in an efficient manner. We note HMRC's comments that even with electronic payments there could be a delay in issuing the SDLT 5. Any delay in issuing the SDLT 5 is a concern to the Society, particularly given the pressures from lenders in particular to submit registrations at Land Registry.

Conclusion

The Society is grateful for the opportunity to submit a response in respect of the consultation on "Stamp Duty Land Tax: Changes to the Filing and Payment Process".

We trust our contribution is constructive and we are happy to meet with HM Revenue & Customs to discuss any of the issues raised in our response. We would like to be kept informed of any subsequent proposals formed as a result of this consultation and also any changes to the overall policy direction of the topic under discussion along with a stated rationale.

Law Society of Northern Ireland

September 2016