



# HM Revenue & Customs

## Business, Tax and Customs Freedom of Information Team

6 Floor  
Central Mail Unit  
Newcastle Upon Tyne  
NE98 1ZZ

Mr Rob Heale

By email:

[request-536615-1f79c8b2@whatdotheyknow.com](mailto:request-536615-1f79c8b2@whatdotheyknow.com)

Email [foi.request@hmrc.gsi.gov.uk](mailto:foi.request@hmrc.gsi.gov.uk)

Web [www.gov.uk](http://www.gov.uk)

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Dear Mr Heale

### Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 3 December, for the following information:

"There have been a number of Planning Applications put to Local Councils in recent years for the development of blocks of private "Student Accommodation". Please can you clarify the tax position for these student blocks:-

1. Can you state the position on paying Stamp Duty when buying flats in private student accommodation blocks.
2. Can you state the position on paying Capital Gains Tax for this type of accommodation when selling.
3. What is the tax situation for Non-U.K. residents when buying and selling such student accommodation?
4. What is the situation for U.K. residents?
5. How does H.M.R.C. ensure that investment in "Student Accommodation" blocks isn't a form of tax avoidance?"

#### Question 1

Student accommodation can be treated as either residential or non-residential property for the purposes of Stamp Duty Land Tax (SDLT), and it depends entirely on the precise nature of the acquisition. [Section 116\(3\) of the Finance Act 2003](#) states that a hall of residence for students in further or higher education is not to be treated as the acquisition of a dwelling, therefore the non-residential rates of SDLT apply. However, residential accommodation for students that don't fall within sub-paragraph (3) are to be treated as dwellings under sub-paragraph (2) of the same section, meaning residential rates of SDLT should be paid (if the acquisition comprises no other non-residential property).

With regards to the higher rates of SDLT, a purchaser of student accommodation that falls within section 116(2) or (3) is not liable to the higher rates for additional dwellings owing to [paragraph 18\(7\) of Schedule 4ZA FA2003](#), where the rules for the higher rates can be found.

#### Question 2

Capital Gains Tax (CGT) is considered when property and assets are sold. The rates for CGT for individuals are set at:-

- 10% and 20% (not including residential property and carried interest), dependent upon tax liabilities on other income
- 18% and 28% for residential property and carried interest

The [Capital Gains Tax rates and allowances](#) guidance and our [Capital Gains Manual](#) provide more information about CGT rates.

As explained in the guidance referred to above, residential property will be charged at 18% and 28%. This will bring student accommodation within this charge unless it meets certain criteria:-

- It is Purpose Built Student Accommodation (PSBA)
- Includes at least 15 bedrooms
- Is occupied by students on at least 165 days in that tax year

[Schedule 4ZZC Part 1 of the Finance Act 2016](#) (see Interpretation paragraph 2) provides an explains a dwelling as follows:

“dwelling” has the meaning given by —

- (a) paragraph 4 of Schedule B1, in relation to a disposal of a UK residential property interest;
- (b) paragraph 4 of Schedule BA1, in relation to a disposal of a non-UK residential property interest

More information on the interaction of Schedule B1 / paragraph 4 with student accommodation is available in the [HMRC Capital Gains Manual](#). Although this reference refers to Non Resident CGT, the definition of student accommodation applies equally to UK residential gains.

### Question 3 & 4

UK and Non-UK residents are treated in the same way for SDLT purposes. SDLT is charged only on interests in land in England and Northern Ireland, but it does not matter where the purchaser lives or resides. The government have recently announced an additional 1% charge on the purchase of residential property by non-UK residents, although this has not yet been introduced.

Further guidance can be found in the [Stamp Duty Land Tax Manual at SDLTM29957](#). Please note this guidance is found in the Multiple Dwellings Relief chapter of the guidance but it provides a useful overview nonetheless.

### Question 5

SDLT is a transactional tax and there is one chargeable event – completion of the contract – where the purchaser must pay the tax that is due. If HMRC become aware that the transaction appears contrived or that the correct amount of tax has not been paid at the right time, we may open a compliance check into the SDLT return that was filed. Other HMRC teams would deal with the potential avoidance that would arise out of any income earned from the property, such as the under-declaration of rental income or money laundering.

If you are not satisfied with this reply you may request a review within two months by emailing [foi.review@hmrc.gsi.gov.uk](mailto:foi.review@hmrc.gsi.gov.uk), or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#)

Yours sincerely,

Freedom of Information Team

