bellhowleyperrotton

Client Guide

Understanding SDLT When Administering An Estate

A guide for executors, trustees and beneficiaries on when specialist SDLT, LTT or LBTT advice is needed.

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Why should you read this guide?

If you are administering an estate, acting as an executor or trustee, or have inherited an interest in a property, this guide will help you understand why decisions involving property can have SDLT, LTT or LBTT implications, depending on where the property is located.

By reading this guide, you will discover:

- why apparently straightforward estate arrangements can sometimes create unexpected SDLT, LTT or LBTT issues;
- why specialist SDLT, LTT or LBTT advice should be obtained before property arrangements are implemented;
- why your solicitor may recommend that you obtain independent tax advice;
- how Bell Howley Perrotton works alongside your solicitor to provide specialist written SDLT, LTT or LBTT advice;
- the service we provide, how our advice is delivered and what you can expect if you instruct us; and
- how obtaining specialist advice at the right time can provide certainty, reduce risk and help you make informed decisions with confidence.

You may already be asking questions such as:

"Can I keep the family home if I pay my brother or sister their share?"

"I've inherited a property - will that affect my first-time buyer status?"

"Would it be better to transfer the property into a trust?"

"The mortgage is already in place, so that won't affect anything, will it?"

Each appears to be a straightforward question about administering an estate. However, each may involve specialist SDLT, LTT or LBTT advice.

Your solicitor is an expert in the legal administration of estates. They are responsible for ensuring that the estate is administered correctly, the legal documentation is prepared and your wishes are implemented. Specialist tax advice is a separate area of expertise and you should not expect your solicitor to advise on complex tax legislation. Specialist SDLT, LTT or LBTT advice should be provided by advisers who are qualified, regulated and insured to do so.

At Bell Howley Perrotton, property taxation is our area of expertise. We provide independent written SDLT, LTT or LBTT advice directly to you, working alongside your solicitor so that both the legal and tax implications of your arrangements are properly considered before important decisions are implemented.

PURPOSE OF THIS GUIDE

This guide explains the situations where specialist SDLT, LTT or LBTT advice is commonly required, the service we provide, and how working together with both your solicitor and a specialist tax adviser can help ensure that your estate is administered with confidence.

Why can SDLT arise during the administration of an estate?

Administering an estate, inheriting a property or acting as an executor or trustee often involves much more than simply carrying out the terms of a Will. Decisions may need to be made about who will inherit a property, whether one beneficiary should compensate another, how an existing mortgage will be dealt with, whether property should be transferred into or out of a trust, or whether ownership should be restructured to reflect the family's wishes.

Although these decisions are often viewed as part of the legal administration of an estate, they can also involve complex SDLT, LTT or LBTT considerations. The tax position is not always determined by the outcome you are trying to achieve, but by how those arrangements are implemented.

This is why specialist SDLT, LTT or LBTT advice should be obtained before property arrangements are implemented. By working alongside your solicitor, Bell Howley Perrotton can ensure that both the legal and tax implications of your arrangements are considered together, allowing you to make informed decisions with confidence.

How your solicitor and specialist SDLT, LTT or LBTT advice work together

Your solicitor and your tax adviser each play a different, but equally important, role.

Your solicitor is responsible for the legal administration of the estate, ensuring that the appropriate legal documents are prepared and that the wishes of the deceased are carried out correctly. Bell Howley Perrotton specialises in the tax implications of those arrangements, providing independent written SDLT, LTT or LBTT advice where specialist expertise is required.

By working together, we help ensure that both the legal and tax consequences of your decisions are considered before property arrangements are implemented, giving you the confidence to move forward knowing that every aspect of the transaction has been carefully reviewed.

The conversations that should prompt you to seek specialist SDLT, LTT or LBTT advice

"I'd like to keep the family home."	If one beneficiary wishes to retain a property whilst other beneficiaries receive cash or other assets, specialist SDLT, LTT or LBTT advice should be obtained before the arrangements are implemented. The way the estate is divided can affect the tax position.

"We'll sort everything out between ourselves."	Families often reach sensible agreements about how an estate should be divided. However, equalisation payments, deeds of variation, appropriations and changes to beneficial ownership can all have SDLT, LTT or LBTT implications that should be considered before decisions are finalised.

"The property already has a mortgage."	Existing borrowing can sometimes affect the SDLT, LTT or LBTT analysis. Whether a mortgage changes the tax position depends on the arrangements being put in place and should be considered as part of the transaction as a whole.

"I have inherited a property, but I am still a first-time buyer."	An inherited property interest can affect future property purchases in ways that are not always obvious. SDLT and LBTT have different first-time buyer reliefs, Wales has no separate first-time buyer LTT relief, and each additional-property regime applies its own inherited-interest tests.

"We're not selling anything – we're simply dividing the estate."	Even where there is no conventional property sale, SDLT, LTT or LBTT issues can still arise. Payments between beneficiaries, changes to ownership or the assumption of mortgage debt may all need to be considered before the arrangements are implemented.

Five situations where independent land transaction tax advice should be considered

1. Estate administration

A qualifying transfer to satisfy a beneficiary's entitlement can be exempt from SDLT, LTT or LBTT, including assumption of mortgage debt secured on the property immediately after death. Where a beneficiary receives more than the entitlement being satisfied, money changes hands, another beneficiary is bought out, or a new liability is accepted, the position can become considerably more complex.

Your solicitor will ensure that the estate is administered correctly from a legal perspective. Bell Howley Perrotton's role is to consider whether the way the estate is being administered also gives rise to specialist SDLT, LTT or LBTT considerations.

Why specialist advice matters

Decisions made at this stage often determine the tax position. Obtaining specialist advice before the estate is finalised allows the legal documentation and tax analysis to be considered together, giving both you and your solicitor confidence that the arrangements are being implemented as intended.

2. Keeping the Family Home

One of the most common situations we see is where one beneficiary wishes to retain the family home whilst other beneficiaries receive cash or other assets instead.

Perhaps you have lived in the property for many years and would like to continue living there. Perhaps your parents' Will leaves everything equally between you and your siblings, but everyone agrees that one person should keep the property. Alternatively, the beneficiaries may simply wish to divide the estate in a different way to reflect the family's circumstances.

These arrangements are often sensible and entirely understandable. However, they can also have important SDLT, LTT or LBTT implications.

A common misconception is that, because the property has been inherited, no SDLT, LTT or LBTT can arise. In reality, the position often depends on how the arrangements are implemented. For example, if one beneficiary pays money to acquire a greater share of the property than they are entitled to under the estate, or assumes responsibility for mortgage debt, specialist SDLT, LTT or LBTT advice may be required.

Worked Example

A property worth £700,000 forms part of an estate.

Under the Will, one beneficiary is entitled to £300,000 of the estate but wishes to retain the entire property. Rather than selling the house, they pay £400,000 into the estate so that the remaining beneficiaries receive their entitlement.

Although part of the property is being inherited, the additional payment may have SDLT, LTT or LBTT implications and should be considered before the arrangements are implemented.

Why specialist advice matters

Your solicitor will ensure that the estate is administered correctly and that the legal documentation reflects the agreed arrangements. Bell Howley Perrotton's role is to consider the SDLT, LTT or LBTT consequences of those arrangements before they are implemented.

By obtaining specialist advice at an early stage, you and your solicitor can proceed with confidence, knowing that both the legal and tax implications of the estate have been considered together.

3. Mortgages and secured borrowing

Mortgage debt often creates uncertainty during the administration of an estate. You may be keeping a property with an existing mortgage, taking responsibility for a loan, or borrowing to buy out another beneficiary.

Although these arrangements may appear straightforward, the mortgage treatment depends on the route. Assumption of debt secured on the property immediately after death is permitted within a qualifying estate-assent exemption in all three regimes. A buy-out, new borrowing, indemnity, release or other assumption of debt can still be chargeable consideration.

Example

A brother and sister inherit their parents' home. One wishes to keep the property, take over the existing mortgage and compensate the other beneficiary for their share. Whilst the mortgage is already in place, the way it is dealt with as part of the arrangements may affect the applicable SDLT, LTT or LBTT analysis and should be considered before the transaction proceeds.

Why specialist advice matters

Your solicitor will advise on the legal transfer of the property and any mortgage arrangements. Bell Howley Perrotton will consider the SDLT, LTT or LBTT implications of those arrangements, allowing both the legal and tax consequences to be considered together before the transaction is implemented.

4. Reliefs and Surcharges

Many clients ask whether they qualify for first-time buyer relief, whether additional-property rates apply, or whether inheriting a property will affect a future purchase. SDLT, LTT and LBTT answer those questions differently.

Although these questions may appear similar, the legislation applies different statutory tests depending on the relief or surcharge being considered. For example, an inherited property interest may prevent you from qualifying for First-Time Buyer Relief under paragraph 6 of Schedule 6ZA to the Finance Act 2003, yet the same inherited interest may be temporarily disregarded when considering the Higher Rates for Additional Dwellings under paragraph 16 of Schedule 4ZA. The same facts can produce different SDLT, LTT and LBTT outcomes.
Example

You inherit a 50% interest in your late mother's property and, two years later, decide to purchase your first home. Whilst your inherited interest may be disregarded when considering the Higher Rates for Additional Dwellings, it may still prevent you from qualifying for First-Time Buyer Relief.

Why specialist advice matters

SDLT, LTT and LBTT are separate self-assessed taxes. The purchaser is responsible for the correct return and payment under the regime for the property's location. Claiming an inapplicable relief, overlooking an available one or using the wrong territorial rules can result in additional tax, interest or penalties.

Bell Howley Perrotton will review your individual circumstances, consider whether any reliefs, exemptions or surcharges apply, and provide a written SDLT, LTT or LBTT Advice Note explaining the correct tax treatment before your transaction is implemented. This gives both you and your solicitor confidence that the arrangements have been structured with the tax implications in mind.

5. Trusts

Trusts are commonly used in estate planning and can be an effective way of protecting family wealth. With that being said, different types of trust can produce very different SDLT, LTT and LBTT outcomes.

Bare trusts, Interest in Possession (IIP) and Immediate Post-Death Interest (IPDI) trusts, and discretionary trusts can be treated differently. The SDLT, LTT and LBTT provisions are not identical and can look beyond legal title to beneficiary entitlement, occupation or income rights. Two trusts holding similar properties can therefore produce different tax consequences in different territories.

Why specialist advice matters

Where trusts are involved, understanding the type of trust is only the starting point. It is equally important to understand the rights of the beneficiaries and how the proposed arrangements interact with the applicable SDLT, LTT or LBTT legislation.

Obtaining specialist advice before legal documents are prepared helps ensure that the trust arrangements, tax analysis and legal documentation are developed together. This gives both you and your solicitor confidence that the arrangements have been structured with a full understanding of the SDLT, LTT or LBTT implications.

How early specialist SDLT, LTT or LBTT advice can help

Obtaining specialist SDLT, LTT or LBTT advice at an early stage allows the tax implications of your arrangements to be considered before important decisions are made. This helps ensure that your solicitor has a clear understanding of the applicable SDLT, LTT or LBTT position when preparing the legal documentation, reducing the likelihood of unexpected tax consequences or documents needing to be revisited later.

Specialist SDLT, LTT or LBTT advice should be considered where:

- one beneficiary will compensate another beneficiary;
- a mortgage or secured debt is involved;
- property is moving into or out of a trust;
- an appropriation or deed of variation is proposed;
- First-Time Buyer Relief or the Higher Rates may be relevant;
- ownership of property is changing;
- property is being transferred between family members; or
- the arrangements are unusual or do not follow a straightforward pattern.

If you are unsure whether specialist advice is needed, it is usually better to ask the question before legal documents are prepared. Obtaining advice early is often simpler—and more cost-effective—than revisiting arrangements after they have been implemented.

The benefits of obtaining specialist SDLT, LTT or LBTT advice early include:

- greater confidence that the applicable SDLT, LTT or LBTT position has been properly considered;
- a written SDLT, LTT or LBTT Advice Note tailored to your circumstances;
- helping your solicitor prepare documentation with the tax implications in mind;
- reducing the risk of unexpected SDLT, LTT or LBTT liabilities, interest or penalties;
- fewer delays or last-minute changes during the administration of the estate; and
- the reassurance that your arrangements have been reviewed by specialist property tax advisers before they are implemented.

Working with Bell Howley Perrotton

Our role is not to replace your solicitor. It is to work alongside them, providing specialist SDLT, LTT or LBTT advice where tax issues arise during the administration of an estate, property transfers or trust arrangements.

Your solicitor will continue to advise you on the legal aspects of your matter, whilst we provide independent written SDLT, LTT or LBTT advice tailored to your individual circumstances. By working together, we help ensure that both the legal and tax implications of your arrangements are considered before important decisions are implemented.

Our advice is provided directly to you in the form of a written SDLT, LTT or LBTT Advice Note, with your solicitor copied into correspondence throughout (unless you instruct us otherwise). This ensures that everyone involved has a clear understanding of the tax position before the transaction proceeds.

Our SDLT, LTT or LBTT Advice Notes typically include:

- an executive summary;
- analysis of your proposed arrangements;
- consideration of relevant reliefs, exemptions and surcharges;
- identification of any assumptions or information still required;
- practical recommendations for implementation; and
- clear written conclusions that you and your solicitor can rely upon when progressing the matter.

Where appropriate, we are also happy to discuss our conclusions with both you and your solicitor following delivery of the advice.

Step	Stage	What happens
1 – Initial Enquiry	Your solicitor may introduce you to us, or you can contact us directly. We discuss your circumstances and the property arrangements being considered.	An outline of our service, an indication of our fixed fee and the information we will need to begin work.
2 – Information Gathering	We explain exactly what information and documents we need, such as the Will, trust documentation, property details and any mortgage information.	Clear guidance on the information required and why we need it.
3 - Engagement	We issue our Letter of Engagement directly to you, complete our onboarding and AML requirements, and agree the scope of our advice.	A letter of engagement and ID checks to complete. Once these are received, we will issue our invoice for the agreed fixed-fee quote.
4 – Advice	We review the information provided and prepare our written SDLT, LTT or LBTT Advice Note.	A written advice note, normally delivered by email within 3–5 working days of receiving all information and payment, copying in your solicitor.
5 – Ongoing Support	If any questions arise following delivery of the advice, we are happy to discuss our conclusions with both you and your solicitor.	Practical support to assist implementation of the advice, within the bounds of the agreed scope.

Fees

Our SDLT, LTT or LBTT Advice Notes are provided on a **fixed-fee basis**, with fees typically ranging from **£425 to £1,250 plus VAT**, depending on the complexity of the matter and the scope of advice required.

A bespoke quotation is provided before any work begins, ensuring both you and your solicitor know exactly what to expect.

Who we are

Amanda Perrotton - Partner

Amanda is a solicitor with almost 30 years' experience, a full member of STEP (TEP) and a member of the Stamp Taxes Practitioners Group. She regularly advises clients and professional advisers where tax, property, trusts, family wealth and professional risk intersect, and is known for making difficult technical issues practical and understandable.

Simon Howley - Managing Partner and Chartered Tax Adviser

Simon is a Chartered Tax Adviser specialising in property and private-client tax matters. His work includes SDLT, LTT and LBTT, company and partnership structures, incorporations, reliefs, exemptions and HMRC enquiries. His approach is direct, forensic and focused on giving clients and professional advisers a route they can use.

Point of Contact

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The Right Advice at the Right Time

The purpose of this guide is not to make you an SDLT expert. It is to help you understand why specialist tax advice may be needed when administering an estate, dealing with inherited property or making decisions about trusts and family wealth.

By obtaining specialist SDLT advice at an early stage, you and your solicitor can move forward with confidence, knowing that both the legal and tax implications of your arrangements have been carefully considered before important decisions are implemented.

If your circumstances involve inherited property, payments between beneficiaries, trusts, mortgages or changes to property ownership, obtaining specialist advice early can provide clarity, reduce uncertainty and help ensure that your arrangements are structured with a full understanding of the SDLT consequences.

Which property tax applies?

The answer depends on where the property is located. SDLT applies in England and Northern Ireland, LTT in Wales, and LBTT in Scotland. They are separate taxes with different rates, reliefs, returns and tax authorities. An estate with property in more than one territory may need more than one analysis.

Receiving an entitlement and buying an extra share are different

A transfer to satisfy what a beneficiary is entitled to receive can be exempt in all three regimes. This remains possible where the beneficiary assumes the mortgage debt that was secured on the property immediately after death. The position changes if the beneficiary pays extra money, buys out another beneficiary, gives an indemnity, accepts a new liability or receives more than the entitlement being satisfied.

The relevant provisions are Finance Act 2003, Schedule 3 paragraph 3A for SDLT; the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 3 paragraph 5 for LTT; and the Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 1 paragraph 6 for LBTT.

Deeds of variation and mortgages

All three taxes have a potential exemption for a qualifying variation within two years of death, but the consideration rules differ. SDLT can disregard qualifying secured debt. LTT does not contain that secured-debt disregard for a variation, and Revenue Scotland states that assuming a mortgage is compensation that prevents the LBTT variation exemption. A deed of variation should therefore be reviewed for the territory before it is signed.

First homes and additional-property rates

SDLT first-time buyers' relief and LBTT first-time buyer relief can be lost because of earlier inherited or gifted ownership. Wales has no separate first-time buyer LTT relief; the ordinary Welsh residential bands apply.

For SDLT and LTT, a jointly inherited share of 50% or less can in defined circumstances be ignored for three years when testing a later purchase for higher rates. Scotland has no general equivalent. From 1 April 2024 LBTT instead looks at whether the buyer's share is worth at least £40,000, with a narrow rule for an inheritance received between contract and completion.

The current additional-property systems are different: SDLT adds five percentage points to the standard rates, LTT uses a separate higher residential table, and the LBTT Additional Dwelling Supplement is 8%. The rules for spouses, trusts, replacing a home and refunds must be checked separately.

Trusts and other estate taxes

A beneficiary of a bare trust, or someone with a present right to occupy a home or receive its income, may be treated as owning the property. A discretionary beneficiary may be treated differently. The precise rules differ across the three taxes.

Property decisions should also be coordinated with Inheritance Tax, Capital Gains Tax, income arising during the administration, estate completion statements, trust registration, lender consent and the legal duties of executors and trustees. A variation that is read back for Inheritance Tax or Capital Gains Tax is not automatically exempt from SDLT, LTT or LBTT.

Technical references

SDLT: Finance Act 2003, Schedule 3 paragraphs 3A and 4, Schedule 4ZA paragraph 16 and Schedule 6ZA; HMRC SDLTM00560, SDLTM00570, SDLTM00570A and SDLTM09795.

LTT: Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 3 paragraphs 5 and 6 and Schedule 5 paragraph 34; WRA higher-rates and trusts guidance.

LBTT: Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 1 paragraphs 6 and 7, Schedule 2A and Schedule 4A; Revenue Scotland LBTT2003, LBTT3008, LBTT3009, LBTT3048 and ADS guidance.

Inheritance Tax Act 1984 section 142; Taxation of Chargeable Gains Act 1992 section 62(6); Pearson v IRC [1981] AC 753. Law, published guidance and reported decisions checked to 18 August 2026.