

DILAPIDATED PROPERTY: WHEN CAN SDLT BE RECLAIMED?

HMRC have issued a warning to taxpayers to be vigilant of tax agents offering to secure Stamp Duty Land Tax (SDLT) repayments on certain property purchases.

The warning reminds property buyers to be aware of tax agents claiming that, for a fee, SDLT can be reclaimed on residential property purchases when they are in need of repair. Such properties in need of repair when purchased are generally chargeable to the residential rates of SDLT, regardless of their condition.

HMRC say that claims of this kind often leave the homeowner liable for the full amount of SDLT plus penalties and interest. They are taking action on spurious SDLT repayment claims and will use civil powers to deal with the minority who undermine the tax system.

The warning follows the recent Court of Appeal (CoA) decision in *Amarjeet and Tajinder Mudan v HMRC*. The case found that a property that was dilapidated and vandalised when it was purchased still constituted residential property, meaning higher residential rates of SDLT were payable on the purchase.

The couple who bought the property believed that it was not suitable for use as a residence at the point of purchase and, having paid SDLT at the residential rates, subsequently tried to reclaim 'overpaid' SDLT on the basis that the property was not fit for human habitation and was non-residential, so the non-residential rates should have applied.

The CoA found that property used as a dwelling is residential for SDLT purposes regardless of how dilapidated or unmodernised it is.