

PRIVATE & CONFIDENTIAL

To: [REDACTED], [REDACTED] Limited [REDACTED] House, [REDACTED] Road [REDACTED], [REDACTED], [REDACTED] **Date:** 05 December 2025 **Our Ref:** [REDACTED] **Property:** The Freehold Property to be acquired for £225,000 (hereinafter "The Property")

Dear [REDACTED],

RE: FORMAL INDEMNIFIED OPINION – STAMP DUTY LAND TAX (SDLT) LIABILITY

I write further to your instruction to provide a formal indemnified opinion regarding the Stamp Duty Land Tax (SDLT) liability arising from the proposed acquisition of the above-captioned property.

This letter constitutes my formal advice. It relies entirely upon the specific documentary evidence provided to me and the factual background as presented. Subject to the accuracy of that information, this advice is indemnified as detailed in Section 8.

1. EXECUTIVE SUMMARY & CONCLUSION

Based on the evidence reviewed and current legislation, it is my professional opinion that the transaction is not subject to the Higher Rate for Additional Dwellings (5% Surcharge).

Specifically, while you retain an interest in a previous marital home, the exception for separated spouses under Schedule 4ZA, Paragraph 9 of the Finance Act 2003 applies. As you are purchasing in your sole name and are permanently separated from your spouse, you are treated as an unmarried individual for the purposes of SDLT, and the higher rate rules regarding spousal units do not apply.

- **Standard Liability (without advice/Higher Rate applied):** £13,250
- **Advised Liability (per this opinion):** £2,000
- **Effective Tax Reduction:** £11,250

2. SCHEDULE OF EVIDENCE

My analysis relies strictly on the following documents provided by you. Copies are attached to this advice for record-keeping purposes in Appendix A.

- **Draft Contract / Memorandum of Sale:** Confirming purchase in the sole name of [REDACTED].
- **Solicitor/Conveyancer Confirmation:** Email evidence confirming [REDACTED] is not a purchaser and will not appear on the title.
- **Evidence of Separation:**
 - [REDACTED] SEPT 23.pdf
 - [REDACTED].pdf / [REDACTED].pdf
- **Proof of Separate Living Arrangements:**
 - Council Tax Bill for the family home (in [REDACTED]'s name).
 - [REDACTED].pdf (Utility/Bill evidencing separate address).



- **Evidence of Intent to Sell Family Home:** [REDACTED].pdf and [REDACTED].pdf.

Important Note: If any of the documents listed above are incorrect, incomplete, or if there are material facts regarding the property or transaction that have not been disclosed, the conclusions in this letter may be invalid.

3. FACTUAL BACKGROUND

From the evidence provided, including the email correspondence dated 04 November 2025, I understand the specific facts of the transaction to be as follows:

- **Transaction Context:** You are purchasing a freehold residential property for £225,000. You have noted that the property is in need of repair, which has influenced the purchase price and your decision to acquire it as an affordable residence.
- **Marital & Separation Status:** You are currently married to [REDACTED] but are permanently separated. You are not yet legally divorced. You have provided mediation documents dated September 2023 confirming this long-standing separation.
- **Residency Arrangements:**
 - **Former Matrimonial Home:** You actively hold a joint interest in the family home. However, you have vacated this property, and it is currently occupied solely by your estranged wife and children.
 - **New Property:** You are purchasing the subject property specifically to serve as your sole and main residence. You have confirmed in writing that you will live there permanently and that all correspondence will be directed to this new address.
- **Purchaser Status:** The new property is being acquired in your sole name ([REDACTED]). Your spouse is not a party to this transaction and will not be named on the title or mortgage.
- **Intent:** The purchase is necessitated by the marriage breakdown to provide you with independent accommodation.

4. LEGAL APPLICATION & ANALYSIS

4.1 Relevant Legislation This advice applies the Finance Act 2003 (as amended), specifically:

- **Schedule 4ZA, Paragraph 9(1)-(3):** Meaning of "Higher Rates Transaction" concerning spouses and civil partners.
- **Section 117:** Meaning of "Major Interest" in land.

4.2 Application to Your Transaction The "Higher Rate" (5% surcharge) typically applies if a purchaser owns a major interest in another dwelling (worth >£40,000) at the end of the day of the transaction. Furthermore, under normal circumstances, spouses are treated as a single unit; if one spouse owns a property, the other is treated as owning it.

However, Paragraph 9 of Schedule 4ZA provides a specific statutory exception to this rule. It states:

- (1) For the purposes of this Schedule, a person is married to, or in a civil partnership with,



another person if they are living together... (3) Persons who are married to, or are civil partners of, each other are treated as living together for the purposes of this Schedule if they are so treated for the purposes of the Income Tax Acts (see section 1011 of the Income Tax Act 2007).

Under Section 1011 of the Income Tax Act 2007, spouses are not treated as living together if:

"They are separated under an order of a court of competent jurisdiction, or they are in fact separated in such circumstances that the separation is likely to be permanent."

Conclusion on Application: As you have provided evidence of permanent separation (Mediation agreements, separate Council Tax bills, separate residence), you are treated as an unmarried individual for the purposes of this transaction.

Consequently, providing the purchase is made in your sole name (as confirmed by the draft contract), your spouse's interest in the marital home or her status does not automatically trigger the higher rate against you. You are assessed as an individual. As this property is intended to be your only main residence and you are separated in circumstances likely to be permanent, the Higher Rate for Additional Dwellings is not due.

5. CALCULATION OF LIABILITY

Based on the legal analysis above, the SDLT liability is calculated using the Standard Residential Rates (not Higher Rates).

Breakdown of Calculation:

- Band 1 (£0 - £125,000): £125,000 taxed at 0% = £0
- Band 2 (£125,001 - £250,000): £100,000 taxed at 2% = £2,000
- **TOTAL SDLT PAYABLE: £2,000**

(Note: Without this advice, the Higher Rate calculation would include the 5% surcharge on all bands. The total liability would be £13,250 calculated as: 5% on the first £125k (£6,250) + 7% on the remaining £100k (£7,000)).

6. COUNTER-ARGUMENTS & HMRC CHALLENGE RISK

To demonstrate a full and reasoned assessment, and to evidence "reasonable care", this section outlines foreseeable HMRC counter-arguments and my response to each.

- **6.1 HMRC Counter-Argument 1: The Separation is not Permanent** HMRC may argue that you are legally married and therefore the "unit" rule applies, treating your joint ownership of the previous home as a trigger for the Higher Rate on this purchase.
 - **Response:** We rely on Schedule 4ZA Para 9(3). The evidence of "permanent separation" is robust, consisting of formal mediation documents ([REDACTED]), separate Council Tax arrangements, and the marketing of the family home for sale ([REDACTED]). This satisfies



the statutory requirement that the separation is "likely to be permanent."

- **6.2 HMRC Counter-Argument 2: Beneficial Interest** If [REDACTED] were to retain any beneficial interest in the new property (even if not on the deeds), HMRC could argue she is a purchaser.
 - **Response:** You have provided explicit confirmation that the contract and mortgage are in your sole name and that solicitors have removed [REDACTED] from the transaction documents. As she is not a purchaser, her property interests are disregarded due to the separation clause.
- **6.3 Overall Risk Assessment** While HMRC may raise enquiries as part of routine compliance activity, based on the evidence provided and the legal reasoning in this letter, I assess the risk of HMRC successfully overturning the position to be **Low**.

7. GUIDANCE FOR SDLT1 RETURN COMPLETION

To ensure the return reflects this advice, please instruct your conveying solicitor to complete the HMRC SDLT1 Return as follows:

- **Question 1 (Type of Property):** 03 (Residential)
- **Question 9 (Reliefs):** Leave blank (Standard rates apply by virtue of assessment, not a specific claimable relief code).
- **Tax Calculation:** Enter the figure £2,000 manually if the software auto-calculates the Higher Rate.
- **Note to Conveyancer:** Do not check the box for "Higher Rates for Additional Dwellings."

8. PROFESSIONAL INDEMNITY & LIMITATION OF LIABILITY

Professional Standard and Insurance Coverage This advice is provided by [REDACTED] LTD under the protection of our Professional Indemnity Insurance. This policy is specifically designed to indemnify you in the event that this advice is legally determined to be professionally negligent—meaning the advice provided fell below the standard of care expected of a reasonably competent tax professional.

Taxpayer Responsibility (SDLT / LTT / LBTT) It is critical that you understand the distinction between professional negligence and your statutory tax liabilities:

- **Ultimate Liability:** The legal obligation to pay land taxes rests ultimately with you, the taxpayer.
- **Arguable Positions:** The advice contained in this letter represents our professional opinion based on current legislation and case law. Tax law is subject to interpretation and potential challenge by HMRC. Should HMRC successfully challenge a position taken in this letter, but the advice is found to have been reasonable and non-negligent (a "technically arguable position"), you remain liable for any tax principal due.
- **Scope of Indemnity:** Our insurance covers damages arising directly from professional negligence. It does not cover the principal tax liability itself, as this represents a statutory debt owed by you to the Crown.

Insurance Particulars

- **Insurer:** [REDACTED]



- **Policyholder:** [REDACTED] LTD
- **Policy Number:** [REDACTED]
- **Limit of Indemnity:** £250,000 (on an "any one claim" basis)
- **Period of Insurance:** 03-Nov-2025 to 28-Oct-2026

HMRC Enquiries & Scope of Defence

- **Substantive Defence:** This letter serves as your primary defense against any demand for additional tax.
- **Evidence of Reasonable Care:** Relying on this professional advice serves as formal evidence of your "Reasonable Care," which is your primary defense against the imposition of statutory penalties.
- **Attestation & Limitation of Service:** I confirm that I will attest to the authorship of this advice. However, if this letter is not accepted by the tax authority, any further defense or representation must be conducted under a separate written agreement.

Yours sincerely,

[REDACTED] Director, [REDACTED] Limited (Trading as [REDACTED])

APPENDIX: INDEX OF ATTACHMENTS

1. Draft Contract (Sole Purchaser)
 2. Agreement to Mediate ([REDACTED])
 3. Mediation Documents
 4. Family Home Sale Particulars ([REDACTED])
- 1.**

