Stamp duty: disadvantaged areas relief

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Stamp duty land tax is charged, at varying rates, on the consideration given for a land transaction. No tax is payable on transactions in residential property if the consideration falls below a given threshold: in Budget 2006 the threshold was increased by £5,000 to £125,000 with effect from 23 March 2006.[1]

In Budget 2001 the Government announced the introduction of a new relief from stamp duty for property transactions in certain 'disadvantaged areas'. Enabling legislation was introduced in the *Finance Act 2001*; regulations were introduced to remove duty from property transactions *up to* £150,000 in value in around 2,000 areas from 30 November 2001.[2] For two years the £150,000 limit was removed for *non-residential* property – from 10 April 2003 to 16 March 2005 – before being entirely withdrawn for this type of property.[3]

Stamp duty was modernised and renamed stamp duty land tax in December 2003. Disadvantaged areas relief from stamp duty land tax is now provided under s 57 & schedule 6 to *Finance Act 2003*. Claims for the relief are made on the taxpayer's Land Transaction Return Form. Notably the onus is on the house buyer to check whether or not the relief is due. Detailed guidance on the relief is published by HM Revenue & Customs on their internet site at: http://www.hmrc.gov.uk/so/dar/index.htm. Taxpayers may also receive help from HMRC's Stamp Taxes Helpline on 0845 603 0135.

This note gives a short history of the introduction of this relief, and its restriction to residential property in March 2005.

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[1] The rates of duty are set out on HM Revenue & Customs site at: http://www.hmrc.gov.uk/so/rates/index.htm
[2] By three statutory instruments laid at this time (SI 2001/3746, SI 2001/3747 & SI 2001/3748).
[3] The limit was removed by Order (SI 2003/1056). Disadvantaged areas relief for commercial property was abolished under section 96 of the *Finance Act 2005*.

A. Stamp duty on property: introduction

Prior to its reform in December 2003, stamp duty was charged on legal and commercial documents, primarily shares and documents showing the sale or lease of land and buildings. The rates of duty varied with the type of document and the nature of the property. In the case of property, generally the duty was indicated by stamps put on the documents themselves following presentation to the Stamp Office. The tax was replaced by stamp duty land tax, which is a tax on the substance of the transaction rather than the document itself. This reform, which took effect on 1 December 2003, did not make any change to the rates of tax charged on a standard house purchase, though it did amend the compliance procedure for paying the tax.

The existing rate structure for stamp duty land tax encompasses three different rates (1%, 3% and 4%) and a zero rate band (the threshold for which is currently £125,000). The tax is charged on a 'slab' basis: that is, where a transaction value crosses a rate threshold the new rate is applied to the whole of the chargeable consideration, not just on the 'slice' of the consideration above the threshold. The tax raised £7.46 billion in 2005-06, of which £4.6 billion came from residential property, and £2.9 billion from commercial property. Receipts from the tax have grown strongly in recent years; stamp duties on all property raised £3.69 billion in 2000-01.[4] Unsurprisingly the proportion of house purchases on which duty is paid has risen. Figures for residential sales in England and Wales show that the share of purchases covered by the zero-rate band have fallen from 59% to 48% over the period 1996-97 to 2005-06.[5]

Stamp duty has been charged on a 'slab' basis for over forty years.[6] Although some commentators have argued that this it would be fairer to levy the tax on a 'slice' basis, and that the current structure has a distortionary impact on the housing market, the Government has shown no interest in this type of reform. Clearly one reason for this is the considerable revenue cost of moving to a 'slice' system without any increase in duty rates:

> **Lord Forsyth of Drumlean asked Her Majesty's Government:** For the latest year for which figures are available, what would be the net cost to the Exchequer of stamp duty on residential houses being amended so that once thresholds were passed only the excess above the threshold was charged at the higher rate rather than all of the consideration being charged at the higher rate.
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> **Lord McKenzie of Luton**: If the same rates of SDLT had applied only to the value of residential property in excess of the 2005-06 thresholds, this would have generated a net cost to the Exchequer estimated to be in the region of £2 billion in that year. The precise cost would be dependent on the magnitude of the behavioural response to the change.[7]

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4 HM Revenue & Customs *National Statistics* table T15.3

5 HC Deb 22 March 2007 cc 1120-1W. For residential property the zero-rate band was set at £60,000 from 16 March 1993. It was doubled from 17 March 2005 to £120,000, and was increased a further £5,000 from 23 March 2006.

6 Duty rates and thresholds since 1958 are set out in table TA.9 of HMRC's *National Statistics*; this is available at: http://www.hmrc.gov.uk/stats/stamp_duty/table-a-9.pdf

7 HC Deb 23 May 2006 c 100WA

In *Budget 2006* the Government announced a £5,000 increase in the zero rate band to £125,000, with effect from 23 March 2006, so as "to help first-time buyers and those on low incomes".[8] When this provision was debated during the progress of the Finance Bill, Julia Goldsworthy, speaking for the Liberal Democrats, argued "surely it is the slab-like structure of stamp duty land tax that poses so many problems for first-time buyers, because they have to pay a percentage of the whole value of the property rather than paying on a sliding scale." In response the Economic Secretary, Ed Balls, said:

> There are things we can do to help first-time buyers, and stamp duty is part of that. Stamp duty also plays an important role in raising revenue in our economy and in making the housing market work efficiently. The problem with saying easy things such as, "Why don't you move form a slab system to a slice system?" or "Why don't you abolish stamp duty entirely, or raise its limits substantially?" is that that costs billions of pounds that would have to be found somewhere else. Simply doing those things without addressing the fundamental point of housing supply in our country would not meet the challenge in [Ms Goldsworthy's] constituency and constituencies throughout the country.[9]

The most recent increase in the *rates* of duty on normal house purchases was announced in the March 2000 Budget, when the duty rate was raised by a ½ percentage point for all sales above £250,000: sales between this threshold and £500,000 would be charged duty at 3% and sales above £500,000 would be charged duty at 4%.[10] One point made by many commentators following this change was that its impact on the housing market would be that much greater, because the tax was charged on a 'slab' basis.

B. Disadvantage areas relief – the first phase

One recommendation made in the final report of the Urban Task Force, chaired by Lord Rogers, published in June 1999, was that stamp duty on residential property should be cut or abolished entirely:

> Using the taxation system to help tackle the demand side of the urban housing equation is a more contentious option, but we are convinced that incentivising individuals to move back into difficult urban locations could make a real and lasting difference to the fortunes of some of these areas. The abolition of MIRAS need not mark the end of tax incentives to influence individuals' residential choice. If we are going to persuade people to come back and live in difficult urban areas, to achieve a better social mix, then we are going to have to reflect the additional risks and costs which those individuals are going to be taking on.
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> As a starting point, we propose the following two simple measures for people living in or thinking of moving into designated Urban Priority Areas:
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> - Removal or reduction of stamp duty on house acquisition
> - Tax relief on home contents and car insurance, to reflect higher premiums as a result of a higher incidence of crime

8 HC 968 March 2006 para 5.99
9 SC Deb (A) 20 June 2006 cc 753-4
10 HC Deb 21 March 2000 c 869

> As with the other targeted measures, the onus would be on the local authority and the regeneration partnership to demonstrate that these types of measures would be persuasive in attracting people to come and live in the area. In addition, the measures would not just be restricted to newcomers. It is also about persuading people to stay. They would be available to any resident. Finally, the measures would need to be time limited, and subject to regular review.[11]

In his Budget speech in March 2000 the Chancellor, Gordon Brown, announced that the Government would consult on this proposal,[12] and in November that year he confirmed the Government were minded to introduce a new relief from stamp duty for "all properties in our most disadvantaged communities."[13] To this end enabling legislation was introduced in the *Finance Act 2001* to allow for those areas to benefit from this exemption, leaving the date for the scheme's inception to be specified in regulations.[14]

In his Pre-Budget statement in November 2001 the Chancellor announced that the scheme would be introduced in two phases. First, from 30 November 2001 stamp duty would be removed from property transactions *up to* £150,000 in value in around 2,000 areas. Second, subject to state aids clearance, the level of duty exemption would be raised – or abolished entirely – from all *non-residential* property in these areas at some point in 2002.[15] At this time it was estimated that the first stage of this reform would cost £35 million in 2002-03 and benefit around 40,000 properties each year for the next three years,[16] though this estimate was later increased to £70 million.[17] It should be noted that at this time the zero-rate threshold for both residential and commercial property was set at just £60,000.

The list of deprived areas to benefit from the scheme drew on the individual index of deprivation in each nation of the UK. As a written answer given at the time explained, "each county compiled its index on the basis of similar criteria such as income, employment, housing, health and child poverty. Using those criteria, both urban and rural areas appear in the list of the most deprived areas.[18] The Inland Revenue published a list of deprived areas, as well as an online search engine to allow prospective buyers to find out if the post code of a particular property puts it in a deprived area or not.[19] Selection was made on the level of individual wards except in Scotland, where the Index of Deprivation is based on postcodes. The selection focused the relief on areas of the greatest disadvantage, whilst aiming for a fair balance between the countries of the UK: for England and Scotland, the most disadvantaged 15 per cent of wards/postcodes qualified for the exemption; in Wales and Northern Ireland, the exemption applied to the most disadvantaged 42 per cent of wards.[20]

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[11] DETR, *Towards an Urban Renaissance*, June 1999 [Dep 99/1269] pp 274-5. The Task Force was set up by the then Deputy Prime Minister John Prescott to in May 1998 to identify causes of urban decline in England.

[12] HC Deb 21 March 2000 c 869

[13] HC Deb 8 November 2000 c 318; see also, *Pre-Budget Report* Cm 4917 November 2000 p 133

[14] Section 92 and schedule 30 to the *Finance Act 2001*. These provisions were agreed without debate at the Committee stage of the Finance Bill: SC Deb (A) 8 May 2001 c 174.

[15] HC Deb 27 November 2001 c 832; Cm 5318 November 2001 p 45. Three statutory instruments were laid at this time to introduce the first stage of this relief (SI 2001/3746, SI 2001/3747 & SI 2001/3748).

[16] *Budget 2002* HC 592 April 2002 p 174; HC Deb 1 May 2002 cc 886-7W

[17] HC Deb 17 September 2003 c 866W. Relief for just commercial property represented less than £1 million of this annual cost.

[18] HL Deb 4 December 2002 c 118WA

[19] Following the merger of the Revenue and HM Customs & Excise in April 2005, this information is now collated on HMRC's site. The postcode search tool is at: http://www.hmrc.gov.uk/so/dar/dar-search.htm

[20] HM Treasury press notice REV/HMT2, 27 November 2001

C. Disadvantaged areas relief – the second phase

European state aid rules prohibit certain transfers of public funds to the private sector in ways that may interfere with the normal competitive processes. There are limited exemptions from the rules, chiefly to achieve social and some economic policy objectives. In most cases state aid has to be notified to the European Commission which may then decide that an exemption applies. At the time of the Pre-Budget Report in November 2001, the *Financial Times* reported that the Government's decision to implement this relief in two stages was due to fears that the Commission might pronounce the scheme to be an illegal subsidy to big businesses:

> Gordon Keenay, manager of the stamp taxes group at KPMG, said the Treasury appeared to have decided to compromise to avoid losing the scheme altogether. 'The savings may not be a lot to people buying properties down in London, but to people in those disadvantaged areas, it's quite a lot of money,' said Chris Sanger, senior manager at Andersen. 'There's no way it will make people move from one end of the country to the other, but it could help people move a few miles down the road.'[21]

To create a higher duty threshold for non-residential property, it was necessary to create a statutory definition of residential property; to this end in December 2001 the Government issued a consultation document on how this might be framed in law.[22] Following responses to this document,[23] enabling legislation was introduced in the Finance Bill in April 2002.[24] Following this, the Government approached the European Commission for its approval for the second phase of this relief, as a written answer noted in June 2002:

> **Ms Shipley:** To ask the Chancellor of the Exchequer if he will make a statement on the European Commission investigation into stamp duty relief for deprived areas; what steps are being taken to ensure a speedy resolution of the investigation; what impact the continuation of the investigation has on the implementation of his policy on stamp duty relief for deprived areas; and if he will use other forms of financial support for development in these areas.
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> **John Healey:** The extension of the stamp duty relief for disadvantaged areas for non-residential property above the £150,000 limit is currently subject to a state aid investigation by the Commission. Such investigations are normal for an innovative scheme such as this which does not conform precisely with any existing Commission guidelines. The investigation is necessary to establish whether the measure will adversely affect trading conditions to an extent contrary to the common interest and it gives interested parties, including other member states, a chance to comment. We are working closely with the European Commission to progress matters as quickly as possible.
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> Those purchasing property for amounts up to £150,000 in the areas which qualify for the relief are already benefiting from the measure. In addition to the stamp duty relief,

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21 "Stamp duty proposals 'diluted to win approval'", *Financial Times*, November 28 2001

22 Inland Revenue, *Stamp duty: draft legislation to define residential property*, December 2001; available at: http://www.hmrc.gov.uk/consult_new/stamp_duty.pdf

23 An analysis of these responses was published on 13 June 2002.

24 Following Royal Assent, this provision is now contained in section 110 of the *Finance Act 2002*. It was the subject of quite a long debate at the Committee stage of the Bill on 18 June: SC Deb (F) cc 426-447.

> the Urban White Paper fiscal measures package provided a cut in VAT to 5 per cent. to encourage renovation and conversion of existing property; 100 per cent. capital allowances for creating flats over shops, 150 per cent. accelerated tax credits to help clean-up contaminated land; and the Government are now implementing the Community Development Venture Fund which will also support enterprise and regeneration in these areas.[25]

On 21 January 2003 the Commission announced that the second phase of the stamp duty exemption for disadvantaged areas was in line with Community objectives on economic and social cohesion as well as sustainable development. The Commission's approval was limited in time up to 31 December 2006, when new guidelines on regional aid guidelines would be introduced.[26] As a result the Government introduced regulations to abolish the £150,000 limit for non-residential property in qualifying areas with effect from 10 April 2003.[27] This change was confirmed in a Lords written answer, reproduced below:

> **Lord Oakeshott of Seagrove Bay asked Her Majesty's Government:** (a) Why the Treasury has not yet instructed the Inland Revenue to abolish the limit of £150,000 for stamp duty on non-residential property purchases in disadvantaged areas of the United Kingdom, for which approval was given by the European Commission under state aid rules on 21 January; and (b) when such instruction will be issued; and Whether they intend the abolition of stamp duty on non-residential property in disadvantaged areas of the United Kingdom to continue beyond 31 December 2006; and, if so, when and how they will seek the approval of the European Commission under state aid rules; and What professional advice they have received on the effect which short-term abolition, until 2006, of stamp duty on non-residential property purchases in disadvantaged areas of the United Kingdom will have on valuations of long-term commercial property investment in those areas.
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> **Lord McIntosh of Haringey:** The Chancellor of the Exchequer announced in his Budget that, with effect from midnight last night, this relief is extended to all non-residential property in qualifying areas. This represents a major boost not only to businesses investing in commercial premises but to the 2000 enterprise areas in which this relief is available, along with a wider package of measures which will ensure that these areas now benefit from investment which is long overdue. Individual home-buyers will continue to benefit from the relief on residential property where the consideration does not exceed £150,000.
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> The extension of the relief to all non-residential property was subject to approval as state aid, which the European Commission has given until the renewal of the relevant guidelines in 2006. This does not preclude the Government from applying for approval to continue beyond 2006. Any such decision will be taken on the basis of evaluation of the effectiveness of the measure in promoting the regeneration of the most deprived areas of the UK.[28]

At this time the Revenue published further guidance on the scope of the relief: a statement of practice setting out the Stamp Office's approach to borderline cases (cases where there is

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[25] HC Deb 10 June 2002 c 869W
[26] European Commission press notice IP/03/89, 21 January 2003
[27] This change was implemented under the *Stamp Duty (Disadvantaged Areas) (Application of Exemptions) Regulations* SI 2003/1056.
[28] HL Deb 10 April 2003 c 48WA

difficulty determining whether or not a property is ‘residential’), and information on the practical application of the legislation.[29] It was estimated this measure would cost £90 million in 2003-04, falling to £50 million thereafter.[30]

Some insight into the Government’s reasons for proceeding with the second phase of the reform were given in a regulatory impact assessment of this change, issued at the time of the Budget; the RIA looked at three possible options:

> Option 1 – Do nothing
> This option would continue with phase one of the relief only which restricts the relief to land and buildings where the consideration does not exceed £150,000. While this option has already benefited thousands of owner occupiers of residential property, it provides limited help to businesses since the majority of commercial property costs in excess of £150,000 and the relief is ‘all or nothing’ – there is no apportionment of relief for properties purchased in excess of £150,000. New leases are also not within the scope of phase one which limits the benefits to businesses which acquire property via a lease.
>
> Option two – increase the cap for non-residential property
> This option would replace the £150,000 cap currently in place for all properties with a higher cap for non-residential property only. This option would benefit more small businesses which might be able to take advantage of a cap set at a higher level. However, the Government would also like to encourage growing small businesses which need to relocate to larger premises in expansion to invest in disadvantaged areas, as well as major investments by larger businesses. It would prove difficult to find a cap level which would be meaningful for many businesses in this category.
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> Option three – abolish the cap for non-residential property
> This option would remove the £150,000 cap for non-residential property, effectively offering unlimited relief from stamp duty for businesses investing in non-residential property in disadvantaged areas. For the reasons outlined in this document, the Government wants to encourage as many businesses as possible to invest in local communities and it is for this reason that it has announced its intention to offer unlimited relief from stamp duty for all investments (whether effected by conveyance or lease) in non-residential property in disadvantaged areas.[31]

The RIA went on to summarise the benefits of this measure as follows:

> This measure will benefit all UK and overseas-based businesses in all sectors, of all sizes, which choose to invest in or re-develop non-residential property in disadvantaged areas. Businesses may benefit from this measure more than once, subject to rules on the cumulation of state aid. Local communities will benefit from the measure because of increased economic activity for the reasons outlined above which may contribute to social and physical regeneration in these areas. The effectiveness of the measure in supporting the Government’s regeneration aims will be evaluated on a regular basis.[32]

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[29] Inland Revenue Statement of Practice SP1/2003, April 2003
[30] HC 500 April 2003 p 200; HC Deb 17 September 2003 c 866W
[31] *Regulatory impact assessment: stamp duty in disadvantaged areas*, April 2003 paras 5-7
[32] *ibid.* paras 8-9

At this time there were some concerns that property owners were getting incorrect results from the department's online search tool,[33] though the Revenue appear to have addressed the problem:

> **Mr. John Smith:** To ask the Chancellor of the Exchequer what representations he has received about the number of house buyers who have unnecessarily paid stamp duty because of inaccurate information provided by the Inland Revenue relating to post codes; how many people have been affected; and if he will make a statement.
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> **John Healey:** Relief from stamp duty in disadvantaged areas was implemented by this Government on 30 November 2001, exempting from stamp duty all property transactions below £150,000 in around 2,000 of the most deprived areas of the UK. We intend to abolish this cap for non-residential property this year. Qualifying areas in England, Wales and Northern Ireland are defined in regulations by reference to electoral wards. As with other tax reliefs, the onus is on the customer to claim this relief. To help customers to identify whether they can claim the relief, the Inland Revenue has made available a postcode search facility on its website.
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> The Inland Revenue is aware that there have been some problems with this tool, particularly where properties straddle ward boundaries or are new developments. As soon as the Inland Revenue has become aware of any shortcomings in the system, they have rectified them and any customer who has paid stamp duty and subsequently discovers relief was due may claim a full repayment of the duty with interest from the Inland Revenue. As an indication of the number of people who have not claimed the relief but have subsequently claimed a repayment, the Inland Revenue currently processes around 300 claims for repayment per month.[34]

As noted above, the Government announced a package of reforms to modernise stamp duty on UK land and buildings in the 2003 Budget.[35] One of the aims of the reform was to tackle the avoidance of stamp duty by the commercial sector, in part with a new tax charge on leases. To mitigate the impact of the new charge for smaller businesses, the exempt threshold for commercial property was raised, from £60,000 to £150,000. Legislation was included in the *Finance Act 2003*, which included provision to carry forward disadvantaged areas relief under the new regime.[36]

The Lords Economic Affairs Committee looked at a number of aspects of the Finance Bill that year, including the introduction of stamp duty land tax. Baroness Hogg raised two issues about this relief when Treasury officials gave evidence to the Committee. The first of these was the use of wards and postcodes to determine those areas covered by relief. Craig Lester, then Business Director at Inland Revenue Stamp Taxes, explained, "whether we are using wards or postcodes or some other unit of currency, the qualifying areas are those areas that were set down at the time the relief was and those are fixed. Ward boundaries may change, ward names may change and postcodes themselves may change, but the areas which are the areas at the time the relief was introduced remain the same."

33 "Revenue trips up on its own tangle of red tape", *Daily Telegraph*, 22 March 2003
34 HC Deb 3 March 2003 c 848-9W
35 Inland Revenue press notice REV55/03, 16 April 2003
36 Section 57 & schedule 6 of the *Finance Act 2003*. Though selected for scrutiny by the Committee of the Whole House, these provisions were approved without debate for want of time (HC Deb 13 May 2003 c 274).

Baroness Hogg took up this point with Mr Lester and Dave Hartnett, then Head of Revenue Policy:

> 724. I see, so the advantage of using postcodes is that you can drill down a bit more and say Canary Wharf or whatever because it has got an identifiable postcode?
> *(Mr Hartnett)* One of the difficulties we have encountered with Stamp Duty as a transaction tax and with either regeneration development and new development in disadvantaged areas, is the speed at which some properties could get a postcode, which was a problem for us given that certainty comes with this tax. I am sorry, this is a terrible admission of weakness on our part, but we could not find our way through that one.
> *(Mr Lester)* I think there is another issue in selecting the indices of deprivation on which these areas are then based, and of course some of those relate to wards. They relate to postcodes in Scotland, but that could be a generic postcode covering a very large area rather than street by street.[37]

Following this, Ivan Rogers, then Budget and Public Finances Director at HM Treasury, gave some insight on the December 2006 cut-off point for commercial property relief:

> None of these things can be an absolutely perfect proxy for what one is trying to deliver in terms of urban regeneration and it has been the subject of exhaustive analysis between ourselves and the European Commission … I am conscious from other committees in your Lordships' House that there has frequently been an appetite and some pressure on the European Commission supporting a general governmental push as well as for more rigour on the part of the European Commission as to the state aids it approves and also the length of time it approves them for. I do not think as a general proposition it is a bad thing for the Commission to say, "let's see how this policy works in practice."[38]

D. Restricting relief to residential property

Major reforms in the way stamp duty is charged on property were announced in Budget 2003, and changes to the way commercial leases were charged tax proved very controversial. In this context it was not surprising that the decision to extend disadvantaged areas relief attracted relatively little comment. At the time the Liberal Democrats argued that using the index of deprivation used to determine disadvantaged areas produced 'anomalies', because the measure of income it incorporated referred to resident individuals, not resident businesses:

> Some of the country's richest property developers will win a "vast, overnight windfall" from a "haphazard" Budget measure designed to help deprived areas, it was claimed yesterday. Canary Wharf, a slew of prime City property sites - including Lincoln's Inn Fields and High Holborn - and regional shopping centres, such as Lakeside, are among the beneficiaries of the chancellor's move. The Liberal Democrats claimed the Chancellor had "failed to do his homework" before making his announcement on stamp duty. The exemption from the tax of all commercial properties in 2,000 "disadvantaged areas" - saving 4 per cent on some of the most valuable buildings in the country - handed an "indiscriminate, flat rate subsidy to landlords", the Lib Dems

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37 *Third Report: Finance Bill 2003*, 17 June 2003 HL 121-II QQ 723-4 p 169
38 HL 121-II Q 725 p 169

said. “This is a haphazard, untargeted use of large sums of money, which will benefit existing owners of prime office and retail property far more than . . . deprived communities in desperate housing and social need,” Lord Oakeshott, Lib Dem Treasury spokesman, said in a letter to Mr Brown. Lord Oakeshott challenged the Treasury assumption that the move would cost only £90m in lost stamp duty in the current tax year. He claimed that many of the commercial property areas which would benefit “by no stretch of the imagination are deprived”.

As well as the prime London locations, leading commercial property locations outside the capital such as Meadowhall, Sheffield and Brindley Place, Birmingham are among the 2,000 designated areas. The apparent anomaly occurs because the areas have been chosen by the wealth of resident voters, rather than the value of the resident businesses. By this criterion, Canary Wharf ranks among England's 50 most deprived wards. Analysts yesterday said that, other factors being equal, the stamp duty exemption will increase both capital values and leasing revenues. “A lot of property companies will benefit - most of them have at least one or two properties that gain from this exemption,” said Miranda Cockburn, of CSFB. This benefit could amount to an increase of more than £200m in the capital value of Canary Wharf alone, assuming its properties - valued at about £5.5bn in December - rise by 4 per cent to compensate for the stamp duty previously deduced from their valuation.

But the Treasury last night flatly rejected the suggestion that such multi-million pound handouts were a misuse of taxpayers' money. The exemption was the “best way to target the most deprived areas”, it said. While there were “very small pockets of wealth surrounded by large areas of deprivation” in the areas gaining the exemption, developments such as Canary Wharf were “the exceptions which prove the rule”, the Treasury claimed. “If more business goes into these areas and attracts employment, (the exemption) is doing exactly what it's supposed to do.”[39]

Over the next two years the strong growth in house prices led to many calls for the zero-rate threshold on residential property to be increased,[40] and in his 2005 Budget the Chancellor announced that it would be doubled to £120,000. Although disadvantaged areas relief would be maintained for residential property, the Chancellor also announced the immediate withdrawal of relief for commercial property. The Budget report gave more details of these changes:

Budget 2003 set out details of a major reform of stamp duty on property to modernise administration and enforcement and remove distortions. To reduce the number of first-time and low-income house buyers paying stamp duty land tax and to improve the efficiency of the housing market, the Government will double the zero-rate threshold to £120,000 for all residential property transactions with effect from 17 March 2005. This puts the threshold above the £115,000 median price paid by first-time buyers and will exempt an extra 300,000 home buyers from stamp duty every year. To increase home ownership in deprived areas, the threshold in the 2,000 Enterprise Areas will remain at the higher level of £150,000. As a result, 650,000 residential property transactions will be exempt from stamp duty each year. Over 50 per cent of first-time buyers and 47 per cent of all residential buyers will not now pay stamp duty land tax.…

[39] “Exemption ‘gives developers vast windfall’”, *Financial Times*, 11 April 2003

[40] for example, “Campaign to ease the burden of stamp duty”, *Daily Telegraph*, 29 January 2005

> The Government wants to empower local areas with the freedom and flexibility to develop local approaches to enterprise and growth in disadvantaged areas, which respond to local needs. Therefore, the Government is introducing a new Local Enterprise Growth Initiative (LEGI), worth £50 million in 2006-07 and rising to £150 million by 2008-09 (subject to confirmation in the next Spending Review), which will operate through local area agreements to support locally developed proposals to promote and remove barriers to enterprise in the most deprived areas of England … The LEGI will follow the time-limited commercial stamp duty land tax disadvantaged areas relief, which will end on 16 March 2005, and will better target support to drive forward local enterprise development and business regeneration.[41]

It was estimated that the increase in the threshold would cost £250 million in 2005-06, though the abolition of relief for commercial property would *raise* £340 million in that year.[42] As noted above, in April 2003 the Government had estimated that this relief would cost only £50 million in 2005-06.

Clearly the cost of the relief had grown dramatically. The total cost of relief for both residential and commercial property rose from £70 million in 2002-03, to £530 million to 2003-04, up to £1,000 million in 2004-05.[43] This last estimate is much higher than the expected revenue gain from withdrawing relief on commercial property; a written answer given at the time explains why:

> **Lord Oakeshott of Seagrove Bay** asked Her Majesty's Government: What elements make up the differences between the estimated yield to the Exchequer of £340 million in 2005–06, as set out in the 2005 Budget, from ending disadvantaged areas relief from stamp duty and the previous estimate of the cost of relief of £1 billion.
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> **Lord McIntosh of Haringey:** Disadvantaged areas relief (DAR) on commercial transactions is estimated to cost £870 million out of the estimated total cost of DAR of £1 billion in 2004–05. The estimated yield from abolition of DAR on commercial transactions is lower than the cost of relief because the latter includes the effect of the substitution of DAR for other stamp duty land tax (SDLT) reliefs (such as group relief), the claiming of DAR in respect of transactions undertaken in earlier years, and the effect of additional transactions generated by the relief. None of these elements of the cost of relief claimed will form part of the yield from abolition of DAR on commercial transactions.
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> Because the cost of these individual elements is highly uncertain, the estimated yield from ending disadvantaged areas relief in 2005–06 is based upon the estimated historic yield from commercial transactions, projected forwards to 2005–06, and the proportion of transactions taking place in disadvantaged areas prior to the introduction of the relief.[44]

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41 *Budget 2003* HC 372 March 2005 paras 5.112, 3.53, 3.56

42 HC 372 March 2005 p 186. The estimate was for £340 million in 2005-06, rising to £350 million, and then to £370 million in the two successive years.

43 Table 7 from Annual editions of HM Treasury *Tax ready reckoner and tax reliefs*: December 2003, December 2004 & December 2005. In all cases this estimate was "particularly tentative and subject to a wide margin of error."

44 HC Deb 24 March 2005 c 58WA

Notably, prior to the Budget the dramatically rising cost of DAR had been raised in a written answer, though the Government's response was rather brief:

> **Dr. Cable:** To ask the Chancellor of the Exchequer what assessment he has made of the reasons for the rise in the cost of disadvantaged area relief from 2003–04 to 2004–05; and if he will make a statement.
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> **Mr. Timms:** The published cost of Disadvantaged Areas Relief (DAR) is an estimate of the amount of relief claimed by taxpayers. It includes the likely effect of substitution of DAR for other Stamp Duty Land Tax (SDLT) reliefs (such as Group Relief) and the claiming of DAR for transactions undertaken in earlier years.[45]

One practitioner was quoted in the *Financial Times* as saying, "the main point of this policy change appears to be to raise revenues. If the relief was considered worthwhile when introduced, the reasons for it are unlikely to have gone away."[46] Many property firms were reported to have rushed through deals over the next two days, to ensure that existing contracts would still benefit from relief.[47] The general consensus appears to have been that the relief had been poorly targeted from the start:

> When the chancellor announced the creation of 2,000 designated enterprise areas in the poorest parts of the UK in his 2002 pre-Budget report, the tax break was the "big-ticket item" among a basket of more modest initiatives, requiring European Commission approval. Barely two years later, very few observers believe it had done anything to achieve the intended spur to urban regeneration.
>
> The problem was targeting, or the lack of it. The enterprise areas amounted to the most deprived in the UK. But that meant property deals in Canary Wharf and Deansgate could also be exempt from 4 per cent stamp duty because of their proximity to poor areas in the Isle of Dogs and central Manchester. "When you are appraising the system, you can see that it's not targeting the exact areas that you're looking to target," the Treasury admitted yesterday …
>
> Liz Peace, chief executive of the British Property Federation, said her members always doubted whether it helped regeneration, even though they made use of it. "We are not surprised by what the government has done, only by the peremptory manner in which they did it," she said. But advisers to urban regeneration projects counter that the relief was useful to mixed community regeneration projects which brought together housing associations and developers under joint ventures. Mike McGowan, tax partner at KPMG, said: "Some people are doing work in pursuance of government policy and are going to have their costs go up." Public sector bodies are also likely to find themselves with an unwelcome rise in costs, warned Heather Hancock of Deloitte. "Coming to the end of the financial year, many will be between exchange and completion of purchases," she said.
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> But ultimately, the end of the relief was a necessary move. The new targeted enterprise programme is at least a move away from centralist thinking in a

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[45] HC Deb 1 February 2005 c 760W

[46] "Give and take with changes to stamp duty", 17 March 2005

[47] "Property firms in eleventh-hour rush to avoid stamp duty", *Times*, 18 March 2005

government that believed that blanket measures, such as stamp duty relief, stimulated commercial growth in deprived areas, said Ms Hancock.[48]

Following the Budget, the Chancellor was asked about the abolition of relief when he appeared before the Treasury Committee on 22 March:

> **Q302 [Mr George Mudie]:** … Stamp Duty in inner-cities, why have you abolished it when we are looking to regenerate inner-cities?
> **Mr Brown:** We have introduced a new scheme, the Local Enterprise Growth Initiative, for areas where there is business-led regeneration taking place in a city like yours. The commercial Stamp Duty relief was for a limited period; it was always for a limited period; it was going to end in a year from now but I thought, looking at the evidence available to me, that all we would have is a batch of schemes simply to get the tax benefit at the end of the period; and it would be a better use of taxpayers' money to encourage communities such as yours to come forward with proposals for business-led regeneration that we could finance directly from public funds. There is a very significant amount of public funds going to go into areas such as those covered by the Enterprise Communities that were benefiting from the Stamp Duty Relief—about £500 million over four years.
>
> **Q303 Mr Mudie:** I notice you saved £340 million a year by abolishing the Stamp Duty tax—that would add up to nearly a billion pounds?
> **Mr Brown:** No, it was only to continue for one more year, so it would only have been £340 million perhaps.
>
> **Q304 Mr Mudie:** Is there going to be a gap between the Stamp Duty finishing and your new scheme? Does it need legislation?
> **Mr Brown:** Yes, there will be a gap; but, remember, all the other incentives that are available in these sorts of areas—including the Premises Renewal Grant, including the Clearance of Land Relief—these are all still available. What people will be able to plan now is for a business-led regeneration or a community-led regeneration scheme where public money is available once the plans are drawn up. Obviously the plans have got to be drawn up so it will take some time but this will be in place in the coming year.[49]

Initially clause 144 of the *Finance Bill 2005* – which was published on 24 March – made this provision. The announcement of a General Election for 5 May that year meant a second, shortened version of the Bill, replacing the first, was presented to the House on 6 April. The Bill included this particular provision. As a consequence it was not subject to any debate, as the Bill completed all of its stages in the Commons that day.[50] Since then, the issue does not appear to have been raised in the House.

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48 "Commercial stamp duty relief fell short of its target", *Financial Times*, 19 March 2005

49 *The 2005 Budget: Oral Evidence*, 22 March 2005 HC 482-ii 2004-05 QQ 302-4

50 *Finance (No.2) Bill* [Bill 104 of 2004-05] was scrutinised in its entirety on the floor of the House (HC Deb 6 April 2005 cc 1432-1491) and received Royal Assent the next day (HC Deb 7 April 2005 c 1641).