

Land Transaction Tax and Anti-avoidance of Devolved Taxes

(Wales) Act 2017



Llywodraeth Cymru
Welsh Government

Background

The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act (the “Act”) is the second of three pieces of legislation to establish devolved tax arrangements in Wales. The purpose of the Act is to establish a new tax on land transactions to replace stamp duty land tax (SDLT), as well as measures to tackle avoidance of Welsh taxes. This legislation is linked to the Tax Collection and Management (Wales) Act 2016 (TCMA) which provides the powers and duties to collect the tax, and the Landfill Disposals Tax Act which establishes a replacement for landfill tax.

SDLT will cease to apply in Wales from April 2018. By providing a replacement, public services in Wales will continue to receive the benefit of the revenues raised by a tax on land transactions.

Higher rates residential property transactions

Higher rates on certain residential property transactions have been charged in Wales through SDLT since April 2016 and revenues have increased as a result. To protect the increased revenues, and public services, the Act also charges higher rates in Wales.

Land transaction tax (LTT)

The Act sets out:

- the key principles of LTT, such as the types of transactions that will incur a charge to LTT, exemptions and the persons liable to pay LTT;
- the procedure for setting tax rates and bands;
- how the tax will be calculated and what reliefs may apply;
- specific measures to tackle devolved tax avoidance;
- the application of the Act in relation to leases;

- the application of the Act to specific persons and bodies (for example, companies);
- the process for making a LTT return and payment of the tax;
- the duties on taxpayers to make payments and to pay penalties and interest in certain circumstances;
- the application for applying the higher rates to certain residential property transactions.

Welsh Revenue Authority (WRA)

The WRA will undertake all the collection and management functions for LTT from April 2018. The WRA will be responsible for developing guidance to assist taxpayers and their agents in complying with their obligations. This will be available online before LTT goes live in April 2018.

Kathryn Bishop is the first chair of the WRA. The other non-executive board members are:

- Jocelyn Davies
- Dyfed Edwards
- David Jones
- Lakshmi Narain
- Martin Warren

Rates and bands

The Welsh Government announced the rates and bands for land transaction tax on 3 October 2017, providing certainty for home buyers and businesses.

Timeline

The Act became law in May 2017.

What changes have been made from SDLT?

Any changes have been made to either: simplify the tax; make it fairer; improve its efficiency and effectiveness; or to enable a focus on Welsh needs and priorities. A fuller list will form part of the guidance – key changes include:

Area of change	Land transaction tax	Stamp duty land tax
A ‘General Anti-avoidance Rule’ (GAAR)	The GAAR will enable WRA to recover any devolved tax that has been avoided as a result of an ‘artificial’ tax avoidance arrangement.	Applies to ‘abusive’ tax arrangements, and establishes a GAAR Advisory Panel.
Relief Targeted Anti-avoidance Rules (TAARs)	The Act includes a single, clear rule applicable to all reliefs that prohibits a relief from being claimed where the transaction forms part of tax avoidance arrangements.	SDLT includes a number of specific rules to tackle potential avoidance activity of particular reliefs.
Deferral of tax	The Act includes rules relating to the deferral of tax in cases of contingent or uncertain consideration.	For SDLT similar rules were set out in secondary legislation.
Rent element of new residential leases	The rent element of newly granted residential leases will be exempt from tax under LTT. This may reduce some administrative burden for practitioners. Welsh Ministers may, through regulations, make the rent element chargeable if needed.	The rent element of newly granted residential leases is chargeable under SDLT.
Higher rates residential property transactions	LTT contains some additional rules for higher rates residential property transactions. These include: <ul style="list-style-type: none">• The acquisition of certain residential properties are exempt from higher rates where an interest in a dwelling is retained by the buyer pursuant to a court order in cases of divorce or dissolution of a civil partnership;• Whether a taxpayer owns or acquires a residential property subject to a lease is judged at the end of the effective date of the acquisition of the residential property. This rule includes including a TAAR to prevent taxpayers from manipulating the rule to avoid paying the higher rates;• A dwelling, purchased and held by a court appointed deputy on behalf of a minor who lacks mental capacity under the Mental Capacity Act 2005, is not deemed to be owned by that child’s parents and is therefore, generally, not subject to higher rates;• LTT requires an assessment for the higher rates tax liability to be undertaken on ‘intermediate’ transactions (and a further return submitted to WRA if additional tax is due);• Changes to rules relating to property that is inherited - spouses or civil partners who are no longer living together are not to have their respective interests combined in order to establish whether the interest held exceeds 50%; and• Clarification of rules in relation to major interests.	These specific rules do not exist in SDLT legislation.

More information

You can find out more about the Act on the Welsh Government’s website at:

<http://gov.wales/funding/fiscal-reform/welsh-taxes/land-transaction-tax/?lang=en>

You can also find out more about the wider financial reform and tax policy developments in Wales on the Welsh Government’s website at:

<http://gov.wales/funding/fiscal-reform/?lang=en>