

These notes relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) which received Royal Assent on 24 March 2016

LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

THE 2016 ACT

Overview

7. The 2016 Act comprises 6 sections, of which section 1 is the principal measure, introducing a new schedule 2A into the 2013 Act. Within schedule 2A—
 - Part 2 identifies the transactions to which schedule 2A applies,
 - Part 3 sets out the additional amount of tax,
 - Part 4 contains provision about the application of schedule 2A in relation to certain types of buyer,
 - Part 5 provides for repayment of and relief from the additional amount of tax in certain cases,
 - Part 6 contains special rules about the meaning of ownership of dwellings for the purposes of schedule 2A,
 - Part 7 contains general provision including powers to modify schedule 2A.
8. The drafting approach employed means that for the most standard residential property transaction – where an individual or couple replace their main residence – the 2013 Act will apply exactly as it would in the absence of the 2016 Act, and therefore the main body of the 2013 Act is not substantively affected. Where the new provisions are in issue, tax agents will know to look to schedule 2A for all relevant provisions concerning the additional amount of tax.
9. For more general guidance on the 2013 Act, see the Explanatory Notes to that Act as passed¹ and Revenue Scotland’s detailed legislative guidance for LBTT.²

Operation of additional tax provisions

Example: Operation of additional tax provisions in relation to a purchase of second home
<i>Note: references to provisions of legislation are references to provisions of the 2013 Act as amended by the 2016 Act</i>
Justin and Brenda, a married couple, purchased their first home in the later part of 2015 and the transaction was subject to LBTT. Justin and Brenda now propose to buy a second home for £105,000 in the later part of 2016, of which £5,000 is apportioned to moveables such as curtains. But for the additional amount of tax there would be no LBTT payable because

¹ <http://www.legislation.gov.uk/asp/2013/11/notes/contents>

² <https://www.revenue.scot/land-buildings-transaction-tax/guidance/lbtt-legislation-guidance>

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relevant consideration of £100,000 (paragraph 4 of new schedule 2A) is within the nil rate band for residential property transactions ³ .
The additional amount applies because (i) the subject-matter of the transaction (section 61) consists of or includes the acquisition of ownership of a dwelling (Part 6 of schedule 5), (ii) at the end of the effective date (the tax point; section 63) Justin and Brenda own more than one dwelling, and (iii) Justin and Brenda are not replacing their existing home (paragraph 2 of new schedule 2A). Because Justin and Brenda are married, the additional tax applies irrespective of whether title to the original and new houses are in the name of both Justin and Brenda, or in the name of one or the other (paragraph 6 of new schedule 2A).
The additional amount of tax applicable is £3,000, being 3% of the relevant consideration (paragraph 4 of new schedule 2A). Therefore the total amount of LBTT payable is £3,000.
Were the chargeable consideration £200,000 for this second home purchase the calculation would be as follows:
<i>Standard amount of LBTT payable</i>
The first £145,000 falls within the nil rate band
The remaining £55,000 falls within the first tax band charged at 2%
The standard amount of LBTT payable is therefore £1,100
<i>Additional amount of LBTT payable</i>
The whole chargeable consideration of £200,000 is the “relevant consideration” and is charged at 3%
The additional amount of LBTT payable is therefore £6,000
<i>Total amount of LBTT payable</i>
The total amount of LBTT payable is the sum of the standard and additional amounts and is therefore £7,100

Diagram

³ Revenue Scotland maintains an LBTT calculator at <https://www.revenue.scot/land-buildings-transaction-tax/tax-calculator/lbt-property-transactions-calculator>.
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