

## POLICY NOTE

### THE LAND AND BUILDINGS TRANSACTION TAX (TAX RATES AND TAX BANDS) (SCOTLAND) AMENDMENT (NO. 2) (CORONAVIRUS) ORDER 2020

#### SSI 2020/215

This Order was made in exercise of the powers conferred by section 24(1) of the Land and Buildings Transaction Tax (Scotland) Act 2013 (LBTT(S)A 2013). The making of this Order is subject to the provisional affirmative procedure.

#### **Purpose of the instrument.**

This Order amends the Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Order 2015 on a limited time basis to increase the nil rate band for residential Land and Buildings Transaction Tax (LBTT), as announced by the Cabinet Secretary for Finance on 9 July 2020.

#### **Policy Objectives**

The Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Order 2015 sets the tax bands and percentage tax rates for LBTT. The details are set out in three tables, for residential property transactions, non-residential property transactions and, with respect to leases, tax rates for each band applicable to chargeable consideration which consists of rent.

For residential property transactions in relation to which the effective date is on or after the coming into force of the Order and up to and including 31 March 2021, the instrument amends Table A of the 2015 Order to provide for the temporary increase to the nil rate band for residential LBTT announced by the Cabinet Secretary for Finance on 9 July 2020. The nil rate band for these transactions is amended so that it applies where the relevant consideration is not more than £250,000 instead of £145,000.

As a consequence of this change, the 2% tax band provided for in the 2015 Order is no longer relevant for these transactions. Accordingly the Order also renumbers the second, third and fourth tax bands as the first, second and third tax bands respectively. The effect of the changes for the transactions in question is set out in the table below.

Table A: Residential

	<i>Relevant consideration</i>	<i>Percentage</i>
<i>nil rate band</i>	Not more than £250,000	0%
<i>first tax band</i>	More than £250,000 but not more than £325,000	5%
<i>second tax band</i>	More than £325,000 but not more than £750,000	10%
<i>third tax band</i>	More than £750,000	12%

The instrument will come into force on 15 July 2020. It will however only remain in force permanently if the Scottish Parliament approves the Order within 28 days of it having been made.

### **Consultation**

There is no statutory requirement to consult on this instrument. The increasing of the nil rate band was announced by the Cabinet Secretary on 9 July 2020. The timing of the Order takes account of calls from stakeholders and taxpayers for the amended rates and bands to be introduced as quickly as possible.

### **Impact Assessments**

Equal opportunities - This Order does not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly.

The proposed change temporarily widens and extends the additional tax relief already available to first-time buyers (FTBs) relative to non-FTBs. FTBs are (by definition) in a younger age group than non-FTBs. However, FTBs will not be disadvantaged by the proposed change as they will benefit financially from the increased threshold to exactly the same extent as non-FTBs. Analysis shows that around 90 per cent of FTBs will be taken out of LBTT altogether (excluding Additional Dwelling Supplement) by this measure compared to 80 per cent of buyers generally.

Human rights – This Order does not infringe on or affect any subject areas of the European Convention on Human Rights (ECHR). We have not identified differential impact on human rights nor any impact on any individual’s civil liberties.

Privacy impacts – No privacy impacts resulting from this legislation have been identified.

Island communities – No new impacts have been identified in relation to the provisions of this Order. Indeed, due to lower than average property prices in island communities, the policy measure is expected to result in a higher proportion of transactions not paying tax than elsewhere.

Local government – There will not be any additional administrative or compliance burdens specifically affecting local government beyond those duties local authorities are already subject to under the LBTT legislation.

Sustainable development – The Order will have no impact on sustainable development.

A Business and Regulatory Impact Assessment has been published for the regulations and orders associated with the LBTT(S)A 2013. The Minister for Public Finance and Migration is content that a BRIA is not required for this change.

### **Financial Implications**

The Scottish Fiscal Commission has set out its assessment of the impact of the change.

Scottish Government Tax Division  
July 2020