
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make transitional provisions in respect of the introduction of land transaction tax (“LTT”) in Wales by the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“the LTT Act”).

LTT will replace stamp duty land tax (“SDLT”) in Wales on a date (“the commencement date”) to be specified in respective orders made by the Treasury and the Welsh Ministers under section 16(4) of the Wales Act 2014 (“the Wales Act”) and section 81(2) of the LTT Act. Section 16(5) of the Wales Act makes provision for SDLT to continue to apply to land transactions for which the contract for the transaction was entered into and substantially performed on or before the Royal Assent of the Wales Act on 17 December 2014.

Section 16(6) of the Wales Act makes provision for certain land transactions to which SDLT will no longer apply, despite the transaction being effected in pursuance of a contract entered into on or before 17 December 2014. For instance, where there has been an assignment or subsale in respect of a contract entered into on or before 17 December 2014, LTT will apply if the completion of the assignment or subsale takes place on or after the commencement date.

These Regulations make provision in respect of certain transactions that began under SDLT but have an effective date on or after the commencement date.

Regulation 3 provides that LTT is charged where—

- (a) a contract for the transfer of land is entered into on or before 17 December 2014;
- (b) the effective date of the completion of that transfer is on or after the commencement date; and
- (c) section 16(6) of the Wales Act applies because there has been an intervening event.

But if the contract has been substantially performed before the commencement date, and SDLT has been paid to HMRC in connection with that substantial performance, LTT is only charged to the extent that there is a greater amount of tax chargeable on the contract giving effect to the completion of that transaction.

Regulation 4 provides that LTT is charged where—

- (a) a contract for the transfer of land is entered into after 17 December 2014 but before the commencement date; and

- (b) the effective date of the completion of that transfer is on or after the commencement date. But if the contract has been substantially performed before the commencement date, and SDLT has been paid to HMRC in connection with that substantial performance, LTT is only charged to the extent that there is a greater amount of tax chargeable on the contract giving effect to the completion of that transaction.

Regulation 5 makes provision where alternative property finance arrangements that give rise to a series of land transactions are entered into. It ensures that any ‘further transaction’ which forms part of arrangements entered into prior to the commencement date will be eligible for relief from LTT. Relief from LTT in respect of this ‘further transaction’ must be claimed in the return made to the Welsh Revenue Authority (“WRA”) in relation to that transaction.

Regulation 6 makes provision where alternative finance investment bonds that give rise to a series of land transactions are entered into. It ensures that where the ‘second transaction’ occurs on or after the commencement date, that transaction will be eligible for relief from LTT. In these cases, relief from LTT must be claimed in the return made to WRA in relation to that second transaction.

Regulation 7 makes provision to ensure that LTT is charged in respect of a transfer of an interest in a partnership pursuant to earlier arrangements involving a land transaction under paragraph

18 of Schedule 7 to the LTT Act although the earlier land transaction (transferring a chargeable interest to the partnership) was in fact prior to the commencement date.

Regulation 8 makes provision to ensure that LTT is charged in respect of any withdrawal of money etc. from a partnership after the transfer of a chargeable interest under paragraph 19 of Schedule 7 to the LTT Act despite the transfer of the chargeable interest to the partnership taking place prior to the commencement date.

Regulation 9 ensures that the discount in respect of overlapping leases under paragraph 7 of Schedule 6 to the LTT Act can apply, notwithstanding that the old lease was entered into prior to the commencement date.

Regulation 10 makes provision for any lease with an effective date prior to the commencement date that was entitled to a relief under SDLT. This regulation ensures that paragraph 22 of Schedule 6 to the LTT Act applies so that an assignment of such a lease on or after the commencement date is treated as the grant of a new lease for the purposes of the LTT Act.

Regulation 11 provides that a variation of a lease to increase the amount of rent which takes place on or after the commencement date is to be treated as the grant of a new lease for the purposes of the LTT Act, even though the lease had an effective date of before the commencement date. The rent of the deemed new lease is taken to be the additional rent payable as a result of the variation.

Regulation 12 makes modifications to the tests prescribed in paragraphs 8 and 17 of Schedule 5 to the LTT Act to determine whether the replacement of main residence exception applies to a higher rates residential property transaction. The effect of these modifications is to disapply the 3 year window during which a previous main residence had to be sold before the purchase of a new main residence in respect of transactions with an effective date which is 26 November 2018 or earlier.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ.

Changes to legislation:

There are currently no known outstanding effects for the The Land Transaction Tax (Transitional Provisions) (Wales) Regulations 2018.