

Finance Committee

The Land Transaction Tax (Transitional Provisions) (Wales) Regulations 2018

This Statutory Instrument is being considered by the Finance Committee under Standing Order 27.8A.

Background and Purpose

01. 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 LTTA Act”). The provisions ensure that transactions which take place on or after 1 April 2018 receive treatment which is consistent, meaning that transactions are not taxed twice under LTT and Stamp Duty Land Tax (“SDLT”), or not taxed at all.
02. The Regulations also ensure that arrangements commenced prior to 1 April 2018 and for which certain reliefs (which exist in both regimes) were claimed will continue to be relieved under LTT (subject to certain conditions being met). Further, the Regulations will also provide for transitional rules for the purposes of determining whether a transaction completed on or before 26 November 2018 is a higher rates residential property transaction where a person’s main residence is being replaced.

Procedure

03. Affirmative resolution.

Merits Scrutiny

04. No points are identified for reporting in respect of this instrument.

Policy objectives

05. **Statement of policy intent**



06. To support the Committee's scrutiny of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (LTTA) (Wales) Bill, the Welsh Government provided information on the policy intent for the delegated powers within the Bill.

Regulations 1-2

07. Provides that the regulations come into force on the day Land Transaction Tax (LTT) commences and defines terminology.

Regulations 3-12

08. Regulations 3-12 make transitional provisions in respect of the introduction of LTT. Section 78(1) of the LTTA Act 2017 enables the Welsh Ministers to make regulations for transitional provisions.

09. The regulations tabled **are in accordance** with related policies in the statement.

10. It stated that Section 76(1) of the Bill noted "the Welsh Ministers can make supplementary, incidental, consequential, transitional, transitory or saving provisions in order to give full effect to a provision of the Bill."

Finance Committee Stage 1 scrutiny

11. **No comments** made.

Consultation responses

Assembly consultation

12. There were a number of comments made relating to the **lack of transitional provisions** in the Bill.

13. The Land Registry commented that both it and conveyancers "will need **guidance regarding transitional arrangements** for transactions for which contracts are exchanged before the date that the Bill comes into force, but not completed until after that date. We could not see any reference to transitional arrangements in the Bill."

14. The Chartered Institute of Taxation (CIOT) stated in its response "Section 76 provides a power to make further ancillary changes to give full effect to the Bill. Is this section **intended to provide for the enactment** of transitional provisions? Otherwise there is no mention of transitional measures."



15. Deloitte emphasised “there are no transitional rules in the Act and **we would expect that**, as with LBTT, a statutory instrument will be passed setting out the detailed rules to ensure that transactions that interact with SDLT do not result in double taxation. We wonder if there **should be an express power to pass such regulations** in clause 79 as contained in the equivalent clause in Section 70(3) of the LBTT (Scotland) Act 2013.”

Welsh Government consultation

16. No comments made.

Scottish regulations

Regulations 3–12

17. The Regulations are consistent with the Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014.

UK regulations

18. No equivalent legislation available.

Government Response

19. No points under ‘merits scrutiny’ were raised.

20. Whilst these regulations are broadly consistent with the effect of the Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014 – there are some subtle differences. These include:

- some minor differences in wording that do not affect the effect of the relevant regulations;
- some regulations or wording that relate to Scottish specific issues, and;
- inclusion in the Welsh regulations (regulation 12) of a transitional rule to give effect to the same transitional rule that SDLT contained when the UK Government announced the introduction of the higher rates for additional dwellings and dwellings purchased by companies in November 2015 (in LTT, higher rates residential property transactions).



Committee View

21. The Committee noted the Regulations.

