



# Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill



Llywodraeth Cymru  
Welsh Government

## Background

The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill (the "Bill") is the second of three bills to establish devolved tax arrangements in Wales. The purpose of the Bill is to establish a new tax on land transactions to replace Stamp Duty Land Tax (SDLT), as well as measures to tackle devolved tax avoidance. The Bill was preceded by the Tax Collection and Management (Wales) Act 2016 which established the legal framework for the collection and management of devolved taxes. It is anticipated that a third Bill, which will establish a Landfill Disposals Tax (LDT), will be introduced into the Assembly in the coming months.

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

The Bill broadly mirrors many key elements of SDLT. For example, the rules relating to partnerships have been replicated, as are many of the SDLT reliefs. This will provide the consistency that businesses desire and enable a smooth transition for the property market. It is also consistent with the Scottish Land and Buildings Transaction Tax (LBTT) in many ways.<sup>1</sup>

## Land Transaction Tax (LTT)

The Bill provides for:

- 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
- the application of the Bill in relation to leases
- the application of the Bill to specific persons and bodies (e.g. companies and unit trusts)
- the process for making a LTT return and for the payment of the tax

- the duties on taxpayers to make payments and pay penalties and interest in certain circumstances
- certain matters applicable to all devolved taxes in Wales, including:
  - anti-avoidance rules
  - rules relating to the postponement of payment of tax on appeal
  - other technical changes to Tax Collection and Management (Wales) Act 2016.

## Welsh Revenue Authority (WRA)

The Welsh Revenue Authority (WRA) will undertake all the collection and management functions for LTT, with HMRC providing expertise and knowledge through loans and secondments to develop and enhance the WRA's compliance expertise.

## Rates and bands

Decisions on tax rates and bands will be made closer to April 2018 to reflect economic conditions at that time.

## What changes have been made from Stamp Duty Land Tax?

Any changes have been made to either simplify the tax; to improve its efficiency and effectiveness, or to enable a focus on Welsh needs and priorities. Key changes include the following:

### Rates and bands

The rates and bands in LTT are to be set by regulations, rather than through a Finance Bill (and Provisional Collection of Taxes Act 1968 motion), which is how SDLT rates and bands are set.

### Tackling devolved tax avoidance

#### a) A 'General Anti-avoidance Rule' (GAAR)

The Bill introduces a General Anti-avoidance Rule (GAAR) which has more similarities to the Scottish GAAR than the UK GAAR. In common with the law in

<sup>1</sup> Scottish land law operates differently in some respects, such as in relation to leases, partnerships and trusts.

Scotland, the GAAR will enable WRA to recover any devolved tax that has been avoided as a result of an 'artificial' tax avoidance arrangement. This approach differs to the UK GAAR, which is considered to be narrower as it applies to 'abusive' tax arrangements, and requires the establishment of an Advisory Panel. As an alternative to the Advisory Panel, the WRA will be expected to seek expert advice where appropriate in a transparent and proactive way.

#### **b) Targeted Anti-avoidance Rules (TAARs)**

The Bill includes a broad targeted anti-avoidance rule that prohibits a relief from being claimed where the transaction forms part of tax avoidance arrangements. This differs from the SDLT (and LBTT) approach which has included only specific rules that target aspects of particular reliefs. Our provision builds on this approach to produce a single clear rule, applicable to all reliefs.

#### **c) Sections 75A – 75C Finance Act 2003**

Sections 75A – 75C Finance Act 2003 are anti-avoidance provisions, introduced by HMRC to tackle certain types of SDLT avoidance. As the GAAR will enable us to tackle avoidance activity, we do not consider it necessary to adopt these provisions.

#### **Reliefs**

LTT reliefs are broadly consistent with SDLT. A key change is that two reliefs in relation to the demutualisation of insurance companies and building societies are not replicated (LBTT also omitted these). In addition, some reliefs have been amended so that they operate better or in a more relevant way to Wales.

#### **Rules that apply a 15% slab rate**

The 15 per cent slab rate within SDLT currently applies to considerations of greater than £500,000 being acquired by 'non-natural' persons, such as companies or collective investment schemes. It is aimed at a particular section of the high value property market, primarily in London and the South East. The provision is not considered to be currently relevant to Wales, and its removal will have a negligible impact other than simplifying the legislation relative to SDLT. LBTT has also not adopted these rules.

#### **Deferral of tax**

The Bill includes rules relating to the deferral of tax in cases of contingent or uncertain consideration. In the SDLT and LBTT legislation these rules were set out in secondary legislation.

#### **Rent element of new residential leases**

The rent element of new residential leases will be exempt from tax under LTT as a very small amount of revenue is collected from this rent in Wales. This will simplify the tax and may reduce some administrative burden for practitioners. Welsh Ministers will have the ability, through regulations, to make the rent element chargeable if needed.

#### **Exchanges rule**

LTT will introduce a different (but similar) version of SDLT rules as to how chargeable consideration will be established where two taxpayers exchange (swap) property rather than just paying money.

#### **Simplification of rules in relation to leases**

LTT in the main mirrors SDLT lease provisions, but some improvements have been made to simplify the rules. These include changes to provide greater consistency between the treatment of fixed term leases that continue after the term expires and leases for an indefinite term.

#### **Postponement of recovery of tax**

The Bill will introduce a suite of rules enabling taxpayers to ask WRA (or a tribunal) to postpone the recovery of a devolved tax where there is a dispute over the amount. Although a similar approach is taken by HMRC, our rules provide greater clarity and certainty for taxpayers.

#### **Timeline**

The Bill is being introduced into the National Assembly for Wales for scrutiny on 12 September 2016. Subject to approval, it is expected that the Bill will receive Royal Assent by spring 2017.

## **More information**

Information about the scrutiny of the Bill will be available on the National Assembly for Wales' website at: [www.assembly.wales](http://www.assembly.wales)

More information is available on the Land Transaction Tax consultation is available on Welsh Government's Consultation webpages: <http://gov.wales/consultations/finance/land-transaction-tax/?lang=en>

Information about the wider financial reform and tax policy developments in Wales can be found on the Welsh Government's website at: <http://gov.wales/funding/fiscal-reform/?lang=en>