

With effect from 1 April 2018, Stamp Duty Land Tax (SDLT) will cease to apply in Wales<sup>1</sup>. In its place, the Welsh government has introduced a new land transaction tax (LTT).

Complex transitional rules will also apply in certain circumstances, including where:

- Transactions commence before, but do not complete until after, 1 April 2018
- SDLT has already been paid on a transaction, but further tax becomes due after 1 April 2018 (for example, where a buyer completes a purchase after taking earlier possession of the site)

LTT is based on SDLT. It should (at least initially) operate in a broadly similar way, although there are some key differences including, in particular, the applicable rate of LTT.

### Land Transactions

LTT will be charged on any land transaction that involves the transfer, creation, surrender or variation of any chargeable interest. A chargeable interest is any:

- Right or other interest in or over land in Wales

- Benefit of an obligation, restriction or condition affecting the value of any right or other interest in or over land in Wales

The tax is chargeable on the land transaction – it is not dependent on any written instrument of transfer, nor on whether the parties are resident or present in Wales.

Some rights and interests over land in Wales will be exempt. Exempt interests include:

- Licences to use or occupy land
- Mortgages and other security interests

### Rates

LTT is charged at different rates depending on the type and value of property involved.

Subject to availability of any reliefs, the total tax payable is calculated according to the proportion of the total chargeable consideration paid that falls in each band:

Residential (Freehold & Leasehold)			Commercial (Freehold & Leasehold Premium)		Commercial (Leasehold Rent NPV)	
Price	LTT Main Rate	LTT Higher Rate	Price	LTT Rate	Price	LTT Rate
£0 to £180,000	0%	3%	£0 to £150,000	0%	£0 to £150,000	0%
£180,000+ to £250,000	3.5%	6.5%	£150,000+ to £250,000	3.5%	£150,000+ to £2,000,000	1%
£250,000+ to £400,000	5%	8%	£250,000+ to £1,000,000	5%	£2,000,000+	2%
£400,000+ to £750,000	7.5%	10.5%	£1,000,000+	6%		
£750,000+ to £1,500,000	10%	13%				
£1,500,000+	12%	15%				

<sup>1</sup> SDLT will continue to apply in England and Northern Ireland. In Scotland, land and buildings transaction tax (LBTT) is payable on land transactions.

Unlike SDLT, no LTT is payable on the net present value (NPV) of the rent payable under a lease for residential property. In addition, there is no special relief for first-time buyers, but it is noteworthy that the upper threshold for the 0% rate has been raised in order to provide some relief.

The residential property higher rate may be payable where the purchaser:

- Is a company
- Is a trust
- Already owns another residential property

## Reliefs

Subject to meeting the necessary conditions and stringent anti-avoidance rules, a number of reliefs may be available. Most reliefs mirror those available for SDLT and include relief for:

- Sub-sales
- Sale and leasebacks (on the lease transaction)
- Alternative property finance
- Acquisitions of multiple dwellings
- Transactions involving certain types of social housing
- Intragroup transactions
- Reconstructions
- Compulsory purchases

## Anti-avoidance

The anti-avoidance provisions under LTT are notably different from SDLT.

As a tax devolved to Wales, LTT is subject to the Welsh general anti-avoidance rule (GAAR). The GAAR is very widely drawn. It enables the Welsh Revenue Authority (WRA) to counter any artificial tax avoidance arrangement. Tax avoidance arrangements exist if the obtaining of *any tax advantage* (not necessarily a LTT advantage) for *any person* (not just the taxpayer using the arrangement) is a main purpose of the arrangement. The arrangement will be artificial if it is not a reasonable course of action in relation to the tax effect envisaged or anticipated by the relevant Welsh legislation.

In addition, the availability of LTT reliefs are subject to a targeted anti-avoidance rule (TAAR). The TAAR denies a LTT relief where

the land transaction is a tax avoidance arrangement (that is, any transaction where obtaining a tax advantage is a main purpose and the transaction otherwise lacks genuine economic or commercial substance).

## Administration and Penalties

The WRA will administer and collect LTT.

LTT returns will generally need to be submitted by the buyer (or an agent authorised by the buyer) to the WRA within 30 days of the effective date of a notifiable, non-exempt, land transaction. Any liability to LTT will need to be self-assessed and paid at the same time.

The initial penalty for failing to submit a LTT return on time is £100. If the return remains outstanding for six months, the penalty rises to the greater of £300 and 5% of the LTT due.

Failure to pay LTT on time incurs an additional penalty of 5% of the unpaid LTT.

The WRA will issue a certificate to the buyer once the LTT return has been submitted. This must be provided to the Land Registry in order to register the land transaction.

## Other Relevant Developments

The Welsh government is currently considering introducing a new tax on vacant land, with the intention of aiding regeneration and incentivising development by preventing land banking and dereliction.

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