

SL(5)586 – Land Transaction Tax (Temporary Variation of Rates and Bands for Residential Property Transactions) (Wales) Regulations 2020

Background and Purpose

These Regulations amend the Land Transaction Tax (Tax Bands and Tax Rates) (Wales) Regulations 2018 (“the 2018 Regulations”) to provide for a temporary variation to the tax bands and percentage tax rates of land transaction tax applicable to certain residential property transactions.

Regulation 2 applies the temporary variation to residential property transactions with an effective date on or after 27 July 2020, but before 1 April 2021. Where a contract is substantially performed before 1 April 2021, but completion takes place on or after that date, no additional tax will be chargeable by virtue of section 10 of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“the LTT Act”) as long as the only reason additional tax is chargeable is because completion has occurred on or after that date.

A chargeable transaction is a residential property transaction if it falls within the description contained in section 24(6) of the LTT Act.

Regulation 3 specifies the tax bands and percentage tax rates applicable to those transactions specified by regulation 2.

The 2018 Regulations continue to make provision for the tax rates and tax bands applicable to chargeable transactions which do not fall within the description of a residential property transaction, or take place before 27 July 2020 or on or after 1 April 2021.

Procedure

Made affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the following helpful explanation in the Explanatory Memorandum:

“4.2 The effect of these Regulations is to increase the threshold between the zero rate band and first tax band applicable to residential property transactions. Currently, this is set at £180,000, but, as a



result of these Regulations, will increase to £250,000 from 27 July. This new threshold is £70,000 higher than the current starting threshold for residential property transactions subject to the main rates and it will effectively remove the former first band, charging 3.5% on consideration of more than £180,000 but not more than £250,000...

4.3 These Regulations do not make any changes to the tax bands and percentage tax rates applicable to higher rates residential property transactions, non-residential property transactions, or transactions where the chargeable consideration consists of rent. The higher rates and thresholds for buyers of properties such as buy to let or as a second home therefore remain unchanged. This targeted tax reduction will support taxpayers who are paying the main rates of land transaction tax (broadly, those buying their homes) and who may need additional support in deciding to buy their homes as a result of the uncertainty as we move from the peak of the pandemic and towards our economic recovery."

We also note paragraph 3.2 of the Explanatory Memorandum and what would happen if the Senedd voted against keeping the Regulations in force. It is our understanding that the Regulations would cease to have effect at the end of the day on which such a vote took place, and that anything done under the Regulations before then would not be affected.

Therefore, if a person had paid less tax during the time the Regulations were in force, then that person would have paid the correct tax that applied at that time. It would not be a case of that person having underpaid tax, as suggested in paragraph 3.2.

Implications arising from exiting the European Union

None.

Government Response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

24 July 2020

