

# SL(5)205 – The Land Transaction Tax (Transitional Provisions) (Wales) (Amendment) Regulations 2018

## Background and Purpose

These Regulations amend the Land Transaction Tax (Transitional Provisions) (Wales) Regulations 2018 to make further transitional provision in respect of a specific case where a fixed term lease continues for a period of more than a year after its contractual termination date (a period known as “**holdover**”), and is subsequently renewed and backdated to a day during holdover.

Where the conditions in paragraph 8(1) of Schedule 6 to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 have been met, then pursuant to 8(3) of that Schedule, rent payable under the new lease is reduced for the purposes of land transaction tax by the amount of taxable rent payable in respect of the holdover tenancy.

The amendments made by these Regulations ensure that the reduction referred to above applies in respect of leases granted prior to 1 April 2018 but renewed on or after that date, notwithstanding that the rent payable during the holdover was chargeable to stamp duty land tax.

## Procedure

Negative.

## Technical Scrutiny

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

## Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument **[that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly]**:

These Regulations were made on 22 March 2018, laid on 23 March 2018 and come into force on 1 April 2018.

Pursuant to section 11A(4) of the Statutory Instruments Act 1946, where a copy of any statutory instrument subject to annulment in pursuance of a resolution of the National Assembly for Wales is not laid before the Assembly at least 21 days before the instrument comes into operation, notification must be sent to the Llywydd drawing attention to that fact and explaining why.

By a **letter** dated 23 March 2018, the Welsh Government notified the Llywydd that the above “21 day rule” has been breached in respect of these Regulations. The letter confirms that Government officials only recently became aware of the specific circumstances which would lead to a situation where double taxation could occur (that is, both Stamp Duty Land Tax and Land Transaction Tax in relation to the same transaction) and that these Regulations were therefore made to protect taxpayers from the risk of paying double taxation. The coming into force date coincides with the commencement of the Land Transaction Tax regime. The explanation does not therefore appear to be unreasonable.



## Implications arising from exiting the European Union

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None.

## Government Response

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No government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**27 March 2018**

