

# Finance Committee

## The Land Transaction Tax (Tax Bands and Tax Rates) (Wales) Regulations 2018

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

### Background and Purpose

01. These Regulations specify the first tax bands and percentage tax rates for land transaction tax (“LTT”) which is introduced by the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017.
02. The tax bands and percentage tax rates in these Regulations have effect in relation to chargeable transactions with an effective date on or after 1 April 2018.
03. Separate tax bands and percentage tax rates apply to:
  - Residential property transactions;
  - Higher rates residential property transactions;
  - Non-residential property transactions and
  - Chargeable consideration which consists of rent.

### Procedure

04. Affirmative

### Merits Scrutiny

05. Following the setting of the tax bands and percentage tax rates in these Regulations, the Welsh Ministers have the power to change or introduce new bands and new rates for LTT with immediate effect (provisional affirmative procedure – Section 25 the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017).

[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 Assembly]



06. The tax bands and percentage tax rates will apply to transactions liable to LTT. There will be some transactions which will have an effective date after the go-live dates that may remain liable to Stamp Duty Land Tax 'SDLT' in accordance with the Land Transaction Tax (Transitional Provisions) (Wales) Regulations 2018 and the Wales Act 2014.

[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 Assembly]

07. Under the Schedule in these Regulations, Table 4, 'NRL zero rate band' is not defined. It is however, defined under Para 28, Schedule 6 to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017. Whilst expressions used in subordinate legislation, have the meaning they bear in the parent Act (unless there appears to be contrary intention) a cross-reference to the definition of 'NRL zero rate band' in the 2017 Act would be helpful from a clarity and accessibility perspective.

[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 Assembly]

## Policy objectives

### Statement of policy intent

08. 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.

09. The regulation tabled is **in accordance** with related policies in the statement.

10. It stated that Section 24(1) of the Bill noted "the Welsh Ministers must by regulations specify the first set of tax bands and percentage tax rates for each band applicable to residential and non-residential property transactions".

### Finance Committee Stage 1 scrutiny

11. During Stage 1 scrutiny, the Committee asked the Cabinet Secretary for his views on "whether the Bill was compliant with Article 1 of Protocol 1 of the Convention, with particular reference to the rates and bands of LTT". The response was "as the rates and bands are to be set in regulations, the **regulations would have to comply** with the Convention in the same way as the Bill does."



12. The report also recommended that “in order to address witnesses' concerns, the Committee recommends that the Cabinet Secretary commits to a **full and extensive consultation** on rates and bands in advance of the Welsh Government's determination.”

## Consultation responses

### *Assembly consultation*

13. There were comments from stakeholders such as Geldards and the Country Land and Business Association Cymru (CLA) relating to divergence in LTT tax rates and bands from SDLT causing **market distortions** between Wales and England.
14. The Council of Mortgage Lenders suggested that “Wales consider implementing rates that are **no higher** than those in England” and to “maintain a fair and equitable approach, government might consider rates and bands that do not place a **disproportionate burden** on middle to higher-value purchases.”
15. The Institute of Chartered Accountants in England and Wales (ICAEW) commented “if the Welsh Government is seeking to attract inward investment and growth, it should **resist the temptation** to set **too high marginal rates** of LTT.”
16. Comments were made by the Royal Institution of Chartered Surveyors (RICS) and National Association of Estate Agents (NAEA) about introducing LTT rates and bands which **reflect lower property values** in Wales.

### *Welsh Government consultation*

17. Many respondents recognised that Wales has **lower property values** than the rest of the UK and suggested that tax rates and bands could be adjusted to reflect this.

## Scottish Regulations

18. **No notable differences** between regulations. The LBTT (Tax Rates and Tax Bands) (Scotland) Order 2015 sets out the tax bands and rates in its Schedule.

## UK Regulations

19. **No notable differences** between regulations. The Stamp Duty Land Tax Act 2015 set out tax rates and bands for residential properties whilst the Finance Act 2016 set out rates and bands for non-residential properties.



## Government Response

20. The first two points under 'merits scrutiny' are noted.

21. In relation to the third point, the Cabinet Secretary for Finance has responded to the Constitutional and Legislative Affairs Committee (CLAC). Please refer to our response to CLAC's report on the same issue.

## Committee View

22. The Committee noted the Regulations.

