

## **Explanatory Memorandum to The Land Transaction Tax (Tax Bands and Tax Rates) (Wales) (Amendment) Regulations 2024**

This Explanatory Memorandum has been prepared by the Welsh Treasury and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Land Transaction Tax (Tax Bands and Tax Rates) (Wales) (Amendment) Regulations 2024. I am satisfied that the benefits justify the likely costs.

**Mark Drakeford MS**  
**Cabinet Secretary for Finance and Welsh Language**  
**10 December 2024**

## **1. Description**

- 1.1 The purpose of this instrument is to specify an increase in land transaction tax (“LTT”) percentage tax rates for higher rates residential property transactions.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1 This instrument contains regulations made under section 24(1)(b) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“LTTA 2017”). The regulations are subject to the made affirmative procedure as set out in section 25(2) of the LTTA 2017. These regulations are therefore made without a draft having been laid before, and approved by, the Senedd in advance (see also paragraph 3.2 below).
- 2.2 This instrument also contains regulations made under section 78(1) of the LTTA 2017 that make transitional provision in connection with certain transactions where substantial performance occurs, or contracts for the sale and purchase of the property are exchanged, before 11 December 2024, but completion takes place on or after that date.
- 2.3 Section 79(3) of the LTTA 2017 provides that regulations made under section 78(1) are subject to the negative procedure, unless the Welsh Ministers consider the regulations have the effect of imposing or increasing liability to tax. In this instance, the tax liability is increased by the regulations made under the power in section 24(1)(b) and the regulations made under the power in section 78(1) only introduce transitional rules which have the effect of protecting those taxpayers who have exchanged contracts before 11 December 2024 from paying more tax than they expected when they exchanged contracts. As such, the regulations made under section 78(1) would be subject to the negative procedure. Although this statutory instrument would appear to be subject to two different procedures, section 40 of the Legislation (Wales) Act 2019 has the effect of applying the made affirmative procedure in this case.

## **3. Legislative background**

- 3.1 Section 24(1)(b) of the LTTA 2017 provides the Welsh Ministers with the power to set and vary the tax bands and percentage tax rates for each band applicable in the case of higher rates residential property transactions through regulations. Section 78(1) then provides the Welsh Ministers with the power to make such incidental, consequential, supplemental, transitional, transitory or saving provision as they think appropriate for the purposes of, or in connection with, or for giving full effect to, any provision made by or under the LTTA 2017.
- 3.2 Regulations made under section 24(1)(b) of the LTTA 2017 that vary the tax bands and percentage tax rates for each band applicable in the case of higher rates residential property transactions are subject to the made affirmative procedure, which means that once the regulations are made by the Ministers, they can come into force immediately. The made affirmative procedure also requires the regulations to be laid before the Senedd once they are made. The regulations will have temporary effect until they are approved by the Senedd. The vote to approve the regulations must take place within 28 calendar days of the regulations being made, not counting days when the Senedd is in recess. If the vote does not occur, or if as a result of the vote the Senedd does not approve the regulations, the former tax rates and tax bands again apply and any taxpayer who paid a higher amount of tax under the regulations that failed to achieve Senedd approval can reclaim the difference between that payable under those regulations and the rates previously in force.

3.3 These regulations are made on 10 December 2024 and therefore the vote to approve the regulations must occur by 27 January 2025.

#### 4. Purpose & intended effect of the legislation

- 4.1 These regulations will increase the LTT higher residential rates on transactions with an effective date<sup>1</sup> of, or later than, 11 December 2024. The changes were announced by the Cabinet Secretary for Finance and Welsh Language in the draft Budget on 10 December 2024. These regulations make no changes to the LTT main residential rates which, broadly, apply to residential properties purchased as a primary residence.
- 4.2 These regulations increase LTT higher residential rates, applied to relevant residential property transactions, by 1 percentage point in each tax band (i.e. the first tax band is increased from 4% to 5%, the second tax band is increased from 7.5% to 8.5%, etc).
- 4.3 It is anticipated that these regulations will lead to an increase in Welsh Government tax revenue, which will support public spending. By increasing revenue, the regulations will partly address the reduction to the Block Grant which arose from the increased tax effort made by LTT's predecessor tax, stamp duty land tax, following changes made at the UK Government's Autumn budget.
- 4.4 The LTT higher residential rates, for transactions completed on or after 11 December 2024 will be as follows:

**Table 1: Residential Property Transactions, Rates and Bands from 11 December 2024**

<b>Tax band</b>	<b>Relevant consideration</b>	<b>Tax rate</b>
First tax band	Not more than £180,000	5%
Second tax band	More than £180,000 up to £250,000	8.5%
Third tax band	More than £250,000 up to £400,000	10%
Fourth tax band	More than £400,000 up to £750,000	12.5%
Fifth tax band	More than £750,000 up to £1,500,000	15%
Sixth tax band	More than £1,500,000	17%

<sup>1</sup> The 'effective date' is the date of completion of the contract to purchase the property. See section 71 of the LTTA 2017.

## 5. Consultation

- 5.1 There is no statutory requirement to consult on this instrument. The changes to the percentage tax rates for higher rates residential property transactions were announced by the Cabinet Secretary for Finance and Welsh Language on 10 December 2024 in the draft Budget. The changes follow the Welsh Government's approach to tax policy making adopting a progressive and proportionate regime, as well as increasing LTT revenues overall to provide additional revenue to finance Welsh Government policy priorities. The setting of rates and thresholds for taxes is not an area of policy where consultation is generally undertaken, as any such consultation with a 'live' tax is highly likely to have a distortive effect on behaviours and, in particular in relation to transaction taxes, the timing of those transactions.

## 6. Regulatory Impact Assessment

- 6.1 The Welsh Government considered options for changes to LTT rates and bands. This assessment covers the no-change option and the option set out in the regulations.
- 6.2 The revenue impacts of these changes were provided alongside the Welsh Government's draft Budget published on 10 December 2024. The costing of the policy was included in the Office for Budget Responsibility's forecasts of LTT for the Welsh Government's draft Budget.
- 6.3 Option 1 - no change. The LTT higher residential rates and bands were last changed on 22 December 2020, which was the first time they were amended following the introduction of LTT in 2018. The no-change option would result in a reduction in available resources. The UK government decision to increase the higher rate of stamp duty land tax (LTT's predecessor tax) from 31 October 2024 and the resultant increased tax effort meant an immediate reduction to the Welsh Government's Block Grant.
- 6.4 Option 2 - increase LTT higher residential rates by 1 percentage point in each tax band. This option would increase the tax liability on residential property transactions subject to the higher residential rates. The higher residential rates apply to companies buying dwellings and individuals, broadly, buying residential properties when they, or an individual they are buying with, already own an interest in another dwelling. Purchases are most likely to be second homes and buy-to-let properties. The change broadly increases the tax liable on higher rates residential transactions from 4% to 5% above the liability which would be due were they main rates residential property transactions. This option ensures the increase in tax burden is restricted to those with the resources to purchase additional residential properties and therefore provides for a more progressive and proportionate regime, in line with the Welsh Government's approach to tax policy making.
- 6.5 Higher residential rates purchases have previously accounted for around 25% of all residential purchases, including those which subsequently may be eligible for a refund of the higher residential rates element (following refunds, those transactions become subject to the main residential rates). Such cases include 'bridging' between previous and new main residences.
- 6.6 The decision to proceed with option 2, to increase LTT higher residential rates by 1 percentage point, will increase the resources available to the Welsh Government to spend on essential public services and other spending plans.

## **Costs and Benefits**

- 6.7 There will be little additional administrative cost to the Welsh Revenue Authority (“WRA”) as a result of updating its online tax calculators and responding to taxpayer queries about the change. These costs will be met within its current budget.
- 6.8 A Written Statement and press notices have been published. The Welsh Government has engaged with professional bodies to help communicate these changes to taxpayers. The WRA has updated its guidance and provided a revised LTT calculator to assist taxpayers to calculate their tax liability. Familiarisation costs are therefore expected to be minimal.
- 6.9 The additional administrative costs to businesses should also be minimal, as the businesses involved in house purchases, especially estate agents, conveyancers, and solicitors, will be accustomed to managing transitions at the time of rate changes.
- 6.10 It is estimated that the proposed change will increase tax on an average<sup>2</sup> priced residential property in Wales, when subject to the higher residential rates, by around £2,200 per transaction. The changes are anticipated to provide an increase in LTT revenues of £2m in 2024-25; £7m in 2025-26; and rising to £9m in 2028-29 and 2029-30. This revenue estimate includes the latest economic forecasts for the property market published by the Office for Budget Responsibility in their Economic and Fiscal Outlook (October 2024), anticipated refunds from the higher rates and expected behavioural effects in response to the measure.
- 6.11 The full, discrete effect of a change is difficult to estimate because many factors affect property transaction numbers and prices, over and above the tax charged on purchases. The scale of behavioural effects is also relatively uncertain. The behavioural effects expected with this option may potentially reduce the prices of properties when subject to the higher residential rates, and transaction numbers, and may have a small effect on reducing house prices more generally through a reduction in demand. Combined, these impacts could reduce the expected revenue from the measure and have been considered in the estimate. In addition, as some properties purchased subject to the higher residential rates may also be buy-to-lets, this measure may also potentially increase residential rents where properties are purchased as buy-to-rents, as additional costs may be passed on to tenants. However, any potential impact will also be impacted by other factors such as the wider rental sector market.
- 6.12 This option increases the tax difference between different types of residential purchases in Wales. The relative reduction in tax for home buyers compared to second home and buy-to-let purchases may also change the composition of residential transactions. This may slightly increase the share of homebuyer transactions in Wales.

## **Summary**

- 6.13 The changes proposed in Option 2 represent a measured tax increase in Wales for certain residential property transactions. This is anticipated to lead to an increase in overall LTT revenues, which will increase resources available to the Welsh Government. This is the preferred option.

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<sup>2</sup> £217,000, November 2024, [Private rent and house prices, UK - Office for National Statistics](#)

## 7. Competition Assessment

- 7.1 The Welsh Government considers that these regulations are not expected to impact on competition or the competitiveness of Welsh businesses and therefore a full Competition Assessment is not required for these regulations. The Competition filter test has been completed.
- 7.2 There are two stages to a full Competition Assessment. The first is a filter test that assesses whether there is a risk of significant detrimental effect on competition. The result of this filter test, set out below in Table 2, indicates there is no anticipated significant impact on competition and therefore the risk of significant detrimental impact on competition is low.

**Table 2: Competition Filter Test**

1. In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
2. In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
3. In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
4. Would the costs of the regulation affect some firms substantially more than others?	No
5. Is the regulation likely to affect the market structure, changing the number or size of firms?	No
6. Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
7. Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
8. Is the sector characterised by rapid technological change?	No
9. Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

## 8. Justice Impact

- 8.1 No new or additional impact is anticipated on the justice system as a result of these changes.

## 9. Post Implementation review

- 9.1 The WRA provide monthly and quarterly data on LTT transactions, which provide the Welsh Government, citizens and other interested parties with the opportunity to analyse the impact of changes.