

SL(6)497 – The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024

Background and Purpose

These Regulations amend Schedule 5 to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“**the LTT Act**”). Schedule 5 contains rules identifying when certain property transactions are subject to the higher residential rates of Land Transaction Tax (“**LTT**”).

These Regulations will extend the 3 year periods applying to the “replacement of main residence” exception from higher residential rates of LTT, subject to certain conditions, where:

1. following the purchase of a replacement main residence, the sale of a former main residence has been delayed due to the presence of fire-safety defects, or
2. the future sale or purchase of a main residence is delayed due to the existence of emergency restrictions.

Procedure

Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Paragraph 35 of Schedule 5 to the LTT Act containing provisions relating to where a buyer holds a major interest in a dwelling outside Wales. Sub-paragraph (4) sets out a list of provisions in the Schedule containing references to “dwellings”, which are to be interpreted as including dwellings situated outside Wales in accordance with sub-paragraph (1).

Regulation 6(4) of these Regulations amends sub-paragraph (4) to include references to provisions inserted in Schedule 5 by these Regulations. The insertions include references to paragraphs 8(4C)(b) and 17(4C)(b). However, it is not immediately clear why it is necessary to



include those particular references in sub-paragraph (4), given the associated provisions refer only to the existence of duties on certain persons to remedy fire safety defects.

The Government is therefore asked to clarify the reason for adding the above-referred references into paragraph 35(4).

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(i) - that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.

Section 25 of the Tax Collection and Management (Wales) Act 2016 provides that the Welsh Revenue Authority (“WRA”) must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund.

In accordance with section 2(3) of the LTT Act, the WRA is responsible for the collection and management of LTT. These Regulations revise “the replacement of main residence” exception from liability to the higher residential rates of that tax.

3. 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.

The Welsh Government undertook a public consultation on the proposals in these Regulations between 19 December 2023 and 17 March 2024.

Referring to the outcome to that consultation, the Explanatory Memorandum notes the following:

“...Responses were generally strongly supportive, or supportive, of the Welsh Government proposals.

The most significant disagreement expressed in consultation responses was with the Welsh Government’s proposed approach to transactions affected by Covid-19 restrictions. The proposal new rules will allow extensions to refund and exception periods where transactions are delayed by emergency restrictions in future. However, the new rules will not make provision for transactions affected by emergency restrictions in the past, such as the Covid-19 restrictions...

The Welsh Government considers that the approach outlined in the consultation document...is the most proportionate response.”



Welsh Government response

A Welsh Government response to the technical reporting point is required.

Government Response: The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024

Technical Scrutiny Point 1: This point is accepted. We will ensure that the Regulations are amended prior to making to address this.

Corrections to be made prior to making the Statutory Instrument

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
Rheoliadau Deddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017 (Diwygio Atodlen 5) 2024	The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024
In regulation 6(4)(a), in the inserted text substituting paragraph 35(4)(b) of Schedule 5 to the LTT Act, at the end "a (b)" has been omitted.	In regulation 6(4)(a), in the inserted text substituting paragraph 35(4)(b) of Schedule 5 to the LTT Act, at the end "and (b)" has been omitted.
In regulation 6(4)(b), in the inserted text substituting paragraph 35(4)(e) of Schedule 5 to the LTT Act, at the end, "a (b)" has been omitted.	In regulation 6(4)(b), in the inserted text substituting paragraph 35(4)(e) of Schedule 5 to the LTT Act, at the end "and (b)" has been omitted.
Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making.	

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 1 July 2024 and reports to the Senedd in line with the reporting points above.

