



Llywodraeth Cymru
Welsh Government

RESEARCH, DOCUMENT

Independent review: Land Transaction Tax and Anti-avoidance of devolved taxes (Wales) Act 2017 (summary)

A review looking at whether the objectives of the Land Transaction Tax Act have been achieved, and whether changes made as part of the Act remain appropriate.

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Research aims and methodology

The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (LTTA) designates the Welsh Revenue Authority with the responsibility to collect and administer Land Transaction Tax (LTT) imposed on, broadly, transactions involving the sale or lease of land and buildings situated in Wales. LTT takes the place of Stamp Duty Land Tax (SDLT) imposed under United Kingdom legislation.

The LTTA requires that the Welsh Ministers make arrangements for an independent review to be undertaken within six years of the Act coming into force. This report is in fulfilment of that statutory obligation.

The overarching aim is to review whether the policy intents of the Land Transaction Tax (LTT), in terms of the changes and variations made relative to Stamp Duty Land Tax (SDLT), at the time of introduction of the Act, have been achieved, and to evaluate whether those changes, relative to its predecessor SDLT, are still appropriate. Accordingly, the review of the Act has addressed 16 areas where changes to, or variations from, the pre-existing SDLT law were introduced in Wales (and in some cases have been subsequently amended). In almost all cases, these changes have not sought to fundamentally change the underlying base (the transactions within scope, and the approach to their taxation); rather, they have sought to address issues which had evolved over some time in relation to SDLT – and Land and Buildings Transaction Tax (LBTT) – and which negatively impacted the legislation in terms of lack of clarity or certainty, and thus ran counter to securing voluntary compliance by taxpayers with their obligations.

A range of methods were used for the review, including a survey of experienced tax practitioners, in-depth interviews with tax practitioners (solicitors and accountants), real estate agents and mortgage advisers, interviews with professional bodies and business organisations with an interest in taxation in

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Wales, and a review of data concerning LTT transactions

Main findings

Changes in layout and language

The clarity, simplification, and modernisation of language, collectively, are useful and contribute to quicker and more certain understanding of the provisions under the LTTA. The Act is perceived as being “user-friendly” and therefore easier to comply with.

Any further simplification of the Act would likely only be possible after an evaluation of the principles that underpin the existing tax base.

Deferral rules

The changes to the deferral rules for contingent or uncertain consideration have achieved the aim of increased certainty and ease of operation. There is an appropriate balance between imposition of the charge to LTT and the level of the resulting compliance burden.

The default deferral period of five years is appropriate. There is no evidence to justify a change to this period.

Higher rates for residential properties

The rules have been effectively implemented and the changes have improved the clarity of the LTT legislation through revised and more relevant definitions of the key concepts underpinning the application of the higher rates for residential

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properties.

Rules for commercial leases

The rules for commercial leases are an improvement on the rules that had applied under SDLT. The compliance obligations for commercial leases are considered to be clearer and more certain, and thus increase the likelihood of voluntary compliance.

The changes in rules to avoid the potential claiming of two nil thresholds have effectively eliminated the risk of potential attempts to avoid LTT.

Rules for residential leases

Changes in the treatment of residential leases in Wales, to remove them from chargeability to LTT (in light of the prevailing values of residential leases in Wales and the minimal incidence of LTT being payable), and thus remove an unnecessary compliance burden, were appropriate and continue to be appropriate.

Anti-avoidance rules

Land Transaction Tax and the relief from tax are sufficiently protected by the revised anti-avoidance rules, these being the general anti-avoidance rule and targeted anti-avoidance rules.

There would be no positive benefit to LTT to introduce further provisions (based on the approach to anti-avoidance in SDLT) to the Welsh anti-avoidance rules. To do so would reintroduce complexity and uncertainty that the LTT approach has eliminated.

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Return filing period

The maintenance of the 30-day return filing period smoothed the transition from SDLT to LTT and continues to remain appropriate for Welsh LTT. This creates breathing space for the small number of cases where there are unforeseen events, or unintended complexities arise, and provides sufficient time for these to be addressed and to achieve compliance within the designated period.

Cross-border issues

There are no issues relating to the operation of Section 9 of the LTTA to cross-border properties which require addressing by the Welsh Government. There is no impact on cross-border transactions due to the application of different exchange rules in Wales and England. The anticipated issues identified in relation to cross-border transactions have essentially been addressed through practical and pragmatic implementation of the new rules.

Rates and bands

The approach for the announcement of rates and bands has been clear to date, but a move to a more regular timetabling or scheduling of changes, with a lower frequency of changes, would be appropriate. The provisions for transitioning from existing rates and bands to new rates and bands are appropriate.

First time buyers' relief

There is no evidence to suggest that the absence of relief for first time buyers has had any substantial impact on access to home ownership in Wales. The substantive issues which impact home ownership are: the availability of

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property, the value of property, the level of earnings, the availability of finance, and the affordability of mortgages and other financial products, rather than small levels of LTT relative to the overall cost of purchasing a home.

The maintenance of an effective exemption for first time buyers requires the initial threshold to be reviewed periodically and adjusted, if necessary, in light of changing market values.

Exchange rules

The changes to the exchange rules to state more clearly the consideration to be determined for exchanged properties (including value added tax as part of the consideration), have improved the legislation and made compliance more certain.

Partnership rules

Having considered the effect of the changes to the LTT rules regarding transfers of partnership interests, and the express linkage of chargeability to avoidance, there are no new avoidance opportunities introduced as a result of the changes.

Reliefs

The restructuring of the Act in relation to reliefs has improved its ease of application. The clarity of the LTTA (in Schedules 9-22) and the consistent structure of the reliefs have ensured that there are no obstacles or impediments that reduce the likelihood of uptake of reliefs.

There is no evidence of any demand for those reliefs which has not been carried over from the SDLT.

Opportunities for improvement to LTT legislation

Based on the lessons learned approach to the development of the LTTA, and the policy intent of the changes made when designing the LTTA, the Act does not have any areas that could be improved in light of the experience in the other United Kingdom jurisdictions since 2018.

The design of the LTTA has clearly benefitted from addressing the issues that affected the antecedent SDLT and also the LBTT.

Conclusions

In light of the review of the data and the findings from the surveys and interviews conducted, we assess that the policy intents have been achieved for all 16 aspects. In addition, the changes made across these 16 aspects remain appropriate.

We conclude that the process of the preparation and development of the LTTA prior to it being submitted to the Senedd, and the subsequent implementation of the Act by the Welsh Government and the Welsh Revenue Authority, have ensured the achievement of those policy intents.

The approach to the implementation of the Act by the Welsh Revenue Authority has been positively received and has contributed to the intended compliance.

Where policy objectives were originally designed taking into account market values applicable at the time, those policy objectives must be periodically reviewed and, if necessary, adjusted in light of changes to market values.

To the extent possible, changes to LTT (both in the form of changes to rates and

bands and to the underlying tax base): should not be ad hoc; should preferably be announced in the context of a formalised and regular cycle; and should be relatively infrequent.

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Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government.

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