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Independent Review of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

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Independent Review of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

Authors: Alma Economics



Alma Economics combines unparalleled analytical expertise with the ability to communicate complex ideas clearly.

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

For further information please contact:

Local Government and Public Services Research

Social Research and Information Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Email: research.publicservices@gov.wales

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Glossary

Acronym/Key word	Definition
AAR	Anti-avoidance Rule
AIHW	Australian Institute of Health and Welfare
FTB	First Time Buyers
FTBR	First Time Buyers' Relief
GAAR	General Anti-Avoidance Rule
HMRC	HM Revenue and Customs
LBTT	Land and Buildings Transaction Tax
LTT	Land Transaction Tax
LTTA	Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017
NPV	Net Present Value
NRL	Non-Residential Lease
NSW	New South Wales
RHR	Rules for Higher Rates
SDLT	Stamp Duty Land Tax
TAAR	Targeted Anti-Avoidance Rule
UK	United Kingdom
VAT	Value-Added Tax
VIC	Victoria
WRA	Welsh Revenue Authority

1. Background

- 1.1 The Welsh Revenue Authority has responsibility for collection and administration of the Land Transaction Tax (LTT) under s.2(3) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (LTTA). The LTTA s.77 imposes a duty on the Welsh Ministers to make arrangements to carry out an independent review of the LTTA, with the review to be completed by 24 May 2023. The overarching research aim of this statutorily-required review is twofold: a) to review whether the policy intents when LTT was brought into force in Wales have been achieved, and b) to evaluate whether those changes relative to the LTT's predecessor, the Stamp Duty Land Tax (SDLT), are still appropriate, in accordance with the 6-year statutory obligation.
- 1.2 Alma Economics conducted an independent review of the LTTA following an interdisciplinary methodology consisting of:
- An initial review of the legislation, as well as relevant evidence and data (Stage 1);
 - An online survey of tax professionals (Stage 2); and
 - A series of qualitative interviews of tax professionals (Stage 3).
- 1.3 The evidence and data gathered from all three research activities are synthesized in this report, together with findings and conclusions drawn from this evidence and data.

2. Methodology

- 2.1 The review considered a total of 16 research objectives, 13 of which were considered in 5 thematic groups, plus a final group of 3 further research objectives. Within each group, a number of specific research objectives (referenced individually from *a.* to *p.* in this document) were established by the Welsh Government for inclusion in the assessment. These reflect the policy and technical issues which were addressed through specific changes in the LTTA.
- 2.2 The research objectives relevant to this review were grouped under five thematic areas as follows:
- Group 1: Review the Extent to which the changes made to the LTT (compared with SDLT) have delivered improvements
 - Group 2: Changes made to make the legislation more appropriate for Wales
 - Group 3: Identify opportunities for improvement
 - Group 4: Operational practicalities
 - Group 5: First Time Buyer's Relief
 - Group 6 consists of three Additional Research Objectives (based on further specific changes made in the LTTA).
- 2.3 The research objectives under each thematic area were reviewed and, for each, the context, specific research question(s) and the method(s) better suited to acquiring the data necessary for the review were determined. These are presented in the following sections, categorised per group.

Group 1: Review the Extent to which the changes made to the LTT (compared with SDLT) have delivered improvements

Research objective 1.a: Changes in layout and language

- 2.4 Context: There are some layout and language differences. All reliefs in the LTTA are contained within Schedules whereas in SDLT they are a mixture of sections and Schedules. The LTT Act has attempted to use more modern language (example: 'buyer' is used rather than 'purchaser' and 'seller' rather than 'vendor').
- 2.5 Research Questions:
- How useful are the clarity, simplification, and modernisation of language?
 - Is further simplification possible or desirable?

2.6 Methodological Approach: Based on the policy of the Welsh Government to simplify complex legislation, so as to make it more accessible to the principal users (professional advisers involved in land transactions), validate the achievement of that policy approach through the Stage 2 survey of professional users.

Research objective 1.b: Deferral rules

2.7 Context: The LTTA includes, at Part 6 Chapter 3 (sections 58 to 64), rules relating to the deferral of tax in cases of contingent or uncertain consideration. There are a number of differences in how the deferral rules operate. In particular, a taxpayer must supply an expected end date of the deferral, and where one cannot be predicted must use the fifth anniversary of the transaction. The taxpayer will be required to vary their deferral request when there is a change in the expected end date or on reaching the fifth anniversary. This can be used to extend the deferral beyond the initial 5-year period requested. The historical experience of taxpayers with SDLT was that that deferral rules, with an absence of a fixed deferral date review, led to some buyers not reporting the end of the contingency, or being unable to establish the amount payable. This resulted in excessive periods between the transaction and when the reporting obligation was triggered. The complexity of the rules and the uncertainty of their operation were perceived as significant factors in driving the failure to fully report. Though data is available on the uptake of deferrals, there is limited data available on the cases where the deferral period ends (due to the default 5-year deferral period not yet being arrived at, since its introduction in 2018). The WRA compliance approach has been based on providing education, raising awareness and providing support to taxpayers so that they can better understand, and therefore fully comply with, the deferral rules.

2.8 Research Question: Consider the deferral rules, and the balance between certainty provided and the operation of the rules, including the maximum period for deferral and the renewal of that deferral period.

2.9 Methodological Approach: Contextual data on the uptake of the deferral rules was collected and analysed. The Stage 2 survey and Stage 3 qualitative interviews were designed to generate validation from those with experience of the deferral rules.

Research objective 1.c: Rules for higher rates residential property transactions

- 2.10 Context: The LTT rules for higher rates residential property transactions include a number of differences compared to SDLT and new rules, including:
- **“intermediate transaction” rules**: including the requirement to file a further return if additional tax is due;
 - **“major interest”**: clarification that an undivided share in a dwelling is to be treated as a major interest;
 - **“timing of acquisition”**: whether a taxpayer owns or acquires a residential property subject to a lease is judged at the end of the effective date of the acquisition of the residential property, and the rule includes a targeted anti-avoidance rule to prevent taxpayers from manipulating the rule to avoid paying the higher rates;
 - **“inherited property”**: rules relating to property that is inherited, and where spouses or civil partners who are no longer living together are not to have their respective interests combined in order to establish whether the interest held exceeds 50 per cent.
- 2.11 During the development of the LTTA, representations were made to the Welsh Government about the scope and operability of the existing SDLT rules which contributed to the changes made in the LTTA, such as: the issue of ‘bridging transactions’ whose frequency and scale varies according to a range of external factors and market conditions; and sequencing of transactions, so as to avoid the application of the higher rate. The instances of formal compliance action being taken because of clear breaches of these rules (in relation to these differences between SDLT and LTT, though not the higher rates rules in general) are reported by WRA to be minimal, if any, and the overall risk of such breaches is not seen as significant.
- 2.12 Research Questions:
- How effectively have these rules been implemented?
 - Where relevant, have they improved the clarity of the legislation?
- 2.13 Methodological Approach: The Stage 2 survey and Stage 3 qualitative interviews were designed to generate validation from those with experience of the application of the rules relating to residential properties falling (or potentially falling) within the higher rates. The validation particularly focuses on: (a) awareness of the difference

between the LTT and SDLT rules, and (b) any changes of client behaviour as a result of those rules.

Research objective 1.d: Rules for leases

- 2.14 Context: The LTT rules for leases provide for returns to be made where: (a) the lease continues after a fixed term, (b) the lease is for an indefinite term, and (c) a new lease is granted after the fixed term. The LTT rules differ from the SDLT rules for leases.
- 2.15 The reporting obligations of taxpayers should be proportionate and should not impose an excessive reporting burden. The approach adopted in Wales is different from that adopted in Scotland which, broadly, needed to reflect differences in land law between the countries and, further, sought to have a definitive process for accounting for all Land and Buildings Transaction Tax (LBTT) – the equivalent to LTT – that potentially could become payable on leases. In Scotland, a triennial lease review and reporting obligation were imposed. This achieves exactitude in the amount of LBTT due but places high levels of compliance obligation on businesses, with an elevated risk of unintended non-compliance.
- 2.16 Research Questions:
- Have the changes resulted in improvements (compared to SDLT) to the operation of the tax in relation to lease extensions?
 - Is it easier for taxpayers to comply? Are the rules an improvement on SDLT rules?
- 2.17 Methodological Approach: The Stage 2 survey and Stage 3 qualitative interviews were designed to generate validation from those with experience of the application of the rules relating to the reporting obligations for leases. The validation particularly focused on: (a) awareness of the difference between the LTT and SDLT rules, (b) the improvements resulting from the changes in the rules, and (c) the identification of changes to the compliance burden for taxpayers in respect of leases.

Research objective 1.e: Greater clarity in operation of the reliefs

- 2.18 Context: The LTT legislation clarifies the difference between exempt transactions (in relation to which no return needs to be submitted) and reliefs, which must be claimed in a return. The LTT legislation also makes it clear which reliefs provide 100 per cent relief from the charge and which provide that the amount of relief is

established by using a different method of calculation from the standard rules (e.g., acquisition relief and relief for acquisitions involving multiple dwellings, see s.30 LTTA). The structure and wording are intended to clarify the two categories of transaction that result in no or a reduced liability to LTT as well as adopt a consistent methodology to the way that exemptions and particularly reliefs are identified and applied. There is some quantitative data to indicate the uptake of reliefs.

- 2.19 Research Question: Is there any evidence that the clarity of the legislation, in respect of the way in which it is set out, is helping taxpayers to claim the reliefs to which they are entitled?
- 2.20 Methodological Approach: The quantitative data on uptake of the various reliefs was designed to provide high-level context on the scale of their application. The initial review demonstrated that a small number of reliefs dominate, and that a number of reliefs will be extremely low-usage. In such cases, the data was presented in a way that did not allow for possible identification of the taxpayer. The qualitative data in Stage 2 and Stage 3 focused on the tax professionals' experience in understanding, advising, and processing exempt transactions, and those that benefit from a relief.

Group 2: Changes made to make the legislation more appropriate for Wales

Research objective 2.f: Rent element of newly granted residential leases is not chargeable to LTT

- 2.21 Context: In Wales, there had been minimal revenue generated from residential leases. This reflects a different lease market in Wales compared to England. Accordingly, as a matter of policy, the rent element of newly granted residential leases is not chargeable to LTT. This is considered to be a major change when compared to SDLT. It is possible that transactions could be structured so as to minimise tax. These arrangements would require the active engagement of all parties, with the tax benefit accruing according to their arrangements. They could expose the buyer to a degree of compliance risk (in terms of the application of the GAAR).
- 2.22 Research Question: Was this change – and does this change remain – appropriate for Wales?

2.23 Methodological Approach: The Stage 2 and Stage 3 survey and interviews sought tax professionals' assessment of the non-chargeability to LTT of the residential rent element, taking into account prevailing Welsh circumstances in relation to leases. The survey and interviews also covered professional awareness, in general terms, of proposals or attempts to exploit the provision. It is noted that this type of information (consideration of exploitation of the GAAR) may not be readily disclosed by respondents for confidentiality reasons

Research objective 2.g: Rules related to situations where a non-residential lease is granted and both rents and a premium are paid

2.24 Context: There are rules that remove the zero-rate band for consideration other than rent for non-residential and mixed leases where the taxpayer pays consideration both as rents and as consideration other than rents such as a premium. This is an anti-avoidance rule to eliminate the situation where a taxpayer could claim two nil rate thresholds (one for the premium and one for the rent). There is a risk for taxpayers where a transaction is structured so that the rent is (or will be) greater than the prescribed amount, namely that the entirety of the premium (or other non-rent consideration) would become liable to LTT. A de minimis rent threshold is included in the rules. The determination of the level of the rent threshold, by reference to Net Present Value (NPV), has been done to take account of Welsh circumstances, and to strike a balance between protecting the revenue and avoiding unforeseen taxation of genuine mixed consideration residential leases. The rules are similar to those that existed in SDLT until the Finance Act 2016. Wales has continued the rule, albeit with a significantly higher relevant amount, whereas such a rule no longer applies in England.

2.25 Research Question: Does the anti-avoidance rule still have a purpose, and does it function effectively?

2.26 Methodological Approach: In light of the detailed technical guidance issued by the Welsh Revenue Authority (WRA), the Stage 2 survey and Stage 3 interviews addressed the degree of awareness of the retention of the Targeted Anti-Avoidance Rule (TAAR) for non-residential leases (including such leases that form part of a mixed transaction) and the appropriateness of the current value levels at which the TAAR would apply. Moreover, the potential usefulness of additional, focussed WRA guidance was canvassed.

Research objective 2.h: Anti-avoidance rules

2.27 Context: An equivalent to Sections 75A-75C Finance Act 2003 (the SDLT Anti-avoidance Rules) has not been included in the LTTA. The Tax Collection and Management (Wales) Act 2016 includes a General Anti-Avoidance Rule (the Welsh GAAR) that applies to devolved taxes, including LTT. The Welsh GAAR is different to the General Anti-Abuse Rule which applies to non-devolved taxes, including SDLT. The LTTA also includes, in section 31, a Targeted Anti-Avoidance Rule that applies to all LTT reliefs. This differs from the SDLT approach which includes similar rules but targeting only particular reliefs. The LTT rule was intended to build on the SDLT targeted anti-avoidance rules to produce a single, clear rule that applies to all current reliefs, and any future reliefs, making it clear that they cannot be abused to avoid tax. This is one of the most significant differences between SDLT and LTT. The changes have been in operation for four years. The adoption of the anti-avoidance rules was subject to much debate in the Senedd.

2.28 Research Questions:

- Are the LTTA and the LTT reliefs sufficiently protected by the GAAR and the TAARs?
- Could anything be added by having rules similar to S75A-75C as well?
- Consider the differences between the Welsh GAAR and the United Kingdom (UK) GAAR, including, in relation to the Welsh GAAR: the use of an avoidance test, the absence of the double reasonableness test, and the absence of a panel.

2.29 Methodological Approach: The methodological approach focuses on qualitative assessment by tax professionals of the effectiveness of the GAAR and TAARs and the achievement of the policy objective publicly stated in the LTT Bill debate.

Research objective 2.i: LTT Return filing period

2.30 Context: The time limit for filing a LTT return is 30 days after the effective date of transaction. This differs from England and Northern Ireland, where a 14-day return filing period had been introduced. The decision not to reduce the 30-day period to 14 days was driven by a desire to ensure a smooth transition from SDLT to LTT (by minimising the possibility of non-compliance that could have resulted from a change to a shorter reporting timeframe at the same time as LTT was being introduced).

2.31 Research Questions:

- Has a 30-day filing window in Wales (compared with 14 days under SDLT) helped the transition from SDLT to LTT?
- What benefits remain with a longer filing window?

2.32 Methodological Approach: Quantitative data on median filing times was generated by the WRA and analysed to provide high-level context. Qualitative data from the Stage 2 surveys and Stage 3 interviews focused on an assessment by tax professionals of the impact (during the transition phase) of the 30-day reporting period, and whether there are motivations for its retention or change.

Group 3: Identify opportunities for improvement

Research objective 3.j: Identify opportunities for improvement from other jurisdictions

2.33 Context: The devolution settlements have resulted in three land transactions taxes in the UK. These are legislated for by the Welsh Government (for LTT in Wales), the Scottish Government (for LBTT in Scotland) and the UK Government (for SDLT in England and Northern Ireland). Though the tax regimes are broadly similar, there has been divergence for the purpose of addressing the respective jurisdiction's distinct needs. For example, England and Northern Ireland have introduced a surcharge for non-residents involved as buyers in land transactions. Changes in other jurisdictions to the areas subject to this review could inform Welsh Government's policy. Their applicability would need to be assessed (for example, a change in England would be in response to English circumstances and needs, which may not correspond to those prevailing in Wales).

2.34 Research Question: Are there any changes in the equivalent legislation applying in Scotland and England & Northern Ireland since April 2018 which could be beneficial to Wales?

2.35 Methodological Approach: A cross-jurisdictional qualitative assessment (as part of Stage 3) most benefited this question. The Stamp Taxes Practitioners' Group, within the Chartered Institute of Taxation (CIOT), was considered to be the primary source of interviewees with the breadth of knowledge across the three jurisdictions.

Group 4: Operational Practicalities

Research objective 4.k: Cross-border issues

- 2.36 Context: Cross-border transactions comprise two forms – first, transactions for a number of properties where the properties are wholly situated in Wales and other properties wholly situated in at least one other jurisdiction (for example, a chain of retail premises); second, where an individual property physically straddles the border between Wales and England. The first case is significant in relation to commercial transactions. The second case arises on a more limited basis (but has drawn a lot of attention) in regions (mainly in the north of Wales) where the border does not follow definitive geographical features, such as a river or a road. The second case partly arises because of the unitary system of land registration applying in England and Wales. The different land registration system of Scotland (as it relates to the properties adjoining the border with England) defines precisely the national boundary between the two countries. Section 9 of the LTTA sets out how land transactions spanning the Wales-England border are taxed. Further, in 2019, issues relating to cross-border properties and their LTT treatment were identified in the 2019 FSB Report. Numerous commentaries have been published on this issue. WRA has issued guidance on cross-border issues.
- 2.37 Research Questions:
- Are there any issues relating to s.9 of the LTTA?
 - Do the different exchange rules impact on cross-border transactions (and, if so, how)?
 - Do the issues identified by the FSB still exist? Or have the passage of time and experience helped to address these cross-border issues?
- 2.38 Methodological Approach: A cross-jurisdictional qualitative assessment (as part of Stage 3) most benefited these questions. The Stamp Taxes Practitioners' Group, within the Chartered Institute of Taxation (CIOT), was considered to be the primary source of interviewees with the breadth of knowledge of transactions raising cross-border issues. The situation within other cross-border duty jurisdictions which generate similar issues (such as the states of Australia) was examined for any relevance to the assessment of s.9 LTTA.

Research objective 4.1: Rates and bands

- 2.39 Context: The rates and bands in LTT are to be set by regulations rather than through a Finance Bill (and Provisional Collection of Tax Act ways and means resolution) as in England and Northern Ireland. The rates were passed by the National Assembly for Wales on 30 January 2018 through The Land Transaction Tax (Tax Bands and Tax Rates) (Wales) Regulations 2018. There have been three such changes¹ that should be considered since the introduction of LTT (in July 2020, December 2020 and March 2021). There are material differences in both the rates and bands that apply to LTT compared to SDLT from 1 April 2018. However, the review should not consider the actual rates and bands that have been approved by the Senedd. The timing of the changes is relevant, as they were linked to changes in the COVID-19 restrictions. In addition, the period of notice (i.e., the period between the announcement of the change and the date upon which the change takes effect) is an important factor. If there is a waiting period between the announcement and the date of effect, taxpayer behaviour may be driven by that: transactions may be accelerated or delayed in order to take advantage of when advantageous taxation outcomes end or commence. The Welsh Government has noted evidence from Scotland relating to very substantial changes in the volume and timing of land transactions that have occurred in similar circumstances. The Welsh Government wishes to reflect best practice in future rate/band announcements.
- 2.40 Research Questions:
- Taking account of the three sets of changes, what aspects of UK and Scottish and, if relevant, international, best practice could inform the process in Wales?
 - What opportunities exist for raising awareness of the importance of the Welsh budget events in relation to LTT (and the devolved taxes generally)?
- 2.41 Methodological Approach: The sourcing of data that could inform an analysis of attributing the timing of transactions to the three announcements of changes to LTT was considered to be most likely unavailable. The focus was to undertake a best practice review of similar processes in the UK, and, where possible, elsewhere. This

¹ There were three sets of changes falling within the period of the review. The fourth and most recent change occurred in October 2022 after the period of review.

was also informed by potential qualitative assessment from tax professionals of their experience of the three rate/band announcements to date.

Group 5: First Time Buyers' Relief (FTBR)

Research objective 5.m: Impact of the absence of an FTBR

- 2.42 Context: The Welsh Government made the decision not to introduce an FTBR, instead choosing to increase the starting threshold for paying tax for all taxpayers. This meant that the starting threshold, compared to SDLT, was increased from £125,000 to £180,000. The potential tax reduction to an FTB in Wales, compared to a buyer who would is not an FTB, would be £2,450 in respect of property purchases valued at £250,000 if the same relief as in SDLT had been replicated in Wales, and a maximum of £4,950 assuming the Welsh rates were set. This is likely to cover a significant proportion of transactions in Wales and most entered into by FTBs. There are multiple factors influencing the Welsh Government's decision to not have a specific FTBR. These factors exist outside the LTT (and the changes made since 2018). First, the housing market in Wales is significantly different from that in England, with a greater proportion of property transactions having a lower LTT value. Second, the acquisition of a home (in the lower-to-mid range of the Welsh residential property market) could be supported regardless of whether it is a first home or not. Third, as the FTBR is not means-tested, the FTBR would be available regardless of the existing wealth or income of first time buyers (FTB). Fourth, the complexity of applying the policy in various specific cases (such as a married couple buying jointly where only one of the spouses has never previously owned a property in Wales) was considered excessive and undesirable. It is acknowledged that these multiple factors carry differing weight. An FTBR (or lack of FTBR) is therefore one of several factors in relation to access to ownership. These factors include overall market housing prices, availability of finance (mortgages), cost of mortgage repayments (and risk of volatility in repayments), wage/salary levels, general economic outlook, etc. Disaggregation of the FTBR factor from these other factors, to isolate it as a key determinative factor, is unlikely. No specific data on FTB purchases exists. Some public data may provide partial contextual insights (such as data on purchases made with using finance).

2.43 Research Questions:

- Has there been any impact on access to home ownership in the absence of an FTBR in Wales (given the increase in the starting threshold and house prices in Wales)?
- Does the absence of an FTBR preclude or otherwise impact access to home ownership in Wales?

2.44 Methodological Approach: Sources of quantitative data were sought to inform a high-level context on the scale of first home buying in Wales. Given the lack of FTBR and therefore no FTBR-specific data, qualitative evidence from appropriate stakeholders was sourced to identify the extent to which the lack of FTBR impacts decisions relating to home buying. These stakeholders were property professionals who were involved in the early phase of buying and selling property when the issue of affordability is primary. They were likely to be able to inform the extent to which decisions (such as not to purchase, which is clearly not evidenced by a subsequent transaction) were made and how the threshold structure was taken into account in the early decisions of potential house purchasers. Additionally, quantitative data and information from other relevant jurisdictions that maintain an FTBR was sought (including from Australia).

Group 6: Desirable Research Objectives

2.45 Group 6 is a set of three optional research objectives, all of which are addressed in the assessment. These research objectives should be capable of being addressed by applying the same qualitative methodological approach as for the principal research objectives. They would be informed by qualitative data sourced from the same target groups of stakeholders. It is acknowledged that the frequency of exposure for some of these research objectives will be limited, simply as a result of the infrequency of the commercial circumstances with which the research objectives are concerned.

Research objective 6.n: Exchange Rules

2.46 Context: Exchanges occur when properties are directly exchanged for each other, with or without an additional payment of consideration. Simply put, the LTT approach is to treat the value of a property as the consideration of payment for the other. The rules concerning exchanges set out in paragraph 5 of Schedule 4 of the LTTA differ from the SDLT rules introduced in 2011. The LTT rules are closer to

those that existed in SDLT before the 2011 changes, but they provide for Value-Added Tax (VAT) paid to be included in the chargeable consideration and also include a targeted anti-avoidance rule to ensure that the value of what is exchanged cannot be artificially manipulated to avoid tax. There has been debate and commentary published on this issue.²

2.47 Research Questions:

- Has this change from SDLT improved the clarity of the legislation?
- Are there avoidance opportunities that might arise as a result of these changes?

2.48 Methodological Approach: Building on a review of the publicly available commentaries, qualitative assessment was undertaken in Stage 3, with a particular focus on the technical committees of the professional legal and tax bodies, who have specialised knowledge and experience of the exchange rules and have provided input in relevant previous consultation processes.

Research objective 6.o: Partnership Rules

2.49 Context: The LTT partnership rules broadly replicate the SDLT rules. However, under LTT there is an amendment to the rules about when certain transfers of a partnership interest are to be treated as a chargeable transaction. The LTT rules are triggered where the transfer is a result of tax avoidance arrangements that were in place at the time of the initial transfer. Similarly, the rules relating to the withdrawal of money etc. from the partnership after the transfer of a chargeable interest are triggered where there are tax avoidance arrangements in place. The inclusion of the link to tax avoidance arrangements is intended to reduce the occurrences of a liability being inadvertently triggered.

2.50 Review Question: Are there avoidance opportunities that might arise as a result of these changes?

2.51 Methodological Approach: Building on a review of the publicly available commentaries, qualitative assessment was undertaken in Stage 3, with a particular focus on the technical committees of the professional legal and tax bodies, who

² For example, "SDLT and Exchanges: A cause for confusion once more", Hogan Lovells LLP, 2nd April 2012 (accessed from Lexology).

have specialised knowledge and experience of the partnership rules and have provided input in any relevant previous consultation processes.

Research objective 6.p: Reliefs

2.52 Context: There are a number of reliefs that have not been replicated and some reliefs have been amended so that they are relevant to Wales.

2.53 Research Questions:

- General: Are the reliefs working properly?
- General: Are reliefs being claimed appropriately and by those intended to benefit from them?
- Absence of demutualisation reliefs (and resultant changes to the LTT group relief rules): Has it had any impact on business decision making?
- Relief for acquisitions involving multiple dwellings: This relief does not have the rules that (a) require subsequent changes in the number of dwellings to be reviewed over a 3-year period following the acquisition, and (b) a further return made in the event that the number owned reduces. Is there any evidence that this has led to a loss of revenues or planning activity?
- Absence of a co-ownership authorised contractual schemes seeding relief: Has the absence had any impact on business decision making?

2.54 Methodological Approach: Data on the number and scope of reliefs, broken down into individual types of reliefs, was generated and analysed, to provide high-level context on the scale and scope of the reliefs. We explored the usefulness of examining and analysing data relating to claims for reliefs in England that were not carried over in Wales under the LTTA. However, it was concluded that it was not possible to draw robust, causal conclusions from such an analysis due to the impact of unknown factors affecting the claim for a relief.

2.55 Qualitative evidence of their impact was generated from the Stage 3 qualitative interviews, including the Technical Committees of the tax and legal professional bodies, who were identified as having the necessary experience and knowledge of LTT transactions or reliefs that occur infrequently.

2.56 The methodology for conducting the assessment comprised a number of approaches – data analysis, practitioner surveys, practitioners' interviews, and interviews with professional organisations and business organisations.

2.57 In conducting this assessment, it was determined that qualitative evidence should be the principal source of evidence for the assessment of the research objectives. Where quantitative evidence can be generated (dependent on the particular research objective), then the data will best serve as context for the qualitative assessment.

Description of secondary data analysis

2.58 As part of our desk-based research, we conducted secondary data analysis of both publicly available sources and data provided by the Welsh Revenue Authority³. The aim of this exercise was to provide context for our qualitative research with tax professionals and solicitors, as opposed to conclusively answering the research questions. Specifically, we used Land Transaction Tax statistics to calculate: (i) the percentage of reliefs that impacted the value of tax due with respect to all transactions and all reliefs, and (ii) the percentage of all transactions that had claimed a relief. Similarly, we used data from Stats Wales to break down the number and value of reliefs by type (i.e., social housing, multiple dwellings and group relief etc). We have also taken into account the available literature around the effectiveness of FTBR as presented in the relevant HMRC report (Bolster, 2011). Finally, we were provided with Welsh Revenue Authority data on the number of deferral requests, a more detailed breakdown of relief types, and average time to file LTT returns.

2.59 We reviewed the situations applying to two of the Australian states that impose a broadly equivalent tax to LTT (called transfer duty). The jurisdictions of New South Wales (NSW) and Victoria (VIC) provide for total relief from duty for FTBs where the value is below a threshold. In addition to the relief, there is an additional limited tapered relief for transactions whose value exceeds the relief threshold. These reliefs have been subjected to review and have been amended several times. The primary change made is that the scope of the relief has been extended from new build homes previously, to all homes and undeveloped land to be used of constructing a residence. The state of Victoria also has an additional concession for residential properties that applies regardless of whether the residential property is to be used as a primary residence or whether the purchaser is a first time buyer.

³ All data were collated in April 2022. Data subsequently accessed from the quoted sources will always be the latest available. As a result, the data may differ from those used in this report.

These arrangements are driven by factors that are specific to the Australian property market – including, compared to Wales, historically slightly higher levels of home ownership,⁴ historically less large-scale social housing provision, the continuing high rate of increase in property values (that had led to concerns about housing affordability), and the historically larger proportion of purchased properties that are “new build”.

2.60 Given that the NSW and VIC both maintain a relief that is fundamentally different from the Welsh approach in terms of: a new additional tapered relief; additional financial assistance to any purchaser of residential property; and increased scope of eligible properties (from beyond new-builds), and neither state has changed their basic approach (that would align with the LTTA), there is no useful comparison of property transactions (or changes to taxation of those transactions) that can be meaningfully made in order to evaluate the Welsh approach.

Challenges in the primary data collection exercise

2.61 The response to the survey administered to tax professionals and professional bodies, as well as the call for interviews shared with professionals and technical committees of professional bodies and business organisations, both had a lower response rate than anticipated. Both means of contributing to the independent review were shared through multiple channels, including:

- Reaching out to professionals who had already expressed their interest in participating in the research after previous contact made by the Welsh Government
- Inviting professionals who have previously contributed to the policy debate on SDLT/LTT to interviews
- Reaching out to relevant professional bodies and business organisations asking them to share the survey and the call for interviews with their members, including their technical committees
- Inviting professionals and practitioners whose professional contact details were publicly available in databases online to interviews

⁴ Home ownership in Australia as a whole was at c.73% in the mid-1990s although this has declined slightly to c.67% in 2019-20, with social renting over the same period declining from c.6% to less than 3% (and the differences attributed to increases in private sector renting). Australian Government, Australian Institute of Health and Welfare (AIHW), [Home ownership and housing tenure - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/indicators/home-ownership-and-housing-tenure)

- 2.62 Eligible participants were able to contribute in English or Welsh as they preferred, with all research materials (survey, interview script, etc.) being available in both languages. A letter of support by the Welsh Government was also shared with eligible participants in English and Welsh. In addition, the anonymous basis of participation was stressed. To boost participation, unresponsive contacts were further prompted by sharing follow-up calls for participation with them. Furthermore, the timeframe for the data collection activities was extended by five weeks.
- 2.63 Eventually, the following numbers of stakeholders contributed to the activities:
- Online survey: 10 respondents
 - Interviews with professionals: 10 interviewees (solicitors, tax advisers, policy experts, and members of professional bodies and business organisations)
 - Interviews with technical committees: 2 technical committees of professional bodies (9 committee members interviewed in total)
 - Interviews specific to FTBR: 4 interviewees (conveyancers, estate agents, and solicitors)
- 2.64 In reviewing the level of participation, and the efforts undertaken to generate participation, we noted the following: first, whilst there is a generally high level of awareness within the practitioner and business communities about LTT, the level of awareness of detailed issues remains within a relatively small sub-group of practitioners and advisors; second, some of the issues that are addressed in the LTTA and are the subject of the review affect narrowly-defined topics or particular forms of transactions, and, accordingly, there are few practitioners who would have the range of actual practical experience to be fully informed across all the issues; third, for some of the issues, such as the deferral rules that have a default period of five years, the ability to assess them will be greater after a longer passage of time when there should be wider and deeper practitioner experience.
- 2.65 Those who participated suggested that there may be some benefit in undertaking at least a partial review of some of the objectives sometime during the period of 5-10 years after the coming into effect of the LTTA (although it was fully acknowledged that this assessment is driven by the clear statutory requirement).

3. Findings

Introduction

- 3.1 LTT is a tax that is imposed on transactions involving a sale or transfer of interest in land (including the buildings erected on the land). It is also imposed on indirect sales or transfers of interest in land (for example, where that interest in land is transferred because of a transfer of an interest in a partnership) and leases of land and buildings. It replaces SDLT, which is still applicable in England and Northern Ireland, whereas in Scotland the counterpart tax is the LBTT. LTT is imposed only on chargeable transactions (as set out in the LTТА). The rates of LTT (and the bands of values to which the rates apply) are set out in subsidiary legislation.
- 3.2 SDLT has its origins in legislation dating from 1694, when a duty was introduced on paper instruments and was denoted by the affixing of stamps on those papers. Stamp Duty was reformed in the UK in 2003 with the introduction of Stamp Duty Land Tax that imposed tax on the underlying transactions, including transfers of interests in land and buildings erected on that land. As part of the devolution arrangements developed since 1999, responsibility for the administration and collection of SDLT was agreed to be transferred to Scotland and Wales.
- 3.3 Since the introduction of SDLT, a number of issues had emerged that impacted the certainty of the operation of the tax and thus increased the cost of compliance for taxpayers due to uncertainty of operation. In Scotland, the LBTT Act represented a fresh approach to these underlying issues, with adaption of the tax base, and the rates and bands, to reflect the particular land tenure situation in Scotland (which differs from the other jurisdictions in the United Kingdom) and the policy objectives of the Scottish Government.
- 3.4 Similarly, in preparing to assume the power to collect and administer the tax in Wales, the opportunity arose to ensure that the LTТА represented an approach to taxation of such transactions, tailored to the Welsh context. The technical issues that were the subject of practitioner commentary, and policy matters regarding the tax base, rates and bands, in light of the particular nature of the property market in Wales, were considered and addressed.
- 3.5 These technical issues and policy matters are encapsulated in the 16 research objectives that form the basis of the assessment of the LTТА.

Research objective 1.a: Changes in layout and language

Survey results

- 3.6 The initial question was addressed through the survey of practitioners. Six of the 10 respondents confirmed that they agreed or strongly agreed that the LTTA had delivered improvements compared to the SDLT legislation. Only one respondent disagreed slightly that such improvements had been delivered.
- 3.7 Most respondents answered positively to the proposition that “The structure of the LTTA (including the placement of reliefs as separate Schedules following a consistent format) has improved the accessibility of the legislation.” There were no responses that disagreed, to any extent, with this proposition.
- 3.8 During practitioner and technical committee interviews, there was considerable feedback about the overall objective of delivering improvements in the legislation.
- 3.9 There were expressions of respect for the approach taken by the Welsh Government when considering how to both design and develop the policy for the LTT and the legislative approach to implement the revised policy. It is clear that the Welsh Government was fully aware of the technical challenges and issues of policy contention in relation to SDLT. The Welsh Government has also ensured in the design of the LTTA that the experiences of addressing those issues, both in SDLT and in the Scottish LBTT experience, have been taken on board.
- 3.10 Interviewees acknowledged clear improvements to the legislation, such as making uncertain matters certain and clarifying areas where there had been legislative lack of clarity. Respondents highlighted that the changes struck a balance between securing revenue whilst not creating an unduly onerous compliance burden for taxpayers (the compliance burden broadly meaning the reporting requirements and taxpayer/tax adviser understanding of those requirements).
- 3.11 Practitioners cited examples of where changes had delivered meaningful improvements. For example, this was mentioned in relation to the anti-avoidance rule structure and test, and the structure and method of the application of reliefs. There has been improved clarity in defining chargeable transactions, exempt transactions, and transactions that could be relieved from chargeability through application of special rules.

3.12 The language used in the Act was found to be “user-friendly” and broadly lends itself to increased comprehension. Practitioners note that, in the context of taxation, and complex commercial transactions involving land and buildings, there is a balance to be struck when seeking to simplify language. Oversimplification may risk generating unintended consequences for the scope of the provision. Generally, the practitioner feedback reflected that the right balance had been struck.

Findings

3.13 The clarity, simplification, and modernisation of language, collectively, are useful for, and contribute to, quicker and more certain understanding of the provisions of the LTTA.

3.14 There was no particular view expressed that further simplification would be possible in the context of the current tax base.

Research objective 1.b: Deferral Rules

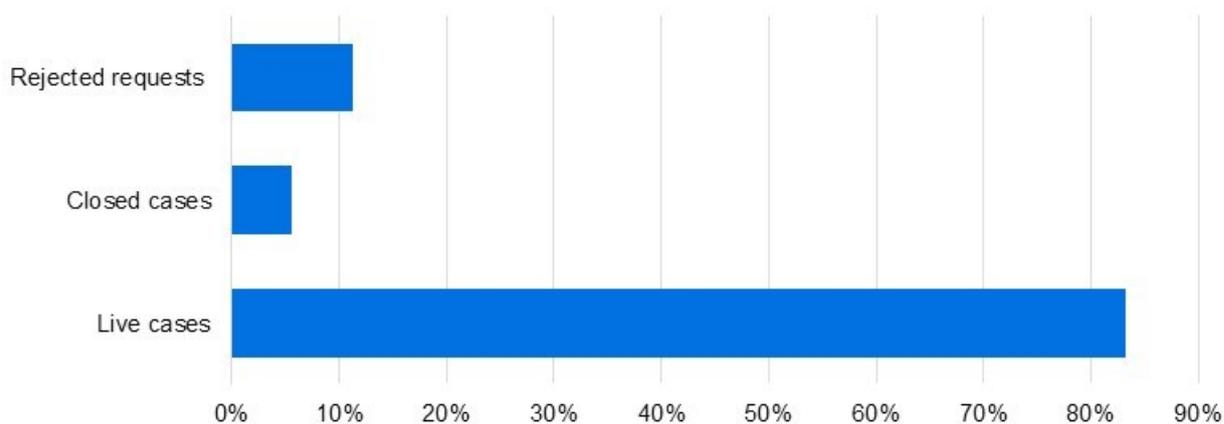
Evidence review

3.15 Data gathered by the Welsh Revenue Authority on deferral requests were available from inception until April 2022. However, annual breakdowns were not available, therefore, it was not possible to extrapolate deferral outcomes on a year-by-year basis

3.16 Between the commencement of the LTTA and April 2022, there were a total of 107 deferral requests – see Figure 3.1. It can be concluded that deferral requests are accepted in 89 (over 80 per cent) of the cases, with 6 cases accepted and the deferral period ended (‘closed’) and 12 (11 per cent) being rejected.⁵ The inference from this level of acceptance is that the deferral request process is working well, and that this can be attributed to clear legislative provisions that provide certainty in the operation of the deferral request process.

⁵ A “closed case” is one where a deferral request has been made and accepted, and the relevant tax has been paid by the duly deferred date.

Figure 3.1: Deferral requests by outcome (per cent of all requests) – 2018-2022



Source: Welsh Revenue Authority. Breakdown of deferral requests. [Accessed April 2022].

Survey

- 3.17 There was strong backing for the proposition that “The rules clarify the process for making a deferral request”, with 4 of the 5 respondents strongly agreeing and no respondent disagreeing with the proposition.
- 3.18 There was uniformity in backing for the proposition that “The rules clarify the process for making a request for an amendment to, or renewal of, an agreed deferral.”, with 4 of the 5 respondents agreeing or strongly agreeing and no respondent disagreeing with the proposition.
- 3.19 There was uniformity in response to the item: “The rules clarify the timing of when the deferred liability will occur (with a default maximum period of 5 years renewable for a further 5 years), in order to balance reasonable compliance obligations with protection of the revenue. Do you agree or disagree that the default maximum period for a deferral of 5 years is appropriate (with the possibility of renewing for a further 5 years)?”, with all of the respondents agreeing with the statement, including one respondent who strongly agreed with the statement.
- 3.20 Similarly, when asked “What do you think of the default 5-year period as a maximum for a deferral (with the possibility of renewing for a further 5 years)?”, the majority of respondents thought it was about right, with a singular response that it was too short, and no responses stating that it was too long.
- 3.21 When asked the general question of “Could the deferral rules be improved?”, there were no respondents who confirmed that there could be improvements.

Interviews with professionals

- 3.22 The deferral rules allow for a 5-year deferral period for reporting transactions where the consideration for the transaction is contingent or uncertain. Because of the period of time that has elapsed since the commencement of the LTTA (approximately 4½ years), there are no examples, at the time of the review, of the use of the rules on the expiry of that initial 5-year deferral period (which require either reporting of the transaction or allow a taxpayer to submit a request for a further deferral, if the liability remains contingent or uncertain). Noting this, many practitioners had examined the rules in anticipation of the possibility of the uptake of the deferral option. All those who had considered the deferral rules found that the use of a fixed period was a substantial improvement on the situation preceding the LTT. The principal reason given was that it provided a more certain compliance framework and therefore reduced the likelihood of unintentional noncompliance (due to administrative oversight etc.).
- 3.23 In terms of the standard period of time for the deferral of reporting a transaction, all respondents considered that, whilst any period is somewhat arbitrary, the period of five years was appropriate, with most respondents indicating that 3-5 years would be the range in which the deferral period should fall. No respondent suggested that the deferral period should be longer than five years.

Findings

- 3.24 The core finding for Research Question 1.b is that the revised deferral rules have struck an appropriate balance between certainty and ease of operation, both in terms of the default initial period of deferral and the option to renew the deferral period.
- 3.25 The deferral period of five years is considered appropriate.

Research objective 1.c: Rules for Higher Rates (RHR) residential property transactions

Survey

- 3.26 Specific questions were asked of respondents who had general experience in relation to the topic of rules for higher rates (RHR) residential property transactions. The questions focused on the four areas/definitions under the RHR for residential

properties that were changed in the LTTA. There was strong or very strong awareness by all respondents of the overall changes made to the RHR.

- 3.27 One half of the total respondents (4 of 8) were aware of the changes to the definition and treatment of ‘intermediate transactions’. Of those aware of the changes (rules relating to intermediate transactions, including the requirement for an LTT return to be filed if additional LTT is due), the majority agreed with, or did not disagree with, the statement that “This change has improved the clarity of the legislation.”
- 3.28 Awareness of the changes to the definition and treatment of ‘undivided share’ was high, with 6 out of 8 respondents confirming awareness. Of those aware of the change made at the time of introduction of the amendments to the LTTA at Stage 2 (that an undivided share in a dwelling is to be treated as a major interest), all respondents agreed with, or expressed no negative view regarding, the statement: “This change has improved the clarity of the legislation.”
- 3.29 However, awareness of the change in the timing of the determination of when a taxpayer owns or acquires a dwelling that is subject to lease was lower at 3 of 8 respondents (the timing of the determination under the LTTA is at the effective date of the transaction). Of those aware, more than half agreed with the statement: “This change has improved the clarity of the legislation.”
- 3.30 Awareness of the change in how a major interest is defined in the event of joint inheritance of a dwelling was lower than the level of overall awareness of the changes, at 3 of 8 respondents. Of those aware, all agreed with the statement: “This change has improved the clarity of the legislation.”
- 3.31 In terms of the overall impact of the changes made to the higher rates rules for residential properties, no respondents considered these changes to LTT on higher rates properties to have been badly implemented. The majority of respondents considered that they were well, or reasonably well, implemented.

Interviews with practitioners

- 3.32 The practitioners universally welcomed the revised approach in the rules for higher rates residential properties. The revised rules were described variously as “*providing clarity*”, “*providing greater clarity than the equivalents in SDLT*”, and “*practical*”, in light of LTT applying to what are often complex transactions.

- 3.33 It was noted by some respondents that the level of risk to the revenue, in terms of the incidence of manipulated transactions etc., was perceived to be low, and that a balance needed to be struck between addressing that low risk and avoiding overly complex provisions.
- 3.34 It was considered that the potential for avoidance was low, and there were no reported cases of potential avoidance approaches being adopted by property buyers/sellers to avoid the application of the higher rates rules.
- 3.35 The practitioner respondents generally welcomed the availability and quality of the WRA guidance relating to the rules, which was found to be useful in applying the rules with a view to ensuring compliance.
- 3.36 One respondent made mention of the perception that the revised rules were robust but remarked that that robustness would be more accurately assessed should property market conditions change dramatically (with falling prices and ensuing difficulties in selling properties). In that situation, there would be more frequent uptake of the rules, especially in the specific case of 'bridging transactions'

Findings

- 3.37 The new rules have been effectively implemented. There is wide awareness of the new rules and their import, and the differences between the LTT and SDLT systems. The guidance prepared and issued by WRA is of high quality. It is considered and is useful and an important tool in assisting with voluntary compliance. There were no reported changes in taxpayer behaviour resulting from the revision to the RHR that would suggest that there was a lack of clarity in the rules that could benefit taxpayers in terms of reducing the incidence of the RHR.
- 3.38 The rules have improved the clarity of the LTT legislation through revised and more relevant definitions of the key concepts underpinning the application of the RHR.

Research objective 1.d: Rules for leases

Survey stage 2

- 3.39 Respondents were asked three questions concerning the changes to the rules of reporting of transactions involving leases.
- 3.40 Of the respondents aware of the changes affecting leases, none found that these new rules were inappropriate, taking the level of compliance (reporting and paying)

obligations into account. Two out of 5 respondents strongly agreed that the rules were appropriate, and none disagreed

- 3.41 Of the respondents aware of the changes affecting leases, most agreed, or did not disagree, with the statement that “These new rules make it is easier to comply with the compliance (reporting and paying) obligations.”, though one respondent considered that the new rules were somewhat more difficult to comply with.
- 3.42 Of the respondents aware of the changes affecting leases, half agreed that “These new rules are an improvement of the pre-existing rules under SDLT.”, while the remaining respondent had a neutral view of the changes.

Interviews with practitioners and technical committees

- 3.43 The respondent practitioners with experience of applying the rules to leases welcomed the changes made in the LTTA. They considered the rules an improvement on those applied under SDLT before the introduction of LTT.
- 3.44 The LTT provisions are complex, owing to the inherent complexity and range of variables involved in non-residential leases. The respondents noted that, with respect to that complexity and the aim to address multiple variables in determining LTT liability, the LTT rules were a clear improvement on the preceding rules. However, due to the complexity, there was a limit to the degree of certainty and simplicity that could be achieved. Overall, it was considered that these new rules on leases have gone as far as is likely feasible for transactions involving leases.
- 3.45 The respondents noted that a taxpayer would be foolhardy to seek to undertake self-compliance, and the prevailing view was that professional advice would be required in almost all situations involving commercial leases.
- 3.46 The respondents further concluded that the rules were clearer to the extent possible given the complex subject, which assisted in ensuring timely and full compliance. The respondents further noted that the guidance prepared and published by the WRA was of significant assistance, and the WRA’s ready willingness to provide a pre-return view on the likely liability of transactions was seen as a pragmatic and useful service.

Findings

- 3.47 The changes to the rules on commercial leases were found to be an improvement over the rules that had applied under SDLT.
- 3.48 The changes to the rules concerning commercial leases were considered to be easier to comply with and support voluntary compliance.

Research objective 1.e: Greater clarity in operations of Reliefs

Survey

- 3.49 Awareness of the changes to the structure and format of the reliefs from LTT was reasonably high, with 6 out of the 10 survey respondents indicating awareness.
- 3.50 Among those indicating general awareness of the changes, there was strong awareness of the revised structure to LTT reliefs, with 4 out of the 5⁶ respondents agreeing with the statement that “The LTT (including its Schedules) is well structured to clarify which transactions are exempt (not chargeable to LTT) and which transactions attract a relief from LTT (which may be claimed when filing a return).”
- 3.51 There was a high level of awareness of the consistent approach to reliefs, as applied in the Schedules, with 4 out of the 5 respondents in agreement with the statement: “The relief provisions are structured so as to make consistent across all reliefs the calculation or determination of the amount of the relief (whether a total relief or a partial relief subject to a calculation).”
- 3.52 In terms of the overall simplicity of claiming reliefs, 4 out of the 5 respondents agreed with the statement that “Collectively, these changes make the reliefs easier to be claimed by the intended beneficiaries.”

Interviews with practitioners

- 3.53 The revised approach to reliefs in the LTTA was universally welcomed. The soundness of the approach involving structuring the reliefs individually as a specific Schedule to the Act, with a consistent approach to their treatment, was consistently remarked upon.

⁶ Not all 10 respondents provided answers to the supplementary questions concerning the changes to the reliefs

- 3.54 Overall, the respondents considered that the reliefs were being appropriately claimed, as anticipated. The clarity of the legislation is the key issue. The comparison with (and improvement on) the SDLT approach highlighted this.
- 3.55 It was noted that, although there are numerous reliefs under the LTTA, the majority of them are for very specific situations. Practitioners have reviewed all the potential reliefs as a matter of being acquainted with the new LTTA. Their uptake in some cases is small-scale (because of the intended beneficiaries). Consequently, there is no significant experience in advising on all, or the majority of, the reliefs that are potentially available. There was no evidence reported of there being difficulties in understanding the scope, or operation of, reliefs, even those that are less commonly claimed.
- 3.56 A small number of respondents indicated that there could be some benefit by the WRA, in its guidance, highlighting any differences between the applicable regime in Wales and the system of reliefs applying in England. Most respondents felt there was sufficiently widespread awareness of the reliefs; however, there were some suggestions that consideration could be given to ensuring wider public awareness of reliefs, consistent with the WRA's overall approach to supporting voluntary compliance through awareness and education.

Findings

- 3.57 The widespread view is that the clarity of the LTTA (in Schedules 9 to 22) and the consistent structure of the reliefs has ensured that there are no obstacles or impediments that reduce the likelihood of uptake of reliefs.

Research objective 2.f: Rent element of newly granted residential leases is not chargeable to LTT

Survey

- 3.58 Not all respondents to the survey were aware of the decision to exempt the rent payable under newly granted leases of residential property from LTT. However, of those aware, all concurred that the change was appropriate, agreeing with the statement: "The exemption was (at the time of the introduction of the LTTA) appropriate in Wales, taking into account the levels of rent payable for the grant of new residential leases for dwellings in Wales."

- 3.59 Reasons for their agreement included: “Given the level of rent payable on a short lease, it seems inappropriate to charge LTT on a residential lease - targets the wrong people” and “It meant we didn't have to consider thresholds when dealing with residential leases”.
- 3.60 These responses indicate support for the policy objective both in terms of the economic benefits for residential lessees (although few leases would in fact trigger a liability to LTT) and also for clear reduction in the compliance burden (by removing an unnecessary requirement to check for LTT that is unlikely to arise).

Interviews with practitioners and technical committees

- 3.61 The feedback from practitioners was clear and convincing that the removal from chargeability of the rent element of newly granted residential leases was entirely appropriate. The recognition by the Welsh Government of the extremely small number of leases in Wales being liable to LTT, in the event of chargeability, was widely noted.
- 3.62 It was noted that this removed an otherwise unnecessary compliance requirement, and this was universally welcomed.
- 3.63 Despite some upward movement in the value of residential leases, there was no suggestion made that this decision was less appropriate than it had been in 2018. There was universal feedback that the current position should be maintained.
- 3.64 In terms of potential for avoidance arrangements being put in place for residential leases, practitioners considered that the risk of this would be infinitesimally small, given the balance of small tax savings with unrealistic agreements to be reached by lessor and lessee (at arm's length). Although practitioners considered that any attempt at avoidance would be pointless in terms of financial gain, the GAAR would wholly address the situation.

Findings

- 3.65 The change to treatment of residential leases in Wales is found to have been, and to continue to be, appropriate.

Research objective 2.g: Rules related to situations where a non-residential lease is granted and both rents and a premium are paid

Survey

- 3.66 Of the respondents to the survey, just under half were aware of, and had experience with, the application of the rules regarding non-residential leases.
- 3.67 All respondents agreed with, or did not disagree with, the statement that the approach “The standard zero-rate band (“NRL zero rate band”) does not apply to the premium element of consideration for a non-residential lease where the annual rent paid is equal to or greater than amount determined by reference to the Net Present Value (NPV)” is appropriate, given the nature and value of such leases in Wales.
- 3.68 Despite the positive reception of the approach some respondents commented on the complexity: “*The legislation still makes it complicated even for people who have some experience in advising on tax.*” Another noted: “*This is an anti-avoidance rule and the limit ensures that it only applies if the monetary limit is exceeded*”.
- 3.69 No respondent disagreed with the statement: “the amount of rent determined by the reference to the prescribed amount is currently approximately £13,000. This is an appropriate amount in light of prevailing circumstances in Wales.” Half of the respondents agreed with it. It was noted by a respondent that “... *relatively insignificant sums should not trigger this anti-avoidance rule*”.

Interviews with practitioners and technical committees

- 3.70 Not all practitioners had substantive experience dealing with commercial leases. However, the feedback from the experienced practitioners was that the arrangements under the LTTA were appropriate. It was considered that the net present value was set at an appropriate level. It was noted that the relevant rent amount should, however, be reviewed periodically so that it maintains its real value.
- 3.71 It was noted by practitioners that the likelihood of avoidance arrangements being put in place was extremely small - virtually zero - for several reasons. First, given the levels of rent, the potential savings of LTT were extremely small and did not justify the complexity and risk that would be required to put in place avoidance arrangements (so as to take advantage of two nil-rate bands). Second, the approach to leases has changed and the consideration is much more transparent in

the way that it is now predominantly capitalised. The practices of commercial leasing in the 1980s and 1990s, which led to concerns about avoidance, have diminished substantially. Therefore, the potential misconduct that the LTTA addresses is unlikely to arise. Practitioners considered that the likelihood of the Anti-avoidance Rule being applied would be low but that it would function effectively in the event were to be applied.

Findings

- 3.72 The Anti-avoidance Rule (AAR) still has a purpose. However, the likelihood of its application is extremely small, given prevailing practice and the negligible LTT savings that would potentially arise in most cases. In that event, it is considered that it would function effectively.
- 3.73 The relevant rent amount should be reviewed periodically to maintain its real value, in light of changing market values.

Research objective 2.h: Anti-avoidance rules

Survey

- 3.74 Five of 8 of respondents were aware of, or had advised on, the new anti-avoidance rules in the LTTA.
- 3.75 More than half the respondents considered the approach clear, agreeing, or not disagreeing, with the statement: “The approach to anti-avoidance, through a General AAR (GAAR) and, for reliefs, through a Targeted AAR (TAAR), is clear.”
- 3.76 No respondent disagreed with the statement, and most positively agreed with: “The LTT generally and the LTT reliefs specifically are sufficiently protected from abuse and artificial arrangements by the anti-avoidance rules.” Mention was made of clients who are not motivated to avoid LTT: “...*General reluctance to do anything that could be tax avoidance. The issue arises when there is no motive [to avoid LTT] but a client has a choice between two courses of action*”.
- 3.77 In terms of potential strengthening of the current approach to dealing with - avoidance, there were both positive and negative reactions to the statement: “The anti-avoidance rules require strengthening and this could be achieved by adopting further rules based on the anti-avoidance rules applicable to Stamp Duty Land Tax (ss.75A-75C Finance Act 2003)”. Those not supporting strengthening (through

adoption of SDLT provisions) stated that they were “*Not aware of any evidence that the rules are being abused*”. The responses supporting strengthening were not seen at all in the in-depth interviews with practitioners (see below).

- 3.78 More than half were satisfied or positively agreed with the statement: “The anti-avoidance rules are appropriately premised through the definition of ‘tax avoidance arrangement’”. Four out of 5 respondents were satisfied, or agreed, with the statement: “The anti-avoidance rules are appropriately premised without inclusion of a double reasonableness test (as in SDLT).” Explanatory notes given by respondents included: “*Simpler than the double reasonableness test*”, although there was some doubt about the current approach: “*Not sure the black or white approach with no motive test is particularly helpful.*”
- 3.79 There was broad support for the statement: “The anti-avoidance rules are appropriately premised without inclusion of an independent advisory panel (as in SDLT)”, though one of 5 respondents disagreed. It was noted that such a panel would only be needed if the “double reasonableness” test were to be adopted in the LTTA.

Interviews with practitioners and technical committees

- 3.80 The practitioners and technical committees strongly welcomed the revised approach to anti-avoidance that was included in the LTTA in 2018. The practitioners and technical committees noted that the use of a general anti-avoidance rule supplemented by targeted anti-avoidance rules is valid. The approach adopted in Wales is a substantial improvement on the complex and uncertain arrangements that apply in relation to SDLT.
- 3.81 There is also a strong view that the vast majority of businesses are seeking to fully comply and there was no evidence of requests for advice on how to circumvent the anti-avoidance rules set out in the Act.
- 3.82 Avoidance has not been identified as a significant risk to date by the WRA. The legislation is considered robust and the WRA has successfully been able to challenge transactions applying the clear terms of the provisions. To the extent that there is a risk to the revenue from “aggressive” transactional structuring, the WRA has the option of applying the GAAR where appropriate. This option has been used very infrequently to date.

- 3.83 It was also noted that the WRA had issued useful guidance to indicate how the anti-avoidance rules would be applied in practice. Practitioners also advised that, should there be litigation based on the application of the anti-avoidance rules, it would take considerable time before there were decided cases that would validate the approach to anti-avoidance in Wales, based on the new tests set out in the LTTA. This point was made in relation to the possible different approaches to defining the level of threshold required for application of the anti-avoidance rule. Practitioners considered that the threshold in Wales now appears to be slightly different from the threshold that applies under SDLT.
- 3.84 Practitioners, however, welcome the clarity of the rules, and felt this was also welcomed by the business community who seek, in the first instance, certainty of the rules and their application.
- 3.85 Overall, the feedback was that both the LTTA generally and the reliefs specifically were sufficiently protected by the GAAR and TAARs respectively.
- 3.86 It was noted that it would be inappropriate in light of the design of the GAAR to seek to add to the existing rules by introducing provisions applicable for SDLT and set out in sections 75A-75C.
- 3.87 In terms of the specific differences between the LTTA approach and that under the SDLT - use of an avoidance test (rather than abuse test), the absence of a double reasonableness test and the absence of a panel - there was no feedback that suggested that there was any need for the Welsh general anti-avoidance rule to be reformulated to address the differences from the GAAR that apply to SDLT.

Findings

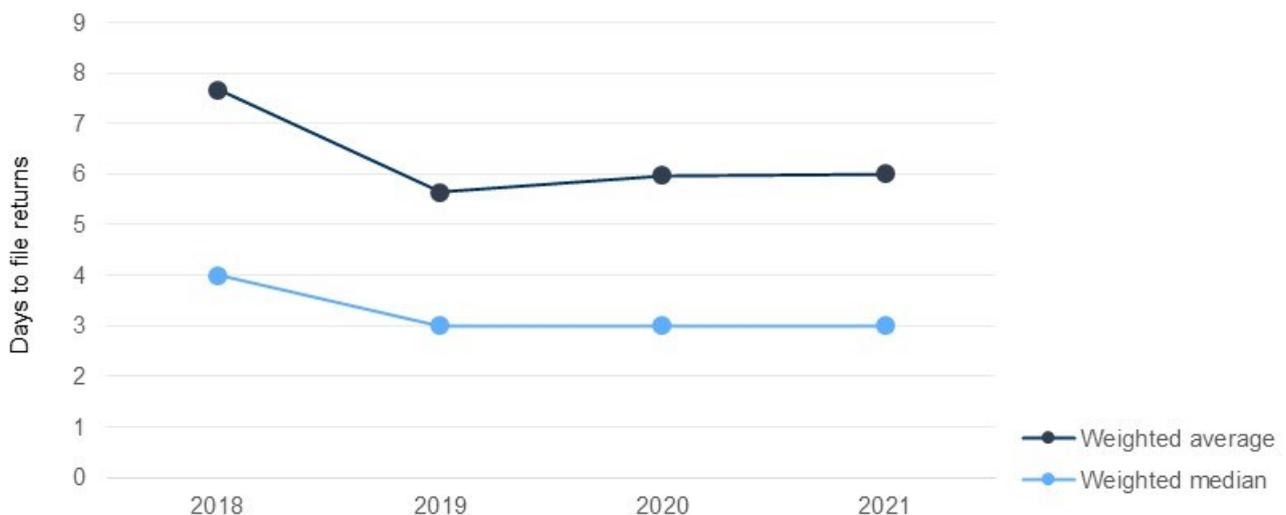
- 3.88 It is clear that the LTTA and the LTTA reliefs are sufficiently protected by the anti-avoidance rules.
- 3.89 In light of the different approach in Wales, there would be no useful benefit to adding rules similar to those set out in section 75A–75C. Indeed, doing so would re-introduce complexity and uncertainty which the current approach has eliminated.

Research objective 2.i: LTT Return filing period

Evidence review

- 3.90 Data on time taken to file LTT returns is set out in the figure below. The average time to file⁷ LTT returns has decreased from 7.66 days in 2018 to 5.99 in 2021. It has remained at this level since 2019 (5.63). Similarly, the median in 2018 was 4 days, which decreased to 3 days in 2019, where it remains.
- 3.91 In 2021, most returns (31.1 per cent) were filed on the same day as the transaction date, while the second most common filing was within 3 days (9.59 per cent). This ranking remains relatively unchanged since 2018. Almost 90 per cent of all returns were filed within the first 15 days in 2021.
- 3.92 A review of the data of return filing times confirms that the overwhelming majority of taxpayers comply within the 30-day statutory period. Non-compliance with the 30-day period is very low and varies at around 1-3 per cent.

Figure 3.2: Time Limits for Filing Returns (2018-2021)



Source: Welsh Revenue Authority. 2021. Time to file LTT returns. [Accessed April 2022].

⁷ Calculated as the average number of cases, weighted by the days until filling.

Survey

- 3.93 Most practitioners responding to the survey were aware of the different return filing periods for chargeable transactions under the LTT compared to the SDLT. Of those responding, all agreed, including 2 of 5 respondents strongly agreeing, with the statement that the 30-day period was appropriate for ensuring a smooth transition from SDLT to LTT. Reasons given are typified by this example: “*30 days is a reasonable filing period and gives a more reasonable deadline for filing agents, especially where a transaction is more complex and maybe requires further disclosure*”.

Interviews with practitioners and technical committees

- 3.94 The feedback from petitioners was universal in that the current return filing period of 30 days is appropriate. Practitioners provided a number of reasons for this conclusion.
- 3.95 The first concerned situations where there are unforeseen circumstances or complexities. These can then be addressed or resolved within the existing time period for return filing and compliance maintained. Examples were given of, for example, illness of parties to the transaction or their advisors, or administrative oversight.
- 3.96 Second, the vast majority of transactions are reported promptly and well before the expiry of the 30-day period. The reasons behind the current reporting are based on professional standards and guidance on compliance requirements as well as the contracting parties’ desire to achieve commercial outcomes promptly and therefore not delay compliance which would otherwise delay the desired commercial outcomes.
- 3.97 Third, the practitioners considered that some improvement in the level of compliance may have been achieved in England in relation to those transactions subject to a 14-day return filing period. They also considered that this shorter period severely limited the opportunity for addressing either unforeseen events or unforeseen complexities. In such cases, where the event or circumstance could not be resolved in the 14-day period, there was potential for higher levels of non-compliance.

Findings

- 3.98 The maintenance of a 30-day filing period in Wales, compared with 14 days under SDLT, has contributed to the smooth transition from SDLT to LTT.
- 3.99 Given the average and median time to file LTT returns, the longer filing period of 30 days creates breathing space in the few cases where there are unforeseen events, or unexpected complexities arise, and provides sufficient time for these to be addressed while complying within the designated period.

Research objective 3.j: Identify opportunities for improvements from other jurisdictions

Interviews with practitioners and technical committees

- 3.100 For this research question, practitioners and technical committees' views were sought on the totality of the changes which had been made in the LTTA compared to the prevailing situation in the UK. The feedback was consistent and concise. First, the Welsh Government demonstrated that it had addressed the primary technical issues which were causing complexity and uncertainty in their application and in securing compliance by taxpayers. Practitioners felt that there had been a comprehensive attempt to apply a lessons-learned approach to the policy design and the technical drafting of the LTTA. This was particularly welcomed by practitioners.
- 3.101 In terms of the possibility of improvements to the current form of the LTTA based on subsequent experience in the other jurisdictions, it was felt that the Welsh approach did not require any changes and effectively represented the best approach to the issues. In some cases, there would be limitations on adapting the approach adopted in Scotland because of the differences in land tenure there.

Findings

- 3.102 There are no changes in the equivalent legislation that applies in Scotland and England and Northern Ireland since April 2018 that could be beneficial to Wales.

Research objective 4.k: Cross-border issues

Practitioners and technical committees

- 3.103 The views expressed by the practitioners and technical committees in relation to the rules on cross-border transactions, as set out in section 9 of the act, were consistent and unanimous. It was noted that cross-border transactions were indeed very rare in practice.
- 3.104 First, the anticipated level of issues relating to cross-border properties, particularly those that physically transcend the border between England and Wales, has simply not arisen in practice. No practitioners were aware of any substantive issues arising under the application of section 9. It was considered that the approach adopted in section 9 was appropriate. This included cases involving individual complexity (such as the part of a property establishing an entitlement for a relief not being wholly in the same jurisdiction as the remainder of the property).
- 3.105 The evidence suggests that where there were practical issues arising from the treatment of cross-border properties, the approach adopted so far by the Welsh Revenue Authority has been sensible, simultaneously producing a straightforward process of compliance and ensuring that there was an equitable and appropriate charge to LTT or SDLT for the respective jurisdictions.
- 3.106 It was noted that the number of potential transactions was relatively small and would also be relatively infrequent, and that therefore the approach adopted in section 9, together with the pragmatic compliance approach adopted by the WRA, was appropriate and continues to be appropriate.
- 3.107 Feedback from practitioners was that the different exchange rules applying in Wales and in England do not impact on cross-border transactions. The issue of exchange rules in Wales was also addressed by practitioners who suggested that, where properties are exchanged within a cross-border transaction, there is no evidence of any difficulties or issues arising in the interpretation of the rules or achieving compliance by taxpayers.
- 3.108 Overall, the issues which had been highlighted by the FSB report have been effectively diminished or resolved through the passage of time and the practical application of the rules to a limited number of transactions, by the WRA and supported by the WRA guidance.

Findings

- 3.109 No issues relating to section 9 of the LTTA require addressing by the Welsh Government.
- 3.110 The different exchange rules do not appear to impact on cross-border transactions.
- 3.111 The issues identified by the FSB have essentially been addressed through practical experience and pragmatic approaches to the interpretation of the section 9 rules.

Research objective 4.I: Rates and bands

Practitioners and technical committees

- 3.112 Practitioners have noted that there have been three change events since 2018 in terms of rates and bands, which had been delivered using the regulations mechanism.⁸ It was noted that the timing of the changes to the rates and bands has been impacted to a great extent by the restrictions imposed in Wales in response to the COVID-19 pandemic.
- 3.113 Some of the approaches in the other UK jurisdictions, including some of the events surrounding changes in Scotland where taxpayer behaviour appeared to be driven by announcements, featured the possibility of retiming a transaction to either before or after the date of introduction of the announced change, as there was a perceived benefit to the taxpayer.
- 3.114 The prevailing feedback was that the announcements in Wales had been made well and that there were no adverse criticisms of the timing of the changes or the time period between the announcement and the introduction of these changes.
- 3.115 There was a consensus however that the changes to rates and bands should be minimised as far as possible, and that the periodic change should be on a regular basis where possible. It was suggested that this should take the form of an annual or biannual “devolved taxes event”. It was noted that, since the number of devolved taxes that would be included in the devolved tax event was limited, this may not be practical at the current time but could be considered should the range of devolved taxes increase.

⁸ The change announced on 27 September 2022 (and which took effect on 10 October 2022) fall outside the period covered by this review.

- 3.116 Practitioners also noted that the decisions on changing the rates and bands of devolved taxes ultimately needed to be considered in the context of the fiscal arrangements between Wales and the UK, and that both the timing of the changes and the impact that the changes would have on the amounts featuring in the fiscal arrangements for devolved administrations would ultimately determine the timing of frequency of fiscal events.
- 3.117 The practitioners considered that the timing of the changes was not particularly problematic, although there were some concerns that imposing changes with effect in December or January, or other peak periods for transaction completion, could give rise to challenges in ensuring full compliance in light of any announced changes. Most practitioners considered that the professionals and taxpayers were flexible enough to be able to respond, even in busy periods.
- 3.118 There was some suggestion that there was insufficient awareness of the announcements by the Welsh Government of changes to the rates and bands. This was in respect of the level of awareness of ordinary members of the public, as opposed to specialised practitioners. Likewise, there was some suggestion that there is not enough awareness of the Welsh Government's responsibility for LTT, both in terms of the overall responsibility and the announcement of headline changes to rates and bands. It was proposed that more emphasis on general public awareness and education could address this.
- 3.119 There was a general consensus that the mechanisms employed to alert practitioners and professionals to changes were appropriate, but that these mechanisms should be reviewed continually to ensure that the Welsh Government and WRA continue to reach the widest number of possible stakeholders when key events occur.
- 3.120 It was also considered that the approach to transitional arrangements to address the changes in the rates and bands was appropriate. It was considered that their use should be maintained.
- 3.121 It is noted that the Welsh Government announced a set of changes to rates and bands that came into effect on 10 October 2022. This took place after the period covered by this assessment and the process for these recent changes is therefore not included with the evidence generated during the assessment.

Findings

- 3.122 To the extent possible, the announcement on the rates and bands changes should be less frequent. Announcements should not be ad hoc (unless justified by exceptional circumstances) but should be regular. Announcements could potentially be formalised as a devolved taxes fiscal event.
- 3.123 The current legislative approach to transition from existing rates and bands to new bands is appropriate.
- 3.124 Consideration should be given to increasing general awareness of the Welsh Government's role in LTT and other devolved taxes.

Research objective 5.m: Impact of the absence of first time buyers relief (FTBR)

- 3.125 There is no FTBR under the LTTA, this being a key policy difference introduced in 2018 (a specific SDLT first time buyers relief existed under SDLT at that time). The threshold at which any purchaser of a residential property pays LTT (regardless of whether it is a first purchase) was increased by the Welsh Government with the Senedd's approval of those rates and bands. The threshold was adjusted in the run-up to the introduction of LTT. It is, at the time of the review, £180,000.⁹ As no specific relief exists, there is no data available through the LTT reporting system that confirms which residential property transactions involve a first time buyer (FTB).
- 3.126 The policy decision was based on the prevailing market values in Wales being substantially lower than those prevailing in England (and to which SDLT applies). The approach straightforwardly removed all transactions under the threshold, including many by FTBs, from LTT.

⁹ The threshold was increased to £225,000 with effect from 10 October 2022. This took place after the period covered by the assessment. The findings are based on the threshold applying during the review period.

Evidence review

- 3.127 In the two-year period after introduction, 2018-2020, there was a slight rise in average property value transactions (see Figure 3.3) that continued, at the same rate, the rises that had occurred from mid-2013. From 2020, the rate of increase in property values accelerated.
- 3.128 Although property values in Wales are generally lower than those in England, the changes in values in Wales broadly reflect the changes in values in England, both in terms of rate of increases and the timing of the increases.
- 3.129 The average FTB price in Wales in 2021 was £164,745 - an increase of 13 per cent compared to 2020, while the respective price in England for the same period was £230,406, up 9 per cent from 2020.
- 3.130 The average growth rate of average FTB prices was 5 per cent in the period 2012-2021 in both countries.
- 3.131 The FTB price in Wales seems resistant to external shocks given that it has grown steadily by 4 per cent since 2016 and did so even during the pandemic (2019-2020). On the other hand, the growth rate in England was 1 per cent in 2018-2019 and 3 per cent in 2019-2020.
- 3.132 The only year in which the average FTB price growth rate in Wales was reduced was 2014-2015, where it was 3 per cent, compared to 5 per cent in 2013-2014.
- 3.133 The evaluation of SDLT FTBR leads to the conclusion that most people who benefitted from the relief would have purchased property even without the relief. An unintended side effect of the then SDLT FTBR seems to be an increase in the average price paid by FTBs in the price band it applied to (£125,001 to £250,000). This suggests that the relief was “priced in”, increasing FTB prices by 0.5-0.7 per cent on average for every one percentage point of SDLT relief after controlling for wider economic and credit conditions. The report undertaken for HM Revenue and Customs¹⁰ also found that each additional transaction arising over and above those that would have occurred absent the relief cost the Exchequer roughly £160,000 in lost revenues.

¹⁰ Bolster, A. (2011) Evaluating the Impact of the Stamp Duty Land Tax First Time Buyer's Relief. *HM Revenue & Customs*

Figure 3.3: Average FTB price in Wales and England (2012-2022)



Source: HM Land Registry. 2022. First time buyer and former owner occupier. [Accessed April 2022].

Practitioners and technical committees

- 3.134 Feedback was provided by practitioners who were experienced in residential property sales, with an emphasis on acting on behalf of first time buyers, advising on mortgages and financial affordability, and knowledge of property markets in cross-border areas of Wales.
- 3.135 Practitioners noted that this research objective addresses what is primarily a policy matter rather than a technical matter. The practitioners noted that, for first time buyers, there was still not full awareness of the changes which had occurred in Wales regarding the removal of the FTBR and the compensation for this, namely an increase in the general threshold before LTT would become chargeable.
- 3.136 Practitioners noted that there was no evidence of any impact on the purchasing of properties by people who will be classified as first time buyers. It was noted that the Land Transaction Tax is considered a marginal cost in relation to the purchase of a home, and that it was not the determining factor in decisions on whether or not to proceed with the first time purchase. Most buyers, if not previously aware of Land Transaction Tax and buying a home above the threshold for Land Transaction Tax generally, would consider adjusting the property that they were interested in rather than decide not to proceed with the purchase at all.

- 3.137 It was noted by practitioners, at the time of the introduction of the change in 2018, that the vast majority of homes which were being purchased by first time buyers fell under the revised and increased threshold for Land Transaction Tax. It was also noted that, since 2018, the property market in Wales has changed considerably, and that, in 2022, approximately 50 per cent of first time buyers will be close to or above the LTTA threshold. Even with this increased proportion of first time buyers entering the chargeability zone, there was no evidence that it had substantively affected behaviour and buying decisions.
- 3.138 In light of the recent changes in property values, practitioners suggested that the threshold would require to be increased to ensure that at least a significant majority were not paying Land Transaction Tax (in line with the original policy decision taken in 2017).¹¹ There was anecdotal evidence that an increased proportion of first time buyers are now paying some amount, albeit a small amount, of LTT. This has resulted from an increasing proportion of properties being priced slightly above the LTTA threshold.
- 3.139 Practitioners reported that access to home ownership in Wales is likely to be determined more decisively by affordability, considering increased property values and the ratio of salaries/wages to these increased property values, as well as the availability and affordability of mortgages based on property values and earnings. One practitioner reported: *“Purchase decisions always boil down to mortgage availability and the affordability of the repayments”*. A legal adviser commented that *“I’m not aware of a transaction not going ahead purely based on the level of LTT liability”*.
- 3.140 There was evidence reported that in situations where LTT had not been anticipated, potential first time buyers were able to access additional finance, either through their own means, family financing or through formal financing from banks.

¹¹ The original policy decision was announced in December 2017: [Written Statement - Land transaction tax rates and bands \(11 December 2017\) | GOV.WALES](#)

Findings

- 3.141 There is no evidence to suggest that the absence of an FTBR has had any substantial impact on access to home ownership in Wales.
- 3.142 Practitioners' evidence suggests that, even with an increasing proportion of first time buyers paying a small amount of LTT, this has not negatively impacted access to home ownership in Wales by first time buyers. Their evidence suggests that the substantive issues impacting home ownership would be availability of property, the value of property, the level of earnings, the availability of finance, and the affordability of mortgages and other financial products, rather than the comparably minor costs of LTT.
- 3.143 The current threshold, should it be set at a level minimising the incidence of LTT on first time buyers, would require review and adjustment in light of changing market values since 2018.¹²

Research objective 6.n: Exchange rules

Practitioners and technical committees

- 3.144 The experience of practitioners and technical committees with exchange rules (as disclosed by them) was not as widespread as for topics covered under other research objectives. However, there was a good level of awareness of the changes to the rules and the objectives underpinning these changes.
- 3.145 It was noted that, in particular, the change to include VAT to the considerations for exchange properties was broadly welcomed. It was noted that, generally, VAT in a transaction between two registered entities is not considered a final tax and is therefore not considered part of the value of the property. However, the changes under the LTTA were considered reasonable and ensured clarity regarding how VAT should be treated when determining the consideration.
- 3.146 Practitioners considered the targeted anti-avoidance rule to be well designed and fit for purpose. There was no evidence of attempts by taxpayers to create avoidance opportunities in relation to exchanged properties. It was felt that should there be any

¹² A change to rates and bands was announced in September 2022, effective October 2022: [Plenary 27/09/2022 - Welsh Parliament \(senedd.wales\)](#) (see paragraphs 127, 128)

attempt to avoid, the targeted anti-avoidance rules provided would be sufficient and appropriate to deal with such arrangements.

- 3.147 Practitioners noted that the guidance issued by the WRA and the advice given during discussions when responding to enquiries were consistent and pragmatic in light of the new rules.

Findings

- 3.148 The change made to the exchange rules by including VAT paid as part of chargeable consideration has improved the legislation in light of the clearly stated approach to determining consideration generally.

Research objective 6.o: Partnership rules

Practitioners and technical committees

- 3.149 Practitioners noted that the rules relating to partnerships in which an interest is transferred by a partner maintain the same underlying approach to chargeability as in SDLT. Practitioners noted that this approach has a history of complexity and, therefore, attempts to reduce its complexity would be welcome.
- 3.150 Practitioners noted that the approach under the LTTA's partnership rules of triggering a liability to LTT where a transfer of a partnership interest is a result of a tax avoidance arrangement went some way towards achieving the overall objective of reducing the complexity.
- 3.151 Practitioners noted that there appear to be no avoidance opportunities that might arise as a result of the changes made to determining what constitutes a chargeable transfer of a partnership interest.

Findings

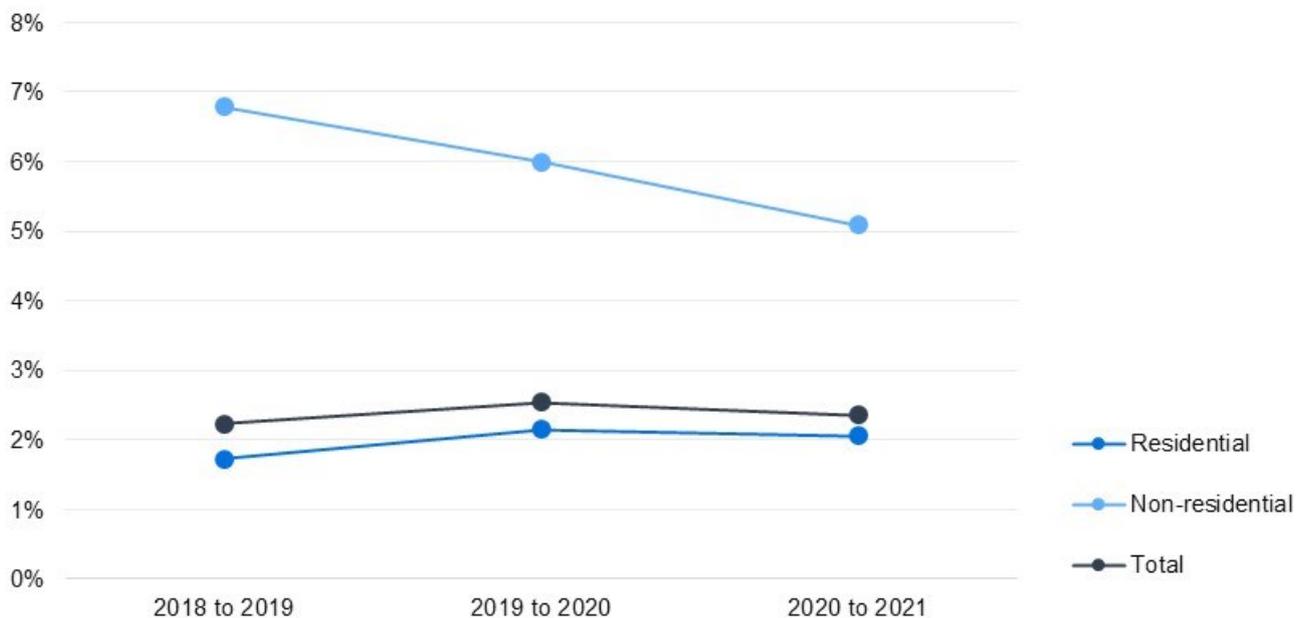
- 3.152 Having considered the effect of the changes to the LTT rules regarding transfer of partnership interests, there appear to be no avoidance opportunities that could arise as a result.

Research objective 6.p: Reliefs

Evidence review

- 3.153 The reliefs vary considerably in terms of the number of claims, with some being very common and others of relatively rare usage. The principal reliefs are those claimed by charities (under Schedule 18), multiple dwellings relief, (claimed under Schedule 13), group relief (applying under Schedule 16 to transfers of interests of property between entities within the same corporate group), and social housing relief (under Schedule 15). The remaining reliefs (under Schedules 9-12, 14, 17 and 19-22) have been grouped as “other”.
- 3.154 Transactions involving reliefs: As shown in Figure 3.4, there has been a slight downward trend in the percentage of non-residential transactions¹³ that had a relief impacting the value of tax due (from 6.8 per cent in 2018 to 5.1 per cent in 2021). In contrast, the percentage of reliefs that impacted the value of tax due in residential transactions has remained broadly stable since 2018 (between 1.7 per cent and 2.2 per cent).

Figure 3.4: Percentage of reliefs impacting the value of tax due relative to all transactions (2018-2021)

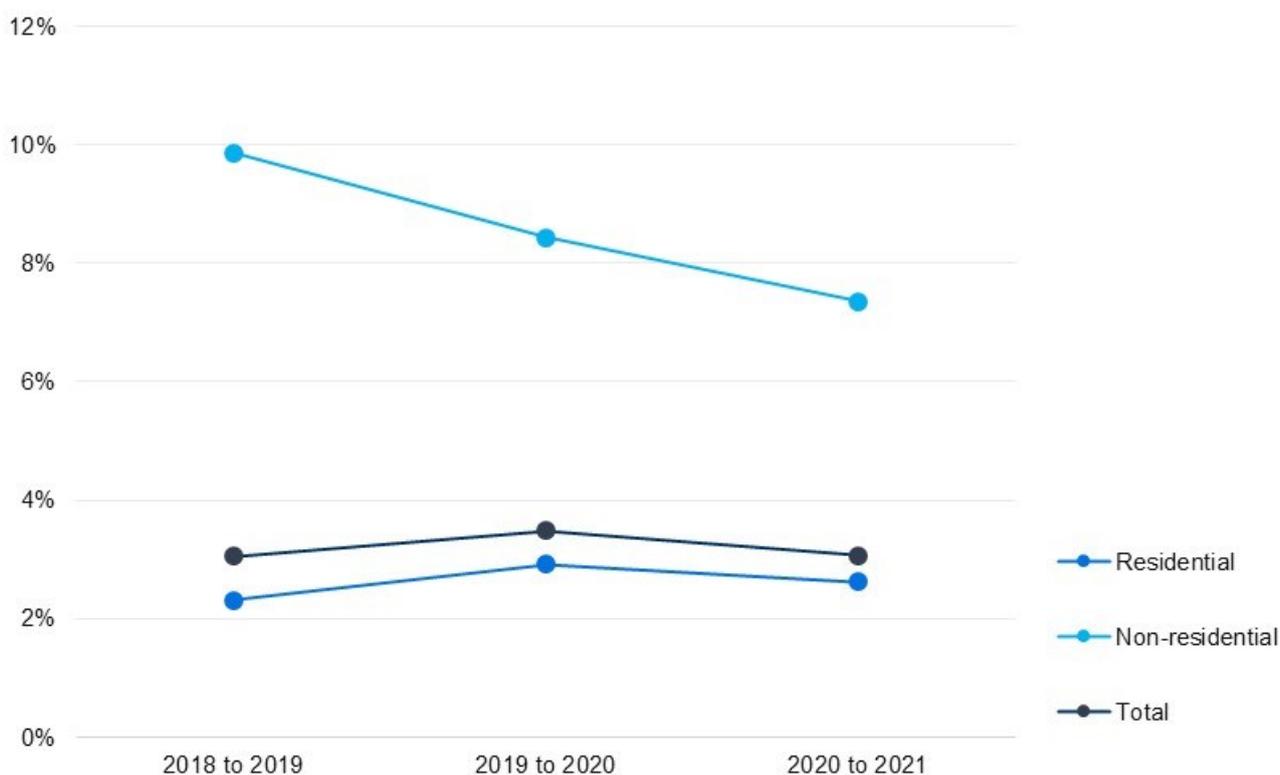


Source: Welsh Government. Land Transaction Tax Statistics: February 2022. [Accessed April 2022].

¹³ “Non-residential” includes mixed use transactions, as per StatsWales data.

3.155 Transactions involving reliefs: The percentage of all transactions that had claimed a relief (including those that did not impact on the tax payable) had decreased for non-residential properties (from 9.9 per cent in 2018 to 7.3 per cent in 2021), while it remained stable for residential properties (2.3 per cent in 2018 to 2.6 per cent in 2021).

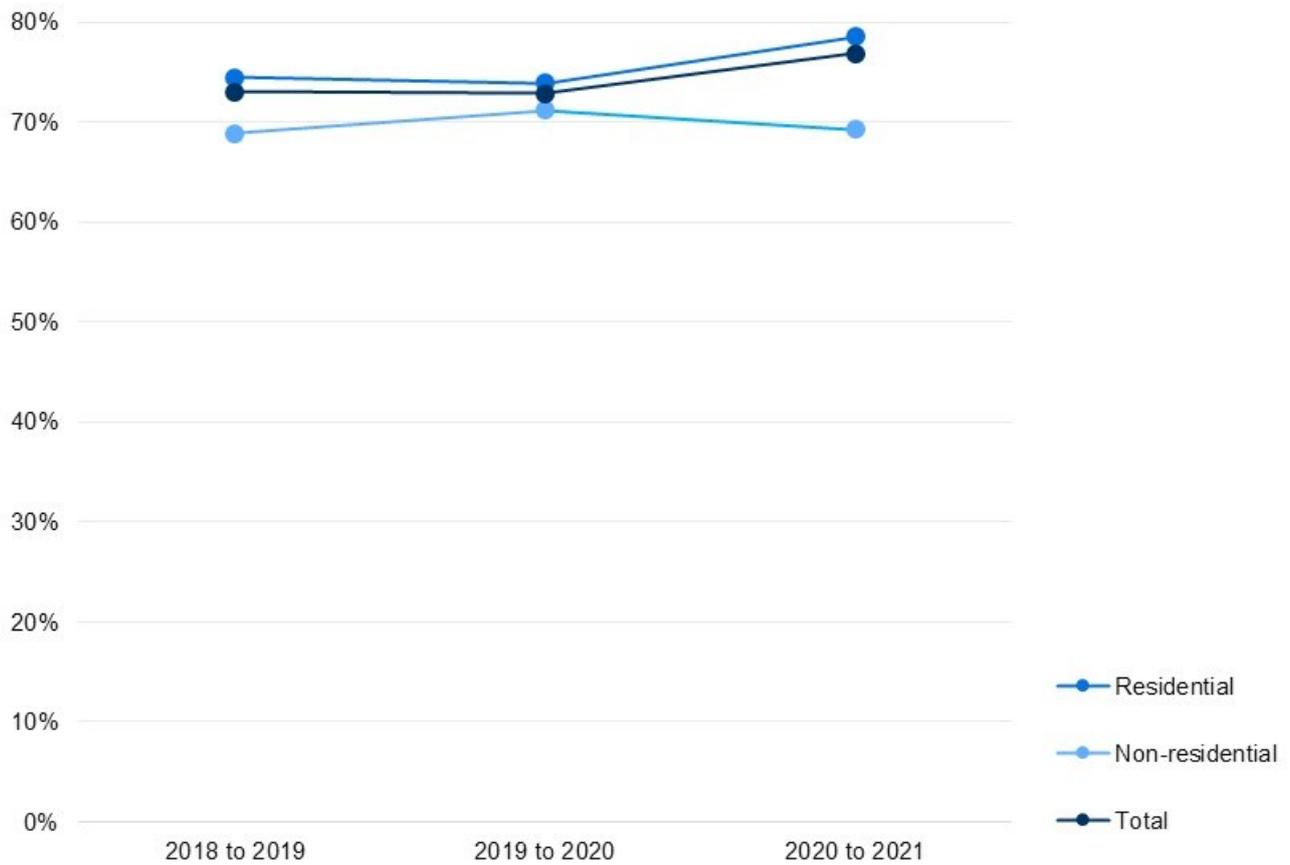
Figure 3.5: Percentage of all transactions that claimed a relief (2018-2021)



Source: Welsh Government. Land Transaction Tax Statistics: February 2022. [Accessed April 2022].

3.156 Impact of reliefs on amount of tax: An increase has been observed in the percentage of residential reliefs that impacted the amount of tax due (from 74.4 per cent in 2018 to 78.6 per cent in 2021). A small increase has also been observed in the corresponding percentage for non-residential properties (from 68.9 per cent in 2018 to 69.2 per cent in 2021).

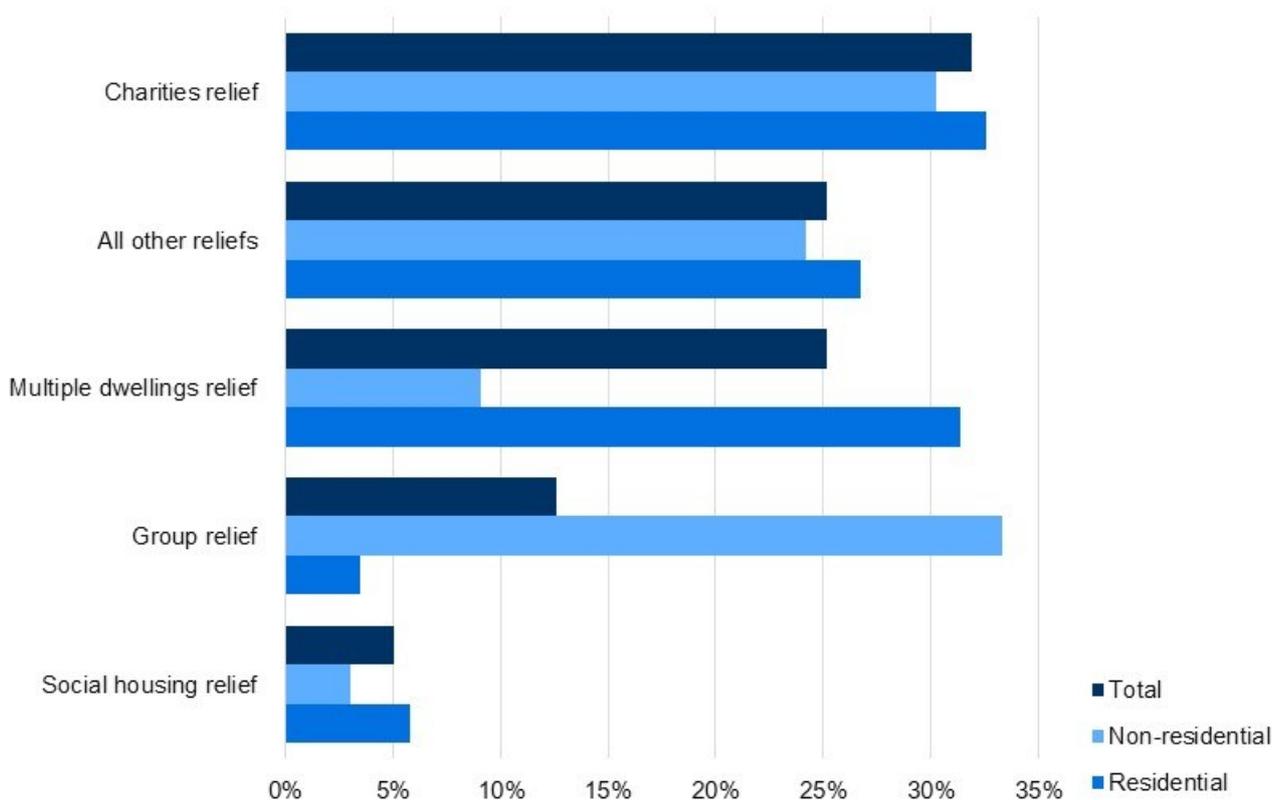
Figure 3.6: Percentage of reliefs that impacted the amount of tax due relative to all reliefs (2018-2021)



Source: Welsh Government. Land Transaction Tax Statistics: February 2022. [Accessed April 2022].

3.157 Frequency of reliefs: The most common relief type in the residential category in 2021 is charities relief (33 per cent), followed by multiple dwellings relief (31 per cent). The most common ones with respect to non-residential property are group reliefs (33 per cent) and charities reliefs (30 per cent).

Figure 3.7: Percentage of reliefs' breakdown by type (2021-2022)

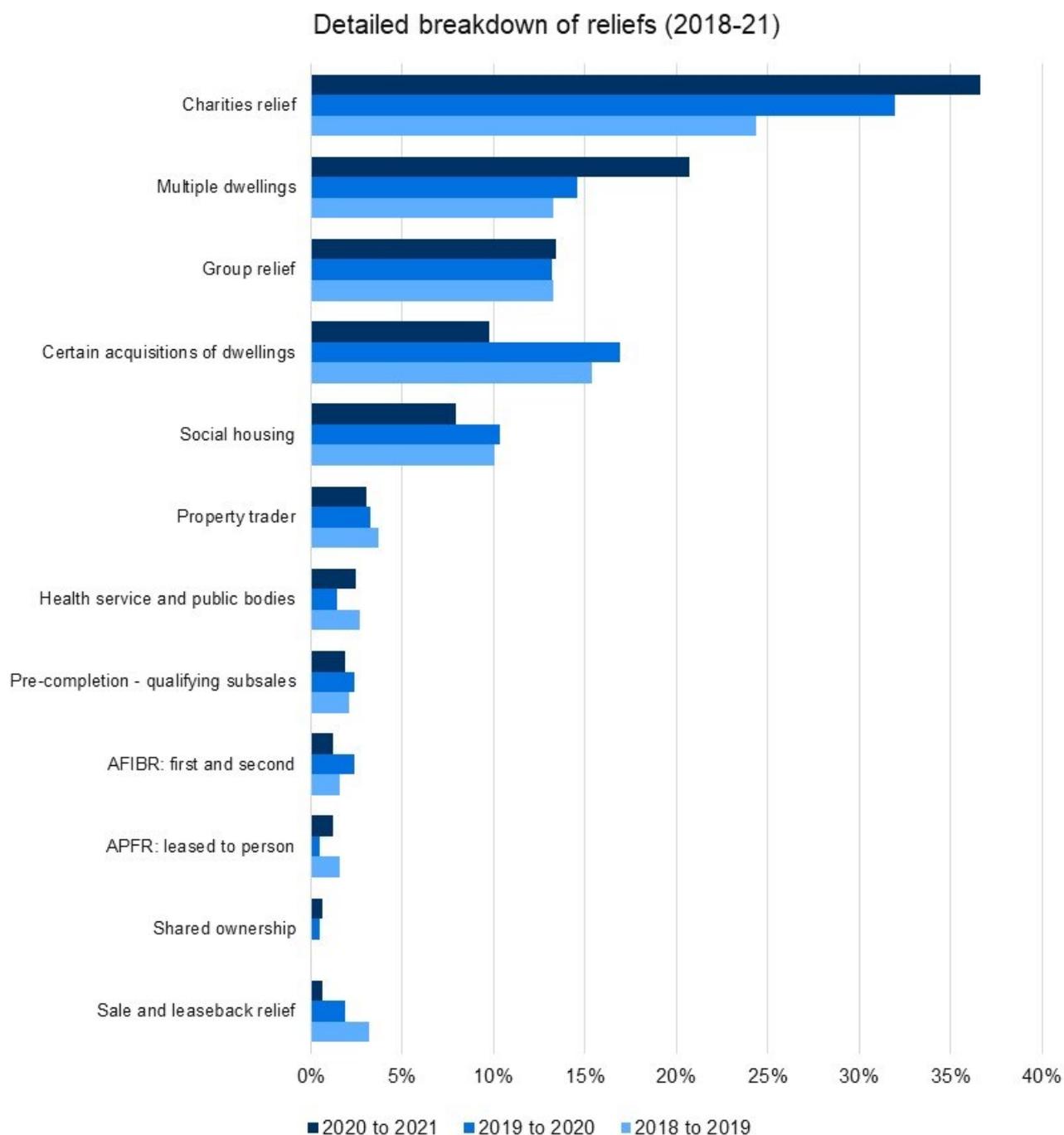


Source: StatsWales. 2022. Land Transaction Tax statistics: February 2022. [Accessed April 2022].

3.158 The breakdown of relief claims in 2021 for categories provided by the WRA included:

- Certain acquisitions of dwellings: 9.8 per cent (down from 15.3 per cent in 2018)
- Pre-completion qualifying sub-sales: 1.8 per cent (down from 2.1 per cent in 2018)
- Sale and leaseback relief: 0.6 per cent (down from 3.2 per cent in 2018)
- Property Finance Reliefs and leased to person: 1.2 per cent (down from 1.6 per cent in in 2018)
- Alternative Finance Investment Bonds Relief: first and second transactions: 1.2 per cent (down from 1.6 per cent in 2018)
- Health service and public bodies: 2.4 per cent (down from 2.6 per cent in 2018)
- Property trader: 3 per cent (down from 3.7 per cent in 2018)
- Shared ownership: 0.8 per cent (up from 0.5 per cent in 2019)

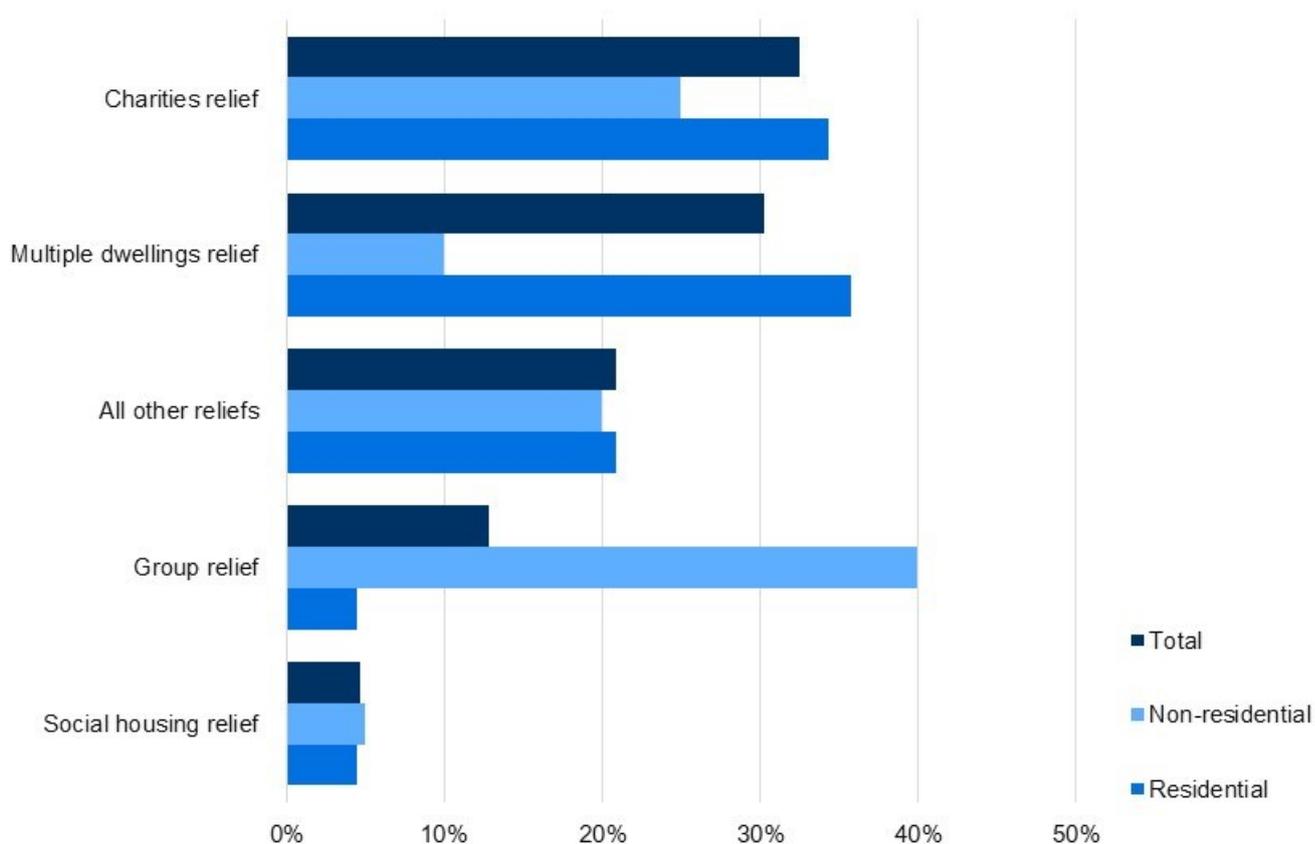
Figure 3.8: Detailed breakdown of reliefs (2018-2021)



Source: Welsh Revenue Authority. 2021. Breakdown of reliefs. [Accessed April 2022].

3.159 Reliefs and residential properties: The most common residential reliefs that impacted the amount of tax due are multiple dwellings relief (36 per cent) and charities reliefs (34 per cent). The respective ranking in the non-residential category is group relief first (40 per cent), with charities relief second (25 per cent).

Figure 3.9: Reliefs that impacted tax due, breakdown by type (2021-2022)

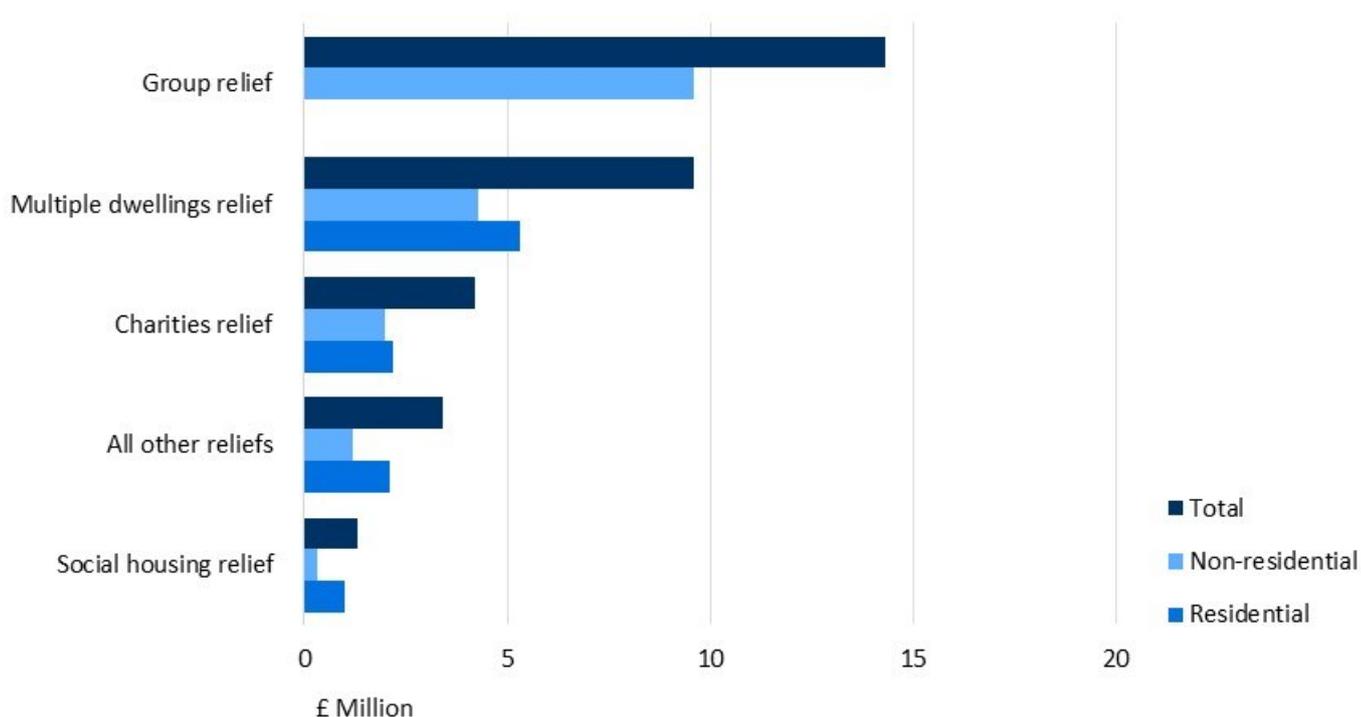


Source: StatsWales. 2022. Land Transaction Tax statistics: February 2022. [Accessed April 2022].

3.160 The type of relief for residential property transactions¹⁴ with the highest tax amount relieved was multiple dwellings (£5.3m in 2021). For non-residential property transactions it was group relief (£9.6m in 2021).

¹⁴ Data for residential group reliefs were suppressed by StatsWales due to possible disclosure and/or the majority of the value dominated by a small number of transactions. Accordingly, Figure 3.10 does not include residential group relief.

Figure 3.10: Amount of tax relieved by type (2021-2022)



Source: StatsWales. 2022. Land Transaction Tax statistics: February 2022. [Accessed April 2022].

Practitioners and technical committees

- 3.161 Practitioners welcomed the structural approach to the treatment of reliefs, particularly by setting out each relief separately as a Schedule to the Act and maintaining a consistent approach to reliefs within, and across, Schedules.
- 3.162 Practitioners noted that some reliefs have not been carried over from SDLT and some reliefs have been amended. Practitioners also noted that for many reliefs, the level of uptake is relatively low and therefore there is no widespread experience across all reliefs available.
- 3.163 In light of the structural changes and the consistent approach supplemented by the guidance issued by the WRA, there was no evidence that there had been any problems encountered in claiming reliefs and complying with the rules of the reliefs.
- 3.164 Practitioners noted that reliefs were being claimed appropriately within the scope of the legislation by their clients and, therefore, the intended beneficiaries were receiving the intended benefits. There was no evidence of clients being unaware of the relevant reliefs.

- 3.165 There was no evidence that suggested that reliefs were not being claimed by the intended beneficiaries, and certainly not as a result of the structure and content of the LTTA.
- 3.166 Regarding those reliefs not carried over from the SDLT legislation, practitioners considered the decision not to carry these over appropriate because the reliefs were for entities or commercial circumstances which are no longer relevant. In other words, the reliefs were historical, and there is no driver to have them reinstated.
- 3.167 Practitioners were not aware of any request by commercial clients to access reliefs which have not been carried over from the SDLT legislation but would otherwise be available in England. There was no evidence of business decision-making being affected either positively or negatively by the absence of specific reliefs, including the demutualisation relief, and the consequential changes to the LTTA group relief rules.
- 3.168 Regarding the multiple dwellings' relief, there was no evidence that that the lack of a review after a three-year period had contributed in any way to changes in planning, avoidance activity, or the nature of transactions and the tax payable.
- 3.169 There was no evidence of any impact on business decision-making as a result of the absence of a co-ownership authorised contractual schemes seeding relief (which is available for SDLT taxpayers).

Findings

- 3.170 In light of the evidence:
- The various reliefs are working properly.
 - The reliefs are being claimed by those intended to benefit from them.
 - There has been no impact on business decision-making in light of the absence of demutualisation relief.
 - There is no evidence of any planning or avoidance activity in respect of changes to multiple dwellings relief.
 - There has been no impact on business decision making in light of the absence of a co-ownership authorised contractual schemes seeding relief.

4. Conclusions

- 4.1 The overarching aim of this review is to assess whether the policy intents when LTT was brought into force in Wales have been achieved, and to evaluate whether those changes relative to its predecessor, SDLT, are still appropriate.
- 4.2 We have examined 16 aspects of the LTT Act that represent these policy intents covering structure, language, clarification and increased certainty of operation, consequent implication on compliance obligations, and changes in policy.
- 4.3 We have assessed, in light of the review of the data and the findings from the conducted surveys and interviews that, for all 16 aspects, the policy intents have been achieved. In addition, the changes made across these 16 aspects changes remain appropriate.
- 4.4 We conclude that the process of the design of the LTT Act at the time of its preparation and development prior to being submitted to the Senedd, and the subsequent implementation of the Act by the WG and WRA, has helped achieve 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 high levels of voluntary compliance.
- 4.5 Where policy objectives were originally designed taking account of then applicable market values, those policy objectives require to be periodically reviewed, and if necessary, adjusted, in light of any changes to market values.
- 4.6 To the extent possible, noting the broader context of the fiscal relations between the Welsh Government and the UK Government, 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 on a formalised and regular cycle; and should be relatively infrequent.

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Annex A – Survey questionnaire

The Welsh Government has commissioned Alma Economics to undertake an independent review of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017. The aims of this review are to (1) assess whether the policy intents when Land Transaction Tax (LTT) was brought into force in Wales have been achieved; and (2) evaluate whether those changes relative to LTT's predecessor, Stamp Duty Land Tax (SDLT), are still appropriate.

Research studies such as this are important for the Welsh Government to collect information and actionable evidence about its ability to deliver government priorities. The information collected in this review will be used to:

- assess whether the policy intent behind the specific changes or differences relative to SDLT made when LTT was brought into force in Wales have been achieved;
- evaluate whether those changes are still appropriate; and
- inform future Welsh Government policy relating to LTT.

As part of this review Alma Economics is undertaking this online survey to collect professionals' views on the major changes made to LTT since 2018 (including comparisons with SDLT and Land and Buildings Transaction Tax).

Your participation in the survey is voluntary and confidential, and you can change your mind at any time.

This survey does not require the collection of additional personal data from you. Any personal data you include in free text responses will be removed when the dataset is downloaded and reviewed. If you opt in to be contacted for an interview at the end of the survey, you will be asked to type your business email address. This email address will not be related to your responses in the survey, it will be shared separately from them, and will only be used to invite you to an interview at a later stage.

Please refer to our Privacy Notice (in English and in Welsh) to read more about:

- the lawful basis for using your data;
- data security;
- how long we will keep your personal data; and
- your individual rights under UK GDPR.

This survey should take no more than 30 minutes to complete. Please note that there is not an option to save your answers and resume the survey later, so make sure you have enough time to go through all the questions when you start completing the survey.

If you have any questions about this survey, please contact Dr Eleni Kotsira from Alma Economics: eleni.kotsira@almaeconomics.com

Please tick this box to show that you have read and understood the information above, and you agree to proceed with the online survey.

Profiling

What is your role?	Select only one: Accountant Conveyancer Solicitor Tax advisor Other: _____ (free text – short answer)
Do you have a specialised accreditation relating to Land Transaction Tax or one of the other UK land transaction taxes?	Select only one: Yes – please specify: (free text – short answer) No
How many years' experience do you have with LTT, SDLT or LBTT?	Select only one: 0-10 years 11-20 years 20+ years
Where do you undertake your principal work activities?	Select only one: Wales [Continue to Q5] England [Skip to Section 1] Northern Ireland [Skip to Section 1] Scotland [Skip to Section 1]
Please state in which Local Authority you are based.	Select only one: Blaenau Gwent Bridgend Caerphilly

	Cardiff
	Carmarthenshire
	Ceredigion
	Conwy
	Denbighshire
	Flintshire
	Gwynedd
	Isle of Anglesey
	Merthyr Tydfil
	Monmouthshire
	Neath Port Talbot
	Newport
	Pembrokeshire
	Powys
	Rhondda Cynon Taf
	Swansea
	Torfaen
	Vale of Glamorgan
	Wrexham

Section 1 – Changes in layout and language

Background: The [Land Transaction Tax and Anti-Avoidance of Devolved Taxes \(Wales\) Act 2017](#) ('the LTTA') was drafted according to the Welsh Government policy commitment to make the law in Wales more accessible.

Are you aware that the LTTA was drafted in accordance with this commitment to accessibility?	Select only one: Yes No
Please indicate whether you agree or disagree with the following statements.	
“The LTTA has clear, simplified and modern language, compared to the SDLT legislation that preceded the LTTA.”	Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree
“The structure of the LTTA (including the placement of reliefs as separate Schedules following a consistent format) has improved the accessibility of the legislation.”	Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree

Section 2 – Deferral rules

Background: The LTTA ([ss.58-64](#)) provides for deferral of liability of LTT for certain transactions where the total consideration cannot be ascertained at the time of the transaction because it is contingent or uncertain.

<p>Are you aware of, or have you advised on the application of, the deferral rules?</p>	<p>Select only one: Yes [Continue to Q10] No [Skip to Section 3]</p>
<p>Please indicate whether you agree or disagree with the following statements.</p>	
<p>“The rules clarify the process for making a deferral request.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>“The rules clarify the process for making a request for an amendment to, or renewal of, an agreed deferral.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>“The rules clarify the timing of when the deferred liability will occur (with a default maximum period of 5 years renewable for a further 5 years), in order to balance reasonable compliance obligations with protection of the revenue.”</p> <p>Do you agree or disagree that the default maximum period for a deferral of 5 years is appropriate (with the possibility of renewing for a further 5 years)?</p>	<p>Select only one: Strongly agree [Skip to Q14] Tend to agree [Continue to Q13] Neither agree not disagree [Continue to Q13] Tend to disagree [Continue to Q13] Strongly disagree [Continue to Q13]</p>
<p>What do you think of the default 5-year period as a maximum for a deferral (with</p>	<p>Select only one:</p>

<p>the possibility of renewing for a further 5 years)? It is...</p>	<p>Too short About right Too long</p>
<p>Could the deferral rules be improved?</p>	<p>Select only one: Yes No</p> <hr/> <p>If Yes: Please elaborate: _____</p> <p>(free text – short answer)</p>

Section 3 - Rules for higher rates residential property transactions

Background: The LTTA ([Sch. 5](#)) defines “higher rates residential property transactions” for the purposes of the higher rate prescribed in regulations made under [s.24](#).

<p>Are you aware of, or have you advised on the application of, the rules relating to higher rates residential properties?</p>	<p>Select only one: Yes [Continue to Q16] No [Skip to Section 4]</p>
<p>Are you aware of the rules relating to intermediate transactions, including the requirement for an LTT return to be filed if additional LTT is due?</p>	<p>Select only one: Yes [Continue to Q17] No [Skip to Q18]</p>
<p>“This change has improved the clarity of the legislation.” Do you agree or disagree with this statement?</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Are you aware of the clarification (made at the time of introduction of the LTTA) that an undivided share in a dwelling is to be treated as a major interest?</p>	<p>Select only one: Yes [Continue to Q19] No [Skip to Q20]</p>
<p>“This change has improved the clarity of the legislation.” Do you agree or disagree with this statement?</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>

<p>Are you aware of the change in the timing (to the effective date of the transaction) of determining whether a taxpayer also owns or acquires a dwelling that is subject to a lease?</p>	<p>Select only one: Yes [Continue to Q21] No [Skip to Q22]</p>
<p>“This change has improved the clarity of the legislation.” Do you agree or disagree with this statement?</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Are you aware of the change in how a major interest is defined in the event of joint inheritance of a dwelling?</p>	<p>Select only one: Yes [Continue to Q23] No [Skip to Q24]</p>
<p>“This change has improved the clarity of the legislation.” Do you agree or disagree with this statement?</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Overall, how do you consider these changes to LTT on higher rates properties have been implemented?</p>	<p>Select only one: Well Relatively well Unsure Relatively not well Not well</p>

Section 4 – Rules for leases

Background: The LTTA ([Sch. 6](#)) makes provision for the charging to LTT of leases.

<p>Are you aware of, or have you advised on the application of, the rules in Sch. 6 Pt. 2 relating to notifiable transactions for leases?</p>	<p>Select only one:</p> <p>Yes [Continue to Q26]</p> <p>No [Skip to Section 5]</p>
<p>The new rules (Sch. 6 Part 2) provide for reporting of notifiable transactions in the event of a lease continuing after its fixed term, in the case of new lease being granted after a fixed term, and in the case of indefinite leases.</p> <p>Considering this, please indicate whether you agree or disagree with the following statements.</p>	
<p>“These new rules are appropriate, taking account of the level of compliance (reporting and paying) obligations.”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>“These new rules make it is easier to comply with the compliance (reporting and paying) obligations.”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>“These new rules are an improvement of the pre-existing rules under SDLT.”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>

Section 5 – Rent element of newly granted residential leases is not chargeable to LTT

Background: The LTTA ([Sch. 6 para. 27](#)) provides LTT is not chargeable on the rent element of a residential lease of property in Wales.

<p>Are you aware of, or have you advised on the application of, the rules relating to this exemption?</p>	<p>Select only one: Yes [Continue to Q30] No [Skip to Section 6]</p>
<p>Please indicate whether you agree or disagree with the following statements.</p>	
<p>“The exemption was (at the time of the introduction of the LTTA) appropriate in Wales, taking account the levels of rent payable for the grant of new residential leases for dwellings in Wales.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>
<p>“The exemption remains appropriate in Wales, taking account of the levels of rent payable for residential dwellings in Wales.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>

Section 6 – Rules related to situations where a non-residential lease is granted and both rents and a premium are paid

Background: The LTTA ([Sch. 6 para. 28 to 34](#)) makes provision for calculating LTT on non-residential leases, including where lease consideration is not in the form of rent.

<p>Are you aware of, or have you advised on the application of, these rules relating to non-residential leases?</p>	<p>Select only one: Yes [Continue to Q35] No [Skip to Section 7]</p>
<p>Please indicate whether you agree or disagree with the following statements.</p>	
<p>The standard zero-rate band (“NRL zero rate band”) does not apply to the premium element of consideration for a non-residential lease where the annual rent paid is equal to or greater than amount determined by reference to the Net Present Value (NPV). This approach is appropriate, given the nature and value of such leases in Wales.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>
<p>“The amount of rent determined by the reference to the prescribed NPV is currently approximately £13,000. This is an appropriate amount in light of prevailing circumstances in Wales.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>

Section 7 – Clarity in the operation of the reliefs

Background: The LTTA (s.30) makes provision for the reliefs from LTT ([Schs. 9-22](#)).

<p>Are you aware of, or have you advised on the application of, the rules relating to any of the reliefs?</p>	<p>Select only one: Yes [Continue to Q40] No [Skip to Section 8]</p>
<p>Please indicate whether you agree or disagree with the following statements.</p>	
<p>“The LTT (including its Schedules) is well structured to clarify which transactions are exempt (not chargeable to LTT) and which transactions attract a relief from LTT (which may be claimed when filing a return).”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>“The relief provisions are structured so as to make consistent across all reliefs the calculation or determination of amount of the relief (whether a total relief or a partial relief subject to a calculation).”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>“Collectively, these changes make the reliefs easier to be claimed by the intended beneficiaries.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>

Section 8 – Anti-avoidance rules

Background: The LTTA ([s.66](#)) makes provision for a General Anti-Avoidance Rule (which is inserted in the [Tax Collection and Management \(Wales\) Act 2016](#) (TCMA) and for a Targeted Anti-Avoidance Rule in respect of reliefs from LTT ([s.31](#)). The LTTA did not

include an equivalent to sections 75A-75C of the Finance Act 2003 that apply to transactions under the SDLT regime.

<p>Are you aware of, or have you advised on the application of, these anti-avoidance rules?</p>	<p>Select only one: Yes [Continue to Q44] No [Skip to Section 9]</p>
<p>Please indicate whether you agree or disagree with the following statements.</p>	
<p>“The approach to anti-avoidance, through a General AAR and, for reliefs, through a Targeted AAR, is clear.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>“The LTT generally and the LTT reliefs specifically are sufficiently protected from abuse and artificial arrangements by the anti-avoidance rules.”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>
<p>“The anti-avoidance rules require strengthening and this could be achieved by adopting further rules based on the anti-avoidance rules applicable to Stamp Duty Land Tax (ss75A-75C Finance Act 2003).”</p>	<p>Select only one: Strongly agree Tend to agree Neither agree not disagree Tend to disagree Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>

<p>“The anti-avoidance rules are appropriately premised through the definition of ‘tax avoidance arrangement’.”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>
<p>“The anti-avoidance rules are appropriately premised without inclusion of a double reasonableness test (as in SDLT).”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>
<p>“The anti-avoidance rules are appropriately premised without inclusion of an independent advisory panel (as in SDLT).”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>Why do you think so?</p>	<p>(short text answer - optional)</p>

Section 9 – LTT Return filing period

Background: The LTTA requires returns to be filed within [30 days](#) from the effective date of a transaction, compared to 14 days for SDLT in England and Northern Ireland.

<p>Are you aware of the difference in return filing periods under LTT and SDLT?</p>	<p>Select only one:</p> <p>Yes [Continue to Q56]</p> <p>No [Skip to Q58]</p>
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<p>Please indicate whether you agree or disagree with the following statement:</p> <p>“The retention of a 30 day return filing period assisted the smooth introduction of the LTTA in Wales.”</p>	<p>Select only one:</p> <p>Strongly agree</p> <p>Tend to agree</p> <p>Neither agree not disagree</p> <p>Tend to disagree</p> <p>Strongly disagree</p>
<p>What benefits do you believe accrue from a longer return filing period?</p>	<p>(free text – short answer)</p>

Follow-ups

Thank you for completing this survey.

Would you like to be contacted on a later date between June and July 2022 and be invited to participate in a short interview (30-45 mins long) as part of the same research?

Select only one:

Yes – please provide your business email address: _____ (free text – short answer)

No

Annex B – Discussion guide for interviews with professionals - First Time Buyers

Relief focus

Introductions

Introduction to interview scope

Explanation of format, language, expectation of time (+/- 15 mins)

Recap of confidentiality and anonymity of participation.

Interviewee Background and Experience

Prompt: What is your general experience of residential real estate transactions?

Prompt: What is your experience of informing or advising clients about the LTT treatment of standard house purchases – transactions that are not subject to higher rates rules or complexities?

Impact of the absence of First Time Buyers Relief

Discussion background

At the introduction of LTT in Wales, WG made the decision not to introduce a first time buyers' relief (FTBR), instead choosing to increase the starting threshold for paying tax for all taxpayers. This meant that the starting threshold, compared to SDLT, was increased from £125,000 to £180,000 [the Welsh Government had, before the UK government's introduction of a first time buyers' relief in Autumn 2017, already announced an intended starting threshold of £150,000].

Consequently, a significant proportion of house purchases in Wales are exempted from LTT by reason of the increased threshold of LTT to £180,000. Had the WG introduced an FTBR, the potential tax saving of an FTBR would be a maximum £2,450 in respect of property purchases valued at £250,000 (and with no LTT therefore being payable).

In the other jurisdictions, the UK FTBR provides total relief on purchases up to £300,000 (worth £5,000) and a deduction from the at liability of £5,000 where the property costs £300,000- £500,000. In Scotland, the FTBR under LBTT increases the starting threshold from £145,000 to £175,000.

Research questions

- Has there been any impact on access to home ownership despite the absence of a first time buyers' relief in Wales (noting the increase in the starting threshold, and house prices in Wales)?
- Does the absence of a first time buyers' relief preclude or otherwise impact access to home ownership in Wales?

Prompts

- In your experience, when discussing with FTB clients, is the issue of lack of FTB seen as a significant one in terms of affordability?
- Is there awareness , until recently, that most home purchases in Wales are exempt from LTT by reason of the level of the LTT threshold and now around 50 per cent are, based on ONS statistics)?
- Is there awareness that the threshold has been increased by the WG at the introduction of LTT?
- Are there other factors concerning affordability that are raised by FTB clients?

Annex C – Discussion guide for interviews with professionals

Introductions

- Introduction to interview scope
- Explanation of format, language, expectation of time (+/- 45 mins)
- Recap of confidentiality and anonymity of participation.

Interviewee Background and Experience

Prompt: what is your general experience of LTT?

Deferral Rules

Discussion background: For transactions where there is contingent or uncertain consideration, the LTT provides for a default period (for reporting and paying) of the shorter of when the uncertainty will crystallise, or 5 years, plus rules for its renewal, or where there is earlier crystallization of the contingency/uncertainty. The policy objectives are - to make the rules clearer without creating an excessive compliance burden; and to ensure regular reviews with firm date.

- Have the rules establishing a default deferral period of 5 years struck the right balance between certainty of operation and practical implementation?

Prompts

- Is the 5-year deferral period appropriate?
- Are the rules concerning its renewal sufficient?

[add. prompts may be added based on emerging issues from survey]

Rules for higher rates residential properties

Discussion background: Filing rules for higher rates residential property transactions make a number of changes, including around “intermediate transactions”, definition of “major interest”, “the time at which ownership of properties is examined” (for the application of the higher rates), and cases of “inherited property”. These changes seek to clarify the scope and operation of the higher rate rules, particularly in cases of “bridging transactions” or where transactions are sequenced in a particular manner. The aim is to clarify the rules and to minimize the opportunity for avoidance of the application of the higher rate rules.

- How effectively do you think that these new rules in the LTT legislation have been implemented?
- Do you think that the Higher Rates Rules are clear?

Prompts

[prompts can be added based on emerging issues from survey]

Rules for Leases

Discussion background: The rules for leases require returns to be made when: (a) the lease continues after a fixed term; (b) the lease is for an indefinite term; and (c) a new lease is granted after the fixed term. The LTT return filing date is later than the equivalent for SDLT. The policy objective is to balance compliance burden of taxpayers with ascertainment/payment of LTT.

- Have these changes resulted in improvement of the LTT in relation to lease extensions?
- Is it easier now for taxpayers to comply?
Why yes/no?

[add. prompts can be added based on emerging issues from survey]

Rules where a non-residential lease is granted and both rents and a premium are paid

Discussion background: The zero-rate band for consideration (other than rent) for non-residential and mixed leases has been removed, and this rule no longer applies for SDLT. The LTT provides for an annual rent amount of £13,500 which is intended to minimise the risk of the so-called “bear trap” under SDLT where annual rent over £1,00 became chargeable. The WRA has issued detailed guidance on the application of the zero-rate band to such leases. The aim is to remove the possibility of taxpayer claiming two nil-rate thresholds (one for the premium and one for the rent), whilst not taxing the entirety of the combined consideration when only small amounts of rent are paid.

- Does the AAR (preventing two zero-rate band claims) function effectively?
- Is the current Net present Value appropriate?

Prompts

[prompts can be added based on emerging issues from survey]

Rent element of newly granted residential leases not chargeable to LTT

Discussion background: The rent element of leases in Wales is not chargeable to tax. This differs from SDLT. This decision is based on the substantially different market values of residential leases in Wales.

- Do you find this change appropriate in Wales?
- As a result of the non-chargeability, are such leases susceptible to avoidance attempts?

If yes, would the AARs be sufficient to address the avoidance arrangements?

[add. prompts can be added based on emerging issues from survey]

Anti-avoidance Rules

Discussion background: In Wales, a GAAR applies under the TCMA 2016, plus there is TAAR for reliefs (s.31). The approach for the GAAR differs from that for SDLT. The aim is to simplify the GAAR approach by having a single, clear rule, supplemented by targeted AAR for reliefs.

- Do you think that this aim has been achieved?
- Is the LTT sufficiently protected through the GAAR and the TAAR from abuse and artificial arrangements?
- Do you think that there could be any benefit by adopting the SDLT approach to GAAR? (if interviewee asks for an example) Such as cases to which the GAAR/TAAR may not readily apply.

Prompts

- Consider the differences between anti-avoidance and anti-abuse (of the legislation)
- How have the differing definitions (such as for “artificial tax avoidance arrangements” impacted the Rules?

[add. prompts can be added based on emerging issues from survey]

LTT Return Filing Period

Discussion background: In Wales, no change was made to the 30-day LTT return filing period.

- Does this 30-day period continue to be appropriate, in light of the level of compliance burden?

Prompts

[prompts can be added based on emerging issues from survey]

Rates and Bands

Discussion background: Rates and bands of LTT are set by way of regulations rather than primary legislation. The Welsh Government have made three changes - July 2020, December 2020 and March 2021.

- Considering the processes of announcement, and the time periods between announcement and legal effect (but not the actual rates or bands themselves, which

are outside the scope of the review), how appropriate do you think that the process for announcing these changes have been?

- Could awareness of the Welsh Government budget events (involving LTT) be improved? If yes, how?

Cross-border Issues

Discussion background: The LTTA s.9 addresses cross-border issues, where a transaction includes properties located in Wales and in another jurisdiction and/or property that straddles the border between Wales and England. The FSB also reported in 2019 on how s.9 operates.

- What issues, if any, do you know that arise in the application of s.9 to cross-border cases?
- Do different exchange rules impact the application of s.9?
- Do the issues identified in 2019 FSB Report still exist? Or, have these issues been resolved through adaptive experience?

Exchange Rules

Discussion background: The LTTA Sch. 4 para. 5 sets out how the consideration is to be determined where transactions involve the exchange of properties. These rules differ from the SDLT. They broadly reflect the SDLT rules as in force in 2011, but additionally make provision for Paid VAT to be part of the consideration and for a TAAR to address artificial manipulation of values.

- Have the new rules in the LTTA clarified and improved the treatment of exchange properties?
- In light of those rules, and the changes, are you aware if avoidance opportunities have emerged?

Partnership Rules

Discussion background: Under LTT, the SDLT rules on partnerships have been replicated, but with an amendment that provides for when certain transfers of partnership interest are to be treated as a chargeable transaction. These transfers are only chargeable when there are tax avoidance arrangements in place.

- How clear are the new rules on when transfers of a partnership interest become chargeable?
- Are the rules simpler? Easier to operate? Are there “bear-traps”?
- Do you know if there are potential avoidance opportunities as a result of these particular changes?

Reliefs

Discussion background: The reliefs are consistently structured and set out in individual Schedules to the LTTA. Some of the reliefs that were in SDLT have not been carried over to LTTA, and some have been amended to be more appropriate to the Welsh context. There is neither a demutualization relief nor a co-ownership authorized contractual schemes seeding relief. Also, for multiple dwellings, there is no requirement for a review 3 years after acquisition with a return to be filed if the number of properties acquired reduced. These changes have been made so that the reliefs are appropriate to circumstances in Wales.

- Do you think that these reliefs work properly given the context in Wales?
- Are the reliefs being claimed appropriately by those who are intended to benefit from them?
- Do you know if the absence of a demutualization relief (and the changes to group relief rules) has had any impact on business decision making?

Opportunities for improvement (other jurisdictions)

Discussion background: Land transaction taxes are the responsibility of the UK Government, the Scottish Government and the Welsh Government of the respective jurisdictions, but since the devolution of responsibilities there has been some divergence of approach.

- In respect of the issues covered in the interview (i.e. where the LTT differs from the SDLT approach), what changes from England or Scotland do you think that could be considered as beneficial to Wales?