



Llywodraeth Cymru
Welsh Government

IMPACT ASSESSMENT, DOCUMENT

The Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024: integrated impact assessment

An integrated impact assessment on the impact of an extension of land transaction tax higher residential rate refund and exception periods, in specified circumstances.

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Introduction

This Integrated Impact Assessment (IIA) relates to the following draft statutory instrument, “The Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024”.

The Cabinet Secretary for Finance, Constitution and Cabinet Office will lay the draft SI in the Senedd on 18 June 2024, in advance of seeking Senedd approval to it being made at a plenary session in July 2024.

The draft statutory instrument (SI) proposes amendments to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (LTTA), to extend existing land transaction tax (LTT) higher residential rate refund and exception periods, in certain specified circumstances.

The draft SI will be laid in the Senedd alongside this IIA and the associated Explanatory Memorandum (EM), which includes the Regulatory Impact Assessment (RIA).

The documents are available here:

- the draft regulations: “[The Land Transaction Tax and Anti-Avoidance of Devolved Taxes \(Wales\) Act 2017 \(Amendments to Schedule 5\) Regulations 2024](#)”
- [Explanatory Memorandum \(EM\)](#)

The draft SI was the subject of public consultation between 19 December 2023 and 17 March 2024. The consultation document can be found here: [Land Transaction Tax Higher Residential Rates: proposals to amend the refund and exception rules](#). (Please note, the draft SI published for the consultation was subject to minor post-consultation amendment, to address typographical and other drafting errors.)

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Regarding the IIA, the consultation document stated,

“An Integrated Impact Assessment (IIA) will be published after the consultation, and laid before the Senedd alongside the draft SI, EM and RIA. The IIA will explain how Welsh Government has considered the broader potential impact of the proposed rule changes, in terms of social, cultural, economic and environmental well-being, socio-economic disadvantage and the Welsh language. This consultation document poses questions regarding the proposals. The Welsh Government is interested in the public’s answers to these questions in particular, but welcomes all comment regarding the changes.” ”

The IIA was developed following the consultation to ensure it reflected views received in consultation responses. The IIA should be considered alongside the RIA.

The [Welsh Government’s report on the public consultation](#) can be found here.

The purpose and impact of the legislation

The legislative change will give homebuyers extended refund and exception periods for LTT higher residential rates charges, where transactions have been impeded or prevented, and therefore delayed, by reasons related to fire safety defects or emergency restrictions (the EM provides a more detailed explanation).

The refund and exception periods, currently limited to 3 years following relevant transactions, are beneficial to homebuyers seeking to bridge between homes. It is considered that, in most cases, 3 years is a sufficient period. Tax professionals consulted during the Stamp Duty Land Tax (SDLT) consultation on

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the introduction of the SDLT higher rates in winter 2015-2016, and for LTT in summer/autumn 2016, indicated they considered 3 years a sufficient period to sell, or buy, a dwelling in most instances. The new rules will offer added flexibility to those affected by the specified significant and unfortunate circumstances which can render 3 years too short in their cases.

The proposal supports the following Programme for Government 2021 to 2026 commitment:

- To develop further effective tax, planning and housing measures to ensure the interests of local people are protected.

Impact and the proportionate approach

In accordance with Welsh Government practice, a proportionate approach has been taken to this IIA. It is considered that:

- The new tax rules will improve tax treatment for homebuyers in all parts of Wales,
- a relatively small number of taxpayers will find themselves in circumstances in which they will need to use, and therefore benefit from, the new rules, and
- the new rules are expected to have beneficial impact, in the narrow set of circumstances described, without any disadvantageous impact to those taxpayers who use them, or to any others.

Section 1: What action is the Welsh Government considering and why?

Currently, land transaction tax (LTT) higher residential rates apply to transactions of residential property costing £40,000 or more, when the

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homebuyer already owns an interest in one or more other residential properties (a dwelling/dwellings) worth more than £40,000. Refunds and exceptions can apply in certain circumstances, but the period in which they apply is limited to 3 years from the date of the new purchase or sale of the former home, as relevant.

Refunds and exceptions apply in the 2 scenarios described below, typically situations in which homebuyers move between 2 homes (move between a former and a new only or main residence).

1. **Refunds - Purchase Before Sale transactions.** A purchase before sale (PBS) scenario describes a situation in which a taxpayer purchases a new only or main residence while still in possession of their previous only or main residence. In a PBS scenario, a taxpayer will pay the LTT higher residential rate on the purchase of this new dwelling, and may later apply for a LTT partial refund (a refund of the higher residential rates element ('Higher residential rates element' here refers to the difference between the higher residential rate charge and the main residential rate charge), which is typically applied at the point of purchase of the new dwelling [[footnote 1](#)], while they still possess their former only or main residence).

The taxpayer may apply for the partial LTT refund (a refund of the higher residential rates element of the original tax charge) at any time in the 3 years following the purchase of the new home, but only once they sell the former only or main residence. The right to apply for the partial refund expires 3 years after the purchase of the new home.

2. **Exceptions - Sale Before Purchase transactions.** A sale before purchase (SBP) scenario describes a situation in which a taxpayer sells their only or main residence before purchasing a new only or main residence, but may also own an interest in another dwelling. In a SBP scenario, a taxpayer may benefit from an exception from liability to LTT higher residential rates charges when they purchase their new only or main residence, for up to 3 years from the date they sell their previous only or main residence.

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This exception to liability applies only when the taxpayer buys the new only or main residence within 3 years of the sale of the former only or main residence. Once 3 years have passed after the sale of the former only or main residence, the exception rule expires and they must pay the LTT higher residential rates on the new purchase.

Since the legislation that governs LTT (the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('LTTA') was passed in 2017, specific adverse circumstances have arisen such that some transactions can be impeded or prevented, and therefore delayed, to the extent that the 3-year refund and exception period is too short.

The specific adverse circumstances in question are those in which the sale of a previous only or main residence has been:

- i. impeded by fire-safety defects, or
- ii. prevented by emergency restrictions.

In terms of the Five Ways of Working described by the Well-Being of Future Generations (Wales) Act 2015:

- this is intended as a long-term measure which will provide immediate assistance to homebuyers already affected by fire safety defects (Long term)
- while addressing a weakness in the current tax rules, the new tax rules will also prevent the future recurrence of difficulties for homebuyers when affected by delays to the specific category of transactions when affected by fire safety defects and/or emergency restrictions (Prevention)
- the new rules will support homebuyers to bridge in challenging circumstances, thereby supporting Welsh Government housing policies (Integration)
- the proposal for change and the draft SI were the subject of public consultation between 19 December 2023 and 17 March 2024, and input from those who responded has improved the explanation and presentation of the

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policy and the proposed change (Collaboration and Involvement).

Costs and benefits

The new rules are expected to provide refunds and/or an exception to liability for taxpayers in specific circumstances. The new rules are expected to allow taxpayers to prevent additional cost in the specified circumstances.

Although, in most cases, LTT refunds would ordinarily impact revenues which come to Welsh Government, in the case of the refunds provided in this instance, costs to the Welsh Government are expected to be minimal. It is anticipated that the Welsh block grant will be adjusted as refunds are provided in England and Northern Ireland through the 'exceptional circumstances' extension to the SDLT 3-year period.

In terms of the extension of the taxpayer right to claim an exception from liability to paying LTT higher residential rates in certain circumstances, the new rules may allow greater flexibility and reduced cost for taxpayers.

Administrative costs for the Welsh Government are not expected to increase as a result of the new rules. The Welsh Revenue Authority (WRA) expects the volume of claims to be low, and the work to be accommodated within the existing operational framework and approach to claims.

For fuller details on costs and benefits, please see the [regulatory impact assessment](#).

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Section 2: What will be the effect on social well-being?

Some homebuyers (and others who benefit because of the benefits experienced by those homebuyers), for whom LTT higher residential rates charges were incurred, or would otherwise be incurred because of unresolved fire safety defects and/or emergency restrictions, may experience some positive effects on social well-being from the proposed changes.

A relatively small number of taxpayers will find themselves in circumstances in which they will need to use, and may therefore benefit from, the new rules. The new rules are expected to have beneficial impact, in a narrow set of circumstances, without any disadvantageous impact to those taxpayers who use them, or to any others.

2.1 People and Communities

For a relatively small number of taxpayers, the new rules will allow home purchases to either become possible where they were previously not possible, or less costly than was previously the case.

2.2 Children's Rights

Please see the Children's Rights Impact Assessment at Annex A. The changes may provide some benefits to some children.

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2.3 Equality

Please see the Equality Impact Assessment at Annex B. There are no differential impacts on equality.

2.4 Rural Proofing

A Rural Proofing Impact Assessment is not required because this proposal is anticipated to have beneficial effects for a small number of eligible taxpayers across Wales, without differentially benefitting rural or urban taxpayers.

2.5 Health

A Health Impact Assessment is not required because the proposed changes will not have differential health impacts on particular groups. The WRA will issue guidance explaining the changes in accessible formats, to support those for whom communication is challenging because of health issues.

2.6 Privacy

A Data Protection Impact Assessment is not required because the proposal does not involve new ways of processing information.

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Section 3. What will be the effect on cultural well-being and the Welsh language?

3.1 Cultural Well-being

The proposed change is not anticipated to impact the promotion and protection of culture and heritage, or the ability of people to participate in arts, sport and recreation.

3.2 Welsh Language

The proposed change is not anticipated to impact the Welsh language. Please see the Welsh Language Impact Assessment at Annex C below.

Section 4. What will be the effect on economic well-being?

4.1 Business, the general public and individuals

The relatively small number of taxpayers who will benefit directly from the proposed new rules may experience greater economic well-being as a result of the new rules. There may also be indirect economic benefits to others who depend on those taxpayers' economic wellbeing, such as those who provide goods and services in the wider economy, or others who benefit indirectly from the taxpayers who benefit directly.

The proposals are not expected to disadvantage those involved in commercial aspects of property transactions such as estate agents, conveyancers and

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solicitors.

4.2 Public Sector including local government and other public bodies

No differential impact is anticipated on the public sector.

4.3 Third Sector

No differential impact is anticipated on the third sector.

4.4 Justice impact

A minor impact is possible. Please see the Justice Impact Assessment at Annex F below.

Section 5: Environmental well-being

5.1 No impact is anticipated on environmental well-being from the new rules. Please see the Biodiversity Impact Assessment at Annex G.

5.2 The following assessments are not required as these new rules will not impact on the matters which they address: Strategic Environmental Assessment, Habitats Regulations Assessment, Environmental Impact Assessment.

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Section 6. Socio-economic duty – what will be the impact on socio-economic disadvantage?

6.1 A public consultation on the draft SI and the associated proposals was conducted between 19 December 2023 and 17 March 2024. The [consultation document and the Welsh Government report on the consultation responses](#) can be found here.

6.2 Consultation responses indicated a high level of support for Welsh Government proposals.

6.3 For a relatively small number of taxpayers, the new rules will allow home purchases to either become possible where they were previously not possible, or less costly than was previously the case. This may have a positive impact on socio-economic disadvantage.

Section 7: Impact assessments

Annex A: Children's rights

Annex B: Equality

Annex C: Welsh Language

Annex D: Biodiversity

Annex E: Socio-economic Duty

Annex F: Justice

[Regulatory Impact Assessment](#)

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Section 8: Conclusion

The Welsh Government believes that, as set out in this IIA, the improved tax rules which will be introduced by the SI “The Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024” may benefit a relatively small number of taxpayers, in a limited set of circumstances, without disadvantageous impacts for others.

Annexes

1. Children’s Rights Impact Assessment

The new rules will extend taxpayer rights with regard to a narrow range of property transactions. The new rules may benefit children if they become taxpayers as a result of purchasing property in the given circumstances, or may indirectly benefit the children of those who have responsibilities for them. Benefit may be experienced in the context of the following children’s rights:

UNCRC Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

UNCRC Article 19

Governments should ensure that children are properly cared for, and protect

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them from violence, abuse and neglect by their parents or anyone else who looks after them.

Explanation

The extension of taxpayer rights to claim refunds and/or extensions to LTT higher residential rates liability may support families to move more easily between homes, thus supporting family life and children's rights.

B. Equality Impact Assessment

1. No differential impact is expected from the new rules on any people with protected characteristics as described in the Equality Act 2010.
2. WRA to implement and deliver a service with regard to protected characteristics.
3. WRA will monitor and report on issues to do with accessing its services.
4. No differential impact is expected from the new rules on human rights, UN Conventions, EU/EEA and Swiss citizens' rights, residency rights, mutual recognition of professional qualifications, access to social security systems, or workers' rights.

C. Welsh language impact assessment

1. The new rules are not expected to differentially impact the Welsh Language.
2. The WRA is the body responsible for advising taxpayers on the operation of devolved taxes. The WRA is required to comply with the Welsh Language standards and to treat the Welsh and English languages equally. The introduction of the new rules is an opportunity to reaffirm this practice and ensure taxpayers in Wales can continue to communicate in both languages regarding their tax affairs.

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D. Biodiversity Impact Assessment

The new rules are not expected to have a differential impact on biodiversity.

E. Socio-economic duty assessment

1. The new tax rules will be equally applicable to all eligible taxpayers, regardless of their socio-economic circumstances.
2. It is anticipated that the benefits afforded by the new rules may have a higher value to those experiencing socio-economic advantage. However, as it is also anticipated that the number of taxpayers who may benefit from the new rules will be relatively small, it will not be possible to monitor the impact of the new rules in terms of their socio-economic impact. No disadvantageous socio-economic impact is anticipated from the new rules.

E. Justice impact assessment

1. A minor impact on the justice system is considered possible.
2. While the new rules will extend existing rights to some taxpayers, they may also give rise to refund claims which are ultimately unsuccessful and/or self-assessments which become the subject of dispute between the taxpayer and the WRA. There is a possibility that of these small numbers, a proportion may ultimately come before the first-tier tax tribunal. Such steps would incur administrative cost, including potentially some cost to taxpayers bringing appeals.
3. We anticipate impact on the First Tier Tribunal (Tax) to be minimal or nil, for 4 reasons:
 - i. the LTTA amendments will give a high degree of clarity regarding the limits of taxpayers' rights to refunds and exceptions, giving maximum

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clarity in the law, minimal discretion for the WRA in decision making and minimum divergence across outcomes

- ii. well-established measures to address taxpayer disputes regarding unsuccessful claims will continue to be practiced, including the right to an initial WRA review, and signposting where appropriate to Alternative Dispute Resolution
- iii. the WRA will conduct education and awareness raising activity regarding the LTTA amendments, and the application of taxpayer rights of appeal, with taxpayers and representatives, and
- iv. on the basis of the above, and the WRA estimate that the number of successful claims related to the new rules will be 50 or fewer across several years, the number of appeals which may reach the Tribunal is expected to be nil or extremely low.

Footnotes

1. An only or main residence is used here broadly to mean a dwelling that is the home of the taxpayer. A taxpayer could own only one property (perhaps as a buy to let) but live elsewhere (for example, with a partner, at their parents, in rented accommodation or abroad). That owned dwelling will not be their only or main residence as it is not their home. [Back to text](#)

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