

Financial Scrutiny Unit Briefing

Land and Buildings Transaction Tax (Amendment) (Scotland) Bill

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The Land and Buildings Transaction Tax (Amendment) (Scotland) Bill was introduced in the Scottish Parliament on 27 January 2016. The Finance Committee has been designated as the lead committee on the Bill.



CONTENTS

INTRODUCTION	3
POLICY OBJECTIVES	3
NON-INDIVIDUALS.....	4
<i>Companies</i>	4
<i>Married couples, civil partners and cohabitants</i>	4
RELIEFS.....	4
FINANCE COMMITTEE CONSULTATION	4
FINANCIAL MEMORANDUM	5
FINANCIAL IMPLICATIONS FOR THE SCOTTISH ADMINISTRATION.....	5
ADMINISTRATIVE AND COMPLIANCE COSTS FOR REVENUE SCOTLAND	5
SOURCES	7
RELATED BRIEFINGS	8

INTRODUCTION

The Land and Buildings Transaction Tax (Amendment) (Scotland) Bill was introduced to the Scottish Parliament on 27 January 2016. The available timeframe for parliamentary scrutiny has been much reduced due to the introduction of the bill so close to the dissolution of this parliamentary session.

If the Bill is passed by the Scottish Parliament prior to dissolution, and subject to Royal Assent being granted before the end of March 2016, an LBTT supplement will come into effect from 1 April 2016 and apply to the total purchase price of an additional residential property purchase of £40,000 (which is the point at which a buyer is required to make an LBTT return) and above.

The Bill, as introduced, and the accompanying documents (including Policy Memorandum, Explanatory notes and Delegated Powers Memorandum) can be accessed on the [Scottish Parliament's website](#).

POLICY OBJECTIVES

In his Spending Review and Autumn Statement of 25 November 2015, the Chancellor of the Exchequer announced a supplementary Stamp Duty Land Tax (SDLT) charge in the rest of the UK of 3% on the purchase of additional residential properties. In setting out his tax and spending proposals on 16 December 2015, the Deputy First Minister announced that legislation would be introduced proposing a new LBTT supplement on purchases of additional residential properties in Scotland (such as buy-to-let properties and second homes) of £40,000 and over.

The stated policy objective of the Scottish Government in replicating the UK Government's proposal is to

“ameliorate the likely distortions which will arise in Scotland when new SDLT higher rates of tax for the purchase of additional residential properties are introduced in the rest of the UK from 1 April 2016. The absence of a similar LBTT supplement could make it more attractive to invest in buy-to-let properties and second homes (and in particular those properties at the lower end of the market) in Scotland compared to other parts of the UK, making it difficult for first time buyers in Scotland to purchase a main residence.”

The Scottish Government wish to “ensure that the opportunities for first time buyers to enter the housing market in Scotland remain as strong as they possibly can, aligning with LBTT policy on rates and bands.”

The LBTT supplement will be chargeable if, at the time of the settlement of a transaction involving the purchase of a dwelling in Scotland, the buyer owns more than one dwelling (whether in Scotland or another country) unless that dwelling is a replacement of the buyer's existing main residence. As the Policy Memorandum states:

“if individual A owns a dwelling in which they live (their main residence) and then buys a new buy to let property, then the supplement will apply. If individual B owns both their main residence and a buy to let property then sells their main residence and purchases a new main residence, the supplement will not apply to the purchase of the new residence even though after settlement of the transaction the buyer owns two residential properties”.

The supplement may also apply to a transaction where non-residential rates apply. For example, non-residential rates could apply to the purchase of a shop with a flat above it. As

such, it is sufficient for the property to *include* a residential dwelling, it does not have to consist solely of a residential dwelling.

NON-INDIVIDUALS

Companies

The LBTT supplement will apply to all purchases of residential properties by companies and other such “non-natural persons”, whether or not they already own a residential property. This is because the Scottish Government considers that a potential tax avoidance opportunity would arise if companies and similar bodies were allowed to purchase a residential property without the supplement applying to it, in the way individuals can.

Married couples, civil partners and cohabitants

The Policy Memorandum states that married couples, those in a civil partnership and cohabitants, along with their dependent children, will be treated “for the purposes of the LBTT supplement as one economic unit”. Examples of situations caught by this element of the Bill are parents buying an additional home and putting that house in their dependent child’s name; or one spouse owning the existing marital home and then the other spouse purchasing an additional residential property. In both these cases, the supplement would apply.

Under the proposals, it is possible to buy a home for a non-dependent child (for example a son or daughter at college or university) provided the property is solely in the child’s name.

RELIEFS

The Policy Memorandum for the Bill as introduced states that the Scottish Government wishes to consider and reflect on both the Stage 1 written and oral evidence before bringing forward policy in this area.

FINANCE COMMITTEE CONSULTATION

The [Finance Committee issued a call for evidence](#) on the Bill asking for views on:

1. “The Scottish Government’s overall policy objectives in introducing the supplement and, in particular, whether it—
 - Is likely to “complement the Government’s commitment to supporting home ownership in a balanced and sustainable way.”
 - “helps to ensure that the tax charge is proportionate to the taxpayer’s ability to pay.”
2. The proposed 3% rate for the supplement and the £40,000 purchase price at which it is proposed to take effect.
3. The Scottish Government’s estimate that the measure will raise between £17 million and £29 million in 2016-17.
4. Any reliefs or exemptions that you consider should form part of the legislation.
5. The potential for tax avoidance under the supplement and how this should be addressed.
6. The likely impact of forestalling.
7. Any other comments you may have on the proposed supplement.”

The call for evidence closed on 29 January 2016 and the tax adviser to the Finance Committee, Gavin McEwen will shortly produce a summary paper (McEwen, 2016, Forthcoming).

FINANCIAL MEMORANDUM

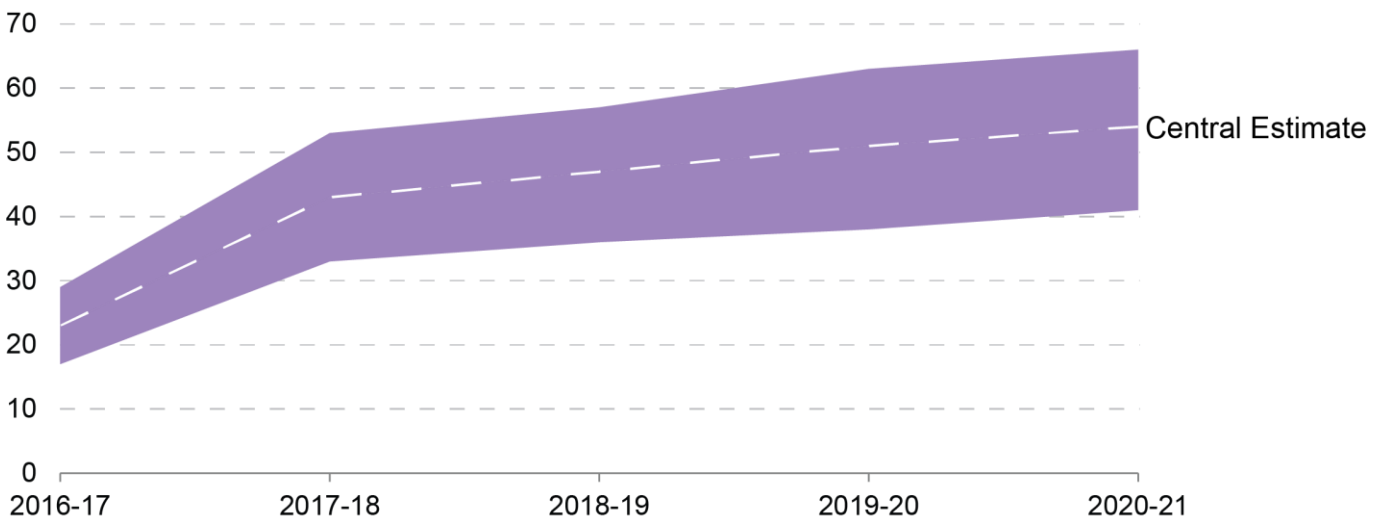
FINANCIAL IMPLICATIONS FOR THE SCOTTISH ADMINISTRATION

Financial implications are considered in the Financial Memorandum (FM) to be two-fold:

- Financial benefits to the Scottish Budget arising from tax revenues raised
- Administrative and compliance costs incurred by Revenue Scotland who are responsible for collecting the tax.

The Scottish Government forecasts that the LBTT supplement will raise between £17m and £29m with a mid-point estimate of £23m. The mid-point estimate of £23m has been assumed to be the revenue generation in the Draft Budget. Figure 1 presents the forecast revenues from the LBTT supplement through to 2020-21. As can be seen, the Scottish Government envisage a fairly steep increase (of 87% in Central Estimate) in tax revenue from the supplement once the year 1 forestalling impacts are over (after 2016-17), before coming down to an average of around 8% revenue growth in the central estimate in subsequent years.

Figure 1: Upper, lower and central estimates for LBTT supplement, 2016-21 (£m)



The Scottish Fiscal Commission states that it believes these estimates to be reasonable, but there are “uncertainties behind our assessment of reasonableness in terms of data available for the second homes and buy-to-let market and the challenge of estimating the size of the tax base” (Scottish Fiscal Commission, 2015). The Financial Memorandum states:

“The estimates represent the anticipated net impact on LBTT revenues – comprising the gross revenue expected to be generated from the supplement, less an estimate of the reduction in LBTT revenues from forestalling effects resulting from transactions that would otherwise be subject to the supplement being settled before the end of 2015-16 before the supplement is due to take effect. For years after 2016-17, there will be no forestalling effect and so no allowance is made in the revenue estimates. The estimates also take account of expected behavioural responses to the introduction of the supplement where it is possible to quantify these. These behavioural effects apply in all years.”

ADMINISTRATIVE AND COMPLIANCE COSTS FOR REVENUE SCOTLAND

Projected administrative and compliance costs which will be borne by Revenue Scotland are included in the FM. These provide a “base estimate” with an optimism bias factor added to produce a “maximum estimate”. In most of the cost areas an optimism bias of 50% is added to produce the maximum, with the exception of ICT where an optimism bias of 75% is added. Table 1 presents the projected one-off set-up costs, with table 2 presenting the annual running costs, which the Scottish Government anticipates will equate to between 0.8% and 1.9% of the estimated tax yield in 2016-17, and a lower percentage of total tax yields in subsequent years.

Table 1: Projected set-up costs, £

Function	“Base Estimate”	Optimism Bias factor	“Maximum estimate”	Assumption on what this buys
ICT	120,000	75%	210,000	Updates online Scottish Electronic Taxation System (SETS); update website calculators, change data feed from Revenue Scotland to support compliance activities
Training & communication	6,000	50%	9,000	Training staff and communication events/materials
Operational Design and Programme Delivery	110,000	50%	165,000	Staff costs at following grades: 2xC2, 1xB3, 1xB2, contractor
Total	236,000		384,000	

Table 2: Projected annual running costs, £

Function	“Base Estimate”	Optimism Bias factor	“Maximum estimate”	Assumption on what this buys
Operational Delivery costs	220,000	50%	330,000	Staff costs at following grades: 1xA3, 2xB1, 2xB2, 0.5xC1 (plus associated non-staff costs)
Total	220,000		330,000	

SOURCES

HM Treasury. (2015) Spending Review and Autumn Statement 2015. Available at: <https://www.gov.uk/government/topical-events/autumn-statement-and-spending-review-2015>

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RELATED BRIEFINGS

[SB 13-02 Land and Buildings Transaction Tax \(Scotland\) Bill](#)

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