



Land and Buildings Transaction Tax (Scotland) Bill

Bill Number:	SP Bill 19
Introduced on:	29 November 2012
Introduced by:	John Swinney MSP (Government Bill)
Passed:	25 June 2013
Royal Assent:	31 July 2013

Passage of the Bill

The [Land and Buildings Transaction Tax \(Scotland\) Bill](#) was introduced on 29 November 2012 by John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth. The Finance Committee was appointed as lead committee and its Stage 1 report was published on 27 March 2013. The Public Audit Committee and the Delegated Powers and Law Reform Committee also considered the Bill. The Stage 1 debate took place on 25 April 2013 and Parliament agreed to the general principles of the Bill without division. Stage 2 proceedings took place on 29 May 2013 and 5 June 2013. The Bill was passed following the Stage 3 parliamentary debate on 25 June 2013.

Purpose and objectives of the Bill

The Land and Buildings Transaction Tax (Scotland) Bill (the "LBTT Bill") was the first of three related Bills resulting from measures enacted in the Scotland Act 2012. The LBTT Bill, along with the Landfill Tax Bill and Tax Management Bill together provide for the introduction of two new taxes and set a framework for the collection of these taxes. The Land and Buildings Transaction Tax (LBTT) will replace the current UK stamp duty land tax (SDLT) in April 2015.

Provisions of the Bill

The LBTT Bill proposed a number of changes to the SDLT regime. The main proposals were in relation to:

- Changing from a ‘slab’ structure of taxation to a progressive tax structure – the progressive structure is similar to the income tax system and avoids the sudden increases in liabilities that are a feature of the slab system and create distortions in the market
- Requiring payment of LBTT prior to registration of the title – so as to encourage prompt payment of the tax, but also to allow for a ‘one stop’ submission, payment and registration process
- Some modifications to reliefs and exemptions – including withdrawal of sub-sale relief arrangements which are considered to be a feature of many SDLT tax avoidance schemes
- Anti-avoidance measures – the LBTT Bill contained a number of “targeted anti-avoidance rules” aimed at clamping down on tax avoidance which are to be supported by a “general anti-avoidance (or anti-abuse) rule” proposed for the Tax Management Bill

When the Bill was introduced, there were a number of areas where consultation was ongoing. These involved complex legal issues that had not been resolved and where more time was felt to be needed to develop appropriate legislation. The Scottish Government proposed to bring forward amendments at Stage 2 in these areas, which related to non-residential leases; the transfer of shares in residential property holding companies; and the treatment of trusts and partnerships.

The LBTT Bill did not deal with:

- Administration and collection arrangements – these will be dealt with in the Tax Management Bill, which will establish Revenue Scotland
- Adjustments to the block grant to reflect the introduction of the new tax-raising powers – these are the subject of ongoing discussion between the Scottish and UK Governments
- Tax bands and rates for LBTT – these will be decided nearer the time and will be introduced through subordinate legislation

Parliamentary consideration

In its Stage 1 report, the Finance Committee made a number of recommendations on the provisions of the Bill. These centred around:

- the setting of bands and rates – with concerns that lack of advance notice could have an adverse impact on commercial activity and concerns about the use of negative procedure in the setting of bands and rates
- the removal of sub-sale relief – with concerns that this could have an adverse impact on certain types of commercial property transactions

- eligibility for charities relief – reflecting concerns about imposing additional burdens on charities based outside Scotland wishing to benefit from LBTT relief
- categories of licence that should be exempt from LBTT – reflecting concerns that types of activity could be adversely affected if all licences became liable for LBTT

At Stage 2, a total of 67 amendments were lodged. Of these:

- 63 were agreed without division, mostly Government amendments – many were technical amendments, or amendments relating to areas deferred until Stage 2 to allow for further consultation (non-residential leases; the transfer of shares in residential property holding companies; and the treatment of trusts and partnerships). In relation to partnerships, the agreed approach was to replicate the existing UK stamp duty land tax legislation because, following continued consultation, the Scottish Government did not consider itself to be in a position to introduce revised legislation in this area. There was some dissatisfaction with this approach within the Committee due to the perceived complexity of the existing legislation.
- 3 were disagreed by division
- 1 was not moved

Seventy-four amendments were lodged at Stage 3. The majority were Government amendments and were largely technical in nature.

- 66 of these were agreed without division – in addition to the technical amendments, this included:
- 5 which were disagreed by division, including a proposal that the Scottish Government should give 12 months notice of planned bands and rates applicable to non-residential transactions; a proposal for scope to vary bands and rates according to the energy performance of a property; and proposals relating to sub-sale relief
- 3 which were not moved