POLICY NOTE

THE LAND BUILDINGS TRANSACTION TAX (TAX RATES AND TAX BANDS ETC) (SCOTLAND) AMENDMENT ORDER 2018

SSI 2018/372

This Order is made in exercise of the powers conferred by section 24(1) of and paragraph 1 of schedule 2A to the Land and Buildings Transaction Tax (Scotland) Act 2013 (LBTT(S)A 2013). The making of this order is subject to the provisional affirmative procedure.

Policy Objectives

The Land and Buildings Transaction Tax (Tax Rates and Tax Bands)(Scotland) Order 2015 sets the tax bands and percentage tax rates for LBTT. The details are set out in three tables, for residential property transactions, non-residential property transactions and, with respect to leases, tax rates for each band applicable to chargeable consideration which consists of rent.

This instrument amends Table B of the 2015 Order to provide for the amended non-residential rates and bands announced by the Cabinet Secretary for Finance, Economy and Fair Work in the Draft Budget 2019-20. The effect is to reduce the lower rate of non-residential LBTT from 3% to 1%, increase the upper rate from 4.5% to 5%, and reduce the starting threshold of the upper rate so that it applies from above £250,000 instead of £350,000. This is set out in the table below.

	Relevant consideration	*Percentage*
nil rate band	Not more than £150,000	0%
first tax band	More than £150,000 but not more than £250,000	1%
second tax band	More than £250,000	5%

Taken together, these changes mean that non-residential LBTT rates and bands are the most competitive in the UK for all non-residential transactions. This supports the Scottish Government's desire to ensure that Scotland remains a competitive and attractive location for business investment.

In addition, the Order amends paragraph 4(2) of Schedule 2A(Additional Amount: Second Homes), substituting 4% for 3%. This provides for the increase in the Additional Amount announced by the Cabinet Secretary for Finance, Economy and Fair Work in the Draft Budget 2019-20. This increase in the supplement forms an important element of the Scottish Government's drive to protect opportunities for first-time buyers in Scotland, reinforcing the progressive approach in place for LBTT rates and bands.

If approved by the Scottish Parliament, the changes will come into force from 25 January 2019. Transitional provisions will however provide that they will not apply if the contract for a transaction was entered into prior to 12 December 2018. Existing arrangements allowing for the supplement to be reclaimed will continue.

Consultation

There is no statutory requirement to consult on this instrument. The proposed LBTT rates were published in the Draft Scottish Budget 2019-20 on 12 December 2018.

Impact Assessments

Equal opportunities **-** This Order does not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly.

Human rights **–** This Order does not infringe on or affect any subject areas of the European Convention on Human Rights (ECHR). We have not identified differential impact on human rights nor any impact on any individual's civil liberties.

Privacy impacts **–** No privacy impacts resulting from this legislation have been identified.

Island communities **–** An assessment of the impact of the Additional Dwelling Supplement was made in relation to the Land and Buildings Transaction Tax (Amendment) (Scotland) Act. No new impacts have been identified in relation to the provisions of this Order.

Local government **–** There will not be any additional administrative or compliance burdens specifically affecting local government beyond those duties local authorities are already subject to under the LBTT legislation.

Sustainable development **–** The Order will have no impact on sustainable development.

A Business and Regulatory Impact Assessment has been published for the regulations and orders associated with the LBTT(S)A 2013.

Financial Implications

The Scottish Fiscal Commission has set out its assessment of the impact of the change to non-residential rates and bands and increase in the Additional Amount on overall LBTT revenues as part of Scotland's Economic and Fiscal Forecasts December 2018, published on 12 December 2018 at: http://www.fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts/scotlands-economic-and-fiscal-forecasts-december-2018/

Scottish Government Tax Division
December 2018