

*These notes relate to the Land and Buildings Transaction Tax (Scotland)  
Act 2013 (asp 11) which received Royal Assent on 31 July 2013*

# **LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013**

---

## **EXPLANATORY NOTES**

### **THE ACT**

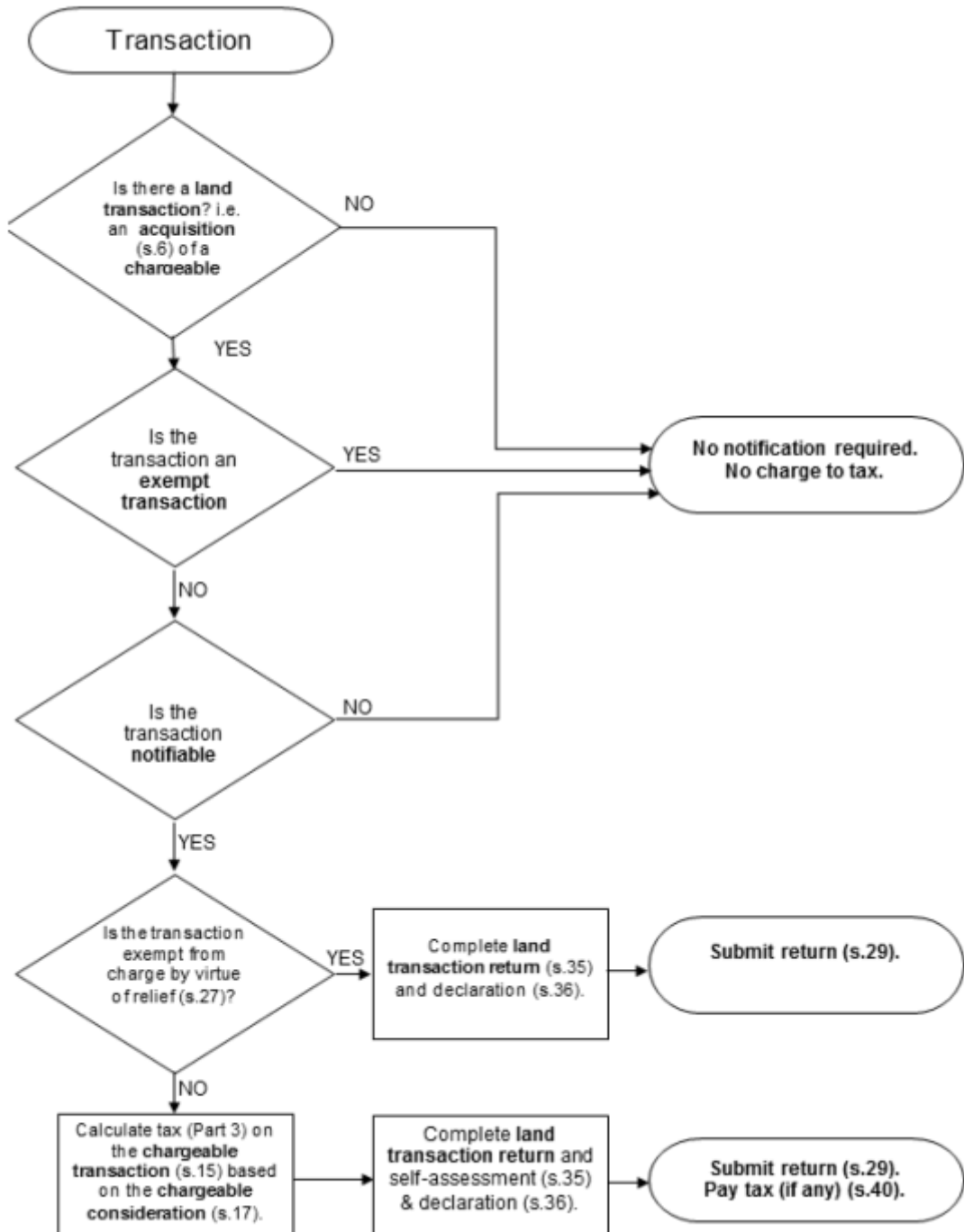
#### *Overview*

7. The Act comprises 71 sections and 20 schedules and is divided into 8 Parts as follows:
  - Part 1 establishes the LBTT,
  - Part 2 makes provision for the key concepts underlying the tax including:
    - which transactions are land transactions;
    - which interests are, and which are not, chargeable interests in land;
    - when a chargeable interest is acquired and the treatment of transactions involving contracts which require to be completed by conveyance as well as other kinds of transaction;
    - which land transactions are, and which are not, chargeable transactions; and
    - what is, and what is not, chargeable consideration in relation to a chargeable transaction.
  - Part 3 makes provision for:
    - the amount of tax payable;
    - relief from the tax; and
    - who is liable to pay the tax.
  - Part 4 provides for land transaction returns and for the payment of the tax.
  - Part 5 contains provision about the application of the Act in relation to certain types of buyer, including companies, partnerships and trusts.
  - Part 6 contains provision about the application of the Act in relation to leases and licences.
  - Part 7 contains general provision, including provisions on the Tax Authority and definitions of expressions used in the Act.
  - Part 8 contains provisions on subordinate legislation powers and commencement as well as other final provisions.
8. LBTT is a tax on land transactions. A “land transaction” is the acquisition of a chargeable interest (i.e. a real right or other interest in or over land which is not exempt). If a transaction is notifiable (i.e. it is not an exempt transaction and the consideration is above certain thresholds), then a land transaction return must be made, together with

payment of any tax due, to the Tax Authority. The amount of tax due is calculated on a progressive basis by reference to the consideration paid but this is subject to special rules for certain cases and the availability of reliefs for certain transactions.

9. The operation of LBTT is described in the flow-chart diagram and the example below.

**Operation of LBTT**



**Example: Operation of LBTT in relation to a simple house purchase**  
Justin and Brenda are buying a house from Stacey for £205,000, of which £5,000 is apportioned to moveables such as curtains.

The house purchase is a **land transaction** (section 3) because it is the **acquisition** (section 6) of a chargeable **interest** (section 4), that is to say an interest in land in Scotland that is not an **exempt interest** (section 5).

Justin and Brenda are the **buyers** (section 7), Stacey is the **seller** (section 7). The **subject-matter** (section 61) of the transaction is the house and any heritable rights included such as rights of way or the right to enforce neighbours' title conditions (but the moveables are not part of the subject-matter of the transaction). The missives of sale are the **contract** (section 65) and the disposition by Stacey in favour of Justin and Brenda is the **conveyance** (section 65). The point at which Justin and Brenda pay the purchase price and receive their keys and the signed disposition is the point of settlement, known as **completion** (section 64), which fixes the tax point, known as the **effective date** (section 63).

The house purchase is a **chargeable transaction** (section 15) because it is not an **exempt transaction** (schedule 1) or otherwise exempt from charge. The **chargeable consideration** (schedule 2) is the money given for the subject-matter of the transaction i.e. £200,000 for the land, discounting £5,000 for the moveables.

The transaction is a residential **property transaction** which will have relevance to the amount of tax chargeable (section 24). It is unlikely that Justin and Brenda can claim any **relief** (section 27 and schedules 3 to 18).

Justin and Brenda, the buyers, are **liable** to pay LBTT (section 28). As **joint buyers** they have joint and several liability (section 48).

The transaction is a **notifiable transaction** (section 30) because the transaction is not an exempt transaction and the chargeable consideration is over £40,000. Accordingly, Justin and Brenda, the buyers, must make a **land transaction return** (section 29) to the **Tax Authority** (section 54). The land transaction return must include (i) a self-assessment of the tax chargeable and (ii) a **declaration** by Justin and Brenda or their solicitor (section 36). As joint buyers, Justin and Brenda have joint responsibility for the return and must both make the required declaration. Justin and Brenda must make the return within 30 days of the effective date (section 29). They may **amend** the return (for example to correct an error) in the period of 12 months following the deadline for making the return (section 37).

Assuming that the tax bands and rates are such that LBTT is payable on chargeable consideration of £200,000, tax must be paid to the Tax Authority at the same time as the land transaction return is made. Tax is treated as paid if **arrangements satisfactory** to the Tax Authority are made for payment of tax (section 40).

In order for Justin and Brenda to get ownership of the house, the conveyance (disposition) in their favour must be registered in the Land Register. However, Registers of Scotland will only accept an application for registration if the land transaction return has been made and the self-assessed LBTT has been paid (or if arrangements satisfactory to the Tax Authority are made for payment) (section 43).