

POLICY NOTE

THE LAND AND BUILDINGS TRANSACTION TAX (MISCELLANEOUS AMENDMENTS) (SCOTLAND) ORDER 2024

SSI 2024/104

The above instrument was made in exercise of the powers conferred by section 27(3) and paragraph 19(3) of Schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013. The instrument is subject to affirmative procedure.

Summary Box

<p>The SSI inserts new Schedule 6A, relating to relief for local authorities, to the Land and Buildings Transaction Tax (Scotland) Act 2013, and amends Schedule 2A of that Act in order to introduce changes to various provisions for the Land and Buildings Transaction Tax (LBTT) Additional Dwelling Supplement (ADS).</p>

Policy Objectives

The SSI seeks to provide for exemptions from the ADS in certain circumstances, through amendments to the existing legislation.

The Order will, subject to approval by the Scottish Parliament, take effect from 1 April 2024. The new and amended provisions will apply to transactions with an effective date on or after 1 April 2024.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation on the draft legislative provisions took place from 8 February 2023 until 5 April 2023. Respondents included individual taxpayers, housing providers and tax and accountancy professionals. The Scottish Government also held a number of stakeholder engagement events during the consultation period.

Views were sought on the draft legislative clauses relating to key ADS provisions, including the timelines for reclaiming the ADS, identified issues in relation to joint buyers, and a proposed relief for local authorities.

A number of general themes and specific points were raised in response to that consultation from a range of individuals and organisations. Following an internal analysis of the responses, the Scottish Government has amended the draft legislative clauses to incorporate

some of the suggestions and recommendations communicated by stakeholders in their responses. These changes are reflected in the final version of the Order.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government's consultations webpage at www.consult.gov.scot. It includes responses from the Law Society of Scotland, the Institute of Chartered Accountants in Scotland, several local authorities and a variety of other responses from individuals and organisations.

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 any 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 2016. No new impacts have been identified in relation to the provisions of this Order.

Local government – The Order introduces a new relief for certain transactions entered into by local authorities. 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.

Business and Regulatory – A BRIA has been published for the regulations and orders associated with the 2013 Act.

Financial Effects

The Scottish Fiscal Commission has set out its assessment of the impact of these amendments on overall LBTT revenues as part of Scotland's Economic and Fiscal Forecasts December 2023, published on 19 December 2023 at:

<https://www.fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts-december-2023/>

Scottish Government Directorate of Tax and Revenues

January 2024