



Finance and Constitution Committee – written evidence

The Land and Buildings Transaction Tax (Tax Rates and Tax Bands Etc.) (Scotland) Amendment Order 2018

The Law Society of Scotland is the professional body for almost 12,000 Scottish solicitors. We seek to influence the creation of a fairer and more just society and are strongly committed to our statutory duty to work in the public interest and to both protect and promote the rule of law.

Comments

We note that the period between the announcement of the proposals at the Budget on 12 December 2018 and the proposed date for them entering into force (being 25th January 2019) is short. While noting the transitional provisions provided in Article 4, the period is unlikely to have been of sufficient length for taxpayers in a number of cases to amend proposed arrangements particularly given the Christmas and New Year period. We therefore suggest that it would have made more sense either to make the changes effective from Budget Day (12 December) or to make them effective from a date later than 25 January 2019 to allow taxpayers to take into account the impact on transactions.

The Article states “if contracts for the land transaction have been entered into prior to 12 December 2018”. It would be more appropriate for the reference to be to “a contract” rather than “contracts” - for each land transaction, there is only a single contract, rather than a number of contracts.

This also reflects the wording used when Additional Dwelling Supplement was introduced – see section 3 of the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016.

In addition, we suggest that more appropriate wording might be: “...if a contract for the land transaction has been concluded prior to 12 December 2018.” This would help to avoid any difficulty in assessing when a contract is “entered into”.

We appreciate that the timing of the Committee’s consideration of this instrument has come about as a result of the timing of the Scottish Budget 2018-19 and the proposed introductory date of the measures. The limited number of working days between the launch of the call for evidence on 20 December 2018 and closing date of 9 January 2019 has limited the opportunity for our members to give the matters addressed in the instrument and their implications full consideration. We hope that these timing issues will be taken into account in forthcoming discussions about the Budget process in Scotland, and we look forward to working with the Scottish Government and others in relation to this.