These documents relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (SP Bill 85) as introduced in the Scottish Parliament on 27 January 2016

LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill introduced in the Scottish Parliament on 27 January 2016:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government statement on legislative competence; and
- the Presiding Officer’s statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 85–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

BACKGROUND

3. The Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (“the Bill”) is a Bill to amend the Land and Buildings Transaction Tax (Scotland) Act 2013 (“the 2013 Act”). The 2013 Act imposes a tax on transactions involving the acquisition of chargeable interests in land in Scotland (for example, a standard house purchase) and the Bill will increase the amount of tax for certain transactions. The tax is known as Land and Buildings Transaction Tax or LBTT and is sometimes referred to informally as “Stamp Duty”\(^1\). LBTT is administered by Revenue Scotland, with assistance from the Registers of Scotland, under the Revenue Scotland and Tax Powers Act 2014 (“the 2014 Act”). LBTT is a self-assessed tax and registration of title can generally not be obtained unless a tax return has been made and arrangements satisfactory to Revenue Scotland have been made for payment of any tax.

4. Since being enacted in 2013, the 2013 Act has been amended by—
   - paragraph 9 of schedule 4 to the 2014 Act;
   - the Land and Buildings Transaction Tax (Qualifying Public or Educational Bodies) (Scotland) Amendment Order 2014;
   - the Land and Buildings Transaction Tax (Addition and Modification of Reliefs) (Scotland) Order 2015; and
   - the Land and Buildings Transaction Tax (Sub-sale Development Relief and Multiple Dwellings Relief) (Scotland) Order 2015.

5. Therefore the amendments provided for in the Bill, as further described below, are additional to these amendments already in effect. It is proposed that the new amendments will be in force for 1 April 2016 for land transactions with an effective date on or after that date, unless missives were concluded before 16 December 2015 which was the date when the Deputy First Minister announced the additional amount of tax to the Scottish Parliament as part of the Scottish Government Budget 2016-17 statement.

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\(^1\) It is important to note however that, strictly, Stamp Duty is a separate and unrelated reserved tax administered by Her Majesty’s Revenue and Customs (HMRC).
6. Since the 2014 Act already contains all of the powers required for Revenue Scotland to administer the additional amount of tax provided for in the Bill, and carry out compliance work, the Bill makes only consequential amendments to that Act. Part 5 of the 2014 Act, for example, sets out the Scottish General Anti-avoidance Rule and this would apply to tax avoidance concerning the additional tax.

THE BILL

Overview

7. The Bill comprises 6 sections, of which section 1 is the principal measure, introducing a new schedule 2A into the 2013 Act. Within schedule 2A—

- Part 2 identifies the transactions to which schedule 2A applies,
- Part 3 sets out the additional amount of tax,
- Part 4 contains provision about the application of schedule 2A in relation to certain types of buyer,
- Part 5 provides for repayment of the additional amount of tax in certain cases,
- Part 6 contains special rules about the meaning of ownership of dwellings for the purposes of schedule 2A,
- Part 7 contains general provision including powers to modify schedule 2A.

8. The drafting approach employed means that for the most standard residential property transaction – where an individual or couple replace their main residence – the 2013 Act will apply exactly as it would in the absence of the Bill, and therefore the main body of the 2013 Act is not substantively affected. Where the new provisions are in issue, tax agents will know to look to schedule 2A for all relevant provisions concerning the additional tax.

9. For more general guidance on the 2013 Act, see the Explanatory Notes to that Act as passed and Revenue Scotland’s detailed legislative guidance for LBTT.

Operation of additional tax provisions

Example: Operation of additional tax provisions in relation to a purchase of second home

Note: references to provisions of legislation are references to provisions of the 2013 Act as amended by the Bill

Justin and Brenda, a married couple, purchased their first home in the later part of 2015 and the transaction was subject to LBTT. Justin and Brenda now propose to buy a second home for £105,000 in the later part of 2016, of which £5,000 is apportioned to moveables such as curtains. But for the additional amount of tax there would be no LBTT payable because chargeable

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2 http://www.legislation.gov.uk/asp/2013/11/notes/contents
The additional amount applies because (i) the main subject-matter of the transaction (section 61) consists of or includes the acquisition of ownership of a dwelling (Part 6 of schedule 5), (ii) at the end of the effective date (the tax point; section 63) Justin and Brenda own more than one dwelling, and (iii) Justin and Brenda are not replacing their existing home (paragraph 2 of new schedule 2A). Because Justin and Brenda are married, the additional tax applies irrespective of whether title to the original and new houses are in the name of both Justin and Brenda, or in the name of one or the other (paragraph 6 of new schedule 2A).

The additional amount of tax applicable is £3,000, being 3% of the chargeable consideration (paragraph 4 of new schedule 2A). Therefore the total amount of LBTT payable is £3,000.

Were the chargeable consideration £200,000 for this second home purchase the calculation would be as follows:

**Standard amount of LBTT payable**

The first £145,000 falls within the nil rate band

The remaining £55,000 falls within the first tax band charged at 2%

The standard amount of LBTT payable is therefore £1,100

**Additional amount of LBTT payable**

The whole chargeable consideration of £200,000 is charged at 3%

The additional amount of LBTT payable is therefore £6,000

**Total amount of LBTT payable**

The total amount of LBTT payable is the sum of the standard and additional amounts and is therefore £7,100

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COMMENTARY ON SECTIONS

Section 1 – Land and buildings transaction tax: second homes etc.

10. Section 1(2) of the Bill inserts a new section 26A (additional amount: transactions relating to second homes etc.) into the 2013 Act. This new section will appear at the end of Part 3 of the 2013 Act (calculation of tax and reliefs) and will appear after sections 25 and 26 (which concern the amount of LBTT chargeable without reference to the additional tax), and before section 27 concerning reliefs. Section 26A simply introduces new schedule 2A (additional amount: transactions relating to second homes etc.) which is inserted by section 1(3) of the Bill. The new schedule will appear after schedule 2 (chargeable consideration) and before schedule 3 (sale and leaseback relief; the first of a number of reliefs of general application to LBTT).

11. Because schedule 2A will form part of the 2013 Act, key concepts and defined terms applying throughout that Act will also apply to the schedule. There is, therefore, no need for the Bill to repeat or re-enact these things. Key concepts are set out in Part 2 of the 2013 Act and defined terms are referenced in Part 7 and schedule 20, subject to the more specific provision in schedule 2A which is described below.

Part 1 of schedule 2A - Overview

Paragraph 1 of schedule 2A – Overview

12. Paragraph 1 provides an overview of new schedule 2A (see paragraph 7 of these Explanatory Notes above).
Part 2 of schedule 2A – Transactions to which this schedule applies

Paragraph 2 of schedule 2A – Transactions relating to second homes etc.

13. Paragraph 2 is relevant to the standard case where the buyer of a dwelling is an individual or couple. It applies where the main subject-matter of a chargeable transaction consists of, or includes, the acquisition of ownership of a dwelling in Scotland. This would cover the standard purchase of a house or flat. Since paragraph 2 refers to “ownership” it does not cover the acquisition of a “qualifying lease” as defined in paragraph 3(3) of schedule 1 to the 2013 Act. Most qualifying leases (which are a form of long residential lease) converted to ownership in November 2015 by virtue of the Long Leases (Scotland) Act 2012 and the Scottish Government understands that only a handful remain in existence, and therefore for simplicity they are disregarded for the purposes of schedule 2A. Standard residential leases such as short assured tenancies are exempt from LBTT.

14. Paragraph 2 only applies the additional tax in schedule 2A where at the end of the day that is the effective date of the transaction (the tax point; usually the date of settlement) the buyer owns more than one dwelling and the buyer is not replacing the buyer’s only or main residence. Therefore where the buyer is replacing their only or main residence the additional amount of tax does not apply even though they may own two or more dwellings at the end of the effective date.

15. The meaning of replacing the buyer’s only or main residence is provided in sub-paragraph (2). This requires the buyer to have sold their previous residence within the 18 months preceding the effective date and requires the buyer to intend to occupy the new residence as their only or main residence.

16. In most cases where paragraph 2 applies, the transaction will be a residential property transaction within the meaning of section 24(3) of the 2013 Act. However, paragraph 2 potentially also applies in cases where the acquisition of a dwelling is taxed as a non-residential property transaction in terms of section 24(4) (so called “mixed” transactions) or 59(8) (the “six plus” rule for purchases of multiple dwellings).

17. Where it has not been possible to sell a previous main residence, but that happens within the 18 months following the effective date, paragraph 8 provides that repayment of the additional tax paid may be claimed.

18. Interpretative provisions of the 2013 Act relevant to paragraph 2—

<table>
<thead>
<tr>
<th>Term</th>
<th>Section/Part</th>
</tr>
</thead>
<tbody>
<tr>
<td>“buyer”</td>
<td>section 7</td>
</tr>
<tr>
<td>“chargeable transaction”</td>
<td>section 15</td>
</tr>
<tr>
<td>“dwelling”</td>
<td>Part 6 of schedule 5</td>
</tr>
<tr>
<td>“effective date”</td>
<td>section 63</td>
</tr>
<tr>
<td>“main subject-matter”</td>
<td>section 61</td>
</tr>
<tr>
<td>what counts as a dwelling owned/disposed of</td>
<td>Part 6 of schedule 2A.</td>
</tr>
</tbody>
</table>

5 Tables of rates and bands for residential and non-residential property transactions respectively are set out in the Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Order 2015 (S.S.I. 2015/126).
19. “Only or main residence” is not a defined term and in most cases where there are multiple dwellings it will be straightforward to determine which is the main residence, for example where additional residences are clearly holiday homes. Revenue Scotland will publish guidance on the factors it will look to for the smaller number of cases that are less straightforward.

**Paragraph 3 of schedule 2A – Transactions where buyer is a non-individual etc.**

20. Paragraph 3 is relevant to less standard cases where the buyer of a dwelling is not an individual or couple purchasing for their domestic interests. It applies therefore to purchases by companies and sub-paragraph (2) concerns purchases by individuals acting as sole traders.

21. The key difference from paragraph 2 is that the additional amount of tax in schedule 2A is relevant even where the legal buyer only owns one dwelling at the end of the effective date. In other words, the replacement of main residence test is not relevant. This is principally for anti-avoidance reasons because if schedule 2A were to apply to individuals only there would be an incentive for individuals to purchase dwellings via a corporate “wrapper” or “envelope”.

22. Interpretative provisions of the 2013 Act relevant to paragraph 3—

- “buyer” section 7
- “chargeable transaction” section 15
- “dwelling” Part 6 of schedule 5
- “main subject-matter” section 61.

23. Paragraph 3 of schedule 17 to the 2013 Act (chargeable interests treated as being held by partners etc.) applies to schedule 2A as it applies to the rest of the 2013 Act, where the buyer is a partnership within the meaning of paragraph 2 of schedule 17. Schedule 18 concerning trusts is also relevant.

**Part 3 of schedule 2A – The additional amount**

**Paragraph 4 of schedule 2A – The additional amount**

24. Sections 25 and 26 of the 2013 Act provide for the general charge to LBTT being calculated on a “progressive” basis according to tables of rates and bands. There is a nil rate band which currently extends to £145,000, though transactions of £40,000 or above are “notifiable” and a tax return must be sent in to Revenue Scotland. As mentioned, that will continue to be the end of the matter for the most standard residential property transaction where an individual or couple purchase their main residence, (i.e. when they replace their existing one or buy their first one)

25. Where paragraphs 2 or 3 of schedule 2A bring a transaction within schedule 2A an additional amount of tax is applied by paragraph 4, calculated on a “slab” basis. For “residential property transactions” this applies to the whole of the chargeable consideration of the

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6 The singular “individual” includes the plural “individuals” by virtue of section 22 of the Interpretation and Legislative Reform (Scotland) Act 2010.
transaction, therefore the first £40,000 of chargeable consideration is relevant to the calculation. For such transactions between £40,000 and £145,000 this will mean that LBTT liability will be increased from nil. The applicable tax rate is 3%.

26. As mentioned, in some cases a transaction that is a “non-residential property transaction” will be within schedule 2A in which case sub-paragraph (3) of paragraph 4 introduces a new concept of “relevant consideration” which is the proportion of the chargeable consideration attributable to the dwellings.

27. Interpretative provisions of the 2013 Act relevant to paragraph 4—
   “chargeable consideration” section 17 and schedule 2
   “chargeable transaction” section 15
   “non-residential property transaction” sections 24(4) and 59(8)
   “residential property transaction” section 24(3).

Part 4 of schedule 2A – Certain types of buyer

Paragraph 5 of schedule 2A – Joint buyers

28. Paragraph 5 deals with the not uncommon case where a couple buy a dwelling. Where the couple each take a share of the ownership of the title they will be treated for the purposes of paragraph 2 of schedule 2A as if they 100% own the dwelling. Paragraph 12 of schedule 2A is also relevant since it deems each person that is jointly entitled to the ownership of a dwelling to be the owner of the dwelling.

29. The same also applies to other cases where there are two or more buyers, in other words to cases where the jointly entitled persons are not a couple. For example, if siblings were to inherit equal shares in the ownership of a dwelling, each sibling would be treated as the 100% owner for the purposes of paragraph 2 of schedule 2A.

30. The effect of paragraph 5 of schedule 2A is that the conditions in paragraph 2(1)(b) and (c) and 3(1)(b) will be met if they are met in relation to any one of the joint buyers, even though they may not be met in relation to others. So if two people, A and B, who each currently own a dwelling which they occupy as their main residences, jointly buy a dwelling to move into as their new joint main residence and A sells his or her existing dwelling while B retains his or her existing dwelling to rent out, the additional amount is payable on the joint purchase because B is not replacing his or her main residence, even though A is. Similarly if one of the joint buyers is not an individual, then the conditions in paragraph 3(1)(b) will be met in the same way as if there was one buyer who was not an individual.

31. Interpretative provisions of the 2013 Act relevant to paragraph 5—
   “buyer” section 7
   “chargeable transaction” section 15
   “jointly entitled” section 65.
Paragraph 6 of schedule 2A – Spouses, civil partners, cohabitants and children

32. Amongst other things, paragraph 6 ensures that spouses (including same-sex spouses) are not treated differently according to how the titles for the couple’s property or properties are registered. For the purposes of paragraph 2 of schedule 2A, the same tax position will arise whether a first or second property is registered in one spouse’s name, in the other spouse’s, or jointly. Dwellings in the name of one spouse will count against the other for the purpose of determining whether the other partner owns more than one dwelling. Sub-paragraphs (2) and (3) disapply this rule where the couple have separated. Separation in this context does not require to be formal separation, of the types referenced in paragraphs 4 and 5 of schedule 1 to the 2013 Act, but such formal separation would be relevant evidence of practical separation.

33. Paragraph 6 treats civil partners in the same way as spouses and the same tax treatment is also afforded to cohabitants who are defined as persons living together as though married (and therefore this will include same-sex cohabitants). This is consistent with the approach taken in the Family Law (Scotland) Act 2006 and other Acts of the Scottish Parliament.

34. Further, paragraph 6 brings into consideration children of the buyer (or their partner) who are aged under 16 (the age of legal capacity in Scots law). This is to reflect that such a child’s ownership of residential property is practically the responsibility of their parent(s), and as an anti-avoidance measure to disincentivise avoidance of the additional tax by artificially registering title in such a child’s name.

35. Interpretative provisions of the 2013 Act relevant to paragraph 6—

| “buyer” | section 7 |
| “dwelling” | Part 6 of schedule 5 |
| what counts as a dwelling owned | Part 6 of schedule 2A |

36. In Scots law, reference to a person’s “child” includes reference to an adopted child by virtue of section 40 of the Adoption and Children (Scotland) Act 2007, and includes situations where parentage is determined by the Human Fertilisation and Embryology Act 2008.

Paragraph 7 of schedule 2A – Trustees in certain trusts

37. Paragraph 7 concerns certain cases where the buyer is acting as a trustee of a settlement, which is a trust other than a bare trust. Currently for the purposes of LBTT, only the beneficiaries of bare trusts are treated as the buyer when a trustee enters into a land transaction. Paragraph 7 extends that treatment for the purposes of paragraph 2 of schedule 2A, so that certain other beneficiaries, namely those with substantial rights (rights to occupy a dwelling, right to income from it or right to repayment of capital used to purchase a dwelling) over a trust are treated as the buyer in a chargeable transaction for the purpose of considering whether the conditions in paragraph 2(1)(b) and (c) are met in relation to the transaction. Account also needs to be taken of paragraph 11 of schedule 2A which treats certain trust property as being owned by the beneficiary.

38. Interpretative provisions of the 2013 Act relevant to paragraph 7—
These documents relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (SP Bill 85) as introduced in the Scottish Parliament on 27 January 2016

“buyer” section 7
“chargeable transaction” section 15
“dwelling” Part 6 of schedule 5
“settlement” paragraph 18(1) of schedule 2A.

Part 5 of schedule 2A – Repayment of the additional amount

Paragraph 8 of schedule 2A – Repayment of additional amount in certain cases

39. Where additional tax has been paid by virtue of paragraph 2 of schedule 2A but the buyer is able to dispose of their former main residence within 18 months from the effective date, repayment may be claimed under paragraph 8. This will be particularly relevant in cases such as the former residence being in England and, through no fault of the vendor (who will be the buyer in the Scottish transaction), the “chain” has broken down and it proves impossible to sell the former main residence before buying the new Scottish main residence.

40. Paragraph 8 operates similarly to section 32 of the 2013 Act (less tax payable where contingency ceases or consideration ascertained) and repayment is claimed either by amending the land transaction return (within the amendment period which section 83(2) of the 2014 Act sets at 12 months) or by making a claim to Revenue Scotland under section 107 of the 2014 Act (where the amendment period has ended). Schedule 3 to the 2014 Act applies to claims made under section 107 of that Act.

41. Interpretative provisions of the 2013 Act relevant to paragraph 8—

“buyer” section 7
“chargeable transaction” section 15
“dwelling” Part 6 of schedule 5
“land transaction return” section 65
“main subject-matter” section 61
what counts as a dwelling owned/disposed of Part 6 of schedule 2A.

Part 6 of schedule 2A – Ownership of dwellings

Paragraph 9 of schedule 2A – What counts as a dwelling owned by a person?

42. Paragraph 9 clarifies that dwellings situated outside Scotland are to be counted for the purposes of schedule 2A, in particular paragraph 2. This ensures that a buyer’s property holdings throughout the world are taken into account when considering if the additional amount is payable, and not only those in Scotland or the rest of the UK.

43. Paragraph 9 also provides that a dwelling with a market value of less than £40,000 is disregarded. This is relevant to the property being purchased and also to the buyer’s other property holdings. £40,000 is the notification threshold for acquisitions of the ownership of land under section 30(1)(b) of the 2013 Act. Where a second home in Scotland is bought for the bona fide sum of £35,000 there is no ordinary LBTT payable, nor is any additional tax payable.
However, as mentioned, were the chargeable consideration £45,000 the additional amount will be payable on the whole of the consideration including the first £40,000 (resulting in a tax charge of £1,350). The relevant date for whether a dwelling has a value of £40,000 is the effective date of the chargeable transaction. In the case where the buyer is not selling an existing dwelling or dwellings, for example where they are not replacing their only or main residence, they must make a reasonable estimate of the market value of the dwelling or dwellings. This will have to be an estimate since in these circumstances the dwelling or dwellings are not on the market.

44. Interpretative provisions of the 2013 Act relevant to Paragraph 9—
“dwelling” Part 6 of schedule 5
“market value” section 62.

Paragraph 10 of schedule 2A – Deemed ownership: cases where title is not yet registered etc.

45. In Scots law, a buyer does not own a property until the change of ownership is registered in the Land Register. The corollary is that the seller is not divested of the title until that point.7

46. Under the 2013 Act the tax point is known as the “effective date” and for a standard residential transaction is likely to be the date of settlement which is the date on which the buyer has paid the purchase price and receives the keys and a signed disposition from the buyer.8 At this point the buyer will for practical purposes consider themselves to be the owner of the property (they will be able to move in) and the seller (who will no longer have keys) will consider themselves to no longer be the owner. Paragraph 10 treats the practical position as a deemed ownership – or non-ownership – for the purposes of schedule 2A, notwithstanding the technical position of Scots law. This is particularly relevant for the purposes of paragraph 2 of schedule 2A and the question of how many dwellings the buyer “owns” at the end of the effective date.

47. For properties situated in the rest of the UK the appropriate definitions from UK Stamp Duty Land Tax legislation are imported in sub-paragraph (4); and for properties outside of the UK the same concepts are applied across and to be read according to the prevailing law and practice there. For jurisdictions that follow the civil law there is likely to be similarity to Scots law in terms of registration being key to transferring ownership; and for jurisdictions that follow the common law there is likely to be a similarity to English law in terms of which equitable or beneficial interests can transfer at the point of completion.

48. Interpretative provisions of the 2013 Act relevant to Paragraph 10—
“buyer” section 7
“dwelling” Part 6 of schedule 5
“effective date” section 63
“main subject-matter” section 61.

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7 Section 50 of the Land Registration (Scotland) Act 2002 states: “Registration of a valid disposition transfers ownership; An unregistered disposition does not transfer ownership.”
8 E-conveyancing is not at the time of writing widely adopted so these Explanatory Notes describe the Scottish conveyancing process according to the traditional paper-based process.
49. “Seller” takes its common sense meaning here and therefore would mean “vendor” in legal systems where that is the prevailing terminology. “Settlement” also takes its common meaning for the purposes of paragraph 10, and not the meaning in paragraph 13(1).

**Paragraph 11 of schedule 2A – Deemed ownership: beneficiaries under certain trusts**

50. Paragraph 11 concerns certain beneficiaries under settlements, which are trusts other than bare trusts. In the case of a settlement having a relevant interest (as defined in the paragraph) in trust property comprising a dwelling, the beneficiary will be treated as the owner of the dwelling for the purposes of considering whether the additional amount of LBTT applies to a chargeable transaction.

51. Interpretative provisions of the 2013 Act relevant to Paragraph 11—

- “dwelling” Part 6 of schedule 5
- “settlement” paragraph 18(1) of schedule 2A.

**Paragraph 12 of schedule 2A – Deemed ownership: joint owners and owners of shares**

52. Paragraph 12 is separate to paragraph 5 of schedule 2A and applies even when the new purchase does not involve joint ownership or shares, so looks at the ownership of existing properties when consideration of the additional amount of tax applies.

53. A person might own a share in existing residential property through a “shared ownership” scheme, for example an 80% share with the other share being owned by a public authority or developer. A person might also own a part share for other reasons. Paragraph 12 treats such persons as if they were the 100% owner. Under a shared ownership arrangement this will reflect the practical reality and therefore the additional amount of tax would apply where the purchase of a new dwelling is not the replacement of the buyer’s sole or main residence.

54. Interpretative provisions of the 2013 Act relevant to Paragraph 12—

- “dwelling” Part 6 of schedule 5
- “jointly entitled” section 65.

**Paragraph 13 of schedule 2A – Dwellings outside Scotland; what counts as “ownership”**

55. Scots property law has been subject to legislative simplification in recent years such that forms of feudal ownership no longer exist and long residential leases analogous to “leasehold” title in the rest of the UK are extremely uncommon. Therefore “ownership” is today a straightforward concept in Scots law.

56. For the legal systems of England and Wales and Northern Ireland, ownership (broadly) may be in the form of “freehold” or “leasehold”. Paragraph 13 therefore invokes the appropriate UK Stamp Duty Land Tax concept of “major interest in land” to ensure that all forms of ownership in the rest of the UK are treated as ownership for the purposes of schedule 2A, in particular paragraph 2.
57. Since schedule 2A takes a global view of a person’s property holdings, sub-paragraph (2) applies the prevailing UK concepts across to foreign legal systems to be read according to the prevailing law and practice there. For jurisdictions that follow the common law there is likely to be a similarity to English law in terms of long residential leases being treated as practical

58. Interpretative provisions of the 2013 Act relevant to paragraph 13—

“dwelling” Part 6 of schedule 5

**Part 7 of schedule 2A – General provision**

**Paragraph 14 of schedule 2A – Power of Scottish Ministers to modify schedule**

59. Paragraph 14 confers on the Scottish Ministers power to modify certain aspects of schedule 2A by order. Sub-paragraph (1) confers power to vary by order the 3% figure in paragraph 4 of schedule 2A. Any order is subject to the provisional affirmative procedure provided for in section 68(4) to (6A) of the 2013 Act\(^9\).

60. Sub-paragraph (2) confers power to vary by order the £40,000 figure in paragraph 9(3). Any order is subject to the negative procedure.

61. Sub-paragraph (3) confers power to make provision by order for or about relief from the additional amount, including provision adding, modifying or removing a relief. A relief of this nature would have no application to any ordinary amount of LBTT payable. As per the process for claiming the existing LBTT reliefs which is set out in section 27(2) and (2A) of the 2013 Act, it is likely that an order would require relief to be claimed in the first return made in relation to the transaction or, within the amendment period of 12 months, in an amendment of that return. Any order under sub-paragraph (3) is subject to the affirmative procedure and may modify enactments other than schedule 2A.

**Section 2 – Consequential amendments**

62. Section 2 of the Bill makes amendments to the 2013 Act and the 2014 Act in consequence of the provisions of new schedule 2A described. In particular, sub-section (2) amends section 108(3) of the 2014 Act to provide for the legal consequences if an order increases the percentage of additional tax but that order is not approved by the Scottish Parliament.

**Section 3 – Transitional provision: application of this Act**

63. The amendments to the 2013 Act provided for in the Bill do not apply to a chargeable transaction where the missives for the transaction were concluded before 16 December 2015, the date of the Deputy First Minister’s announcement of the additional amount of tax. Where

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\(^9\) The provisional affirmative procedure is one of the less common Parliamentary procedures – see the Delegated Powers and Law Reform Committee’s explanation at: [http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/Guide_to_Scottish Statutory_Instruments.pdf](http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/Guide_to_Scottish Statutory_Instruments.pdf).
missives have been concluded on or after 16 December 2015 the new provisions will apply if the effective date is on or after the principal commencement date for the Bill.

64. Interpretative provisions of the 2013 Act relevant to section 3:
   “chargeable transaction” section 15
   “contract” section 65
   “effective date” section 63.

Section 4 – Ancillary provision

65. Section 4 confers on the Scottish Minister a power to make ancillary provision by regulations in connection with the Bill. The regulations will be subject to negative procedure unless they involve textual amendments to primary legislation in which case affirmative procedure will apply. A comparable power already exists in section 67 of the 2013 Act.

Section 5 – Commencement

66. Sections 4 and 6 (short title) of the Bill come into force on the day after Royal Assent. The other provisions of the Bill (which would include section 1 inserting new schedule 2A) come into force on the same date or – if later – 1 April 2016. This date is referred to as the “principal commencement date” in the Explanatory Note to section 3 above.
FINANCIAL MEMORANDUM

INTRODUCTION

1. This Financial Memorandum relates to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (“the Bill”). It has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament. The Memorandum summarises the financial implications of the Bill. It should be read in conjunction with the Bill and the other accompanying documents.

BACKGROUND


3. The Deputy First Minister announced in his Budget statement on 16 December 2015 that, subject to Parliament’s agreement to the necessary legislation, the Scottish Government intended to levy a 3% LBTT supplement payable on the total price of additional residential properties, such as for buy-to-let or a second home, applicable on purchases of £40,000 or more with the aim being to have this measure in place for 1 April 2016. The Bill, therefore, makes provision for this policy intent (see Policy Memorandum) through the insertion of a new schedule - schedule 2A (Additional amount: transactions relating to second homes etc.) of the 2013 Act.

OVERVIEW

4. The Bill comprises six sections of which section 1 is the principal measure, introducing a new schedule 2A into the 2013 Act. Within schedule 2A—

- Part 2 identifies the transactions to which schedule 2A applies,
- Part 3 sets out the additional amount of tax,
- Part 4 contains provision about the application of schedule 2A in relation to certain types of buyer,
- Part 5 provides for repayments from the additional amount of tax in certain cases,
- Part 6 contains special rules about the meaning of ownership of dwellings for the purposes of schedule 2A,

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1 The other two are the Landfill Tax (Scotland) Act 2014 and the Revenue Scotland and Tax Powers Act 2014
2 Official Report: Meeting of the Parliament on 16 December 2015
These documents relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (SP Bill 85) as introduced in the Scottish Parliament on 27 January 2016

- Part 7 contains general provision including powers to modify schedule 2A.

GENERAL

5. The financial implications of this Bill have been considered under the following headings:
   - The financial implications for the Scottish Administration (paragraphs 6-25).
   - The costs on local authorities (paragraph 26).
   - The costs on other bodies, individuals and businesses (paragraphs 27-31).

Financial implications for the Scottish Administration

6. The financial implications for the Scottish Administration are considered under two sub-headings:
   - The benefits to the Scottish budget which will arise as a result of the tax revenue raised from the introduction of the supplement.
   - The administrative and compliance costs that Revenue Scotland are likely to incur as the Tax Authority responsible for collecting LBTT.

(i) Tax revenues

7. The Scottish Government prepared and published alongside the 2016-17 Draft Budget, five-year estimates of the revenues which the LBTT supplement is expected to generate. The Scottish Fiscal Commission had reviewed this methodology and concluded in its Report on Draft Budget 2016-17 (December 2015) that the estimates were reasonable, but emphasised “the uncertainties behind our assessment of reasonableness in terms of data available for the second homes and buy-to-let market and the challenge of estimating the size of the tax base”. Full details of the forecasting methodology are published in the Scottish Government’s Devolved Taxes – Forecasting Methodology paper (December 2015).

8. The Scottish Government estimates that the net revenue raised by the LBTT supplement in 2016-17, as proposed in this Bill, will be in the range of £17 million to £29 million. For the purposes of the Scottish Budget, a central estimate of £23 million has been assumed. The net revenue generated is expected to increase to between £41 million and £66 million by 2020-21. A summary of annual revenue estimates for the period 2016-17 to 2020-21 can be found at Table 1 below.

9. The upper and lower ranges for these estimates in respect of 2016-17 are based on two scenarios for the volume of transactions, explained further below. The estimates represent the anticipated net impact on LBTT revenues – comprising the gross revenue expected to be generated from the supplement, less an estimate of the reduction in LBTT revenues from forestalling effects resulting from transactions that would otherwise be subject to the supplement being settled before the end of 2015-16 before the supplement is due to take effect. For years

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3 Scottish Fiscal Commission: Report on Draft Budget 2016-17
4 Scottish Government’s Devolved Taxes – Forecasting Methodology paper
after 2016-17, there will be no forestalling effect and so no allowance is made in the revenue
estimates. The estimates also take account of expected behavioural responses to the introduction
of the supplement where it is possible to quantify these. These behavioural effects apply in all
years.

Table 1 – Estimated net revenue impact of LBTT supplement 2016-21

<table>
<thead>
<tr>
<th>Scenario 1 – 8,500 additional property transactions</th>
<th>Scenario 2 – 12,500 additional property transactions</th>
<th>Central estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>£ million</td>
<td>£ million</td>
<td>£ million</td>
</tr>
<tr>
<td>2016-17</td>
<td>17</td>
<td>29</td>
</tr>
<tr>
<td>2017-18</td>
<td>33</td>
<td>53</td>
</tr>
<tr>
<td>2018-19</td>
<td>36</td>
<td>57</td>
</tr>
<tr>
<td>2019-20</td>
<td>38</td>
<td>63</td>
</tr>
<tr>
<td>2020-21</td>
<td>41</td>
<td>66</td>
</tr>
</tbody>
</table>

Modelling approach

10. Estimated revenues are the product of two variables – the number of taxable transactions (purchases) and the distribution of “consideration” or price across the transactions to which the tax is applied. There are no datasets available to provide reliable information on the historic number of purchases of additional properties in Scotland, so it has been necessary to identify and use proxy datasets. Additional residential properties primarily fall into two categories – buy-to-let (BTL) investments and second homes. In recognition of the uncertainty inherent in the lack of data, two scenarios have been prepared to reflect lower and upper estimates of the likely volume of transactions.

11. The volume of BTL transactions has been estimated using information on the volume of BTL mortgages issued in the UK as a whole. The Scottish share of the UK total has been estimated by applying the Scottish share of the UK private rented sector from Scottish Census data. These sources imply a range of transactions that would be subject to the supplement of between 7,000 and 11,000 in 2016-17.

12. There were 27,879 second homes in Scotland in 2014\(^5\). In order to estimate the number of second home transactions in 2016-17, it is assumed that the annual turnover rate in this segment of the market is in line with the wider residential market (around 5%), which implies around 1,500 transactions per year.

13. The total estimated range of additional property transactions in 2016-17 is therefore in the range of 8,500 to 12,500 before allowing for any behavioural effects (e.g. any reduction in the number of transactions as a consequence of applying the supplement). BTL properties form between 82% and 88% of this total. Revenue estimates based on the lower and upper bounds of this range are described here as “scenario 1” and “scenario 2” respectively.

\(^5\) Council Tax Register for Scotland
14. UK level data on the value of BTL mortgages has been used to estimate the average price of additional transactions. This suggests that BTL mortgages are on average 10% lower than the market as a whole but that the same loan to value (LTV) ratio applies to both BTL and overall mortgages. Anecdotal evidence suggests that second homes are priced at a similar or lower level than the market as a whole. Therefore, the revenue estimates assume that the price of additional transactions is on average 10% lower than the market as a whole.

15. These initial assumptions on transaction volumes and average price in respect of 2016-17 were input to the Scottish Government’s model for estimating revenues from residential LBTT. Estimates for future years assume that the initial levels for 2016-17 then grow in line with the general growth assumptions which underpin the pre-measures residential LBTT forecast in the Draft Budget and which is explained in full in the Scottish Government’s Devolved Taxes – Forecasting Methodology paper\(^6\) (December 2015).

16. Using this methodology, it is estimated that the LBTT supplement would generate revenue of between £45 million and £70 million in 2016-17, before taking account of behavioural effects including forestalling. The estimated range of revenues from the supplement before taking account of behavioural effects is expected to increase to between £65 million and £95 million by 2020-21. Five-year estimates of revenues before taking account of behavioural impacts are shown in Table 2 below (in the columns headed “static costing”).

**Behavioural analysis**

17. The LBTT supplement is expected to have a number of behavioural impacts which are likely to reduce anticipated revenues from both the new measure and from underlying residential LBTT revenues. These include one-off or temporary effects and longer-term market responses.

18. The modelling estimates the impact of three anticipated behavioural impacts which are detailed in Table 2 below—

- **Direct reduction in volume or price of additional home transactions** (estimated to reduce revenue from the supplement by between £8 million and £13 million in 2016-17) – there may be a substitution effect as a result of the supplement which results in a reduction in the number of properties purchased by buy-to-let investors, i.e. the same number of properties are purchased but some become main residences instead of purchases of additional properties. The assumption (subject to the point below regarding a 3% overall reduction in residential property transactions) is that houses put up for sale on the market will still be sold, but that they will be bought by buyers using the property as a main residence, rather than as a BTL investment. This would mean that pre 1 April 2016, LBTT residential revenues remain at existing levels, but these “substituted” transactions are not liable for the supplement and so do not generate additional revenue by the 3% charge. Separately there may also be a downward pressure on price levels in respect of additional properties, whereby the price that the buyer is willing to pay is reduced as a result of the introduction of the supplement (for which of course they would be liable). This direct reduction is labelled “behaviour change” in Table 2 below. These effects would be expected to persist in future years.

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\(^6\) Scottish Government’s Devolved Taxes – Forecasting Methodology paper
• Reduction in overall transaction volumes (estimated to reduce revenue from residential LBTT rates and bands by around £7 million in 2016-17) – as well as a substitution effect, there may be a net reduction in the total number of residential property transactions as a result of the LBTT supplement, i.e. the reduction in BTL or second home purchases is not offset by new purchases of a main residence. In evaluating the impact of the introduction of the proposed higher rates of SDLT on the purchase of additional homes, the Office for Budget Responsibility estimated that overall transaction levels in England and Wales would reduce by 3% in 2016-17. This estimate has been run through the Scottish Government residential LBTT forecasting model to generate an estimated reduction in revenues of around £7 million in 2016-17. This estimated reduction in residential LBTT revenues is labelled “main LBTT” in Table 2 below.

• Forestalling (estimated to reduce total LBTT revenues by £13 million to £21 million in 2016-17 – the proposed introduction of the supplement was pre-announced in mid-December 2015 so there is an opportunity for buyers of additional properties to bring forward purchases to 2015-16 so that these purchases do not attract the supplement, thus minimising their tax burden. The Scottish Government estimates that such forestalling behaviours would reduce anticipated revenues from the supplement by between £8 million and £14 million in 2016-17 and would reduce pre-measures revenues from residential LBTT by between £5 million and £7 million in 2016-17. However, pre-measures LBTT revenue foregone in 2016-17 would be brought forward into 2015-16, increasing anticipated revenues from residential LBTT in the current financial year. Forestalling effects are one-off effects which coincide with the introduction of the tax so are calculated for 2016-17 only and shown in Table 2 below.

Total revenue estimates

19. A full breakdown of the estimated net revenue impact of the LBTT supplement from 2016-17 to 2020-21, including anticipated behavioural impacts, is provided at Table 2 below.

Table 2 – Breakdown of estimated net revenue impact of LBTT supplement 2016-21 including behavioural effects

<table>
<thead>
<tr>
<th>Estimated Final costing on LBTT Receipts from Introducing a 3% Flat Charge on Additional Property Purchases over £40,000 in 2016-17 to 2020-21 (£ Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Scenario 1</td>
</tr>
<tr>
<td>Static Costing</td>
</tr>
<tr>
<td>2016-17</td>
</tr>
<tr>
<td>2017-18</td>
</tr>
<tr>
<td>2018-19</td>
</tr>
<tr>
<td>2019-20</td>
</tr>
<tr>
<td>2020-21</td>
</tr>
</tbody>
</table>

The actual impact of the policy will depend on the behaviour of the BTL and second homes markets. In particular, a number of factors that are outwith the control of the Scottish

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7 OBR Economic and Fiscal Outlook – November 2015 - page 47
These documents relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (SP Bill 85) as introduced in the Scottish Parliament on 27 January 2016

Government and not related to the LBTT supplement are likely to affect these markets, including any further action taken either by the Bank of England or UK financial regulators to reduce the attractiveness of BTL mortgages.

**ii) Revenue Scotland**

20. Revenue Scotland has provided estimated set-up and running costs related to the additional staff required and the non-staff products required for the implementation and subsequent collection and management of the LBTT supplement. These estimates are presented as ranges at present, subject to detailed planning work currently underway, and depend on the following assumptions—

- the supplement is introduced in April 2016.
- returns for transactions to which the supplement applies will be processed online, like existing LBTT returns.
- The proportion of returns relating to transactions to which the supplement applies that are submitted online will be the same as for all LBTT returns (i.e. at least 97.5%).
- All compliance work on the new supplement once in place will be carried out by Revenue Scotland staff.

21. The cost estimates have been prepared after applying an appropriate level of optimism bias. This is in line with good practice. For the majority of areas, a standard bias of 50% has been applied, which is consistent with other similar estimating processes carried out by the Scottish Government. A 75% bias was applied to ICT costs in recognition of the very limited period of time available to prepare cost estimates for ICT changes at this stage in the development of the change project.

22. Revenue Scotland already has in place a team of tax and compliance specialists recruited and trained to ensure the smooth collection and management of LBTT. Table 3 presents estimated set-up costs to enable Revenue Scotland to collect and manage the LBTT supplement from April 2016. Estimated ICT change costs are included, covering updates to the Scottish Electronic Taxation System (SETS) and the associated financial systems, to support online submission of returns for transactions to which the supplement applies. In addition to this, there is a requirement to update the tax calculators on the Revenue Scotland website, and change the data feed from Registers of Scotland to support compliance activities specifically relating to the new supplement.

23. Staff time will be required to develop the guidance for the new policy. Provision is also made for communications and training activities to ensure staff and stakeholders are fully informed of the changes. Finally, in addition to those staff, programme management staff will be allocated from the Revenue Scotland Change team to support the design and implementation of the introduction of the LBTT supplement. The majority of these costs are expected to fall in 2015/16, however some may fall into the subsequent financial year.
These documents relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill (SP Bill 85) as introduced in the Scottish Parliament on 27 January 2016.

### Table 3 – Set-up costs

<table>
<thead>
<tr>
<th>Function</th>
<th>Base estimate (£)</th>
<th>Optimism Bias</th>
<th>Maximum estimate (£)</th>
<th>Assumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICT</td>
<td>120,000</td>
<td>75%</td>
<td>210,000</td>
<td>Update required to online system (SETS); update to website calculators; data feed from RoS</td>
</tr>
<tr>
<td>Training and Comms</td>
<td>6,000</td>
<td>50%</td>
<td>9,000</td>
<td>Training and communications events/materials</td>
</tr>
<tr>
<td>Operational Design and Programme Delivery</td>
<td>110,000</td>
<td>50%</td>
<td>165,000</td>
<td>2xC2, 1xB3 1xB2, contractor (3 months)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>236,000</strong></td>
<td></td>
<td><strong>384,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

24. Table 4 shows the estimated resource required each year to support the operations team (Administration, Compliance, Finance and Analysis teams) to collect and manage the supplement from 1 April 2016.

### Table 4 – Running costs (annual)

<table>
<thead>
<tr>
<th>Function</th>
<th>Base Estimate</th>
<th>Optimum Bias</th>
<th>Maximum Estimate</th>
<th>Assumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational Delivery costs</td>
<td>220,000</td>
<td>50%</td>
<td>330,000</td>
<td>1xA3, 2xB1, 2xB2, 0.5xC1 (and associated non-staff costs)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>220,000</strong></td>
<td></td>
<td><strong>330,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

25. The additional running costs associated with administering and collecting the LBTT supplement will equate to between 0.8% and 1.9% of an estimated tax yield of £17 - £29m (2016/17). Revenue Scotland’s budget for 2016-17 has been set at a level which reflects the work associated with the LBTT supplement.

### Costs on local authorities

26. Local authorities are subject to LBTT at present and will be subject to the LBTT supplement. It is not possible to estimate how much additional tax local authorities may be liable for as a result of the introduction of this supplement. Cost implications for them will depend on the extent to which they purchase residential property and the prices at which purchases are made. The Scottish Government is considering introducing relief which may be relevant to local authorities.

### Costs on other bodies, individuals and businesses

27. As with local authorities, **other bodies** are subject to LBTT at present and will be subject to the supplement. The comments made at paragraph 26 in relation to estimating the additional tax payable are equally pertinent to other bodies.
28. As regards **individuals** and **businesses**, as set out in its Draft Budget 2016-17, the Scottish Government proposes introducing a LBTT supplement on the purchase of certain residential properties, such as BTL properties or second homes. This supplement will be 3% of the total price of the property for all relevant transactions with a price of £40,000 or above and will be levied in addition to the current LBTT rates (see Table 5 and worked example below). The supplement will be paid by individuals and businesses who enter into property transactions to which the supplement applies. Businesses will be subject to the supplement on their first purchase of a dwelling for the reasons further explained in paragraphs 12 and 13 of the Policy Memorandum. The Scottish Government is considering introducing relief which may be relevant to businesses.

**Table 5 – Residential property rates**

<table>
<thead>
<tr>
<th>Property value</th>
<th>LBTT rate**</th>
<th>LBTT rate + supplement*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £40,000</td>
<td>0%</td>
<td>0% + 3% = 3%</td>
</tr>
<tr>
<td>£40,000 to £145,000</td>
<td>0%</td>
<td>0% + 3% = 3%</td>
</tr>
<tr>
<td>Above £145,000 to £250,000</td>
<td>2%</td>
<td>2% + 3% = 5%</td>
</tr>
<tr>
<td>Above £250,000 to £325,000</td>
<td>5%</td>
<td>5% + 3% = 8%</td>
</tr>
<tr>
<td>Above £325,00 to £750,000</td>
<td>10%</td>
<td>10% + 3% = 13%</td>
</tr>
<tr>
<td>Over £750,000</td>
<td>12%</td>
<td>12% + 3% = 15%</td>
</tr>
</tbody>
</table>

* Supplement only payable on transactions of £40,000 or above. The 3% supplement would be applied to the whole purchase price and not just the proportion of the price above £40,000.

**The supplement could be payable on transactions chargeable to non-residential rates that include the purchase of a dwelling.

**Worked example**

29. The supplement due on the purchase of a second residential property for £350,000, in comparison to the purchase of a first property for the same price, would be £10,500 (£18,850-£8,350) calculated as follows:

**LBTT due on a first residential property of £350,000**

£145,000 @ 0% = £0  
£105,000 @ 2% = £2,100  
£75,000 @ 5% = £3,750  
£25,000 @ 10% = £2,500  
Total LBTT due £8,350

**LBTT due on a second residential property of £350,000**

£40,000 @ 3% = £1,200  
£105,000 (£145,000-£40,000) @ 3% = £3,150  
£105,000 @ 5% = £5,520  
£75,000 @ 8% = £6,000  
£25,000 @ 13% = £3,250  
Total LBTT due £18,850
The value of the supplement can also be expressed more simply as 3% of the entire purchase price of £350,000, which is £10,500.

30. The additional tax due by a purchaser, whether an individual or a business, will depend on whether the supplement is payable on the property purchase in question, and also on the price paid. Revenue Scotland’s website will be updated to include tax calculators; which will enable prospective property purchasers to obtain estimates there and then of the amount of supplement that they may have to pay in any transaction involving additional residential property.

31. The estimated average amount of the supplement per relevant transaction is subject to the same uncertainties as are discussed earlier in this Memorandum. Estimates set out above suggest that there will be between 8,500 and 12,500 transactions a year to which the supplement would apply (paragraph 13), yielding - on the basis of static costing and after applying predicted behavioural effects other than forestalling (excluded because forestalling applies only to the early part of year 1) - additional revenues of between £30m and £50m (paragraph 18). Taking midpoints of both transaction volume and estimated receipts indicates an average supplement value per relevant transaction of about £3,800. This is the closest approximation available to the average cost of the supplement to purchasers. However there will be a wide range of actual additional costs of the supplement depending on the price paid.
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 27 January 2016, the Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney MSP) made the following statement:

“In my view, the provisions of the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 27 January 2016, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)