Welsh land transaction tax

Personal tax | Property Tax



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The Welsh government recently consulted on extending the time limit to reclaim higher rates of land transaction tax when transactions are impeded due to an emergency government restriction or because of fire safety defects. The CIOT, Stamp Taxes Practitioners Group and the ATT responded to the consultation.

The recent Welsh government's land transaction tax (LTT) consultation looks at extending the time limit indefinitely for reclaims and exemption from higher rates in limited circumstances.

The proposed change

For individuals, the higher rates of LTT apply broadly to the purchase of additional residential property. The higher rates are 4% more than the standard LTT residential rates. Refunds and exceptions to the higher rates can apply where the new dwelling is intended to be the only or main residence and the buyer has been unable to sell the old home or has been unable to purchase a new one within a three year period.

The Welsh government's view is that in most cases three years is a sufficient period but that time limit may be too short where transactions are impeded due to fire safety defects or where housing market activity is prohibited by government emergency restrictions.

CIOT and the Stamp Taxes Practitioners Group (STPG) suggested that it would be helpful to articulate the policy rationale in guidance to ensure taxpayers understand the objective. Therefore, stakeholders who wish to make representations about new circumstances that they consider should be the subject of an extended period would understand the approach.

CIOT, STPG and ATT thought the approach of defining specific limited statutory circumstances instead of a broad revenue authority discretion (as for stamp duty land tax (SDLT)) has the advantage of certainty; on the other hand, it is less flexible. We are pleased, however, to see that taxpayers will have the safeguards of a right to request a Welsh Revenue Authority (WRA) review and the right to appeal to the First-tier Tribunal (unlike the SDLT discretion).

Awareness

CIOT and STPG noted the challenge of ensuring that eligible taxpayers are aware of the right to make a refund claim because of the extended claim period. We understand that the WRA have maintained a list of taxpayers who have contacted them about a refund.

Easily accessible guidance

Most taxpayers affected will probably not be represented at the point a claim needs to be made, so easily accessible guidance with worked examples and explanations of the WRA's interpretation of key terms will be essential. In addition, it will be important to explain what material and evidence needs to be included in the claim.

ATT also called for greater clarity in some of the terminology included in the draft legislation, to increase certainty as to the circumstances that should qualify for reclaim of and exemption from higher rates of LTT.

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