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Consultation on the proposed Land Transaction Tax (LTT) Special Tax Sites

Joint response by the Stamp Taxes Practitioners Group and the Chartered Institute of Taxation

1 Introduction

- 1.1 The Stamp Taxes Practitioners Group (STPG) is the leading professional forum for stamp taxes practitioners consisting of 210 members. Members are drawn from the legal and accountancy and surveying professions and include practitioners in the fields of tax, real estate and conveyancing.
- 1.2 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.3 This 8-week consultation seeks views on the Welsh Government's proposals to amend the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 to provide a relief from Land Transaction Tax (LTT) for qualifying transactions within a designated Welsh special site.
- 1.4 The stated policy intent is to help the sites attract private investment and deliver the policy objectives of the [Freeports Programme in Wales](#)¹.
- 1.5 The Welsh Government intends that the LTT relief will be broadly equivalent to the SDLT relief. The consultation identifies six changes for LTT.
- 1.6 The CIOT's stated objectives for the tax system that are relevant to this consultation include:

¹ The three main objectives are to:

1. Promote regeneration and high quality job creation
2. Establish the freeports as national hubs for global trade and investment across the economy
3. Foster an innovative environment

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A responsive and competent tax administration, with a minimum of bureaucracy.

1.7 The Welsh government's core tax principles are:

Welsh taxes should:

- raise revenue to fund public services as fairly as possible.
- deliver Welsh Government policy objectives.
- be clear, stable and simple.
- be developed through collaboration and involvement.
- contribute directly to the Well-Being of Future Generations Act 2015 goal of creating a more equal Wales.

1.8 We have not answered questions 24 and 25 in relation to the effects on Welsh language as these matters are outside our expertise.

2 Question 1 Do you agree that the provisions as drafted work as intended in defining the meaning of 'special tax site', and that the definition will cover the freeport sites?

2.1 A Welsh special tax site will be designated by the UK government under FA 2021 section 113 for the purposes of capital allowances and structures and buildings allowances but not for LTT as LTT is a devolved tax. The designation of the special tax site for LTT will be by subsequent regulation as set out at draft Schedule 21A paragraph 2. We note that the length of period for which LTT relief will be available is under consideration by the Welsh government. We have no particular concerns with the process other than to observe that any delays in the designation process for LTT relief will mean that the grant of leases/ purchases of land and buildings in the special tax site will be similarly delayed giving rise to potential uncertainty and administrative and legal costs for business.

3 Question 2 Do you agree that the provisions as drafted clearly define the meaning of 'qualifying special tax site land'?

3.1 Paragraphs 3 and 4 of draft Schedule 21A are largely consistent with the equivalent provisions for SDLT in relation to the meaning of qualifying land that is used in a qualifying manner. The caretaker/security staff accommodation easement in paragraph 4(3) is helpful.

4 Question 3 Do you agree that LTT relief should only be claimed in relation to that land which is within the designated special tax site area?

Question 4 Do you agree that paragraphs 6, 7 and 8 of the proposed Schedule 21A achieves the tax outcome as explained in paragraph 3.10 of the consultation ?

- 4.1 It is proposed that, unlike SDLT relief that allows a ‘tolerance’ of 10% (by consideration given) for land outside the special tax site, LTT relief will only be available for land within the designated site. In terms of the wider policy intent of the measure it is important that the conditions for LTT relief do not distort a buyer’s decision to acquire land and buildings that are most suited to their economic and commercial needs. A further consideration is ease of conveyancing where title covers both land in and land outside a designated site but within the same title. We understand that splitting the title before sale would be difficult. The seller would have to sell part of the title to the buyer (land inside the special site) and retain the land outside the special site. This could cause access issues if the only access was over the land outside the special site and there were no developed/adopted roads. Subject to any unintended consequences arising from those points and provided the Welsh sites are clearly designated, we do not have particular concerns.

5 Question 5 Do you agree that the provisions as drafted work in defining the meaning of ‘qualifying manner’?

- 5.1 Our letter of 23 November 2023² sets out our concerns about the availability of the SDLT relief under FA 2003 Schedule 6C where a purchaser enters into a forward funding arrangement to develop the site. This concern applies equally to the proposed LTT relief given the policy intent of the LTT relief is to help the sites attract private investment and paragraph 4(2)(d) is drafted in identical terms to the SDLT provision in Schedule 6C para 3(2)(d).

6 Question 6 Do you agree to the provision of relief for caretaker and security staff accommodation in both the full and partial special tax site relief?**Question 7 Do you agree that the provisions as drafted provide for relief for caretaker and security staff accommodation as intended?**

- 6.1 We agree. Although family, caretaker and security staff are not defined terms we think this should work in practice.

7 Question 8 Do you agree that the provisions as drafted work as intended in defining the meaning of ‘ancillary’ and doing something ‘in the course of a commercial trade or profession’?**Question 9 Do you agree that the provisions as drafted provide for relief for other land that is ancillary to the land used in a qualifying manner?**

- 7.1 We suggest draft Schedule 21A para 4(4)(a) would be clearer if it read ‘is **also** situated in a special tax site,..’

8 Question 10 Do you agree that the provisions as drafted work as intended in defining the meaning of ‘excluded rents’?

² <https://www.tax.org.uk/ref1255>

Question 11 Do you agree that the definition of ‘excluded rents’ should be widened to include rents from a caravan site and the receipt of dividends from a REIT? Will the widening of the definition have any negative impact on the delivery of the special tax sites?

Question 12 Do you consider that the definition of ‘excluded rents’ should also be widened to include income arising out of an interest in a limited liability partnership where section 1273(4) of CTA 2009 (winding up) (class 8 of section 605(2) CTA 2010) applies?

- 8.1 We understand the intention of the excluded rent and receipts provision is broadly to ensure that land acquired in a special site that is to be exploited for a passive or residential use does not attract relief because that is outside the policy intent. The exclusion of rents from residential caravan sites therefore seems sensible. We question however the rationale for an exclusion of dividends from shares in a UK REIT that do not by their nature derive from the land acquired in the site but from a holding of shares.

In terms of question 12, the limited partnership provision turns off the transparency of the LP when broadly it goes into liquidation. It seems unlikely that an LP in liquidation would be buying land in a special tax site. In addition if it were to be included in the definition an LP going into liquidation holding transaction land would trigger a clawback as the buyer (the LP partners) would no longer be exploiting the land as a source of non-excluded rents thereby exacerbating the problems for the LP. Is this an intended policy outcome?

More generally although we are very much in favour of drawing on existing definitions from a simplification perspective we have some reservations about incorporating them into LTT legislation by reference to the UK statutory provision instead of including the adopted text in full. Including the text in full would mean that LTT legislation stands alone and would not need potential amendment if the UK statutory provision changes.

- 9 **Question 13 Do you agree that the provisions as drafted achieve the policy intent of providing full relief for qualifying transactions only where all of the land is within the designated tax site and all of the chargeable consideration for that land is for land to be used in a qualifying manner?**

Question 14 Do you agree that the provisions as drafted achieve the policy intent for partial relief where less than 100% but more than 10% of the chargeable consideration for land within the designated special tax site is attributable to qualifying land?

Question 15 Are there any other specific scenarios that you consider the Welsh Government should give partial relief?

Question 16 Do you agree that the provisions as drafted achieve the policy intent that land outside the special tax site will not receive any LTT relief?

Question 17 Do you agree that the provisions as drafted achieve the policy intent that a claim to special tax site relief, where there is land within and outwith the special tax site, will provide a fair amount of partial relief?

- 9.1 Provided the special site areas are precisely delineated (and subject to any conveyancing issues arising from split titles as noted above) the provisions appear to achieve the stated policy intent.
- 9.2 It would be helpful to include the consultation examples of how the full and partial relief will operate in the WRA’s guidance on the relief.

10 Question 18 Do you agree that the existing rules in relation to alternative finance arrangements and the withdrawal of the relief are suitable for the LTT special tax site relief?

10.1 We agree.

11 Question 19 Do you agree that the provisions as drafted achieve the policy intent and will enable taxpayers to claim special tax site relief?

11.1 Yes, we agree that the claim for relief should be claimed via the LTT return. We are in favour of systematic transparent post-implementation review of reliefs following implementation and monitoring claims is essential. It is important to ensure reliefs are achieving their objectives at an appropriate cost and administrative burdens minimised.

12 Question 20 Do you consider that such a rule will be helpful in simplifying the obligations placed on taxpayers? Additionally, is the market value of £40,000 reasonable to achieve this simplification?

Question 21 Do you consider that any avoidance opportunities will be created by the provision of this rule?

12.1 The proposal is that the withdrawal rules will not apply where the claimant has disposed of substantially all their economic interest during the control period, where a remaining interest has a market value of less than £40,000 that test will be satisfied. We think this is a useful provision.

13 Question 22 Do you agree that the assignment of a lease treated as a grant of lease rules should apply to the LTT special tax site relief as they do to other reliefs?

Question 23 Do the draft regulations achieve the intended outcome that the special tax site relief is brought within the assignment of lease treated as grant of lease rules in a manner consistent with the other reliefs?

13.1 We agree that treating the assignment as the grant of a lease where the actual grant was made with the benefit of relief is generally consistent with the LTT (and SDLT code). The provision is disapplied if the claim to relief has been withdrawn by virtue of the amendments to LTTADT(W)A 2017 Schedule 6. In respect of those amendments it is not entirely clear that the last day of the control period is strictly 'an event' although we think the drafting in new paragraph (d) should work.

We assume that if the lease is assigned and regranted within the three year withdrawal period then the deemed grant of the lease duty would be relieved if the new tenant qualifies.

However, we note that an assignment may be treated as a grant where it there is no withdrawal but it occurs after the LTT relief period has ended even if the acquisition by the assignee would have otherwise qualified for LTT relief. We observe this treatment may have the effect of rendering the lease unmarketable.

14 Acknowledgement of submission

- 14.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Stamp Taxes Practitioners Group and the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

15 The Chartered Institute of Taxation

- 15.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Chartered Institute of Taxation

15 February 2024