

# Land and building transaction tax: additional dwelling supplement: CIOT's response to call for evidence

## General Features

28 March 2022

Revenue Scotland issued a call for evidence in December 2021 on the additional dwelling supplement, which levies an additional 4% of land and building transaction tax on the purchase of additional Scottish residential properties valued over £40,000.

In the call for evidence, Revenue Scotland highlighted several specific areas of concern with the additional dwelling supplement (ADS). Those were: the 18 months allowed to replace a main residence; the position for separating/divorcing couples; the provision of social housing; inherited properties; and the ability for the Revenue Scotland to waive the charge in exceptional circumstances.

The timeframe allowed to claim a refund of ADS when buying a replacement residence is 18 months; that is to say, the old home must be sold within 18 months of purchasing the new property, and the old home must have been the main residence in the 18 months prior to sale. These criteria are the same for stamp duty land tax (SDLT) and land transaction tax (LTT), but for both of those taxes the time allowed is 36 months. In Scotland, transactions involving the acquisition of a second property between 24 September 2018 and 24 March 2020 were afforded 36 months for selling the old property (due to the pandemic). The call for evidence asked whether the timeframe should be increased permanently to 36 months.

The CIOT response said that the 36 months (as available in the rest of the UK) should be available in Scotland; besides anything else, having the same timeframe throughout all countries in the UK would create less confusion.

In addition to ensuring that there is sufficient time to sell properties in the current housing market, a 36 month window would assist separating couples when one party needs to buy another property and the time to sell their share in the old home. The CIOT also believes that the current rules are too one-sided with regard to couples: a couple (be they married or not) will have to pay the ADS if they buy a new house together with only one of them owning a second property; whereas if either of them still own properties which the other did not live in, then upon replacement an ADS refund will not be available. We said that the couple should be treated as one in both scenarios.

Inherited property is currently taken into account by Revenue Scotland when a legatee purchases an additional property. If the total value of that inherited property is £40,000 or over, then the total value of the property is factored into the calculation, even if the share the legatee owns is worth less than that amount. We recommended that the ADS should be calculated on an individual's share of the property only. The ADS also applies irrespective of when the inherited property was received. Our response said that there should be a grace period of three years, such that if property was inherited within the three years prior to the relevant purchase, then it can be ignored for the purposes of the corresponding ADS. These changes would also align the ADS rules with those for SDLT and LTT.

Probably the most significant recommendation the CIOT made in our response is for Revenue Scotland to have the discretion to waive the ADS in exceptional circumstances. Whilst HMRC has this for the rest of the UK, the Scottish authorities have no such power.

We discussed our views and recommendations in a recent meeting with Revenue Scotland and our full response is available here: [www.tax.org.uk/ref902](http://www.tax.org.uk/ref902)