

Article in amending law	Article in relevant land tax law	Point raised	RJ response	Law change or guidance?
Art 3	Sch 1, paragraph 3 (Table of judicial fees) Item 13, entry (a)	<p>The phrase “contract of exchange of immovable property” under Jersey law refers to a ‘échange et contre-échange’ and has a particular meaning under Jersey law.</p> <p>It is proposed that we include a separate reference to ‘échange et contre-échange’ in addition to other contracts of immovable property.</p> <p>Basic example – A and B swap houses – A gives B her house plus £1mn and B gives A her house.</p>	<p>We have reviewed the wording to ensure that references to ‘contract of exchange’ cover what is intended.</p> <p>‘Contre-échange’ transactions would be subject to the additional charge should they meet the definition of ‘relevant property’.</p> <p>In drafting terms, these transactions will continue to be treated as exceptions to the general rule in Sch 1, item 13, entry (a).</p> <p>We will still need an additional entry after entry (a) in item 13 – to make sure that buildings subsidiary to a relevant property – and also contracts consisting of two or more relevant properties – are taxed on the gross value of the transaction.</p>	<p>Law change – here is what I think we need to do for entries (a) and (b), item 13, Sch 1.</p> <p>I think that no amendment is needed to existing entry (a) (or maybe just expanding the ref to “table” to cover tables in para 2 and para 2A). We want the existing provision to apply to all contracts of exchange of immovable property – relevant property or not.</p> <p>And entry (b) should provide – in the case of a contract of immovable property which consists of two or more relevant properties etc. So, it would cover the subsidiary building cases (staff accommodation) and also the person who buys two or more flats and lives in one of them.</p>

				New entry (c) is fine and ensures the appropriate cross-refs to Table 2 or 2A.
Art 3	Item 13, entry (l)	Item 13, entry (l) has not been included which seems to be a gap.	We have assessed the feasibility of ensuring that the additional rate extends to relevant contract leases included in entry (l) of item 13.	Law change Drafting Q - We will need to decide whether we want the contract lease rates for relevant property to be set out within entry (l) or in new Table 2A or something else. Keep within entry (l) because the calculation is different for entry (l) contracts?

				<p>If it goes into Table 2A, need to amend new entry (c) for item 13 to add ref to entry (l).</p> <p>We want to calculate the additional rate for these transactions by making the additional rate 2% on the existing rate. So, 2.5% for contract leases falling under (l)(i) and 2.75% for (l)(ii).</p>
Art 5	Schedule. New para 5(2) of LTT	where it currently reads '...that is occupied as <u>a</u> person's main residence...' is not clear that it refers back to the person in para (1)..	We will amend the drafting for new para 5(2), Sch, LTT Law so that it refers to " <u>the</u> person's main residence".	Law change and guidance – concept of main residence well defined in case law

	SD Law	<p>With reference to the process of levying the additional rate; conveyancers are concerned that the purchaser / transferee is only required to confirm the purpose of the acquisition to the conveyancers. There is a risk that the purchaser/transferee may provide false information as a means to avoid the additional rate. The concern for the conveyancer is that they may be liable for making an inaccurate declaration to the Registrar.</p> <p>There is currently no requirement under the draft Stamp Duty Law (SD Law) for the transferee to declare to the Registrar of Deeds at the States Greffe whether or not the property is to be used as their main residence.</p> <p>For first-time buyer relief, conveyancers are comfortable with the declaration being made to the conveyancer, as it is easier to confirm whether or not the statutory conditions are met.</p> <p>Under the LTT and EPTT law, it is the requirement for a transferee to provide a statement in relation to the transaction and conveyancers are comfortable with these processes.</p>	<p>We have discussed with the Registrar and agreed that in terms of his process, he will introduce a new sticker to be included on any contract that relates to a relevant property.</p> <p>We will discuss with LDO and law drafters the best means to ensure that it is the purchaser/transferee who is liable for making a false declaration. One suggestion is to introduce a new statutory declaration, backed up with a criminal sanction.</p> <p>The LTT and EPTT Orders already make provision for a declaration to be made by the transferee to the effect that information provided is true, complete and correct. That legislation will be amended to include information relating to the additional rate.</p>	<p>Law change including amendments to the LTT and EPTT Orders to cover information relevant to the additional rate.</p> <p>Law drafter's advice sought on the best way to enact a declaration for the purposes of the SD Law.</p> <p>NB – if law drafter is able to start thinking about changes to the LTT and EPTT Orders, that would be helpful. We will follow up with instructions in the coming weeks in any event.</p>
	SD Law	<p>In circumstances where a company purchases a dwelling, and such transaction is subject to SD; it is not possible for the company (which has its own legal personality) to hold property for use as a main residence – as companies cannot use a property as a main residence.</p>	<p>We agree that the additional rate of duty will always be charged in circumstances where a corporate vehicle purchases a property irrespective of whether the beneficial owner uses the property as their main residence.</p>	<p>Guidance</p>

		<p>It is therefore implied that any transfer of property into a company or corporate vehicle will be charged the additional rate of duty.</p>	<p>Where the property is purchased by the beneficial owner directly for use as a main residence the additional charge does not apply.</p> <p>We also recognise that previously some individuals were required to purchase residential property through a corporate vehicle (e.g. JCAT scheme). In those circumstances, where the beneficial owner had no choice but to envelop, the Registrar will take this into consideration under Article 6 of the SD Law.</p> <p>For the purposes of the EPTT law, as the transfer relates to the transfer of a significant interest, if the person to whom the significant interest is transferred uses the property as their main residence the additional duty does not apply.</p>	
	SD Law	<p>In circumstances where a chargeable document or transfer relates to several properties and one of the properties is the main residence; how is this treated?</p>	<p>Article 2(5) of the SD Law states that where a chargeable document contains or relates to several items, separate stamp duty shall be payable in respect of each item.</p> <p>We understand that for immovable property this means that where each item is a separate hereditament (corps de bien-fonds); the additional rate of stamp duty is only chargeable on the properties that are not acquired for use as the main residence.</p>	Law change

			<p>If the properties relate to a single hereditament (e.g. purchase of a block of flats); the purpose is not to use the hereditament as the main residence; the additional rate of stamp duty is chargeable on the gross value of the transaction.</p> <p>A hereditament may contain multiple buildings, one or more of which may be used as dwellings, (e.g. an estate with multiple dwellings that are used for staff accommodation or guest areas). Where there is a dwelling that is to be used as the purchaser's main residence the transaction would not be subject to the additional rate of stamp duty.</p> <p>Article 6 of the SD Law allows for the transferee to request a reduction of the SD, if they believe the transaction relates to the acquisition of a main residence. For example, the purchase of the adjoining property with the view of expanding their current property that is used as a main residence.</p>	
	LTT	Clarify the mechanism where the transferee can request for the additional rate of duty to be reduced or remitted.	LTT Law contains a power for the Comptroller to reduce or remit LTT charged on a transaction where it would, in his opinion, be just to do so (A.8 LTT Law). This power will extend to applications to reduce or remit the additional charge.	Guidance