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Land Transaction Tax (LTT): New concessionary guidance issued for Share Transfer purchases in Jersey

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The Comptroller of Revenue in Jersey issued an important Guidance Note on 11 January 2023 in relation to the payment of Land Transaction Tax (LTT).

The main points to note are:

At this stage, this guidance only applies to share transfer properties (generally, apartments or parking spaces) where LTT is payable.

Contracted price

Strictly speaking, the law required LTT to be calculated on the higher of the contracted price and the market value of the property in question. This meant for off plan sales where the market value had risen since a purchaser contracted to buy the apartment the LTT should have been based on the current market value, even if that was higher than the price they had contracted to pay.

This new guidance allows for LTT to be paid on the contracted price (even if lower than the current market value) in certain circumstances where :

- The use is for domestic purposes only;
- The pre-sale contract cannot be assigned by the purchaser;
- There are enforceability clauses where a deposit is forfeited and/or liquidated damages are payable if the purchaser does not complete;
- The contracted price was fixed and was at the time the contract was entered into at or above market value; and
- The pre-sale contract was entered into on or after 1 January 2017.

Time to pay

The 2023 Budget introduced changes effective from 1 January 2023 whereby the purchaser of a property which is not the purchaser's main residence (for example a second home, buy to let or holiday home) would have to

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pay an additional 3% uplift in LTT (note: this 3% uplift for non-main residence properties also applies to standard freehold and flying freehold transactions where stamp duty is payable).

However, this guidance allows purchasers of share transfer apartments a grace period of 3 months to pay the additional 3% uplift in LTT where:

- The property is a residential dwelling
- Completion will take place between 1 January 2023 and 31 March 2023
- The pre-sale contract was entered into before 17 December 2021; and
- The purchaser pays the basic rate of LTT in the normal course (ie within 28 days of completion) (without the 3% uplift).

Please note that, while this article gives a general update on the development, Collas Crill does not provide tax services. The above is not legal advice and you may not rely on it – should you require any specific legal advice on the acquisition of properties or LTT or stamp duty, please get in touch with one of the team.

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