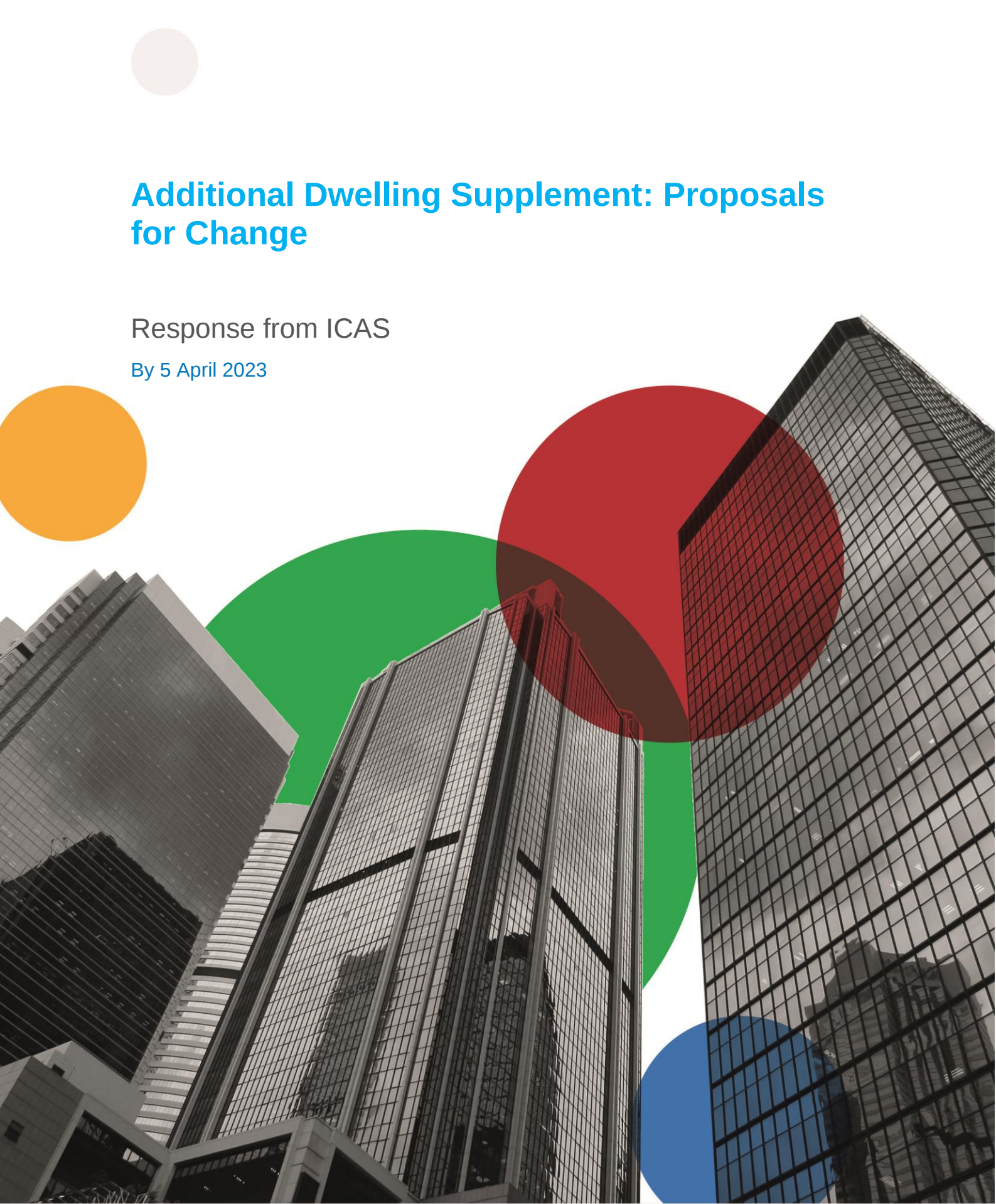




Additional Dwelling Supplement: Proposals for Change

Response from ICAS

By 5 April 2023

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 23,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.

General comments

3. ICAS welcomes the opportunity to respond to the consultation: "Additional Dwelling Supplement: Proposals for change. Overall, the proposals are welcomed and will reduce the tax burden for many in respect of property transactions.
4. If the primary policy of ADS was to primarily affect the purchase of second homes and buy-to-let properties, there will still be some inequitable consequences arising if these proposals are the sum total of the changes being made – namely in the context of mixed (residential and non-residential) property and tied property, as well as for departing spouses on the breakdown of a relationship and their new partner (see below).
5. As a trusted stakeholder to the Scottish Government, ICAS looks forward to the opportunity to comment on draft legislative provisions and guidance in due course.

Responses to Specific questions

6. ICAS has not responded to all the questions in the consultation. The questions we have responded to follow the numbering in the consultation questions listing.

1. Do you think that the proposed amendments provide for the Scottish Government's intended change?

7. The changes of time limits do achieve the intended change and the result will be less confusing for taxpayers now that they have been aligned with those in England and Wales. It is important that the guidance and communications process highlights that this measure is not to be introduced with retrospective effect.

5. Over and above existing legislative arrangements, are there any targeted anti-avoidance measures that the Scottish Government should consider in respect of this proposed amendment?

8. ICAS does not consider that any additional anti-avoidance measures are necessary.

6. Do you think that the proposed amendments provide for the Scottish Government's intended change?

9. ICAS considers that the proposed amendments for small shares do provide for the Scottish Government's intended change – but a very small amount of individuals may be adversely affected if they purchase a property with one or more other people and their share of the property was valued at less than £40,000; and they subsequently buy the other owner(s) out. To avoid this inequity the legislation could exempting the buy-out from ADS in these specific circumstances.

8. Over and above existing legislative arrangements, are there any targeted anti-avoidance measures that the Scottish Government should consider in respect of this proposed amendment?

10. ICAS does not consider that any anti-avoidance provisions are necessary as the values are already recorded at the point of purchase in several places.

9. Do you think that the proposed amendments provide for the Scottish Government's intended change?

11. The terms 'divorce', 'separation' and 'dissolution of civil partnerships' should ideally all be dealt with at the same time rather than separately.

12. Ideally any partner who moves out of the home would be deemed to have disposed of their main residence or interest in that main residence at the point of departure. This would cover situations where for example, the remaining partner is unable to fund a purchase of that interest for some time due to financial difficulty. This should be clear in legislation and guidance.

13. In paragraph 9, ICAS believes that unless this was the policy intention, there may be an unintended consequence where one partner remains in the property and the other leaves and then purchases another property with their new partner. Ideally the ADS relief as described in paragraph 9C would apply to each of the joint purchasers (if they are in a relationship) rather than just the departee.

11. Do you think that the proposed amendments provide for the Scottish Government's intended changes?

14. ICAS considers that some further amendments to paragraph 8 are required to add clarity as it is difficult to follow and might thus be equally difficult to comply with. Perhaps some further discussion on this would be merited so that the policy intention and meaning derived by the reader are the same.

15. It is unclear whether the intention and meaning of paragraph 8 will allow for a couple to claim a repayment of ADS where the joint purchasers both own other properties and one of the buyers disposes of their main residence. Some further clarity is required here.

13. Do you think that the proposed amendments provide for the Scottish Government's intended change?

16. ICAS welcomes the relief for local authorities. There may be situations where the relief is not wide enough, but this is beyond our expertise.

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