

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Interpretation and Final Provisions

Schedule 8 - Trusts

297. This Schedule provides for the treatment of trusts for the purposes of LTT. Trusts are divided into “bare trusts” and “settlements” with settlements defined as trusts which are not bare trusts. Bare trusts are trusts where the beneficiary is absolutely entitled to the property and the bare trustee holds the property as nominee. Here, the beneficiary is liable for any LTT. For other types of trusts the LTT liability is imposed on the trustees, and the tax can be recovered from any one of them.
298. In addition, the Schedule sets out the responsibilities of trustees of a settlement in relation to providing the land transaction return and declaration, procedure for notification of a WRA enquiry to trustees and for appeals and reviews. It also provides that any consideration given by a person in whose favour a power of appointment or discretion is exercised constitutes the consideration for the acquisition of a chargeable interest which occurs by virtue of the exercise of the power or discretion.
299. The Schedule accounts for the laws of different territories governing trusts so that beneficiaries of trusts in Scotland, or other countries or territories outside the UK, are treated as having an equitable interest in trust property if that would be the result under the law of England and Wales.