

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Interpretation and Final Provisions

Schedule 10 - Alternative Property Finance Reliefs

302. This Schedule makes provision for relief from LTT for certain land transactions connected to alternative property finance arrangements, which are structured so that rent or some other profit or gain, rather interest, is paid. Such alternative finance arrangements are designed to comply with Islamic (or Shari'a) law. Financing a property purchase in such a way would ordinarily involve more than one LTT charge. These provisions ensure that buyers who finance property acquisitions through these alternative methods pay the same amount of LTT, at the same time, as those who use conventional mortgage and re-mortgage products.

Part 2 - The reliefs

Land sold to financial institution and leased to a person

303. The provisions at paragraph 2 cover situations where a financial institution:
- purchases a major interest in land from a person (“P”) or from another financial institution which has purchased the interests under the types of arrangements discussed in paragraph 2(1) entered into between it and P (“the first transaction”);
 - leases the land back to P; and
 - enters into an agreement under which P has a right to require that the financial institution transfers the major interest back to P. Subject to the conditions set out in the paragraph, those transactions are relieved from LTT.
304. Relief is also available where a financial institution purchases a major interest from another financial institution that has entered into such arrangements with a person.

Land sold to financial institution and re-sold to a person

305. The provisions at paragraph 3 cover situations where:
- a financial institution purchases a major interest in land (“the first transaction”);
 - sells it to a person (“P”); and;
 - in return, P grants the financial institution a legal mortgage over the land.

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1) which received Royal Assent on 24 May 2017

306. Subject to the conditions set out in the paragraph, the institution's purchase is relieved from LTT if the major interest was purchased from P or another financial institution which has purchased a major interest under arrangements mentioned in paragraph 2(1) between it and P.
307. The sale by the financial institution is relieved from tax if the conditions in paragraph 3(3) are complied with.

Part 3 - Circumstances where arrangements not relieved

No relief where group, acquisition or reconstruction reliefs available

308. Relief is not available under paragraphs 2 or 3 when the first transaction could be relieved under group, reconstruction or acquisition relief (even where that relief is subsequently withdrawn). Relief is not available under paragraph 2 where the arrangements allow for a person to acquire control of the financial institution.

Land sold to financial institution but arrangements in place to transfer control of the institution

309. Relief is not available under paragraph 2 where the arrangements include arrangements for a person to acquire control of the relevant financial institution.

Part 4 - Exempt interest

Interest held by financial institution an exempt interest

310. Other than for the purposes of the acquisition of the major interest and its transfer back to the person (under paragraph 2), the interest held by the financial institution as a result of the first transaction is an "exempt interest" until the lease (or sub-lease) or the right of the person to regain the major interest under paragraph 2 ceases to have effect. This is not the case if group, reconstruction or acquisition relief is available on the first transaction.