

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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8 – Interpretation and Final Provisions**

#### *Schedule 15 - Treatment of certain transactions relating to social housing*

#### **Part 4 - Shared ownership trusts**

#### **Shared ownership trusts: meaning of shared ownership trust and other key terms**

353. [Part 4](#) of this Schedule provides that shared ownership trusts are treated in a similar manner to shared ownership leases for the purposes of LTT. Paragraph 10 defines what is meant by a “shared ownership trust” by reference to section 1 of the Trusts of Land and Appointment of Trustees Act 1996 and specific conditions which have to be satisfied for the trust to be recognised as a shared ownership trust.

#### **Shared ownership trust: the buyer**

354. [Paragraph 11](#) identifies the buyer in transactions involving shared ownership trusts, for the purposes of LTT.

#### **Shared ownership trust: election for market value treatment**

355. [Paragraph 12](#) makes provision for the buyer to elect for market value treatment. An election for market value treatment cannot at a later date be withdrawn or amended after the election has been submitted.
356. The chargeable consideration for the declaration of the shared ownership trust is taken to be the amount relating to the market value of the dwelling by reference to which the premium is calculated. Sub-paragraph (3)(b) provides that no account must be taken of rent-equivalent payments.

#### **Shared ownership trust transfer upon termination**

357. [Paragraph 13](#) provides that where the transaction transfers the interest in the trust property upon the termination of the trust, and an election has been made under paragraph 12, the transaction will be relieved from LTT. This is subject to any LTT chargeable in respect of the declaration of the shared ownership trust being paid.

**Shared ownership trust: staircasing transactions**

358. [Paragraph 14](#) deals with the treatment of equity-acquisition payments made by the buyer under a shared ownership trust for the purposes of LTT. It provides that where an election under paragraph 12 is made an equity-acquisition payment by the buyer under a shared ownership trust, the increase in the buyer's beneficial interest is relieved from LTT, provided any tax chargeable in respect of the declaration of trust has been paid. However, if an election under paragraph 12 is not made, then the equity-acquisition payment and corresponding increase in the buyer's beneficial interest is only relieved from LTT if following the increase the buyer's beneficial interest does not exceed 80% of the total beneficial interest in the property.

**Shared ownership trust: treatment of additional payments where not election made**

359. [Paragraph 15](#) clarifies how the chargeable consideration for LTT is determined when the buyer has not made an election under paragraph 12. This paragraph provides that in these circumstances the initial capital is to be treated as chargeable consideration other than rent; and any rent-equivalent payment made by the buyer is to be treated as rent.

**Shared ownership trust: declaration not linked with staircasing etc.**

360. [Paragraph 16](#) provides that where a declaration of trust giving the buyer a beneficial share in the property is made, the declaration is not to be treated as if it were linked to either:
- an equity-acquisition payment under the trust or any corresponding increase in the buyer's beneficial interest in the trust property; or
  - a transfer to the buyer of an interest in the trust property on the termination of the trust.

**Rent to shared ownership trust: charge to tax**

361. The rules for determining the chargeable consideration for transactions involving part of a rent to shared ownership trust scheme are provided for in paragraph 17.